
INTERNATIONAL CONFERENCE ON POLICE ACCOUNTABILITY IN AFRICA

Conference Theme:

“Achieving Effective, Legitimate and Sustainable Security Sector Reform”

VENUE: INTERCONTINENTAL HOTEL, NAIROBI, KENYA

DATES: 3RD -4TH JULY 2019

CONCEPT NOTE.

INTRODUCTION

The police are the most conspicuous indication of government authority responsible for public security. While being under enormous pressure throughout the world to counter the rising tide of organized crime and the new threats to international and national security, including those emanating from terrorism, the police must operate in accordance with national and international law and respect human rights at all times.¹

Police accountability is a system of internal and external checks and balances aimed at ensuring that police carry out their duties properly and are held responsible if they fail to do so.² It is a fundamental principal of a democratic society that the police should be held to account for their actions. The entire discussion on accountability is aimed at preventing the police from misusing their powers, preventing political authorities from misusing their control over the police, and most importantly, enhancing public confidence and re-establish police legitimacy.³ For the people to vest their trust in the police, it’s paramount for the police service to be accountable and transparent. Accountable policing means that the police accept being questioned about their decisions and actions and accept the consequences of being found guilty of misconduct, including sanctions and having to compensate victims.⁴ Without such transparency, corruption and other forms of police misconduct thrive, given that some secrecy is inevitably associated with misconduct.⁵

¹ OSCE. “Guidebook on Democratic Policing.” By the Senior Police Adviser to the OSCE Secretary General. Available at <https://www.osce.org/secretariat/23804?download=true>

² UNODC. “Handbook on Police Accountability, Oversight and Integrity.” Available at https://www.unodc.org/pdf/criminal_justice/Handbook_on_police_Accountability_Oversight_and_Integrity.pdf

³ *Ibid.*

⁴ Andreas Schedler. “Conceptualizing Accountability in the Self-Restraining State: Power and Accountability in New Democracies.” Andreas Schedler, Larry Diamond and Marc F. Plattner, eds. (Boulder, Colorado, Lynne Rienner Publishers, 1999), pp. 13-28.

⁵ *Ibid* note 2.

CONTEXT

Police accountability is core to democratic policing⁶. The police must not only be effective in crime control but must also be perceived to be fair and respectful of each citizen. People feel secured and valued in an environment in which equality, protection of human rights and rule of law are practiced. Such accountability generates confidence in local security agencies to build acceptance of constitutional and legal institutions. Citizen perception of law enforcement being respectful, fair and effective have been recognized as key elements in people's wellbeing and essential for sustainable development by the UN Member States under the 2030 Agenda for Sustainable Development. An environment in which human rights are ensured, where rule of law is fair, standardized and accessible to all, increases the credibility of governing institutions.

World over, police organizations have been evolving in various stages to move from a 'warrior to guardian' role—the shift from enforcement to service delivery. They seek to not only secure the lives of people under their watch but to do so with the consent of the governed. Police have been striving to be effective not only within the ambit of law and in controlling crime and its fear, but also by being considerate to people, by providing inclusive and accessible services in a manner that is perceived to be fair, consistent and engaged while displaying procedural justice.

Police reforms to act responsibly by law, to the chain of command and towards the citizens remains a challenge. Variations across the three parameters of police accountability – effectivity (crime control and public security), conduct and cost suggest reforms have had uneven success. With more than a decade of efforts to strengthen police accountability in Africa, the police are facing increasing pressure to deliver on good governance with tensions within the community and regions rising. The colonial legacy of authoritarianism with institutional structures and practices of repression continue to suppress opposition and protect new regimes in power. A trust deficit in policing and law agencies is compounded with corruption, conditions of insurgency, terrorism and spread of organized crime.

The 2018 Transparency International Corruption Perceptions Index revealed the continued failure of many countries to control corruption in their public sector. The index uses a scale of zero to one hundred, where zero is very corrupt and 100 is very clean and sub-Saharan Africa was the lowest scoring region with an average of 32/100.⁷Corruption within the police is a menace that erodes citizen trust in public authority. There is concern that organized crime in many regions is diverting and depleting resources for welfare services, for generating employment with corruption infiltrating state institutions not only undermining confidence in governance but making the states

⁶ This means, broadly, a police force that is publicly accountable, subject to the rule of law, respectful of human dignity and that intrudes into citizens' lives only under certain limited circumstances.

⁷ Transparency International Corruption Perception Index, 2018. Accessed on 10th July 2019 at https://www.transparency.org/news/feature/cpi_2018_global_analysis

fragile and unstable. Access to effective, respectful and accountable police service is essential for safety and good governance.

It is not only the internal and external accountability as traditionally conceived but also policing interface with other state institutions and private sector which is impacting ‘secure development’. There are trends of local governments committing larger budgets to law enforcement at the cost of social services, health care and education. What is the cost efficiency of these shifts in bringing crime rates down or in making citizens more secure? As police services are being outsourced to private agencies, is there levying of ‘usage fees’ with policing being used to raise revenue by imposing fees on arrestees and defendants for their arrest, adjudication incarceration; for civil forfeiture, a mechanism by which police confiscate assets that they claimed are linked to crime and sold when property owners do not come to court to contest with proceeds kept by the police. How can management or financial accountability of policing be measured or analyzed or institutionalized with new realities and existing challenges of institutional and constitutional reform?

According to the World Internal Security and Police Index report of 2016 Sub-Saharan Africa is home to seven of the ten worst performing countries, with Nigeria, the Democratic Republic of the Congo, Kenya, and Uganda all being ranked in the bottom five.⁸In Kenya, for many years, Kenyan police sector has been criticized for the excessive use of force, promoting impunity and generally disregarding the democratic idea.⁹ With the advent of the new constitution, many vices associated with the police have reduced drastically. Kenya has taken tremendous steps to address the issues of police brutality. Initially, Kenya had no framework which encompassed the policies to hold police officers accountable for their actions.¹⁰ Some of the challenges faced by the intervention to oversight the police included inter alia; the opaqueness in the filing of complaints process and the time taken to hear and give verdicts concerning the police brutality.¹¹

With the creation of the Independent Policing Oversight Authority (IPOA), some of the challenges have been addressed though not exhaustively. IPOA¹² is an independent body mandated to investigate all forms of police misconduct including deaths in custody and serious injuries as a result of police action. The body has not delivered as expected since reports indicate that the organization has secured very few convictions so far. According to IMLU statistics, 822 people died from police bullets between 2013 and June 2018.¹³ This shows that

⁸ Institute of Economics and Peace 2016’ World Internal Security and Police Index’

⁹ See Ruteere and Pommerolle 2003; CHRI and KHRC 2006; KNCHR 2008; Ruteere 2008; Saferworld 2008; Hills 2009; Ogada 2010; Furuzawa 2011; Ruteere 2012; Kivoi and Mbae 2013.

¹⁰ Kagari M., Thomas S., 2006, ‘The police, the people, the politics: Police accountability in Kenya’, Commonwealth Human Rights Initiative (CHRI), Nairobi

¹¹ *Ibid.*

¹² Established under the Independent Policing Oversight Authority Act. No. 35 of 2011

¹³ Muraya J. “IPOA Probes 18 Deaths Caused By Police in Past One Week.” *Capital FM/AllAfrica*, October 30, 2018. Accessed on 15th May 2019 at <https://allafrica.com/stories/201810310045.html>

Kenya continues to experience vices from the police despite having robust institutions mandated to hold the respective officers accountable. Additionally, a report by Transparency International Kenya indicated that the level of traffic corruption is high and widespread and the corruption by law enforcement agents is fuelled by ignorance, poor remuneration and institutionalized corruption culture.¹⁴

The police department has also created an Internal Affairs Unit which is mandated to receive and investigate complaints against the police, promote uniform standards of discipline and good order in the service and keep a record of the facts of any complaint or investigation made to it. IPOA oversees the work of the Internal Affairs Unit (IAU) of the police to independently verify that the internal police system deals with complaints against officers fairly and effectively. The IAU has received 7909 complaints since 2013. Few complaints have been adjudicated so far and thus the effectiveness of the organ remains a debatable issue.

Police and judicial system effectiveness is a serious issue in Nigeria. General corruption was high, according to the Control of Corruption indicator, and 81 per cent of Nigerian respondents to the Global Corruption Barometer admitted to paying a bribe to a police officer in the last year. Only 0.06 per cent of thefts were reported to police. Unsurprisingly, the Rule of Law index found that military and police officials are likely to use their public positions for private gain.¹⁵ The organ saddled with maintaining internal security of Nigeria, the National Police Force (NPF) is seriously lacking in this respect. Hence, successive administrations had initiated reforms to revitalise the NPF. In spite, of the reforms which were initiated during the current democratic experience which commenced in 1999, issues of securing lives and property has since deteriorated to a point where the NPF cannot handle security challenges properly.¹⁶ It is common for the Police to torture, and sometimes end up killing suspects just to get a confession. The Police is still known to arrest and detain family members of known absconded suspects so as to bring them out of hiding.¹⁷

In Uganda, policing has been characterised by excess use of force against protesters, torture and unlawful detention, severe treatment of journalists and human rights defenders and a lack of accountability in relation to police misconduct.¹⁸ Corruption is widespread in Uganda. It scored poorly on the World Bank's Control of Corruption indicator, and 69 per cent of Ugandans admitted to paying a bribe to a police officer. Less than one per cent of incidents of theft were reported to the police. However, trust in police was relatively high for a country that scores so poorly on the Index, with 67 per cent of Ugandans saying that they have confidence

¹⁴ Transparency International, 'Traffic Legislation Gaps and Drivers of Corruption in Traffic Matters'.

¹⁵ Institute of Economics and Peace 2016' World Internal Security and Police Index'

¹⁶ Police Reforms and National Security in Nigeria

¹⁷ Tam Alex 'Curbing Corruption in the Nigeria Police'

¹⁸ Common Wealth Human Rights Initiative 'Police Reforms: Uganda'. Accessed on 10th July 2019 at <http://www.humanrightsinitiative.org/content/police-reforms-uganda>

in their local police force.¹⁹ In Uganda, there is a Professional Standards Unit (PSU) which is an internal Uganda Police Force (UPF) unit established in 2007, to investigate and deal with complaints of police misconduct. Despite the establishment of the PSU, abuse of the law and lack of respect for established standards continue within the UPF.²⁰

South Africa suffers from widespread corruption, despite it performing better than regional averages across a number of key measurements. Crime and petty corruption in the police are significant risks when operating in South Africa.²¹ Nearly half of South Africans indicate they perceive most or all police officers as corrupt.²² Traffic fines are the single most common event in which bribes are requested in South Africa.²³ However, there are some sub-Saharan African countries that performed well on the World Internal Security and Police Index, most noticeably Botswana and Rwanda. Both performed strongly on the process and legitimacy domains, with Botswana in particular having low levels of reported bribe payments to police, and high levels of confidence in police at the local level.²⁴

Besides the powers conferred on the Police, substantial proportion of national human and financial resources are allocated to Police agencies to enable them perform their duties. Like other public bureaucracies, the Police should account for the use of the resources allocated to them. In the absence of effective safeguard against misappropriation and waste, the resources allocated to the Police for the purpose of ensuring safety and security of citizens and their property can be mismanaged or stolen by those charged with their management. Therefore, there is need to ensure that the utilisation of the human, financial and other resources allocated to the Police are judiciously utilised for common good.

Justification for the Conference.

As efforts to build effective, accountable and inclusive justice institutions gain momentum, it is imperative that stock-taking of what has and what has not worked proceeds and guides the future plans to advance police accountability. As contexts and conditions evolve, it will also be useful to identify emerging trends and issues that are likely to impact police effectiveness and people's acceptance of global police standards. It is this change strategy that the unique Afro- Asia alliance proposes to evolve, taking advantage of organizations experience in

¹⁹ Institute of Economics and Peace 2016' World Internal Security and Police Index'

²⁰ Commonwealth Human Rights Initiative 'A force for good? Improving the Police in Kenya,Uganda and Tanzania'. Accessed on 10th July 2019 at <http://www.humanrightsinitiative.org>.

²¹ The Global Competitiveness Report 2017-2018

²² The Global Corruption Barometer 2015

²³Business Anti-Corruption Portal 'South Africa Corruption Report'.Accessed on 10th July 2019 at <https://www.business-anti-corruption.com/country-profiles/south-africa/>

²⁴ Institute of Economics and Peace 2016' World Internal Security and Police Index'

partnering in Police - community reforms in the past decades. With this in view, AAAJD proposes to hold a conference on police accountability in Kenya with police practitioners and stakeholders. The mix of a review of achievements and gaps along with new change factors that will be debated in the conference help in guiding a strategy to advance police accountability in the region.

Objectives

To bring together the Police, its oversight institutions, civil society actors, donors' agencies, development partners and other stakeholders to brain storm on identified issues, build confidence in one another and synergy of purpose to addressing these problems through shared understanding of the issues.

Specific objectives

1. To build the knowledge on the significance of police external oversight and challenges of policing service commission
2. To provide a periodic platform for discourse on contemporary issues affecting policing in Africa
3. To find implementable solutions to the problems around the policing system
4. To evaluate the effectiveness of various policing authority with respect to the complaints against the police
5. To assess the progress of various policing authorities and to evaluate their effectiveness, come up with concrete solutions and recommendations as to the best ways to approach police system in Africa