

The Policing Lens

Quarterly Newsletter



IPOA

Independent Policing
Oversight Authority



The IPOA Chairman, Mr. Macharia Njeru cuts the ceremonial ribbon at the launch of the new IPOA offices in Mombasa, Central Square Building. Also present are the IPOA CEO Dr. Joel Mabonga, IPOA Staff and Guests

THE INDEPENDENT POLICING OVERSIGHT AUTHORITY

The Communications and Outreach Department

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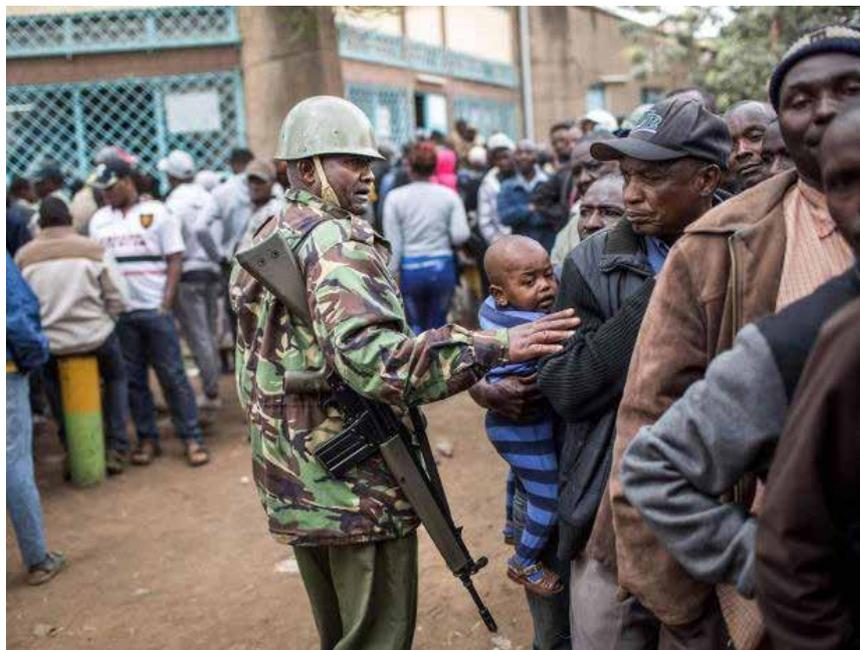
Electoral Security is a Guarantee to People Centred Democracy

By Mr. Stephen Musau, IPOA Director Inspections, Research and Monitoring

People's participation in elections free from any form of fear, harm or intimidation is essential to an inclusive, participatory, and people centred government. The right to human security provides an opportunity for everyone to endear his or herself to meaningful livelihood and elections, when conducted well, are a mechanism for peaceful resolution of any conflict that may disrupt peaceful coexistence and mostly so in developing democracies such as Kenya.

In this electoral process, the security sector, including all law enforcement agencies play a critical role in ensuring that all stakeholders (including voters, political actors, electoral officials, elected officials, media) participate freely in elections. The August 8 general elections in Kenya, although not yet concluded on the presidential vote, saw the security sector especially the police service play such role. The Service was proactive in doing assessments on the contextual analysis; historical conflict factors; and stakeholder analysis to ensure a peaceful election.

The Commission of Inquiry into the Post-Election Violence (Waki Report, 2008) had stated that security agencies had failed institutionally to anticipate, prepare for, and contain the 2007/2008 post-election violence, and observed that individual members of the state security agencies were guilty of acts of violence, and gross violations of the human rights of the citizens which included deaths, arbitrary



A Police Officer ensuring voters remain in line during the 8th August Elections

arrests, beatings, harassments and unlawful detainment. Further, the Commission had observed that before the elections, notifications, permits and provision of security coverage during campaign periods were provided discriminatively. The police were also accused of taking sides and representing interests of certain political parties. After the elections, they failed to contain violence that had erupted as a result of the outcome and used excessive force to disperse crowds. These were some of the key highlights that informed the formation of the Independent Policing Oversight Authority.

The Independent Policing Oversight Authority, a state body established to hold the Police accountable to the public in the performance of their functions, in accordance with the provisions of

Article 244 of the Constitution, is actively involved in the monitoring of the police conduct around elections. The Authority has been active in the Electoral Security Arrangement Project together with other state agencies such as the National Police Service, the Independent Electoral and Boundaries Commission, the Office of Directorate of Public Prosecutions, to ensure electoral security before, during and after the elections.

The Authority was involved in the pre-monitoring of police operations around elections which started in April 2016 during the Anti-IEBC campaigns all the way to the elections. Of great concern to the Authority in this period was the use of force by the Service and how this could be minimized as innocent children, women and persons with disability became vic-



tims of police actions, some leading to injuries.

The monitoring of police operations during the political party primaries and political campaigns/rallies showed that the NPS had made elaborate plans to provide security coverage during the electoral period on 8th August 2017, and that police conducted themselves professionally, an indicator that the Electoral Security Arrangement Project (ESAP) played a key role in initiating some level of professionalism in the service. However, officers did not have adequate crowd control equipment's and skills as live ammunitions were being used disperse crowds as was reported in Isiolo County. Also, the officer's welfare was largely overlooked, and this showed the planning and programming elements around the electoral cycle were not well considered, hence why the IPOA's monitoring role becomes critical towards professionalizing the service in terms of

assessments, planning, programming, monitoring and evaluation with data, targets, and indicators to measure the service effectiveness. As the country prepares for the 26th October, 2017 re-run of the presidential election, the Authority will be keen in monitoring adherence to Article 239 (3) of the Constitution which provides that "In performing their functions and exercising their powers, the national security organs and every member of the national security organs shall not- (a) act in a partisan manner, (b) further any interest of a political party or cause; or (C) prejudice a political interest or political cause that is legitimate under this constitution. The Authority has responsibility of ensuring that the police adhere to the rule of law and to monitor police preparedness, capacities and performances before, during and after any elections.

In the same breath, the Authority expects members of the public and

all the political leaders to exercise their rights with responsibility in terms of assessing the electoral security issues, doing contextual analysis of the interventions they require including historical conflict factors and stakeholder analysis; planning for their peaceful assemblies, programming of their actions including informing the duty bearers such as the police service of their programmes, monitoring and evaluating their actions and conduct. Through these, the trajectory towards a mature democratic Kenya will emerge, transcending regional, ethnic/ tribal, religion, gender and generational dynamics. The Authority does not expect any loss of lives before, during and after any elections hence why electoral security remains a guarantee to people centred democracy. The country should keep investing heavily around public order management- both for the law enforcement agencies as well as the Kenyan people through their leaders.

The Role of IPOA in Countering Violent Extremism (CVE); The Oversight Perspective

By: Mr. Denis ombuna (IPOA Head of Inspections & Monitoring) and Mr. Dennis Oketch (IPOA Head of Communications & Outreach)

For a long time, the Kenyan government, and security agencies in particular, relied on security-focused measures to address violent extremism. Some of these measures have resulted in serious violations of the individual rights and liberties of people, and for instance the profiling of Somalis and Muslims on ethnic and religious lines, given that extremist violence is underpinned by an ideology of marginalization and victimization that is shared by some Muslim youth in

the coastal and northern regions of Kenya.

Idleness attributed to unemployment, truancy among others makes the youth susceptible to radicalization and inculcation into crime and other vices. Due to this, the youth get in conflict with the police. Repeat conflicts with the police graduate the youth into hard-core criminals and violent extremism. Constant monitoring of youth/police conflicts and radicalization of the youth can realize strategic

interventions both at IPOA as an oversight body and NPS leadership through Policy recommendations, continuous monitoring, and education and awareness activities to change public perceptions by both the police and the members of the public.

Research on the drivers of violent extremism has shown that the key contributor to violent extremism in Kenya is the members of NPS which IPOA is oversighting. For example Members of the public



interviewed from communities in Nairobi and Mombasa unanimously identified Kenyan security forces in particular the police (ATPU) as their primary sources of concern. Such communities reported low levels of trust in the police and made accusations of harassment, corruption, bribery, forced disappearances and extra-judicial killings hence contributing to violent extremism. In particular the youth more often emphasised police harassment.

Nairobi's Eastleigh area, Garissa, Mandera, Wajir and Mombasa have experienced excessive use of force, arbitrary arrests, illegal detentions, and executions of terrorism suspects by members of NPS. For example, serious violations of human rights occurred during the 2014 Operation Usalama Watch in the predominantly Somali Eastleigh estate after a series of violent attacks on public transport vehicles suspected to have been carried out by Al Shabaab. Monitoring Reports by IPOA, the media and local and international human rights groups, as well as the testimony of local residents, established that the operation was marred by arbitrary arrests, rape, torture and extortion, a key contributor to violent extremism. A fundamental area for police contribution towards violent extremism that needs IPOA Interventions includes;

- i. Beats and Patrols leading arbitrary arrests.
- ii. Profiling and scapegoating
- iii. Harassment.
- iv. Extortion
- v. Stop and searches
- vi. Government initiated Operations

In its findings the Journey to Extremism a research by UNDP the

report states directly how counter-productive security driven responses can be when conducted insensitively. The findings suggest that a dramatic reappraisal of state security-focused interventions is urgently required, including more effective oversight of human rights compliance, rule of law and state accountability. There needs to be a closer nexus between the security and development arms of government and developed a more integrated ways of working. The report further recommends that, that international commitments – such as those shared across United Nations member states – to human rights and rule of law, citizens' participation and protection, and accountability of state security forces be actively upheld by all.

From IPOA's mandate monitoring policing operations and strategic messaging within this premise should be able to address the drivers of violent extremism and ensure Police compliance to human rights standards and rule of law. Monitoring and thematic sifting of research reports will help to raise likely areas of conflict and extremism to flag out challenges arising from radicalization and the emerging youth populism that is in parallel with policing effort in Kenya. In totality, this will assist the Authority in assessing potential police/public conflicts, threat levels and patterns that arise from radicalized youth who if not checked mature into full-fledged violent extremists.

Secondly creating awareness to the member's public on the role of IPOA in countering violent extremism through building and improving relationships between community members and the police will

ensure trust is created within the communities and reporting of cases of police brutality and crimes committed by the police are reported. Sharing of information with the IPOA on cases involving harassment, profiling and scapegoating without fear of reprisals. Finding and recommendations from IPOA functionality disseminated through various media including outreach activities to members of the public and police will lead to development of mitigation strategies on CVE by becoming professional and accountable service in their operational duties. The Multi-sectoral approach which includes sensitisation of all stakeholders to take up the fight against extremism through early detection, reporting and mitigation is key for IPOA.



Kenyan Administration Police officer steps on the head of a demonstrator on the streets of Nairobi

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Best Practice The Penacle of Our Investigators

By Mr. Justice Ombija, Investigations

Oversight and accountability are one of the hallmarks of a democratic society. In response to the noble call by the Kenyan population, IPOA investigators have never disappointed. As such, the investigations directorate has always remained committed to conduct objective and impartial enquiries hereby in strict observance to the principle of impartiality and rules of natural justice in the cases received by the Authority. The directorate boasts of knowledgeable, experienced, trained and above all expert detectives in the business of guarding public interest in policing.

These investigators have always had a goal in pursuit of the Authority's statutory mandate, always to gather information and intelligence and not to win. As investigators we are always aware of dimensions that may affect the process of an inquiry; commitment, excellence, the totality of evidence which we gather determine the outcome of our work. Of course the veracity of evidence being key driving force.

Our investigations are supported by a number of specialised units and highly skilled individuals with various backgrounds including but not limited to law, human rights, criminal justice, forensics, ballistic, financial fraud investigations and crime scene experts.

The investigators also receive support from various trainings on civilian oversight from cognisable agencies such as The Federal Bureau of Investigators (FBI), United Nations Organisation on Drugs and Crime (UNODC), outstanding international forensic investiga-

tions experts and The African Policing Civilian Oversight Forum (APCOF) of South Africa.

Collectively these detectives are experienced in serious crime investigations, homicide, fraud, corruption, human rights violations, gender based violence and a wide range of other criminal conduct that are inflicted upon the population by members of national police service.

The fact that our investigators endeavour to conduct robust, comprehensive and conclusive investigations cannot be over emphasised, this has enabled the Authority to evaluate a pattern of human rights violations inflicted by members of NPS, or where the population is impacted by the alleged violations; or where individual incident raises underlying issues that are widespread in the country. As such our investigations most often than not have led to criminal prosecutions.

Based on various reasons to pursue an allegation, our inquiries do end by making recommendations to the relevant authorities, including recommendations for prosecution, compensation, internal disciplinary action or any other appropriate relief.

One instance is when there is a case that features in common with other cases that have been screened and identified as priority. The motivation for per suing a case may be that the case fits with, or may fit in with a group of cases that have been prioritised for investigation attention, these are most likely to be cases that fall within a pattern of systematic human rights violations.

Remember, this is not to say that investigations should not be conducted with a view of prosecution or civil claim, where this is possible, but merely that some cases may be investigated even where there is little chance of prosecution (because it is not possible to generate conclusive proof that a crime has been committed or to conclusively identify the perpetrator.)

For us in investigations, we always believe in the importance of relating with the complainants in a respectful and direct way, as such we hold the same in high regard. We always emphasise the need and importance of being able to substantiate the allegations on the part of our complainants, because this hastens the pursuit of the cases.

In this regard therefore the public including police officers are encouraged to register their complaints with the Authority and above all, co-operate with the investigator so as to ensure that these cases are pursued to logical and conclusive end.

Remember International Human Rights Law and domestic relevant statutes requires that police violations to human rights are thoroughly investigated, and that the police responsible for unlawful actions are prosecuted and convicted. This is required both to fulfil the state's obligations to provide accountability in the individual case and justice for the victim and their family and as well as to fulfil the state's due diligence obligations to prevent future violations:

If violations are left unpunished, a culture of impunity forms, which in turn encourages further violations.



On the same breath, it is important not to anticipate the outcome of a case, even if the evidence looks strong and the outcome seems likely. We advise the complainants and victims that the results of an investigation cannot be predicted, and as such, an outcome cannot possibly be guaranteed, this is because the outcome of a case is affected by various factors.

Never the less as investigations, we demonstrate commitment to our work by staying in contact with complainants and victims, we keep them updated on the progress of our investigations most often than not, a victim's or complainant's

wellbeing and personal safety is our primary concern.

Another pivot point that has kept our investigations to be thorough, prompt and impartial is the cordial and professional relationship with stakeholders. Investigations has a strong tradition of independence, we also work closely with legal players and enforcement agencies like office of director of public prosecutions(ODPP) and the judiciary, the private and community legal profession being an excellent source of support.

In conclusion therefore, like any other internationally recognised investigative agency, IPOA in-

vestigators demonstrate honesty, integrity, fairness and above all impartiality in their work. Their operations are free from political or other inappropriate personal affiliation.

It is important to also note that detailed ethics and integrity procedures is sufficient security of our oversight mechanism, conscious to the fact that while individual motivation is important, this may still be insufficient, and that's why the Authority embraces the importance of supporting investigations in addressing any hazards, maintaining integrity and cementing a positive work ethos.

IPOA Opens New Regional Offices

IPOA currently has offices in Nairobi, Kisumu, Mombasa and Garissa. The Garissa Regional office launch was launched on the 5th October 2017.

MOMBASA

1st of March 2017, is the date marked on our calendar; it's the date the Authority set foot in the Coastal Region. This time, not for a week not for a month; it was here to remain. The arrival had lots of expectations from the Authority. Similarly, there was no doubt that even more expectation was also expected of it by the members of the public and by the National Police Service. The Authority had expectations that its clients would welcome its services like a mother welcomes her new born baby. The Authority expected a pillar of support from established stakeholders in the security sector, members of the public and the civil society

The Authority (IPOA) plans to open offices in Kakamega, Eldoret, Nakuru, Nyeri, Meru and Lodwar. Lodwar will be a satellite office of the Eldoret office.

organizations in the region. To its advantage, the Authority received and has been receiving a tower of strength from these stakeholders.

As envisioned, the support was not a free lunch. The Authority was given a lot and a lot was expected from it in return. The seriousness of giving back was real in that, even before the official launch of the regional office (17th May 2017); the Authority had received 69 complaints, had conducted 3 inspections and 13 monitoring activities and 9 files were under investigation.

The Launch came on 17th May 2017 after a thorough preparation. It was successful. 87 stake-

This expansion has come as a result of the increased awareness of the vital role IPOA plays in society. Expansion will ensure that Kenyans get quality service.

By Mr. Charles Mwangi, IRM Mombasa

holder representatives graced the occasion. The mainstream media (6 leading Television stations and coastal radio stations) covered the event. The media coverage created awareness to many who had not yet known of the Authority's services in Mombasa. This further made it official that high demand of services would come its way in the future. The stakeholders expressed their faith that the Authority would meet the demand of the 6 coastal counties (Mombasa, Kwale, Kilifi, Lamu, Taitaveta and Makueni). Since the Launch, demand for the Authority services has been increasing day in day out. Every day has been a busy day with either



clients launching complaints, following up on their matters, collecting correspondences and recording statements. This is in addition to carrying out inspection and monitoring of police premises and activities as well as carrying out investigations.

The office started operations with only 8 staff and there after it has received 2 more. As at 15/09/2017,

it had received a total of 164 files of which action has been taken against them; had conducted 17 inspections and 14 monitoring activities and; had 33 files under investigations with 3 of them already at the legal department. Further, the Authority has been collaborating well with external stakeholders and at times has been engaging in joint outreach activities.

The Mombasa Regional office continues to try its best to meet the demand of the Authority's services in the region despite few challenges faced here and there. As the office grows, it's every ones hope that the challenges being faced shall overcome. All in all, the regional office is doing as fine as can be expected all factors considered.

Pictorial of Regional Offices Launches in Mombasa, Kisumu and Garissa



The IPOA Chairman, Mr. Macharia Njeru cuts the ceremonial ribbon at the launch of the new IPOA offices in Kisumu. Also present are IPOA Staff and Guests



Front row from left seated, IPOA Board Vice Chairperson, Mrs. Jedidah Ntoyai and Board Chairman, Mr. Macharia Njeru. Second Row from the Left, Board members, Mr. Vincent Kiptoo, Ms. Grace Madoka and distinguished guests at the Kisumu Regional Offices launch



A choir entertains guests at the Kisumu regional office launch.



Front row from left seated, IPOA Board Vice Chairperson, Mrs. Jedidah Ntoyai, Board Chairman, Mr. Macharia Njeru. Second Row from the Left, Board members, Mr. Vincent Kiptoo, Ms. Njeri Onyango, Ms. Fatuma Samman, Ms. Rose Bala and Mr. Tom Kagwe. Third row from the right, Ms. Grace Madoka and guests in during the launch of IPOA's offices in Mombasa.



The IPOA Vice Chairperson, Mrs. Jedidah Ntoyai (centre), IPOA Board member, Mr. Tom Kagwe (Right), IPOA CEO, Dr. Joel Mabonga (left in a red tie) at the launch of the new IPOA offices in Garissa. Also present are IPOA Staff and distinguished Guests, Elder Duabt Amey, Regional Commissioner Mohamud Saleh, Assistant Inspector General of Police Omar Shurie and other senior KDF officials.



DPP Regional Coordinator Gariisa addresses guests at the regional offices in Garissa. Present at the function were IPOA Board members Vice Chairperson, Mrs. Jedidah Ntoyai, Ms. Grace Madoka, Ms. Fatuma Saman, Ms. Rose Bala, Mr. Tom Kagwe and Dr. Joel Mabonga, Senior IPOA Staff and distinguished Guests.