



African Policing Civilian Oversight Forum

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Statement in response to the report of the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa

81st Ordinary Session of the African Commission on Human and Peoples' Rights

17 October – 6 November 2024, Kololi, the Gambia

Item 5: Activity Reports of the Members of the Commission & Special Mechanism

Honourable Chairperson and Commissioners,

The African Policing Civilian Oversight Forum (APCOF) welcomes this opportunity to make this statement in response to the activity report of the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa.

APCOF supports the Commission's 26 June 2024 statement on the human rights situation in Kenya, addressing public protests related to the proposed tax Bill. In particular, we welcome concerns raised about excessive and disproportionate use of force by law enforcement officials in the management of the protests, including live ammunition. However, we remain concerned that the use of arbitrary and abusive force and firearms by the police in Kenya is a recurring challenge, despite the efforts of the Commission and other role players.

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Over the past 10 years, research and interventions by both the Commission¹ and other international human rights bodies² have focused on the unlawful use of force by Kenyan police in public order and other operations, highlighting its human rights impact. A common feature of these efforts has been calls for Kenya to address the factors that hinder law enforcement officials' ability to use force lawfully and in compliance with human rights standards. Despite these efforts, Kenya has yet to deliver an effective response to address unlawful use of force.

In its report³ on the policing of the protests against the proposed tax Bill, the Independent Policing Oversight Authority (IPOA) highlights concerns that align with those expressed by the Commission and other actors. These include⁴ the use of live ammunitions, rubber bullets and batons to disperse crowds, the deployment of masked and hooded police officers to manage the protests, and the targeting of medical camps.

These findings reinforce existing calls for a comprehensive state response to the challenge, the absence of which is an ongoing concern to APCOF and other stakeholders in the field of policing and human rights. In this regard, we welcome the release in September 2024 of the final report of the [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, together with a [strategic framework](#) for the implementation of the reforms.

Among other things, the report underlines challenges such as lack of proper police training, equipment and access to appropriate less lethal weapons as critical gaps which prevent a rights-based approach to the use of force.⁵

APCOF welcomes the Taskforce's recommendations that police officers be provided with basic and continuous training on human rights issues, and adequate resources for acquiring appropriate tools and equipment.⁶ This will strengthen the extent to which law enforcement officials in Kenya use force and firearms in a differentiated and

¹ See ACHPR "The African Commission on Human and Peoples' Rights Expresses Deep Concern over Human Rights Violations and Growing Tensions Amid Mass Protests in the Republic of Kenya", 26 June 2024; and ACHPR "African Commission calls for respect for the right to peaceful protests in Kenya", 21 June 2023.

² OHCHR "Comment by UN Human Rights Office spokesperson Jeremy Laurence on Kenya protests", 14 July 2023; and OHCHR "UN experts criticize Kenya police for excessive use of force against peaceful protesters", 10 November 2016

³ IPOA "Monitoring report on the policing of the protests held in various counties on diverse dates in June, July and August 2024", 14 August 2024.

⁴ Ibid, pages 8, 10, 11 & 12.

⁵ Report of the the 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, November 2023. Pages 75 & 135.

⁶ Ibid, pages 75 and 136.

rights-compliant manner. However, we note that further guidance is required to build on the findings and recommendations of the Taskforce, and provide a holistic and integrated solution to the challenge.

Accordingly, we call on the Commission to consider undertaking a human rights promotion mission in Kenya, as part of the promotion mandate of the Commission in terms of article 45(1) of the African Charter, and provide specific guidance to Kenya on, inter alia:

- The legislative, policy, institutional and operational measures required to ensure law enforcement officials use force in a manner that complies with their obligations under national, regional and international human rights law. This include: articles 1, 2 , 4, and 5 of the African Charter; General Comment No. 3 on article 4 of the African Charter; and Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa.

We also urge the Commission to encourage Kenya to begin the process of implementing all the recommendations made by the Taskforce, in accordance with the mission of the strategic framework.

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