POLICE ACCOUNTABILITY IN AFRICA SNAPHOTS: KENYA CONFERENCE

Regional Specificities of Police Accountability in Africa

This document highlights the regional issues confronting effective, legitimate and sustainable police accountability as discussed in the AAAJD Kenya conference. Issues have been earmarked for the regions of West Africa, Sub Saharan Africa, East Africa , Central Africa and Southern Africa.

WEST AFRICA

A lot is being done to solve the challenges on police accountability in West Africa. There are emerging institutions of accountability; both laws and institutions. There exist both External and internal accountability mechanisms in the region.

1. Military performing Police security services : no common norms of accountability

With the military In Nigeria taking over security services in some domains there is a power struggle between the military and the police which undermines policing. Two different agencies are performing a common set of services- perceived as a 'common community of security'. Without common shared attitudes and practices in the two agencies is leading to a breakdown of norms of engagement, safety and accountability in performance.

2. Lack of Partnerships with communities, authorities and other agencies

A residual phobia of men in uniform continues from a historical legacy in many West

African countries. And even today, citizens lack knowledge of the role of the police and there continues to be poor communication between the police and public. Lack of space for public-police dialogue contributes to paucity of police-public collaboration. Calls to collaborate with green numbers are used in all countries most of which revolve around assurances of anonymity to informants. The effects appear to be relatively limited.

3. Police themselves are a target of militants leaving little scope for accountability processes and transparency.

Procedural justice is difficult when fair play, trust sharing and solidarity between citizens and law enforcement are the casualties of violent extremism.

In militant conflict zones safety of the police itself is challenged (Tchaourou- Benin, northern Togo, Burkina) creating breakdowns in established police functions of law and order. Elsewhere, civilian

informants suspected of cooperating with the police are punished or even murdered (Bantè case in Benin). In the absence of police as in regions of Mali, Burkina Faso and Niger, for example, located in areas of violent conflict , alternative 'policing' by extremist groups exists People fear for their lives and prefer to cooperate with extremists. Citizens do not even show up in the police station or contact police.

4. Trust deficit in police forces continues

….Quote "the situation appears more degraded compared to 2014/2015 when, in a study on 36 African countries, Afrobarometer concluded that West African populations were less confident in these police forces. The vast majority of police officers contribute to this situation through their actions,

behaviours and perceptions of the security services. --Mr. Julien Oussou, West Africa Network for Peacebuilding (WANEP), Accra, Ghana

5. Police Brutality and organised violence a direct violation of democratic and accountable policing

Other forms of threat to peace and security such as vigilantism in Ghana is pushing up peoples distrust of the police. Violent vigilantism rooted in political contestations of power has targeted citizens and violated public safety. Elsewhere the use of force and weapons by Police to suppress citizens demonstrating with their bare hands (Benin, Togo, Côte d'Ivoire, Gambia) goes against the tenet of police

protectionism of human freedoms. Such situations cause communities to lose confidence in police even though some have understood that the geopolitical stakes behind the struggles in their territories.

6. Oversight created : processes and capacity is to be strengthened

In several countries in the region, there are increasing penalties for police officers for various misconduct against the public. However, because of a very strong police sub- culture, sometimes it is difficult to get a successful complaint against a police officer. In addition, in many countries in the region lack or have weak Complaints Management System (CMS). Procedures limit the chances of sanctions, there is lack of timely and accurate feedback to complaints poor oversight guidelines to oversee action for complaints.

7. Measuring efforts of Accountability

Initiatives in monitoring, tools for measuring accountability need further discussions.

8. Public relations and media communication.

Social media and public engagement to build pressure for greater accountability, transparency and citizen engagement is required.

9. Regional mechanisms build appetite for accountability

The West African Police and Chiefs Committee Organisation (WAPCCO) is a key organisation that promotes police accountability is West Africa. WAPCCO, An organisation of the regional ECOWA tasked with identifying trends and patterns of crime, organizing regional conferences and meetings, establishing and maintaining contacts with different law enforcement authorities, and assisting in the sharing of best practices.

10. Cross-border illegal activities to be flushed out Sub regional and local level policing network and oversights are yet to be created. Porous borders have led to proliferation of small arms and light weapons. And cross border conflicts in Niger, Chad and Benin has also negatively affected policing.

EAST AFRICA

The East African countries are not only tied with a common history and geography but also a similar policing history.

1. There is a Focus on legal frameworks that promote colonial regimes and punitive policing rather than democratic and citizen centred policing.

Apart from Kenya, the other countries have weak internal and external accountability and oversight mechanisms.

□ In **Uganda**, the constitution does not require the police service to strive to promote human rights although article 211 talks about professional, disciplined and competent policing. The exact conduct the police are supposed to adhere to is spelled out in the Uganda Police Act of 2005 which is a reflection of the outdated colonial policing.

□ In **Tanzania** the picture is not any different from Uganda. The 1977 constitution of Tanzania does not have any elaborate provisions on the police. In the contrary there is a whole chapter dedicated to the armed forces in the country. The 2002 Police Force and Auxiliary Services Act is a reflection on
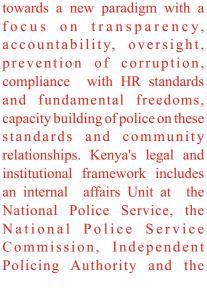

colonial policing regimes as opposed to modern policing standards. Preventive Detention Act 1962 allows the Minister of Home Affairs to order police to arrest and detain a person that the executive thinks should be detained and additionally the Inspector General of the Police is appointed by the President of Tanzania depicting the level of executive interference in policing.

□ In **Ethiopia**, law enforcement apparatus has effectively been serving as instrument of the government. The law enforcement is normally loyal to the political power of the day. Ethiopian law enforcement is characteristically unprofessional, they comfortably ignore court orders they are considered independent by the government but un-independent by the opposition, Media, academia, and the society. There is no

independent body to handle complaints against police misconduct.

2. High corruption in police ranks marks accountability in the East African region

In survey after survey on Corruption in the East Africa region, the police service has been ranked the highest in terms of corruption in the region. A

recent corruption survey i.e. The East Africa Bribery Index conducted by Transparency International showed that the police service in the region ranked the highest on corruption. In Tanzania, for instance 71% of the times citizens encounter a police officer they are likely to be asked for a bribe; in Kenya it is 69 % while in Uganda 67%. This gives a general picture on the situation across the region.

3. Inistutionlalizing police accountability

The 2010 constitution of **Kenya** and other enabling legislations have helped the country shift towards a new paradigm with a focus on transparency, accountability, oversight, prevention of corruption, compliance with HR standards and fundamental freedoms, capacity building of police on these standards and community relationships. Kenya's legal and institutional framework includes an internal affairs Unit at the National Police Service, the National Police Service Commission, Independent Policing Authority and the KNCHR.

4. Realigning internal police structures to strengthening conduct.

In **Ethiopia** Some positive steps taken to improve police accountability are public acknowledgment of abuses by security forces, arrest of few former security officials, amendment of repressive laws like the ATP, CSO, and Media laws, development of a use of force manual, the initiation to liberate NHRI from government control and better working environment for Human Rights CSOs. From the of beginning 2019, the government has restructured the police by improving the human resource and organizational structure by Demarcating the police into five clusters, improving recruitment procedures, revise police training curriculum and manuals, improving ethnic diversity and working procedures, amending its governing laws and directives. The Ethiopian Government has promised that it will hold police accountable for violating the rights of citizens and to develop methods of police accountability.

5. Regional accountability initiatives

In 2008 the East Africa Community adopted the Common Standards of Policing. The framework is a composite of the international and regional treaties, conventions, declarations, guidelines, basic principles and codes of conduct which are either substantially derived from, or informed by, the UN's International Bill of Rights. It is premised on human rights and the rule of law and, properly implemented, creates an environment for policing that is governed by rules that:

- Protect and promote human rights and dignity;

-are fair, just and equally applied to all without discrimination, arbitrariness or oppression

-and are subject to effective oversight mechanisms to ensure that the rule of law is upheld

In commemoration of ten years of common standards of policing in the EAC in 2018, APCOF and several other organisations have also developed indicators that can be used to measure whether the EAC countries are complying with the Common Standards of Policing.

6. External oversight mechanisms to be strengthened

To monitor and document police operations in order to promote police accountability.

SUB SAHARAN AFRICA

The main issues and challenges facing policing in the Sub-Saharan Africa are:

1. Corruption

2. Low levels of citizen trust in and collaboration with law enforcement

3. Poor service delivery and lack of oversight mechanisms

4. Limited forums opportunities for citizen-police exchanges/dialogue

5. Lack of transparency.

CENTRAL AFRICA: View from Cameroon

Cameroon's mixed colonial history means that it has inherited aspects of French and English law and language.

1. Police force: A repressive structure

The country's police force is under the control of the President's office. It has been associated with serious abuse, including extrajudicial killings, torture, degrading and inhuman treatment, arbitrary arrest of members of opposition political and civic groups, long detention of suspects (sometimes in solitary cells) widespread corruption and extortion. Torture is outlawed, but is routinely employed against detainees.

2. Oversights

- **The National Commission for Human Rights and Freedom (NCHRF)** is the official government organ for the promotion and protection of human rights in Cameroon. Cameroon has had the commission since 1990. The **NCHRF is subject to close Presidential control and as a** result has not been very effective. The Commission engages in promotional activities but avoids investigating and reporting cases of human rights violations by the Government or security agencies.

Within its protective mandate are visits to detention centres of the police/prisons either on initiative or invitation of victims. However, the NCHRF is yet to be very active in the field. According to the annual report they undertook two prison visits in a calendar year and 2 visits to police cells in Yaounde. Though the NCHRF recently created regional offices in some regions, their role as an oversight mechanism is yet to be felt. Within the framework of effective oversight, the commission is expected to be more regular in the police stations. Lacks of adequate resources, unqualified staffs are amongst their problems

The annual report of the state of human rights in Cameroon is not published in which cases of defaulting officers and corresponding punishment is listed. This could act as deterrent if the reports were accessible.

- **Special Police Oversight Division** attached to the Department for National Security was created. The institution lacks independence and objectivity. Inquiries into allegations of unlawful acts, including torture or cruel, inhuman or degrading treatment, committed by the police, are carried out by police officials of the Special Police Oversight Division.

- The ministry of justice, is statutorily a key factor in police oversight but corruption of magistrates is a concern. The judicial system is not an effective police oversight mechanism. Courts are subject to illegitimate influence and corruption, and judicial appointments are made by the President. There have been instances where military tribunals have exercised jurisdiction over cases of civil unrest.

3. Lack of civil society

A number of NGOs operate in the country but none with police matters.

SOUTHERN AFRICA

Southern Africa is a very diverse region composed with both Anglophone and Francophone countries. Similarly, accountability mechanism is also diverse in the region. In South Africa, accountability external accountability mechanisms were born out of crises. While in Malawi there was the emergence of police oversight authority after transitions. Zimbabwe has its constitution and police oversight authority as some of the mechanisms that provide police accountability which is yet to be operationalized.

1. Mandate contests between police and state

Unlike other regions in Africa where power struggle between security institutions such as the military and police exist, in South Africa there is a sense of Police state capture which has led to a pushback in police accountability as there is a hostile environment.

2. Capacity deficits in police accountability

In South Africa, police accountability has been marred with capacity deficits

3. Civil society oversight

South Africa has a strong civil society that has led to growth in oversight and leads the region to set standards.

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