



POLICE REFORMS WORKING GROUP - KENYA

PRESS RELEASE

“A Reflection of 2020: The Threat of a Police State in Kenya”

4th December 2020

We the undersigned are civil society organisations under the umbrella of the Police Reforms Working Group-Kenya (PRWG-K) . We are guided by the common principles of human rights-based policing, public participation and oversight, police welfare and capacity and quality policing services.

After the tumultuous events of 2007-8 Post Elections Violence and decades of human rights violations by the police, Kenya embarked on comprehensive police reforms to inculcate professionalism, accountability and human rights in policing. This culminated in the creation of the Independent Policing Oversight Authority (IPOA), the National Police Service Commission (NPSC) and an independent Inspector General of the National Police Service purposed to be shielded from political and executive interference. These institutions have made significant strides in professionalising the service with a bid to have the National Police Service embrace International standards.

Since 2010, we have worked with, supported and collaborated with these institutions to create policies and structures that now serve the people of Kenya. Having met in Watamu, Malindi from the 2nd of December 2020 to reflect and take stock of the achievements and challenges of 2020, have noted and hereby state the following:

Constitutional Amendment Bill 2020

1. That, the Constitutional Amendment Bill 2020 has manifest incoherence and inconsistency in the entire document making it difficult for ‘Wanjiku’ to comprehend and make an independent judgment. In addition, the signature collection process and the use of government resources in the “popular initiative” begs the question of the legitimacy of the whole exercise;

2. We also note with concern the deliberate weakening of the functions and mandate of the National Police Service Commission and its transformation into a mere shell. The NPSC was introduced in 2011 with a clear mandate to professionalise the service including the transfer, promotion and the recruitment process that was previously plagued with inconsistency, nepotism and tribalism. As Police Reforms Working Group Kenya, we are deeply concerned over the inadequate institutional wellness of the national police service in terms of funding, its independence and professionalism as well as its commitment to the vision and mission, motto, attitude and culture change as envisaged in the Kenyan Constitution. This work that was being undertaken by the NPSC is potentially at risk of being diluted by the proposals in the Constitutional Amendment Bill 2020.

Equality before the Law

3. We note with great concern the increasing trend in policing where there is discrimination against the poor and vulnerable. This trend is now being extended to certain regions of the country as evidenced by the recent circular from the Deputy Inspector General of the Kenya Police Service advising officers to seek direction from his office before effecting arrest to members of the Senate and National Assembly from Nairobi, Rift Valley and Western regions. This direction implies that the political class in these regions is above the law, and the police should treat them differently from others. We, therefore, reiterate that no one is above the law.

Police Brutality and Accountability

4. As PRWG, we have so far documented 130 cases of killings by the police during the year 2020;
5. There is a need for investigation and prosecution for police violence, restitution and compensation for victims of police brutality;
6. There is need to safeguard the capacity for the oversight and accountability organ that is the National Police Service Commission (NPSC) as well as close monitoring of its performance and drawbacks;
7. As PRWG-K, we call on the immediate implementation of the Coroners Service Act and Prevention Against Torture Act as well as funding of the victims fund under the Victims

Protection Act. These laws will aid to follow up on cases of extrajudicial killings reported in various parts of the country;

COVID 19 Management and Response

8. There is urgent need to tame police excesses and enhance accountability, especially during the COVID-19 pandemic period. A case in point is the incident in Mombasa on 1st December 2020, where 6 police officers were filmed confronting a 26-year-old male youth from Old Town jogging around Mama Ngina Waterfront and used excessive force in their attempt to arrest him at gunpoint on allegations of flouting COVID-19 regulations;
9. There has been a deliberate attempt to use COVID-19 as an excuse to limit freedom of expression, assembly and right to life contrary to the provisions of the Constitution of Kenya (Article 26). Furthermore, we also have observed the institutionalisation of violence and corruption within the National Police Service. With the general election around the corner, due the unpreparedness including issues related to lack of integration of KPS and AP, lack of public order guidelines as well as lack of capacity to handle SGBV, we fear the worst. We do not want to experience what is being witnessed in neighbouring Uganda and in the recent past in Tanzania;
10. The current status is worsening the already fragile relationship between the NPS and the community. The rising number of attacks on police officers and police stations, which we condemn and highly regret, is a symptom of the worsening situation; and
11. That, there is an urgent need to review and reconsider police socio-economic welfare and factors that lead to police vulnerability. Key among the priority issues to be considered here include housing, specialised training and general capacity building.

In light of the foregoing, we therefore recommend and call to action the following:-

- a) The need to safeguard the gains made in the Constitution 2010 such as the creation of the National Police Service Commission (NPSC) to realise independence and professionalism in the police service;
- b) We note that the powers derogated from the NPSC to the Inspector General of Police equates to establishing an IG who is not accountable in the performance of his functions;

- c) We call for the immediate operationalisation of the County Policing Authority to implement critical policing functions in the Counties;
- d) On reported cases of police excesses during the COVID-19 pandemic, we call on the responsible individual officers to be held liable and accountable as a means of fighting impunity and calling for a professional, accountable and independent police service during this constitutional period and leading up to the 2022 general elections; and
- e) Finally, we call for full adherence to the police standing orders in the application of reasonable force in implementing COVID-19 regulations.

In conclusion, as the PRWG, we call on all Kenyans to remain steadfast in demanding for police accountability. As we approach the festive season, we call on the police to fully adhere to the rule of law in safeguarding public safety and security.

Signed by the following members of the PRWG:

1. Independent Medical Legal Unit (IMLU)
2. Amnesty International – Kenya (AIK)
3. Kenyan Section of the International Commissions of Jurists (ICJ- Kenya)
4. International Centre for Transitional Justice (ICTJ)
5. Peace Brigades International (PBI)
6. Transparency International Kenya (TI-Kenya)
7. Katiba Institute
8. SOWED Kenya
9. Usalama Reforms Forum
10. Defenders Coalition
11. Shield for Justice
12. Kariobangi Paralegal Network
13. Women Empowerment Link (WEL)
14. International Justice Mission (IJM)
15. Kenya Human Rights Commission (KHRC)
16. HAKI Africa

