

# An update of the Kianjokoma brothers' case and the struggle for police accountability in Kenya

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## Introduction

I am not unmindful that some of you have come here out of great trials and tribulations. Some of you have come fresh from narrow jail cells. Some of you have come from areas where your quest for freedom left you battered by the storms of persecution and staggered by the winds of police brutality. You have been the veterans of creative suffering.<sup>1</sup>

These were the words of Martin Luther King Jr in his 'I have a dream' speech, delivered on 28 August 1963, on the steps of the Lincoln Memorial. Yet, more than 61 years after this speech was made, police brutality is still a plague in most countries, especially in Kenya.

This paper begins with a heartfelt narration of the author's sentiments in relation to the loss of a close friend through police brutality. Thereafter, it traces the history of police brutality in Kenya from the colonial period when its primary mandate was to oppress the native Africans. Subsequently, it exposes the existing structural weaknesses in

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\* *Contributions to the 'Kianjokoma brothers tribute: The police accountability review' are single blind reviewed.*

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<sup>1</sup> Martin Luther King Junior, 'I have a dream', Speech delivered on 28 August 1963, NPR, 16 January 2023.

the law enforcement agencies that enable police brutality. Further, this paper argues that the political class is also a huge enabler of police brutality. In conclusion, the paper pinpoints the efforts made and challenges faced in combating police brutality and makes recommendations on how to combat them.

### **Tribute to Emmanuel Mutura Ndwiga and Benson Njiru Ndwiga**

It is nearly three years since two brothers, Emmanuel Mutura and Benson Njiru Ndwiga, lost their lives in the hands of the Kenya Police 'Service' officers. The two brothers were allegedly murdered on 2 August 2021 by police officers.<sup>2</sup> To a rather shocking but unsurprising turn of events, six (6) police officers: Benson Mpuhia, Consolata Kariuki, Nicholas Cheruyiot, Martin Wanyama, Lilian Cheron and James Mwaniki were arrested on 16 August 2021 for the murders.<sup>3</sup> This was yet another incident of police murders experienced in Kenya following the much-publicised murder of lawyer Willie Kimani and his client.

I cannot ignore the pain I feel in my gut while writing this paper; losing someone close to you is never easy on anyone. Especially when the circumstances of their death are mullied with impunity and the degenerate behaviour of persons charged with the responsibility of protecting them.

I invite you to picture the events of that night: Six police officers from the Kianjokoma police station brutally bludgeoning two innocent young men. Their mistake? Being outside during the COVID 19 curfew. A curfew that was imposed countrywide to protect citizens from COVID 19 and that had claimed many lives. Sadly, for the Ndwiga brothers, COVID 19 was not the enemy, it was the police.<sup>4</sup> At the hands of the

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<sup>2</sup> George Munene, 'Slain Embu brothers buried in emotional ceremony', *Nation*, 15 August 2021.

<sup>3</sup> Paul Ogemba, 'Kianjokoma murder cops finally charged after day of drama', *The Standard*, 2 September 2022; Samson Muchiri, 'The Kianjokoma brothers: A clarion call to never forget', 1 *Kabarak Law Review* (2022) 180.

<sup>4</sup> Terry Moraa, 'Police brutality: The familiar and recurrent evil', *Kabarak Law Review Blog*, 8 August 2023.

police, they stood no chance. There was no room to fight back as the officers stepped on them with their government-issued boots and battered them with their police batons bought with taxpayers' money. That night, the dangerous virus was the police officers.

The six (6) police officers who killed the Ndwiga brothers were charged in September 2021 under case number E061 of 2021 and since then, the case is still ongoing with no significant progress.<sup>5</sup> This translates to more than three years of agony, pain and delayed justice, not just for the family but for the majority of Kenyans who relate to the pain of losing their loved ones in the hands of police officers. The wheels of justice in this case have been braked for a number of times owing to delays occasioned by a number of aspects within the Kenyan judicial system.

In 2022, six (6) prosecution witnesses testified including the parents of the deceased boys, their uncle and two friends who were present with them on that fateful night before their murders.<sup>6</sup> The court in this case sat for a hearing in November 2023. However, in 2023, the subsequent hearing was postponed to a later date due to the transfer of the trial judge, Honourable Daniel Ogembo.<sup>7</sup> Unfortunately, the case has since stalled and there has been little to no progress in the conclusion of the matter.<sup>8</sup> The case came up for mention several times for nearly two years with the parties seeking the allocation of a trial judge. This forced the civil society groups such as the International Justice Mission (IJM), the Independent Medico-Legal Unit (IMLU), the Law Society of Kenya (LSK), the Federation of Women Lawyers (FIDA-Kenya) and the Independent Policing Oversight Authority (IPOA) to push the judiciary to allocate a judge to the case.<sup>9</sup>

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<sup>5</sup> *Prosecutor v Benson Mputhia, Consolata Njeri Kariuki, Martin Msamalia Wanyama, Nicholas Sang Cheruiyot, Lilian Cheron Chemuna and James Mwaniki*, Criminal Case E061 of 2021.

<sup>6</sup> Information received from personal conversation with Mr David Njoroge who is leading the team of the victims' counsel representing civil societies such as Law Society of Kenya (LSK), Federation of Women Lawyers (FIDA-Kenya), International Justice Mission (IJM) and Independent Medico-Legal Unit (IMLU).

<sup>7</sup> Information received from personal conversation with Mr David Njoroge.

<sup>8</sup> Information received from personal conversation with Mr David Njoroge.

<sup>9</sup> Information received from personal conversation with Mr David Njoroge.

It is only on 23 January 2025 that the principal judge of the Criminal Division at Milimani Law Courts allocated Justice Muigai the case.<sup>10</sup> However, the Judiciary is yet to produce the typed proceedings of the hearing conducted in 2022 which should be sent to the new trial judge to get acquainted with those proceedings.<sup>11</sup>

It is sad that bureaucracy and administrative procedures are responsible for the delay in the delivery of justice in such a crucial case. Whilst this paper is not focused on the inadequacies of the judiciary, it is clearly evident that justice is a mirage when it comes to the Kenyan judicial system. It is commonly said that the wheels of justice may be slow but surely grind for truth to prevail. However, when the wheels of justice are too slow as in this case, then the effects of the grinding may be otiose. These actions and inactions by both the judiciary and the Office of the Director of Public Prosecutions (ODPP) enable police brutality by delaying justice.

In addition to bureaucracies in the judiciary that delay justice in cases of police brutality, other factors perpetuate police brutality in Kenya beginning with the colonial history of the police force.

## **The colonial history of the police force**

The current outfit of the Kenya Police force is an exact replica of the colonial police force that was established by the colonial government when Kenya was a British Protectorate. Whereas the Kenya Police Service was established by Article 243 of the Constitution of Kenya (2010) (the Constitution) and the National Police Service Act (Chapter 84), their *modus operandi* has not changed.<sup>12</sup>

In 2005, Harvard professor Caroline Elkins released her book, *Imperial reckoning: The untold story of Britain's gulag in Kenya* which highlighted the atrocities meted on Kenyan natives by the British soldiers in an

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<sup>10</sup> Information received from personal conversation with Mr David Njoroge.

<sup>11</sup> Information received from personal conversation with Mr David Njoroge.

<sup>12</sup> Nanjala Nyabola, 'Decolonise da police: How brutality was written into the DNA of Kenya's police service', *African Arguments*, 2016.

effort to quell the Mau Mau uprising.<sup>13</sup> In her book, Elkins narrates how persons who were captured were placed in detention centres from 1951-1960 where they were tortured. She quotes confessions by former British officers who were managing the camps in Kenya of how they used the 'dilution technique' whose purpose was to break the Mau Mau fighters.<sup>14</sup> According to the former British officers interviewed by Elkins, the dilution technique involved use of brutal force against the Mau Mau fighters to get them to conform to colonial rule. The book paints a picture of the massive use of torture and further insinuates that hundreds of lives were lost during this period.

Whilst many found Elkins' work to be revolutionary and groundbreaking, some critics questioned the findings and the narrations. Bethwel Ogot, a Kenyan scholar, critiqued Elkins' work on the grounds that it was solely based off the 50-year-old memories of former detainees and some former colonial British soldiers.<sup>15</sup> This essentially sought to cast doubt on the accuracy of the memories of the interviewees in Elkin's work. Furthermore, he questions the motive of the interviewees asking whether they were solely being driven by the desire for money.

In the wake of the exposé of the *Hanslope files* following the *Ndiku Mutua and others v Foreign Commonwealth Office* court case instituted by some of the victims of British colonial rule in Kenya, Elkins's work seems to have been validated.<sup>16</sup> The admission by the British govern-

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<sup>13</sup> Kennell Jackson, 'Reviewed work: Imperial reckoning: The untold story of Britain's Gulag in Kenya by Caroline Elkins', 39(1) *The International Journal of African Historical Studies* (2006) 158-160.

<sup>14</sup> Caroline Elkins, *Imperial reckoning: The untold story of Britain's Gulag in Kenya*, Henry Holt and Company, 2005, 10.

<sup>15</sup> Bethwell Ogot, 'Reviewed work(s): Histories of the hanged: Britain's dirty war in Kenya and the end of empire by David Anderson: Britain's gulag: The brutal end of empire in Kenya by Caroline Elkins', 46(3) *The Journal of African History* (2005) 493.

<sup>16</sup> David Anderson, 'Mau Mau in the High Court and the "lost" British empire archives: Colonial conspiracy or bureaucratic bungle', 39(5) *The Journal of Imperial and Commonwealth History* (2011) 708; Caroline Elkins, 'Alchemy of evidence: Mau Mau, the British empire, and the High Court of Justice', 39(5) *The Journal of Imperial and Commonwealth History* (2011) 742. See also, Anmol Gulecha, 'Ndiku Mutua, and others v The Foreign and Commonwealth Office', 14 *Jindal Global Law Review* (2023) 297-304, discussing the importance of historical documents in the preliminary determination of the case.

ment that the British colonial rule used torture against natives in Kenya was certainly a win in the fight for justice.

Even though the Mau Mau fighters won their case against the British government, the colonial imprint of police brutality and use of torture is still present in Kenya.<sup>17</sup> During the colonial period, the British recruited and trained African security forces to combat the Mau Mau rebellion. The African security forces continued with the tradition of brutality even after independence.<sup>18</sup> An example of this is the rampant detention without trial and torture used during the Moi regime to silence dissent in the infamous 'Nyayo House'.<sup>19</sup> In the 1970s, at the height of the clamour for multipartyism in Kenya, the police were heavily used to fight the people and the proponents of multipartyism.<sup>20</sup> Many were tortured and arrested including senior politicians like Raila Odinga and James Orendo.

During the 2007 post-election violence, Kenyans were met with unspeakable horror from the police force.<sup>21</sup> Hundreds of lives were lost,<sup>22</sup> houses were torched<sup>23</sup> and families were separated. Unsurprisingly, this disdain for the people by police officers can be traced back to the colonial period.<sup>24</sup> The colonial police force comprised of both the British and also native Africans who had collaborated with the British.<sup>25</sup> These collaborators would allow themselves to be used to torture and exert force

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<sup>17</sup> Commission of Inquiry into Post Election Violence (CIPEV), 'Report of the Commission of Inquiry into Post Election Violence', 2008, 24.

<sup>18</sup> Eck, Kristine, 'The origins of policing institutions: Legacies of colonial insurgency', 55(2) *Journal of Peace Research*, 147-60.

<sup>19</sup> See for example the case of *Wachira Weheire v Attorney General*, Miscellaneous Civil Case 1184 of 2003, Judgement of the High Court of Kenya on 16 April 2010 [eKLR], which discussed compensation due to torture at the infamous Nyayo House.

<sup>20</sup> CIPEV, 'Report of the Commission of Inquiry into Post Election Violence', 2008, 25.

<sup>21</sup> CIPEV, 'Report of the Commission of Inquiry into Post Election Violence', 418-420.

<sup>22</sup> CIPEV, 'Report of the Commission of Inquiry into Post Election Violence', 392.

<sup>23</sup> CIPEV, 'Report of the Commission of Inquiry into Post Election Violence', 304.

<sup>24</sup> Moina Spooner, 'Kenyan police and protests: Researchers on a violent, corrupt security force that's beyond reform', *The Conversation*, 25 June 2024.

<sup>25</sup> John Kamau, 'How service has changed from colonial time guards', *Daily Nation*, 5 July 2015.

against their own people.<sup>26</sup> This very scenario with the collaborators is what the political class adopted by using police officers to oppress the people.<sup>27</sup>

Nearly 60 years later, the same playbook used by the colonial government and Moi's regime is still at play.<sup>28</sup> Torture and extrajudicial methods are still the order of the day and hundreds of Kenyans have either died or been maimed because of this.<sup>29</sup> The postcolonial Kenyan government not only adopted all the laws and systems left in place by the colonisers but also adopted their DNA for brutality.<sup>30</sup> Additionally, structural and systemic weaknesses in the Kenyan police force model further perpetuate police brutality.

### **Structural weaknesses in the current Kenyan police force regime**

In establishing the Kenya Police Service, the National Police Service Act, 2014 gave effect to Articles 238, 239, 243, 247 and 244 of the Constitution of Kenya (2010). In the Act, the functions of the police include among others, the protection of life and the maintenance of law and order.<sup>31</sup> In performing this mandate, the Constitution requires the members of the 'Service' to comply with the rule of law, democracy, human rights and fundamental freedoms.<sup>32</sup> However, there exists structural limitations within the institution of the police to enforce these constitutional requirements.

The Constitution of Kenya (2010) under Article 26 provides for the right to life as a fundamental right and only allows the intentional dep-

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<sup>26</sup> Faith Kasina and Gathanga Ndung'u, 'Kenya and its unreformable police force', *The Elephant*, 11 March 2023.

<sup>27</sup> Kamau Wairuri, 'Kenyan police use excessive force because they're serving political elites, not the public – policy analyst', *The Conversation*, 27 June 2024.

<sup>28</sup> Thomas Mukhwana, 'Maimed by my Government', *Africa Uncensored*, 26 February 2025.

<sup>29</sup> Mukhwana, 'Maimed by my Government'.

<sup>30</sup> CIPEV, 'Report of the Commission of Inquiry into Post Election Violence', 24.

<sup>31</sup> National Police Service Act (No 19 of 2014) Section 24.

<sup>32</sup> Constitution of Kenya (2010) Article 238(b).

rivation of this right as authorised by the Constitution. The National Police Service Act, 2014 aims to put in place measures to prevent the unjust deprivation of life and mechanisms for reporting such incidents when they occur.<sup>33</sup> However, the Act fails to provide strict procedures for ensuring those aims are met. First, it does not automatically prescribe the automatic suspension of any police officer who is involved in a questionable incident leading to the loss of life of a civilian. This then allows the officers to use their powers to sabotage any investigations and intimidate witnesses.

Secondly, the Act provides for the establishment of an Internal Affairs Unit (IAU) with the mandate to investigate and take action against police officers who commit an offence in the Act.<sup>34</sup> However, the recently established Internal Affairs Unit seems manifestly inefficient. This arm is still within the control of the Inspector General,<sup>35</sup> who, in the interest of the image of police during his tenure, would suppress any investigation that castigates his 'perfect' image.<sup>36</sup> It is evident that cases which elicit public uproar and receive media coverage are majorly investigated by police, however, incidences which receive less attention go unaddressed.<sup>37</sup>

In addition, the 'Service' has not created general public awareness on how incidences of police excesses can be reported. In most cases, common citizens do not know who to approach when police officers usurp their powers. You would have to be fully apprised with the justice system to know that an Internal Affairs Unit exists within the police. This is not the reality of most Kenyans who are virtually deprived of pertinent information on good governance and available recourse in instances of injustice.

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<sup>33</sup> National Police Service Act (No 19 of 2014) Sections 87-95A.

<sup>34</sup> National Police Service Act (No 19 of 2014) Section 87.

<sup>35</sup> National Police Standing Orders, 9 June 2017, Chapter 5, Section 1.

<sup>36</sup> Ann Veronicah, 'IG Koome accuses Azimio of hiring dead bodies during protests', *The Standard*, (Nairobi, 3 August 2023),

<sup>37</sup> Maurice Oniang'o, 'Media coverage of police brutality in Kenya's informal settlements', *Thomson Reuters Foundation*, 2022.

While many may argue that the Internal Affairs Unit is a step in the right direction, this paper argues that Kenyans deserve much better than a bureaucratic institution that has little impact. In the recent protests by Kenyan youths in June 2024, the silence of the Internal Affairs Unit has been very loud. No word was issued, no investigations were put in place and no single arrest has been made in relation to the well documented incidents of police brutality.

## **The political expediency of the Kenya police**

The political class has historically used the Kenya police for political expediency, particularly in ways that have undermined their independence and professionalism. By 1964, the police force had already become a tool of the executive, eroding its autonomy.<sup>38</sup> This pattern of political interference persisted until the 2010 constitutional reforms, which sought to reshape the police into a service-oriented institution, moving it away from being a tool for political repression.<sup>39</sup>

During the post-election violence of 2007-2008, the police were accused of being ill-prepared to handle the unrest and, in some cases, were seen to actively participate in the violence.<sup>40</sup> In some appalling situations, the police were seen to act on behalf of certain political factions.<sup>41</sup> This crisis exposed the extent to which the police had been used to serve political interests rather than uphold public safety and law enforcement.<sup>42</sup> Despite reforms aimed at increasing the police's accountability and professionalism, political manipulation has persisted. The

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<sup>38</sup> Douglas Kivoi, 'Policing reforms to enhance security in Kenya', Kenya Institute for Public Policy Research and Analysis, Discussion Paper No 237, 2021, 6.

<sup>39</sup> Kivoi, 'Policing reforms to enhance security in Kenya', 11.

<sup>40</sup> Okia Opolot, 'The role of the police in the post election violence in Kenya 2007/08,' 28(2) *Journal of Third World Studies*, 259-75; See also CIPEV, 'Report of the Commission of Inquiry into Post Election Violence', 369.

<sup>41</sup> Kivoi, 'Policing reforms to enhance security in Kenya', 22.

<sup>42</sup> CIPEV, 'Report of the Commission of Inquiry into Post Election Violence', 369-372.

police have often been seen as enforcers of the will of those in power, particularly during politically charged events such as elections.

In 2017, during the protests against the presidential election results, Human Rights Watch reported the excessive use of force by the police to suppress protests in opposition strongholds.<sup>43</sup> Similarly, the Kenya National Commission on Human Rights reported that police brutality specifically targeted opposition strongholds, particularly in areas perceived to support the National Super Alliance (NASA) coalition, such as Nyanza, Kisumu, and parts of Nairobi.<sup>44</sup> In these regions, heavy police deployment led to violent operations that included indiscriminate assaults and sexual violence. For example, in Kisumu and Nairobi informal settlements, civilians were subjected to police raids, where officers verbally abused them for supporting opposition leader Raila Odinga, and used excessive force, including physical beating and sexual assault.<sup>45</sup> Women and children were especially vulnerable, with reports of sexual violence committed by police officers during house-to-house operations.

These targeted attacks were concentrated in opposition strongholds, with security forces viewing these regions as hostile due to their political affiliations.<sup>46</sup> The brutality was a response to the contested election results, and opposition-dominated areas suffered disproportionately from police violence.<sup>47</sup> The findings indicated that this violence was politically motivated, with the police acting to suppress dissent and punish opposition supporters.<sup>48</sup>

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<sup>43</sup> Human Rights Watch, 'Kenya: Post-election killings, abuse', 27 August 2017.

<sup>44</sup> Kenya National Commission on Human Rights (KNCHR), 'Silhouettes of brutality: An account of sexual violence during and after the 2017 general election', 2017 Election Series.

<sup>45</sup> Kenya National Commission on Human Rights, 'Silhouettes of brutality: An account of sexual violence during and after the 2017 general election', 13-14.

<sup>46</sup> Kenya National Commission on Human Rights, 'Silhouettes of brutality: An account of sexual violence during and after the 2017 general election', 13-14.

<sup>47</sup> Kenya National Commission on Human Rights, 'Silhouettes of brutality: An account of sexual violence during and after the 2017 general election', 19.

<sup>48</sup> Kenya National Commission on Human Rights, 'Silhouettes of brutality: An account of sexual violence during and after the 2017 general election', 20.

The same amount of violence was evident in the post-election protests in 2022-2023.<sup>49</sup> Similarly, the same amount of force was used in 2024 during the youth-led protests that were not politically motivated but rather an agitation for economic reforms.<sup>50</sup> Even with the well documented records of police excesses, often the police get away because they have political backing.<sup>51</sup> Their ready availability to run errands for the political elites eludes accountability.<sup>52</sup> The political class, stemming from the Presidency, shields the police from accountability thus enabling police brutality. For instance, during the election campaigns towards the 2022 General Elections, one of the contentious issues used to criticise the incumbent government was the use of the police to settle political scores.<sup>53</sup>

## Efforts in combating police brutality

The Constitution of Kenya (2010) has made significant efforts to safeguard the Kenyan citizenry from the excesses of the Kenyan police. This is evident from the provisions of the Bill of Rights under Chapter 4 with the inclusion of the right to life, human dignity, freedom and security of the person, rights of arrested persons among others. Similarly, the legislature has also sought to regulate police conduct by the enactment of the Independent Policing Oversight Authority (IPOA) Act in 2011. The Authority has various functions listed under Section 6 of the IPOA Act.<sup>54</sup>

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<sup>49</sup> Armed Conflict Location and Event Data, 'Kenya's political violence landscape in the lead-up to the 2022 Election', 9 August 2022. See also; ENACT, 'Muted violence in Kenya's 2022 elections masked seething dissent', 24 April 2023.

<sup>50</sup> Anne Soy, 'Batons, tear gas, live fire - Kenyans face police brutality', BBC, 23 July 2024.

<sup>51</sup> Wairuri, 'Kenyan police use excessive force because they're serving political elites, not the public - policy analyst'.

<sup>52</sup> Wairuri, 'Kenyan police use excessive force because they're serving political elites, not the public - policy analyst'.

<sup>53</sup> Collins Omulo, 'Kenya's politics of score-settling and 'threats' that won't go away', *Nation*, 23 October 2024.

<sup>54</sup> Independent Policing Oversight Authority Act (No 35 of 2011) Section 6; The functions include: investigating deaths and serious injuries caused by police action, investigating police misconduct, monitoring, reviewing and auditing investigations and actions

These functions, coupled with the mandate given to the Internal Affairs Unit of the Kenya Police Service, are among the efforts towards regulating police excesses. The checks and balances coined in our laws, though insufficient, have addressed a number of reported cases of police misconduct.

On the other hand, many civil society organisations including the Law Society of Kenya, Katiba Institute and Haki Africa among others have been on the forefront of calling out police excesses. These institutions have become the people's watchdogs and have even gone to the lengths of following up on cases to ensure that justice is delivered against rogue police officers. In a concerted effort to curb the rising cases of police misconduct, the general public has been active in this regard and has taken up initiatives to address this issue. Many Kenyans have recorded incidents of police misconduct and broadcasted the same on social media therefore bringing to light the darkness that mars our security organs.

### **Challenges faced by IPOA in prosecuting police excesses and recommendations for reform**

The conviction rate of the Independent Policing Oversight Authority (IPOA) against police excesses is relatively low. According to the 2024 IPOA report, the Authority had achieved only 33 convictions since its inception.<sup>55</sup> Despite investigating many cases of police misconduct, this low number highlights significant challenges.

Some of the key challenges cited by IPOA in the report include inadequate annual budget allocations, limiting its ability to carry out investigations effectively and attend court sessions; non-cooperation by

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by Internal Affairs Unit of the police, conducting inspections of police premises, reviewing the functioning of the internal disciplinary process, monitoring and investigating policing operations and deployment.

<sup>55</sup> Policing Oversight Authority Board, 'The 2018-2024 IPOA Board end term performance report', IPOA, 2024, 17.

some witnesses and police officers, which hinders investigations and emboldens officers to continue with misconduct; parallel investigations by IPOA, the Internal Affairs Unit, and the Directorate of Criminal Investigations (DCI), leading to inefficiencies and duplication of efforts; and staffing shortages, which result in delays in handling complaints and investigations.

In addressing these challenges, IPOA has made several recommendations, including increasing budget allocations to provide for the efficient running of the Authority and facilitate smooth investigations. Secondly, IPOA proposed harmonising of the mandates of IPOA, IAU, and DCI thus avoiding parallel investigations that do not amount to meaningful convictions. Lastly, it proposed enhancing outreach programmes through campaigns to build public awareness on the role of IPOA and ways to report the arbitrary use of force or abuse by police officers.

## **Recommendations**

In agreement, this paper endorses the proposal to consolidate the roles of investigation in one independent institution, preferably IPOA. This will provide an impartial institution charged with the responsibility of putting the police in check. In the alternative, the Internal Affairs Unit should be disjointed from the direct control of the Inspector General. As argued above, the Inspector General of Police is not an impartial party in these cases and as such should not be involved in the investigations of the use of excessive force by his officers.

Furthermore, this paper recommends that the Authority should be granted prosecutorial roles. The delay caused by waiting for the Office of the Public Prosecution (ODPP) to approve cases against police officers curtails this role of police oversight. The success of police oversight will be realised when the conversion rates from investigations to convictions is higher. It therefore remains a hurdle to ensure full accountability of police in order to prevent police brutality if these and many other recommendations are not implemented.

Owing to the delays in court cases against rogue police officers due to administrative formalities in the judiciary, this paper urges the Judicial Service Commission (JSC) to prioritise the delivery of justice over administrative roles. The constant transfer of judges from one station to another is a major setback towards the efforts against police excesses. The procedure, however important it may be, should be done while factoring in its net effect on the delivery of justice. It is shameful and untenable that a murder case such as the one on the Ndwiga brothers can take more than three years in court. I dare ask, is that the Kenyan idea of justice?