

PROMOTING POLICE REFORM IN KENYA

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IN KENYA

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INTRODUCTION

This paper discusses two important variables for sustaining and advancing police reform efforts in Kenya. The first is the importance of broad-based social support for the reform project, and the active participation of all stakeholders in it. The second is the need for a balance between supply-side reforms (efforts aimed at improving the operational efficiency of the National Police Service (NPS), including investment in resourcing, training and equipment) and demand-side reforms (institutional reforms and changes, including increased accountability and strengthening compliance with human rights obligations).

Kenya has a long history of police reforms that dates back to independence. However, despite the significant legislative, policy and institutional progress¹ made by the NPS, particularly since 2010, reform efforts have still not fully achieved their intended impact.² This has inspired a new impetus for review, assessment and reform. On 21 December 2022, a national Taskforce on Improvement of the Terms and Conditions of Service and Other Reforms for Members of the National Police Service and the Kenya Prisons Service was established (the Taskforce on Police Reform). The Taskforce has, *inter alia*, identified and recommended the legal, policy, institutional and operational reforms required to improve and strengthen the capacity of the NPS,³ and submitted its final report to the president on 16 November 2023.⁴ The report contains a number of targeted recommendations aimed at enhancing the capacity of the NPS to provide policing services that comply with its constitutional and legislative mandate and obligations.⁵

The work of the Taskforce on Police Reform has the potential to further improve and strengthen policing and policing institutions in Kenya. However, from past reform experience, both in Kenya and in other jurisdictions, two potential risks need to be identified and effectively managed in order to ensure that current and future reform projects serve their desired purpose.

This paper explores the importance of community ownership of, and participation in, reform processes, as well as the significance of ensuring a balance between demand- and supply-side interventions. In discussing the demand-side agenda, it reflects on the continuing relevance of the findings and recommendations of a data-led assessment of the NPS against subregional policing standards, namely the Common Standards for Policing in East Africa.⁶ The utility of these standards resides in not only their design and potential to strengthen the capacity of the NPS to provide services in a professional and rights-affirming manner, but also their aspiration to align policing in Kenya with standards and practices desired for the region.

NATIONAL OWNERSHIP AND PARTICIPATION

Over the past two decades, as part of targeted efforts to align the provision of policing with the requirements of domestic, regional and international human rights obligations, Kenya has made fundamental changes to the policing structure it inherited at independence. Although reform efforts date back to the time of independence, it was in 2007/2008, following the outbreak of post-election violence, that Kenya initiated one of its most comprehensive reform projects. The police had been accused of poor preparation and coordination in response to public protests, and of violating a broad range of human rights standards. Most of the accusations were captured and reflected in the post-inquiry report of the Commission of Inquiry into Post-Election Violence (CIPEV), also known as the Waki Commission.⁷ In its final report, the CIPEV recommended a comprehensive and radical reform of the two branches of policing in Kenya, the Kenya Police Service and the Administration Police.⁸ This was to be initiated through a panel of policing experts.⁹ The Police Reform Implementation Committee (PRIC), set up to spearhead the reform agenda, presented its report to the president in October 2009.¹⁰ These reforms were then set in motion with the adoption of the Constitution of Kenya, 2010 (the Constitution), which introduced a framework designed to make significant shifts in policing practice and approach, at legal, policy and institutional levels, including by strengthening oversight and accountability over the provision of policing services.

Clear political commitment to guide, design and implement the 2007/2008 reform project, reinforced by broad national support for the reforms, was crucial in the significant advances that were made. This national ownership, through broad-based participation in the design and implementation of the reform agenda, including by civil society, coupled with political support and commitment to implement the reforms, was – and remains – critical to the reform project in the country. There is broad consensus that national ownership of police reform projects is a foundational principle, and a common denominator in successful police reform programmes.¹¹ In a 2007 report, Laurie Nathan notes that the more consultative and inclusive reform processes are, the more likely it is that their outcomes and outputs will enjoy public credibility, acceptance and support.¹²

Ideally, national ownership of reform programmes should be expressed and articulated in, inter alia, constitutional provisions or other key national legislative instruments. Thus, the Constitution articulates and sets forth not only the principles that should guide police reform efforts in the country, but also explicitly embodies participation, inclusivity, national unity and

transparency as some of the core values that must guide, among other things, the development and implementation of laws and policies.¹³ In line with international trends and standards, this normative requirement promoted and strengthened the imperative of local ownership of, and support for, the post-2007/2008 reform project. In addition, as the supreme law of the country,¹⁴ the Constitution, and the norms and values embodied in it, serves as an important normative foundation upon which current and future reform efforts will reside.

BALANCING DEMAND AND SUPPLY

Reflections on past reform efforts also confirm the significance of balancing demand- and supply-side reforms for successful, effective and sustainable reform projects. In 2003, following years of one-party rule, policing in Kenya was skewed in favour of regime policing and the protection of the ruling political and economic elite.¹⁵

Shortly after assuming office, the then President Mwai Kibaki established a national Taskforce on Police Reform to spearhead a police reforms programme.¹⁶ The mandate of the Taskforce included, to assess existing policy, administrative, operational, institutional and legislative structures, and to recommend appropriate changes that would promote police efficiency and effectiveness in the short, medium and long term.¹⁷ In 2005, two major efforts were made to reform the police. The first was the unsuccessful constitutional reform in November 2005, when a national referendum on constitutional change failed to pass.¹⁸ The second took place when the government initiated broad-based security-sector reforms under the Governance, Justice, Law and Order Sector Reform Programme.¹⁹ However, these reforms were undermined by the persistent lack of public confidence in the police, by continued police corruption, and by poor police performance during post-election incidents of civil unrest.²⁰

In hindsight, many of the interventions undertaken were supply-side oriented and designed to enhance operational efficiency and expand the institutional capacity of the police, including through rehabilitating premises and purchasing new vehicles.²¹ It was apparent to many observers that, despite these targeted interventions, policing continued to be weakened by the limited response to the demand-side calls for greater rights compliance and accountability.²² Attention to challenges such as structural dysfunction, weak legal and institutional framework, structurally weak oversight institutions, high levels of corruption, abuse of policing powers, and limited capacity, skill and trained personnel, among other factors, was also weak.²³

Conversely, these demand-side reforms dominated the 2007/2008 post-election violence review of policing and policing response to widespread public unrest. Thus, there is broad consensus that the comprehensive reform interventions that were designed and implemented in the aftermath of the 2007/2008 post-election violence have significantly strengthened the ability of the NPS to provide policing services that comply with its normative obligations.²⁴

In particular, some of the key interventions that have had a discernible positive impact on policing include: the adoption and operationalisation of the National Police Service Act of 2011 (NPS Act 2011) as an independent legislative instrument pertaining to policing, which has promoted the comprehensive and integrated regulation of the existence and operation of the NPS; the placement by the Constitution of the two erstwhile services, the Kenya Police Service and the Administration Police, under the command of the Inspector General of Police (IGP), which has harmonised the command structure and facilitated the establishment of a clear chain of command; the establishment of the Independent Policing Oversight Authority (IPOA) and the Internal Affairs Unit (IAU) to serve as external and internal police oversight and accountability organs, respectively; the establishment of the National Police Service Commission (NPSC) which, inter alia, oversees the recruitment and appointment of police officers and determines promotions and transfers within the NPS; and the adoption of a policy on gender which, among other things, fosters gender equality and equitable representation in the selection and appointment of NPS members.

Concurrently, focused government-led investments were made in order to strengthen and improve the capacity of the NPS in key operational areas. These included investment in modernising police infrastructure; the provision of medical cover and decent and affordable housing for NPS officials; and improved budgetary allocations, among other investments.²⁵ Thus, in addition to identifying and addressing demand-side objectives, there was a clear focus and prioritisation by duty-bearers on the need to identify and implement those reform aspects over which they had the power to implement, including through the allocation and use of resources.²⁶ The reform project that was initiated in the aftermath of the 2007/2008 post-election violence was more balanced in addressing the demand-side needs, as explicitly expressed by Kenyans through the work and contributions of the CIPEV and the PRIC, and seems to have contributed to popular support of the post-2007/2008 police reform project. It combined operational reforms with legal and institutional changes, and promoted comprehensive and integrated reforms, which significantly strengthened the capacity of the NPS to provide rights-compliant services to all.

REGIONAL STANDARDS

In 2010, the East African Community (EAC) and the Eastern Africa Police Chiefs Cooperation Organization (EAPCCO) adopted the Common Standards for Policing in East Africa.²⁷ The Common Standards are a set of subregional policing norms which establish an agreed framework for policing in the region. Building on this, in 2019, EAPCCO developed a set of measures and indicators to promote the effective implementation of the Common Standards, including through nuanced, country-specific assessment studies.²⁸ It is within this context that, in 2022, the NPS collaborated with the African Policing Civilian Oversight Forum (APCOF) and a consortium of Kenyan Civil Society Organisations promoting police reform, the Police Reform Working Group Kenya (PRWG-K),²⁹ to conduct a study³⁰ that assesses the extent to which the NPS had achieved the aspirational goals of the Common Standards. The assessment established that the key obstacle to institutionalising rights-compliant policing practices in Kenya is not the absence of domestication of standards and principles that support improved policing, but the lack of regular and consistent application of existing norms and standards. In particular, this limited operationalisation of human rights standards is evident in gaps and deficits in, among other things, the operating procedures and service orders that regulate the existence and operations of the NPS, as well as in training, including limited opportunity for decentralised in-service training and supervision. These gaps are manifested in police corruption; increasing incidents of police use of arbitrary and excessive force in the exercise of their powers and functions; the ongoing challenge of extrajudicial executions and enforced disappearances; police inaction; and the involvement of some police officers in the commission of crime, among others.³¹

Among the key observations made, which provide important insight into demand side interventions for duty bearers, the NPS, its stakeholders and other key role players to consider in the current and future reform efforts include:³²

Absence of a comprehensive regulatory instrument pertaining to police use of force and firearms

The power to use force, over which the police have a monopoly, together with the power to arrest and detain place police officers in a unique and sensitive position within a democratic state.³³ Thus, adequate control systems are necessary to ensure that these powers are consistently used in the public interest.³⁴ In particular, legislative and regulatory clarity and

guidance are critical to the effective management of police use of force and firearms. Currently, police use of force is regulated by the Sixth Schedule of the NPS Act of 2011. Although this schedule provides some guidance and instruction on police use of force, it does not comprehensively address all of the universally recognised general principles applicable to the use of force and firearms, namely precaution, non-discrimination, necessity, proportionality and accountability.³⁵ This normative gap impedes the direction that can be given to police officers in training, and undermines their capacity to use force in a professional, lawful, rights-compliant and accountable manner.

A key element of effective control of police use of force is for police organisations to provide clear and enforceable regulations to police officers which embody, inter alia, the standards that they must comply with in the fulfilment of their mandates.³⁶ Duty-bearers need to consider the development and implementation of these normative standards in order to strengthen the extent to which the NPS executes its mandates in accordance with international standards and the expectations of Kenyans. Consideration should also be given to the need to train police officers in the use of, and equip them with, less lethal weapons, particularly in the context of managing public assemblies and gatherings. However, although less lethal mechanisms play an important role in policing and law enforcement, they may have an indiscriminate impact and may, if misused or if used without sufficient training, cause serious injury or adverse health consequences.³⁷ Therefore, their use needs to be effectively regulated in accordance with national, regional and international human rights norms and standards, and must be entrusted to well-trained police officers. Significantly, less lethal weapons that cannot be used 'safely and effectively in crowd control settings, such as multiple projectile shotguns, must be prohibited from use in the policing of assemblies'.³⁸

Police corruption

Police corruption and corrupt activities on the part of some NPS members, particularly some traffic officers, have been described as the 'greatest impediment to reforms being carried out by the Government'.³⁹ Between 2020 and 2022, the IPOA documented 433⁴⁰ incidents of corruption and extortion, while, in the same period, the IAU reported 226⁴¹ cases of bribery, corruption and extortion. In addition, a 2022 research report⁴² by Afrobarometer, a pan-African, non-partisan survey research network, found that 68% of Kenyans believed that 'most' or 'all' police officers were corrupt. Further, in a 2024 report,⁴³ Afrobarometer underlines that 52% of surveyed Kenyans reported having paid a bribe to obtain assistance from the police, while 56% reported having paid a bribe to avoid a problem during an encounter. However, the number of actual incidents is likely to be much higher than reflected by this official data, partly because, generally, corrupt activities by their nature often take place in secrecy.

Corruption has a serious impact on public safety and on the enjoyment of a broad range of fundamental human rights and freedoms. It is a barrier to the free and full exercise of human rights by all, and can undermine public security and the legitimacy and effectiveness of policing institutions. Its persistence in policing can further compromise important policing processes such as recruitment, promotions and transfers, and can also contribute to the erosion of the morale of individual police officers. It is therefore imperative for the NPS and its oversight stakeholders to develop and implement fair and effective anti-corruption measures to address the challenge in a sustainable manner at both street level and higher up within the service, such as corruption in procurement and in the awarding of tenders. This can include through effective supervision and training, as well as stronger roles for the IAU and the IPOA, as discussed below.

Police compliance with IPOA processes

Mechanisms for police complaints, oversight and accountability play a crucial role in strengthening the provision of accountable, transparent and rights-based policing services to all. In Kenya, the IPOA was established in 2011 to, inter alia, 'hold the police accountable to the public in the performance of their functions'.⁴⁴ In the exercise of its mandate, the IPOA makes recommendations to the NPS, aimed at professionalising the service. However, as research highlights,⁴⁵ the IPOA faces constant challenges of non-cooperation on the part of the NPS, which has resulted in delays in inspections and investigations, and a slow rate of implementation of recommendations.⁴⁶ As revealed by a recent report by the IPOA,⁴⁷ overall implementation of recommendations by the NPS since the oversight agency's establishment stands at 59%.

The IPOA has also underlined the failure by police officers to notify it of deaths in police custody or as a result of police action and of other serious injuries, as required by law, as a further barrier to the effective execution of its oversight and accountability mandate.⁴⁸ Strengthening cooperation between the IPOA and the NPS will support the effective fulfilment of the mandates of both institutions, and will bolster the provision of effective and accountable policing services in the country. Meanwhile, to mitigate against some of these concerns, the IPOA needs to consider supporting the implementation of the provisions of section 31(1) of the IPOA Act of 2011, which proscribes, among other things, failure by any person or institution to cooperate with the agency on police oversight issues.⁴⁹

Complementarity between the IPOA and the IAU

In addition to the external civilian oversight provided by the IPOA, the NPS has an internal control mechanism, the IAU. The IAU was established by section 87 of the NPS Act of 2011 to, inter alia, 'receive and investigate complaints against the police'.⁵⁰ Both the IAU and the IPOA have investigative powers. However, there is an overlap⁵¹ in their respective investigative mandates, which has often led to parallel investigation processes. According to the IPOA, this has had the undesired impact of causing 'public confusion, witness fatigue and loss of evidence'.⁵² To ensure an effective oversight and accountability system, it is important for these two organs, and their respective processes, to complement each other and be mutually supportive. An overlap in investigative mandate, and its associated impact on the IPOA's accountability processes, weakens and undermines the overall impact of the oversight system, and the extent to which the NPS provides accountable and transparent policing services.

Improving investment in policing and police accountability

Police organisations require sufficient resources to effectively implement their policing policy and strategy, for which political support is necessary. Thus, it is important for political actors to ensure that policing institutions and their oversight stakeholders are provided with sufficient resources to effectively execute their mandate.

In Kenya, the NPS Act of 2011 mandates the National Assembly to allocate adequate funds to the NPS in order to facilitate the exercise of its functions.⁵³ The Act also envisages funding that is made available from other sources. Currently, the NPS does not have an independent budgetary vote in the National Assembly. It acquires its national budget through the Ministry of Interior and National Administration. An assessment of the total allocation of funds to the Ministry indicates that, between financial years 2016/2017 and 2020/2021, its budgetary allocation increased from 126 billion shillings to 134 billion shillings. This represents an

annual increase of 1.2%.⁵⁴ Analysis of available reports indicates that the majority of these funds is spent on recurring expenses, like salaries and wages, while very little is geared towards development budget.⁵⁵ Thus, while the overall budget of the Ministry has seen an annual increase, its development budget has been in decline, reducing from 23 billion shillings to 6 billion shillings over the period 2016/2017 to 2020/2021, which represents an annual decrease of 56.7%.⁵⁶ One of the reasons for the decline is the reprioritisation of recurrent spending over development spending.⁵⁷ As a result of this decline, the NPS has had to prioritise cutting back on key developmental plans and programmes, including the establishment of police stations and the refurbishment of accommodation facilities.⁵⁸

Resource-related challenges that cause policing institutions to deprioritise development projects may undermine their capacity to fulfil their mandates in an effective and rights-compliant manner. In particular, it may weaken the ability of policing institutions to perform important functions, such as the provision of basic and continuous training for police officers, the supply of adequate fuel, and the payment of allowances and other incentives to police officers. In addition, it may affect the extent to which policing institutions can rehabilitate and improve police custody facilities, provide decent housing for police officers, acquire advanced communications systems, and properly equip police officers to provide policing services that comply with binding obligations, including in the context of public-order policing.

This is also the case as regards the IPOA. Although the law envisages other sources of funding, the IPOA's primary source of funds is monies allocated to it by Parliament.⁵⁹ In its performance reports, however, the IPOA underlines how insufficient budgetary allocations have hampered its operations and performance, including the fulfilment of field-based activities.⁶⁰ In 2022, the IPOA called on the National Treasury to facilitate 'enhanced budgetary allocation for effective service delivery'.⁶¹ Similarly, the IAU highlights financial constraints as a challenge which impedes the effective discharge of its mandate.⁶² Political support for police accountability, partly manifested in investment of adequate resources to police accountability systems and institutions, is key to promoting the extent to which policing institutions are accountable to the public.

Incomplete and discontinued police vetting process

As part of the reform and transformation programme that commenced in the aftermath of the 2007/2008 post-election violence, a comprehensive, transitional police reform programme was commissioned in 2013. It was led by the NPSC, and mandated by the NPS Act of 2011. In particular, section 7(2) of the Act obliged all police officers to undergo vetting by the NPSC to 'assess their suitability and competence', and the Commission was to discontinue the service of any police officer who fails in the vetting.⁶³ This vetting component of the reform process attracted considerable optimism from many practitioners in the field of policing and public safety in Kenya, including civil society organisations (CSOs).⁶⁴ Distinctively, this optimism was influenced by the successful vetting of the judiciary, which commenced shortly before the police vetting exercise, and which was widely regarded as successful in achieving its objectives.⁶⁵

However, although the NPSC commenced the vetting exercise in 2013, including by developing a specific set of regulations to regulate and guide the process, many observers believe the exercise did not fully achieve its intended objectives, mainly due to its premature termination. Reports indicate that out of the 80 000 police officers in service, the NPSC vetted only 5 993 before the process was terminated.⁶⁶ Of these, 5 548 were retained, while the services of 445 were discontinued for unsuitability.⁶⁷ According to Human Rights Watch, in 2014, the government suspended the vetting process indefinitely.⁶⁸ Some observers have pointed out that this indefinite suspension has 'emboldened police officers previously implicated in abuses, and further entrenched the culture of impunity' that the reform process was designed to address.⁶⁹ A police

vetting process, if designed and implemented in a fair and effective manner, can contribute to strengthening a culture of respect for human rights in policing and the extent to which police officers provide professional policing solutions, and can further enhance public confidence and trust in the police.

Improper interference in policing by political branches of government

The Constitution establishes the office of the IGP, and enjoins him or her to exercise independent command over the NPS. While it empowers the cabinet secretary responsible for policing, in his or her capacity as the political head of the NPS, to provide direction to the IGP in relation to any matter of policy, it sets out a number of governing norms and principles that are designed to insulate the NPS from improper political interference.⁷⁰ In particular, it mandates the establishment of a clear distinction between executive direction and policy roles, on the one hand, and the operational independence of the NPS, on the other.⁷¹ The NPS Act of 2011 gives effect to the relevant constitutional principles, including by setting out the procedure for the appointment of the IGP, and by affirming and reiterating the policy-development role of the executive. The operation of the NPS is further governed by Service Standing Orders (SSOs), which oblige the NPS to provide non-partisan policing services to all. In particular, the SSOs prohibit all police officers, in the execution of their duties, from furthering the interests of any political party or engaging in a political activity that may compromise the political neutrality of their position.⁷²

Despite the explicit efforts of the existing constitutional, legal and regulatory framework on policing to insulate the NPS from political control, reports reveal the existence of improper political interference in the operations of the NPS. In July 2023, for instance, a report emerged that pointed out political interference in the execution of the mandate of the NPS as responsible for 'the rising cases of police misconduct' across Kenya.⁷³ According to the report, some top national government authorities issue orders to junior police officers, which has resulted in, arbitrary arrests and detention.⁷⁴ It is observed that the situation has been worsened by the 'executive's public backing of senior officers for their exemplary' management of public assemblies and protest actions, which has allowed NPS leadership and management to remain silent amid concerns by national and international human rights bodies about abuse and the misuse of policing powers.⁷⁵

In addition, in the recent past, there have been numerous reports suggesting unequal enforcement of the law by police officers, particularly in the context of public-order policing, where the police are more inclined to disperse assemblies and gatherings whose objectives are inconsistent with the views of the ruling party, sometimes using unlawful and deadly force.⁷⁶ This led the IPOA to recommend that the NPS:

Abide by Article 239 of the Constitution while performing their functions and exercising their powers. The Service should not act in a partisan manner, further any interest of a political party or cause, or prejudice a political interest or political cause that is legitimate under the Constitution. The Service should remain impartial in carrying out its functions.⁷⁷

However, there has been notable and encouraging progress. In January 2022, the NPS developed and published a manual for police commanders on election security management, which is aimed at ensuring policing responsibilities during elections are executed in a professional and consistent manner.⁷⁸ According to a monitoring report by the IPOA, the NPS, in preparation for the 2022 general elections, made a number of targeted efforts to enhance election security, including through training police officers, engaging stakeholders and developing police operation orders.⁷⁹ The report notes that, despite a challenging work environment, the NPS strived to 'uphold [the] highest levels of professionalism' in the fulfilment of its mandate.⁸⁰ These findings reflect important institutional progress made by the NPS in the management of elections.

KEY RISKS, AND RISK-MITIGATION APPROACHES

The NPS has made significant legislative, policy and institutional progress towards achieving a framework for rights-based policing. In particular, applicable constitutional provisions and the legislative framework that governs policing are generally consistent with international standards on policing. However, there remain critical gaps in implementation. Two variables for the success of existing and future reform efforts include: national ownership of, and active public participation in, the reform project; and ensuring a balance between supply-side reforms and demand-side objectives. Reform actors, in current and future efforts, will be well advised to design and implement approaches that provide for these. The following considerations are offered as possible solutions.

Fostering greater national ownership of the reform agenda

Outside of government and police leadership and management, a range of other non-state actors can have a positive influence on the design and effective implementation of police, and broader public-sector, reforms. In Kenya, as discussed earlier, there was broad participation and involvement of CSOs in the design and implementation of the post-2007/2008 reform project. This included active engagement and participation in the process prior to the design of the reforms, as exemplified in the advocacy and awareness-raising activities of civil society, and in their efforts to think through the design of reforms that are responsive to the Kenyan context.⁸¹ These had the effect of deepening consensus on the reforms and their mission and objectives, and contributing to the observed effectiveness of the project.

There are regional and domestic legal and policy instruments that support the active involvement of civil society in national reform programmes. The African Union Policy Framework on Security Sector Reform sets out the role of civil society in these contexts as including needs assessments, and participation in the formulation, communication, monitoring and evaluation of laws and policies.⁸² The Policy Framework further underlines that the involvement of civil society in security-sector reform will ultimately be seen as a measure of public approval of the reforms.⁸³ Domestically, the Constitution embodies specific values and principles of governance, and enjoins duty-bearers to facilitate effective public participation in the making and implementation of laws and policies.⁸⁴

In the context of the current reform project, the establishment, composition and mandate of the Taskforce on Police Reform are encouraging signs.⁸⁵ Members of the Taskforce included persons of diverse background and experience in the fields of administration of justice, policing and human rights, including representatives of research-based institutions, civil society, and advocacy and human rights groups. Their appointment and central role in identifying and formulating the core challenges, gaps and deficiencies in policing will promote and deepen consensus on the objectives and legitimacy of the initiative. In addition, the Taskforce was mandated to engage a broad range of stakeholders in policing, including community-based organisations, social-services entities and faith-based organisations.⁸⁶ Duty-bearers should consider increasing and strengthening the participation of civil society in the current and future reform processes. As the implementation of the Taskforce on Police Reform's recommendations begins, it is important to maintain an active role for civil society in the process.

Furthermore, a collaborative partnership between the police and other stakeholders in public safety, such as researchers, academics and civil society, can contribute to the initiative, without placing any strain on limited policing resources. The NPS should, where priorities intersect and conditions allow, develop such a collaborative partnership with other role players.

In addition to national ownership, political support for, and commitment to, reform projects is essential for the success of the programme. As noted earlier, together with national ownership and support for the 2007/2008 reform initiative, political commitment to guide and implement the reforms strengthened the extent to which they received the widest possible support and was essential to the advances made. Lessons and best practices from jurisdictions that have designed and implemented police reform projects indicate that absence of national consensus about reforms, and weak political will and leadership, may result in less successful reforms.⁸⁷ Thus, among other factors, appropriate political and social conditions are necessary requirements for successful police reform programmes.

Ensuring a balance between supply-side reforms and demand-side objectives

The second core element that contributed to the traction of the post-2007/2008 reforms, and from which lessons can be drawn to inform current and future reforms, is manifested in a focused investment in demand and supply initiatives. Duty-bearers combined targeted improvement of the operational efficiency of the NPS with institutional reform and demand-side objectives. This facilitated a comprehensive and integrated approach to police reforms in the country. As reform efforts continue, there is a need to ensure a clear balance between institutional reforms and operational reforms. Transformation and improvement of police operational efficiency, on the one hand, and institutional reforms and changes, on the other, should take place concurrently. Investment in resourcing, training and equipping the NPS should be combined with strengthening the oversight and accountability mandate of the IPOA; strengthening and capacitating the IAU; developing transparent performance management processes; improving and enhancing performance standards; strengthening police governance systems and improving and implementing basic standards for the recruitment of officers, among others.

On 16 November 2023, President William Ruto received the final report of the Taskforce on Police Reform, led by former Chief Justice David Maraga.⁸⁸ The report, which embodies targeted recommendations on improving the capacity of the NPS, identified and underlined a number of factors and conditions that act as barriers to the capacity of the NPS to deliver effective and rights-based services to all. These include corruption; underfunding; leadership deficits; poor handling of human capital management; and other structural challenges.⁸⁹

Effective responses to these concerns will require duty-bearers to develop and implement response measures that support both supply-side reforms and demand-side imperatives. The president has undertaken to support the implementation of the recommendations of the Taskforce, which is an important and critical step in the fulfilment of the Taskforce's mandate, and the essence of its establishment.⁹⁰

Going forward, however, there is a need to ensure that this commitment is translated into concrete strategies for implementing the recommendations in a holistic manner. This could be achieved through, as discussed in the previous section, sustained, active participation of civil society and other groups and institutions in the implementation part of the process. It could also be fostered through other systemic efforts, including the provision of mechanisms for feedback from the public, and by means of robust engagement through the provision of an open source for tracking implementation efforts.

CONCLUSION

Police reform efforts initiated in the aftermath of the 2007/2008 post-election violence have strengthened the extent to which the NPS provides policing services that comply with its constitutional mandates and obligations. It is clear that a focused approach aimed at identifying and addressing supply-side reforms, including the operational efficiency of the NPS, alongside institutional reforms and demand-side objectives, played a key role in the progress that has been made. As the reform process continues, it is imperative for duty-bearers to draw on these lessons, experiences and best practices in order to inform existing and future reform efforts.

At the regional, East African level, the EAC and the EAPCCO have made significant and important strides in terms of establishing harmonised, regional policing standards. The ongoing progress of policing and police reform in Kenya in accordance with the prescripts and requirements of the standards not only strengthens and improves policing in Kenya, but also aligns policing with the regional practice and the values that underpin the EAC and the African Union.

ENDNOTES

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Foundation; Women Empowerment Link (WEL); Shield for Justice; Haki Africa; the Kariobangi Paralegal Network; Kenya Peace and Justice; UN Women; Peace Brigades Kenya; Defenders Coalition; and Social Welfare Development Kenya (SOWED Kenya). The group's purpose is to ensure a participatory security-reform process that can be trusted by both the police and the public, and which is guided by five pillars: quality service, accountability, public participation, police welfare, and capacity.

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ABOUT APCOF

The African Policing Civilian Oversight Forum (APCOF) is a Not-for-Profit Trust working on issues of police accountability and governance in Africa. APCOF promotes the values which the establishment of civilian oversight seeks to achieve; namely to assist in restoring public confidence, developing a culture of human rights, promoting integrity and transparency within the police, and nurturing good working relationships between the police and the community. While APCOF is active in the field of policing, its work is located in the broader paradigm of promoting democratic governance and the rule of law.

ABOUT RWI

The Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI) is an independent academic institution established at Lund University in Sweden in 1984. For more than 30 years, RWI has worked to promote human rights by means of education, research and institutional development through cooperation with primarily government, academic and national human rights institutions in Europe, Africa, Asia, the Middle East and Latin America. RWI implements a wide range of human rights capacity development programmes internationally that seek to advance lasting change when it comes to the practical application of human rights through long-term, constructive cooperation with individuals, groups, institutions and organisations to maintain and strengthen abilities to define and achieve mutual human rights objectives, and through a process itself guided by human rights.

ABOUT THIS REPORT

Kenya has a long history of police reforms that dates back to independence. Following the 2007/2008 post-election violence, and the subsequent comprehensive police reforms, the National Police Service (NPS) has made significant legislative, policy and institutional progress towards achieving a professional police service.

As part of supporting the ongoing police reform efforts in the country, this paper discusses two important variables for sustaining and advancing police reform efforts in Kenya. It observes that national ownership of, and active public participation in, the reform project is essential to its success. It also underscores that efforts to enhance operational efficiency and expand the institutional capacity of the NPS should go hand in hand with institutional reforms and changes.

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