



African Policing Civilian Oversight Forum

NGO Observer Status No. 372

Statement on Human Rights Situation in Africa

77th Ordinary Session of the African Commission on Human and Peoples' Rights

20 October – 9 November 2023

Arusha, Tanzania

Honourable Chairperson and Commissioners,

The African Policing Civilian Oversight Forum (APCOF) welcomes the opportunity to make this statement to the 77th Ordinary Public Session of the African Commission on Human and Peoples' Rights.

Our statement deals with two issues: the use of force by the Kenya National Police Service in the policing of public assemblies; and the need to promote and strengthen police oversight and accountability mechanisms in Africa.

1. The use of force by the Kenya National Police Service in the policing of public gatherings

APCOF welcomes the African Commission's statement on 21 July 2023 regarding the right to peaceful protest in Kenya. In particular, we note the Commission's concerns regarding excessive use of force by the police, which resulted in the death of at least 12 people during protests on 7 and 12 July 2023. In its 2021 [empirical research on lethal force](#), and 2022 [assessment on human rights compliance](#), APCOF and partners highlighted significant challenges regarding the use of force by the Kenyan police, including in public order management contexts.

African Policing Civilian Oversight Forum

Building 23B, Suite 16, Waverley Business Park, Wyecroft Road, Mowbray, Cape Town, 7925

PostNet Suite 63 Private Bag x11, Mowbray, 7705

Tel: +27 21 447 2415

www.apcof.org.za

Trust no. IT1900/2012

PBO 930041858, NPO 119 688- NPO

Trustees: T Gandidze (Chair), G Cronje (Treasurer), P Tlakula, E van der Spuy, A Van Wyk, S Africa

The findings and recommendations of these reports are available to the African Commission.

APCOF **urges the African Commission** to follow up on its statement with Kenya, and to consider making additional recommendations to strengthen rights-based use of force, based on the evidence-based findings of APCOF's research. This includes:

- The need to improve training as well as access to less-lethal weapons so that public order policing can be carried out with minimum use of force;
- The urgent need to amend the legal and regulatory framework for the use of force to ensure that it accords with regional and international human rights standards;
- Cooperate with investigations into lethal use of force conducted by the Independent Police Oversight Authority; and
- To create within the National Police Service a commission to review all cases involving lethal outcomes, in order to reflect on what could have been done differently to prevent fatalities. The findings of this commission should inform protocols, doctrine and training.

Furthermore, the African Commission may be aware, the Kenyan *National Taskforce on improvement of the terms and conditions of service and other reforms for members of the National Police Service and Kenya Prisons Service* has concluded its work. Their report should provide recommendations to address the legal, policy, administrative, institutional and operational constraints on effective service delivery by the police (including on use of force). The report, however, has not been released. **We call on the African Commission** to encourage the immediate release of that report, and to commit to the full implementation of the Taskforce's findings.

2. The need to strengthen police oversight and accountability systems in Africa

During its 40th Ordinary Session in 2006, the African Commission adopted resolution 103a on police reform, accountability and civilian oversight in Africa. The resolution called on states to 'establish independent civilian policing oversight mechanisms'.

APCOF is encouraged by the progress made in establishing and capacitating civilian police oversight mechanism in South Africa, Kenya, Malawi, Sierra Leone, Nigeria and Lesotho. We also note provisions in law that would allow for the establishment of mechanisms in Zimbabwe and Botswana. However, APCOF is concerned about (a) the lack of progress in the establishment of new mechanisms across the continent; and (b) within existing mechanisms, trends which erode their functional independence, including inadequate allocation of resources, and interference by the police and executive in issues related to management and operations.

We call on the African Commission to:

- Reaffirm the importance of resolution 103a, and remind states of their obligations to establish and support independent civilian police oversight mechanisms as a necessary measure to strengthen transparency, accountability, and rights-compliance in policing services; and
- Consider the development of normative guidance for states on the establishment and effective functioning of independent civilian police oversight mechanisms.

For further information, please contact:

Sean Tait

Director

African Policing Civilian Oversight Forum

E: sean@apcof.org.za

T: +27214472415