

Police Reform in Kenya: Challenges and opportunities

By Annie Mageka

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This blog post by Annie Mageka, CSG Blog Correspondent (Kenya), is the first contribution on our blog to feature analysis by local researchers and journalists as part of our new Blog Correspondent series. This program's goal is to support and encourage new researchers and journalists in the fields of security sector reform, security governance and peacebuilding.

In this contribution, Annie Mageka analyzes the police reform process in Kenya and discusses recommendations to improve the state of policing in Kenya with local stakeholders she interviewed. The blog post provides an excellent summary of over a decade of police reform in Kenya, as well as on-the-ground reporting, empirical evidence and key insights on the future of the Kenya Police, and has therefore been republished here as a CSG Insight.

The past and present of policing and police reform in Kenya

The Kenya Police, has over the years served as the state's main organ of oppression and principal violators of human rights operating in a culture of low accountability. Police forces have often been charged with corruption and misuse of force. Since Kenya's independence in 1963, the Kenya Police has been linked with the protection of a small political and economic elite at the expense of the protection of all citizens' rights: this contributed to the public's image of the police as a hostile, abusive, corrupt and ineffective force. In addition to this, the police lacked the necessary equipment to carry out their duties, had to deal with poor infrastructure, and there was a lack of coordination with two separate police forces (Administration police and Regular Police).

The push for multiparty democracy in the early 1990s brought greater pressure for police reform in the country. There was a need to transform the police into a more modern service, in line with international standards of policing. This however was not realized until 2002 after a change of government, with the National Coalition for Reforms and Democracy (NARC) winning the elections.

In 2003, the government established the Task Force on Police Reforms, the first time such an extensive reform process specifically targeting the police had been started by the government. The task force was mandated to analyze the current poor policing practices and provide recommendations. The task force proposed a number of recommendations including the development of a public relations campaign and the implementation of organizational reforms and

institutional restructuring. The focus of the task force was however not on accountability and professionalism.

The aftermath of the 2007 elections was the turning point of the national police reform agenda. The Commission of Inquiry into the Post-Election Violence (CIPEV) implicated the police in acts of violence and killings during the Post-Election Violence. The CIPEV and the UN special rapporteur report on extra judicial killings both recommended extensive reforms of the police system. In addition, Agenda IV of the National Accord and Reconciliation Agenda also prioritized 'constitutional, legal and institutional' reforms, one of which was law enforcement institutions, as a means to improve the rule of law. In response to these recommendations the government set up the National Taskforce on Police Reforms in 2009 headed by Retired Judge Philip Ransley. The taskforce came up with over 200 recommendations. To fast track and coordinate the implementation of the recommendations the President established the Police Reform and Implementation Committee (PRIC).

The Ransley report recommendations provided a blueprint for police

reforms and were adopted in the formulation of the constitution. The promulgation of the 2010 constitution introduced significant changes in the policy, legislation and institutional structures towards police reform and significantly enhances police accountability. Some of the key changes included: the establishment of the National Police Service (NPS), that merged the Kenya Police and the Administration Police under one command which was the newly created office of the Inspector General; the National Police Service Commission (NPSC) tasked with developing training policies, advising on salaries and remuneration of the members of the Service, overseeing recruitment and disciplinary matters and the vetting of the members of the National Police Service, : and the establishment of a specific body mandated to deal with complaints against the NPS.

Limited progress, significant challenges ahead

Despite some initial progress, the reform process still faces several challenges. Top commanders referred to the police services as 'an institution that is turning into a criminal enterprise where tribalism, favoritism and

the search for bribes has replaced the vaunted motto of providing service to all'. Organizational reforms, including administrative merger and vetting, have had limited impact. Corruption and a lack of political reform are key obstacles to the current reform process. Human rights violation is still rampant in the police service, a signal that there has been no change in terms of attitudes and practices amongst police officers.

The merger of the Administration Police (AP) and the Kenya Police has only partially succeeded due to resistance within the Administration Police, who felt that a merger was not in their best interests as they would see their role limited post-integration process and under unified command. In 2009, AP commandant Kinuthia Mbugua stated that "the AP is a unique but very strategic and important internal security arrangement which should not be merged with the Kenya police...as AP are deployed within the grassroots in all parts of the country...and a merger would deny Kenyans the security they have had interacting with the AP at their doorstep". The two institutions thus continue to work separately, impeding effective coordination and collaboration as envisioned

by the National Police Service Act. The lack of a clear command structure is also a significant challenge to the National Police Service due to the merger and that 'currently, we do not have a National Police Service, but a conglomerate of 'forces' answering to different commanders, with different resource pools, and some receiving more favors from the Executive than others'.

The vetting of police officers by the NPSC, a process that is central in the reform agenda, has been very slow; a cause of concern for many civil society organizations, government and the police as well. President Uhuru Kenyatta expressed his concern that the process is slow and is creating a lot of anxiety among police officers. The process was scheduled to end by August 2015 and is already behind schedule. Concerns on transparency of the process have also arisen: the constitution and the Police Act state that members of the Kenya Police Service must be vetted on competence and suitability, with a focus on professionalism, performance, discipline, human rights record and qualifications (academic and training). The focus has however shifted to issues of wealth and finances of police officers with little attention giv-

en to their service records. In addition, Johnston Kavuludi, chairman of the NPSC, and commissioner Ronald Musengi are facing graft charges by the Ethics & Anti-corruption Commission raising further questions on the integrity of the process.

The endemic culture of corruption still remains a deep-seated issue despite the reforms in the service. The police service has been described as a 'bribe factory' and research conducted by Transparency International in 2014 found that the police service remains the most corrupt-prone public institution in the country with an 81% corruption score.

There is also a perceived lack of political will to hasten the pace of reforms. There have been repeated attempts to amend security sector laws by the current government so as to remove checks and balances and increase governmental control over security agencies. Some of the proposed changes include: limiting the powers of the NPSC and allowing the president and parliament to appoint the inspector general of police without open recruitment. The Security Laws (Amendment) Act is perhaps considered the greatest attempt by the government to roll back some of

the gains made in the reform process. Seven clauses in the Act were suspended as they were considered in direct contravention of the bill of rights.

Moving forward: Vetting, training and political will

The vetting of police is facing major setbacks as compared to the vetting process of judges, which was also part of the institutional reforms proposed by the National Accord and Reconciliation Agreement, and as such there is a need to reconstitute it with the right mix of stakeholders in order to introduce new opinions and ideas in the process¹. A police officer interviewed agreed with this adding that "the NPSC needs to be restructured, there should be a mix of expertise in the vetting panel including some external commissioners as seen in the judges and magistrates vetting board"².

In addition to the vetting process, according to a prominent analyst interviewed for this article, police officers should be retrained: "the police should be retrained to the highest possible standards of ethics and integrity to respect human rights and fundamental freedoms and dignity of

the Kenyan citizens". He argued that this retraining can also help to weed out rogue police from the service³.

For the police reform process to move forward, there should be strict adherence to the new constitution, which requires "police to be professional, competent and accountable, respecting human rights and fundamental freedoms at all times"⁴. Further there is need for increased political will and less interference in the police reform process. This will ensure that there is true engagement in the process and the entire exercise is not an act in futility⁵. A police officer interviewed stated that "for reforms to be successful in the country, the police should be allowed to operate as an independent body" and noted that "political interference and the old guards who are still in the police service are the ones derailing the reforms process because they know (the old guards) they will be the first to be rooted out if they embrace reforms".

Annie Mageka is based in Kenya and is currently a Centre for Security Governance (CSG) Blog Correspondent.

Notes

^{1, 3, 5} Interview with University of Nairobi Lecturer, September 2015, Nairobi.

² Interview with a police officer, September 2015, Nairobi.

⁴ Constitution of Kenya 2010 article (244)

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