A conversation with Tekin Saeko: From Kianjokoma to Kajiado, police brutality and the cross-border crisis of accountability

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'Language is very powerful. Language does not just describe reality. Language creates the reality it describes'.[1] Desmond Tutu

Abstract

This essay responds to Tekin Saeko's tribute to the Kianjokoma brothers, situating his findings within broader philosophical questions of violence, legitimacy, and justice. Saeko argues that the unresolved trial of the alleged suspects, formerly police officers, in the murder of the Ndwiga brothers, more than three years after their deaths, illustrates how justice in Kenya is routinely deferred, rendering accountability a mirage. Further, he highlights the structural weaknesses of oversight institutions such as the Internal Affairs Unit (IAU) and the Independent Policing Oversight Authority

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1 Bill Moyers, 'Interview with Archbishop Desmond Tutu', *American Archive of Public Broadcasting*, 27 April 1999.

(IPOA), noting that limited mandates, bureaucratic inertia, and political capture frustrate reform and make convictions rare. Building on these insights, this paper seeks to extend the conversation by placing the Kianjokoma murders alongside the killing of journalist Arshad Sharif in Kajiado. By drawing connections between these separate crimes, this paper explores how patterns of delayed justice, institutional weakness, and political expediency exceed national boundaries, revealing cross-border dimensions of accountability. The analysis also introduces the notion of a 'dysfunctioning functioning system' to capture how institutions may operate procedurally yet fail substantively, sustaining wrongful exculpation under the guise of legality. Rather than offering a final answer, this paper opens a philosophical inquiry into how legality and impunity entangle in Kenya's policing, raising questions about whether accountability in such contexts is ever more than a fragile and deferred promise.

Keywords: accountability, impunity, dysfunctioning functioning system, philosophy, police brutality

Introduction

Tekin Saeko's reflection on the Kianjokoma brothers, published in the previous volume of this journal, reminds us of how deeply entrenched police brutality is in Kenya.[2] What we witness is a stark contradiction of Wole Soyinka's reminder that justice is the first condition of humanity, which in Kenya continues to remain unfulfilled.[3] To start with, I find Tekin's approach compelling in its insistence on the embeddedness of violence within policing institutions.[4] His thesis mirrors the Kenyan experience, where the colonial architecture of control was not dismantled but merely rebranded after independence.[5] Like Tekin, I understand police brutality not as an aberration but as a rational outcome of an institution historically designed to protect power rather than people.[6]

Yet, I part ways with Tekin's universalist inclination to locate state violence primarily in institutional pathology through a closer reading of his recommendations.[7] While I agree that institutional design is essential, the Kianjakoma case reveals the equally corrosive influence of political capture and executive manipulation that continues to plague the 'natives'.[8] My argument is that reforming the policing institution without confronting the culture of political and administrative expediency amounts to little more than cosmetic change.

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2 Tekin Saeko, 'An update of the Kianjokoma brothers' case and the struggle for police accountability in Kenya', 3 *Kabarak Law Review* (2024) 255.

3 Wole Soyinka, *The man died: Prison notes*, Rex Collings Publishers, London, 1972, 101.

4 Saeko, 'An update of the Kianjokoma brothers' case and the struggle for police accountability in Kenya', 246.

5 Saeko, 'An update of the Kianjokoma brothers' case and the struggle for police accountability in Kenya', 251.

6 Saeko, 'An update of the Kianjokoma brothers' case and the struggle for police accountability in Kenya', 251.

7 Saeko, 'An update of the Kianjokoma brothers' case and the struggle for police accountability in Kenya', 257.

8 Saeko, 'An update of the Kianjokoma brothers' case and the struggle for police accountability in Kenya', 246-248.

Accordingly, in the sections that follow, I extend Tekin's analysis by situating the Kenyan police within a philosophical continuum of brutality. In doing so, I both affirm and complicate Tekin's thesis while noting that violence is systemic, but arguing that its endurance is actively sustained by those in power and those in charge of granting those affected justice.

Reading about Emmanuel and Benson Ndwiga's ordeal – killed for being outside during the COVID-19 curfews, their murder trial delayed for over three years[9] – I could not help but recall another tragedy that unfolded on Kenyan soil. The killing of Pakistani journalist Arshad Sharif on 23 October 2022 at Kajiado.[10] As I considered these tragedies, I was reminded of Hannah Arendt's observation that violence arises when power is absent, since true authority does not need force to secure obedience. In Kenya, as the Kianjokoma and Kajiado cases show, police 'authority' collapses into violence, revealing a deficit of legitimacy where coercion substitutes for genuine power.[11]

Yet, the murder of the Kianjokoma brothers is not an isolated crime. The killing of Pakistani journalist Arshad Sharif in Kajiado in October 2022 demonstrates how Kenyan policing extends beyond domestic repression into cross-border crises of accountability. Unlike the Ndwiga brothers' case, which exposes delay and inertia in local courts, Sharif's case reveals how opacity and diplomatic deflection compound impunity when international sensitivities are at stake.[12] When placed together, these cases expose what I call a dysfunctioning functioning system; institutions that perform procedurally while failing substantively to deliver justice.

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9 Saeko, 'An update on the Kianjokoma brothers' case and the struggle for police accountability in Kenya', 246-247.

10 Aljazeera, 'Killing of Pakistani journalist Sharif in Kenya "planned": Report', *Aljazeera*, 7 December 2022.

11 Hannah Arendt, 'On violence' in *Crises of the Republic*, New York, Harcourt, Brace & World, 1972, 47-48.

12 Reporters Without Borders, 'Impunity looms one year after Arshad Sharif's murder in Kenya', 23 October 2023.

Achille Mbembe's reflections on postcolonial sovereignty further illuminate how legality and violence entwine, creating a political order where impunity is normalised rather than aberrant.[13] I build on these insights to argue that police violence in Kenya should not be seen as the failure of rogue officers or weak institutions alone, but as the expression of a deeper grammar of governance where political expediency sustains compulsion.[14] By political expediency, I mean making a decision or taking an action because it is convenient, advantageous, or beneficial in the short term for political gain, rather than because it is right, just, or principled.

Three interlinked questions frame this inquiry. First, how do delayed trials impose not only legal but also psychological and social violence on victims' families, eroding the promise of justice? Second, why do police oversight bodies like Independent Policing and Oversight Authority (IPOA) and the Internal Affairs Unit (IAU) enact investigative rituals while withholding findings or avoiding prosecution, thereby masking inaction under the cover of compliance? Third, why is police violence tolerated, indeed, at times incentivised when officers anticipate political protection during elections and protests? Addressing these questions, I situate Kenya's crisis of accountability within both domestic and cross-border contexts, advancing a philosophical reading of policing as a system that functions procedurally but fails substantively, producing an enduring justice mirage.

Crossfire or cross-border injustice: Remembering Arshad Sharif

Many dream of speaking truth to power and leaving behind a legacy of courage. For most, it remains a distant ideal. For a few, it becomes their life's defining struggle. Arshad Sharif was one such figure. As a

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13 Teo Ballvé, 'On the postcolony', Territorial masquerades, 3 August 2011. See more generally, Achille Mbembe, *On the postcolony*, University of California Press, 2001, 25.

14 Reporters Without Borders, 'Impunity looms one year after Arshad Sharif's murder in Kenya', *Legal Framework and Justice System Violence against Journalists News*, 16 November 2025.

fearless investigative journalist, he carried his pursuit of truth beyond Pakistan, notably through his investigations into military corruption and state overreach. This often placed him at odds with political and security elites.[15] On 23 October 2022, while he was living in self-imposed exile in Kenya, he was fatally shot in Kajiado county. At the time of his death, Sharif was a passenger in a Toyota Land Cruiser travelling along Magadi Road when Kenyan police officers opened fire.[16]

Authorities later explained that the officers had been pursuing a stolen Mercedes Benz Sprinter van reported in Pangani, Nairobi, and claimed to have mistaken Sharif's vehicle for the suspect van.[17] The Inspector General of Police publicly described the shooting as an a case of 'mistaken identity' and expressed regret, assuring the public that investigations would be conducted.[18] IPOA also announced that it would initiate prompt inquiries into the matter.[19]

Despite these assurances, little progress was made. Sharif's widow, along with journalists' associations in Pakistan and Kenya, repeatedly petitioned for accountability, arguing that no serious investigations had been carried out and no prosecutions had been initiated against the officers responsible. Multiple letters sent by the family through their counsel to Kenyan authorities seeking updates went unanswered.[20] Petitioners alleged violations of Sharif's constitutional rights, particularly his rights to life, dignity, and fair treatment under the Constitution of Kenya.[21] They accused state authorities of failing in their duty to conduct timely, independent, and effective investigations, thereby perpetuating a culture of impunity.

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15 Wesley Dockery, 'Exiled Pakistani reporter shot dead in Kenya', *Press Freedom Pakistan*, 24 October 2024.

16 *Javeria Siddique w/o Arshad Sharif and 2 others v Attorney General and 4 others*, Constitutional Petition E009 of 2023, Judgment of the High Court in Kajiado, (2024) [eKLR] para 3.

17 *Siddique w/o Arshad Sharif and 2 others v Attorney General and 4 others*, para 4.

18 *Siddique w/o Arshad Sharif and 2 others v Attorney General and 4 others*, para 4.

19 *Siddique w/o Arshad Sharif and 2 others v Attorney General and 4 others*, para 4.

20 *Siddique w/o Arshad Sharif and 2 others v Attorney General and 4 others*, para 85.

21 *Siddique w/o Arshad Sharif and 2 others v Attorney General and 4 others*, para 8.

Nearly two years after Arshad Sharif's tragic death in Kajiado, Kenya, justice remains elusive. The circumstances surrounding his killing and the subsequent lack of meaningful investigative outcomes and judicial action have deepened the grief of his family and drawn criticism from national groups such as the Kenya Association of Journalists.[22] The Sharif case makes clear that the dysfunction that I describe is not confined to Kenyan citizens but extends to non-citizens, raising questions of international trust in Kenya's institutions.

On 8 July 2024, the High Court in Kajiado ruled that the use of lethal force against Sharif was unlawful and unconstitutional, ordering the Kenyan government to pay 10 million Kenyan shillings in compensation to his widow, Javeria Siddique.[23] This decision was later partly upheld by the Court of Appeal in 31 July 2025, which affirmed the compensation amount and interest until full payment is made.[24] The High Court had also issued a mandatory order requiring the respondents to update the petitioners on the status of investigations, including IPOA and the Director of Public Prosecutions (DPP)'s recommendations, and the identities of the police officers suspected of the murder.[25] However, the respondents failed to comply during the Court of Appeal proceedings, which showcased that they had fallen into the entrenched practice of bureaucratic stalling.

At the High Court, the petitioners had sought to enjoin the IPOA as a respondent in the Ksh 10 million compensation claim arising from the killing of journalist Arshad Sharif and they succeeded.[26] They argued that IPOA bore partial responsibility for the violation of rights due to its alleged failure to take prompt or effective action in investigating

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22 *Independent Policing Oversight Authority v Siddique w/o Arshad Sharif and 6 others*, Civil Appeal E802 of 2024, Judgment of the Court of Appeal at Nairobi, (2025) [eKLR] para 4.

23 *Siddique w/o Arshad Sharif and 2 others v Attorney General and 4 others*, para 107(g).

24 *Independent Policing Oversight Authority v Siddique w/o Arshad Sharif and 6 others*, para 110-11. This decision while upholding the sum given by the trial court, excluded the Independent Policing Oversight Authority from paying it by holding it was not jointly and severally liable.

25 *Siddique w/o Arshad Sharif and 2 others v Attorney General and 4 others*, para 107(f).

26 *Siddique w/o Arshad Sharif and 2 others v Attorney General and 4 others*, paras 106-07(g).

the matter and ensuring accountability of the implicated police officers. In response, IPOA moved to the Court of Appeal to challenge its joinder, contending that it had fulfilled its statutory mandate.[27] The delay in prosecutorial action was attributable to the DPP's deliberations rather than any inaction on IPOA's part.

However, the Court of Appeal noted that IPOA had failed to disclose the identities of the police officers involved in Sharif's killing to the applicants and the action the state organs responsible for prosecution intended to take. This was a disclosure that the Authority ought to have provided to ensure transparency and accountability in the investigative process.[28]

These gaps in communication and transparency left the family and the public with unanswered questions and deepened the sense of frustration over the slow wheels of justice. In many ways, this mirrors what happened in the Kianjokoma case; in both instances, victims' families were caught in a limbo, forced to navigate institutional inertia while the state's promise of accountability remained largely unfulfilled. The patterns of delay and procedural compliance without substantive justice reveal a continuity in the Kenyan system. A continuity where the machinery of law moves, but too often fails those it is meant to protect.[29] By examining these cases together, we begin to see that the failure to act decisively is not merely bureaucratic but deeply political, affecting both domestic and international perceptions of justice.

When time becomes punishment

Ali Mazrui once discerned that African societies which developed cultures of monuments, brick, and mortar were often more technolog-

[27] *Independent Policing Oversight Authority v Siddique w/o Arshad Sharif and 6 others*, para 111.

[28] *Independent Policing Oversight Authority v Siddique w/o Arshad Sharif and 6 others*, para 100.

[29] Jürg Helbling, Walter Kälin and Prosper Nobirabo, 'Access to justice, impunity and legal pluralism in Kenya', 2(47) *The Journal of Legal Pluralism and Unofficial Law* (2015) 349.

ically sophisticated than pastoral societies, yet this did not necessarily make them more humane.[30] I observe that this paradox of advancement speaks to our own justice system. The more elaborate and procedural it becomes, the more it risks entrenching cruelty in more subtle forms. Justice in this case is not denied outright but endlessly deferred. The long wait becomes the first punishment and the belated verdict a second. This often makes me question its worth. More so, when it comes only after time itself has already condemned us.

The Sharif case, like Kianjokoma, illustrates how punishment operates through time. To understand this, we must return to Foucault's insight that modern power operates not only through spectacular punishments but also through subtle techniques that manage time, procedure, and expectation.[31] Foucault's theory of punishment reveals that the decline of spectacular, barbaric punishments in medieval Europe was not driven by a new moral concern with time or rational justice, but by transformations in how power circulated between rulers, nobility, and subjects.[32] Punishment moved from the visible cruelty of the scaffold to the seemingly neutral operation of prisons, where discipline was embedded in procedures, surveillance, and everyday regulation.[33]

What changed was less the severity of punishment than the social logic behind it. The nobility no longer displayed raw violence but instead embedded control within institutions that managed relations between people under the guise of good governance and order.[34] The execution of Marie Antoinette in 1793 further exemplifies this logic. Her trial and death by guillotine were less about her individual guilt than about displaying the sovereignty of the revolutionary state.[35] From this, I note that just as Antoinette's execution was a theatre of sovereignty, these policing oversight bodies equally become theatres of sovereign-

30 Ali Mazrui, *The Africans: A triple heritage*, Little Brown & Company, Boston, 1986, 73.

31 Michel Foucault, *Discipline and punish: The birth of the prison*, Random House, New York, 1977.

32 Foucault, *Discipline and punish*, 149.

33 Foucault, *Discipline and punish*, 120-122.

34 Foucault, *Discipline and punish*, 149.

35 Hilarie Beloc, *Marie Antonette*, GP Putnam's Sons, New York & London, 1925, 535.

ty but through procedural delay, masking the absence of substantive justice: a spectacle designed to demonstrate control rather than pursue truth.

This dynamic is not confined to Europe. In Kenya, the colonial state imported the court and prison systems not as mechanisms of rational justice but as instruments of control.[36] These institutions were designed less to serve justice for the colonised than to legitimise authority through elaborate procedures that masked violence with legality.[37] IPOA and prolonged murder trials today illustrate this colonial inheritance. Justice is often delayed or denied not through outright spectacle, but through procedural rituals, adjournments, missing files, endless inquiries that give the appearance of law while entrenching impunity.[38] In both the Kianjokoma and Sharif cases, power is exercised not by resolving conflicts swiftly but by staging justice as a slow performance that sustains authority.

Through this, we see that in Kenya, the meaning of law is unstable. This is because different authorities cannot fully control or legitimise it. Instead, law becomes a struggle over who decides what is public or private, individual or collective, African or foreign, shaped less by clear rules than by overlapping histories.[39] For Kenyan institutions like IPOA, it means their authority is not self-evident or stable. They are constantly negotiating their legitimacy in a contested legal and political environment, where the state can easily gut them out, and the people may never trust their effectiveness.

Having read time in the postcolony, Mbembe reminds us that it is neither linear nor progressive, but suspended, repetitive, and en-

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36 Alex Thomson, *An introduction to African politics*, Routledge (2nd edition), New York, 26.

37 Thomson, *An introduction to African politics*, 26.

38 Isaac Amuke, 'Who is policing the police? Kenya's lame duck oversight mechanism', 5 December 2019. Tekin Saeko notes this in relation to the Ndwiga brothers, see, Saeko, 'An update on the Kianjokoma brothers' case and the struggle for police accountability in Kenya', 247-48.

39 Isaac Amuke, 'Who is policing the police? Kenya's lame duck oversight mechanism'.

tangled.[40] This frame illuminates how Kenyan justice through policing oversight bodies, operates and folds time into loops of waiting. Justice here is not denied outright, but endlessly postponed, always 'coming soon'. Never fully arriving. Citizens are not only subjected to physical violence or bureaucratic procedure, but to temporal violence. They are trapped in an endless present of suspension.[41]

In this sense, I perceive that the policing oversight procedures resemble what Mbembe calls the entanglement of postcolonial time. A space where power consolidates itself by managing anticipation, delay, and the very rhythm of justice. I deduce that it is not simply that discipline embeds itself in procedure, but that time itself is weaponised, staging justice as a slow, unending performance that sustains authority rather than resolves conflict.[42]

If I follow Derrida's insistence that justice is always 'a venir', endlessly deferred yet sustaining the horizon of law's legitimacy, then the policing system performs a cruel inversion that simultaneously imitates and betrays this promise.[43] Postponement here is not the openness of futurity but the foreclosure of possibility, a temporal regime where the future is emptied out in advance, and the act of waiting becomes indistinguishable from punishment itself.[44] Yet, the paradox cuts deeper. The very différance that for Derrida secures justice's ethical infinity is here consumed by power. Thus, deferral no longer gestures to responsibility but to domination.[45]

What is deferred is not justice but the subject who waits, suspended between recognition and abandonment. Mamdani's account of bifurca-

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40 Ballvé, 'On the post colony'.

41 Paddy O'Halloran, 'Transcending myth: A reading of Achille Mbembe's "On the postcolony"', *The Franz Fanon Blog*, 14 October 2014.

42 Foucault, *Discipline and punish*, 210.

43 Jacques Derrida, 'Force of law: The mystical foundation of authority'; Rucilla Cornel, Michel Rosenfeld, and David Gray Carlson (eds) *Deconstruction and the possibility of justice,* Routledge, London, 1992, 27.

44 Ballvé, 'On the post colony'.

45 Derrida, *Deconstruction and the possibility of justice*, 6.

tion sharpens this irony.[46] But even his distinction falters once translated into time. Those who wait as 'citizens' and those who wait as 'subjects' are not two opposed categories but two modalities of the same temporal violence, differentiated not by rights but by endurance. In this sense, 'justice' deconstructs itself, its promise of arrival depends on its non-arrival, and its credibility depends on the very waiting that erodes trust.

I can only conclude that trust, then, is not simply lost but rendered structurally impossible, since to trust the law is already to misrecognise delay as imminence and suspension as resolution. It is precisely here that I hesitate, I cannot bring myself to trust a system that feeds on my anticipation, that turns patience into subjugation and hope into a mechanism of control. To trust such a system is not faith but complicity, and I would rather live with doubt than lend my belief to a justice that never arrives.

The dysfunctioning functioning system and oversight as a performance of justice

A central disjuncture of modern governance is that institutions often endure not because they succeed, but because their very dysfunction becomes a mode of functioning.[47] When I turn to John Mbiti, I find his account of African time deeply provocative. Mbiti insists that time is not an abstract mathematical continuum, but an event-based reality. He teaches that the present (*sasa*) flows into the past (*zamani*), and the future is not an endless horizon but a short, foreseeable stretch, perhaps six months or two years ahead.[48] As he puts it, 'time does not move, only events come and go'.[49]

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46 Mahmood Mamdani, *Citizen and subject: Contemporary Africa and the legacy of late colonialism*, Princeton University Press, New Jersey, 2018, 17.

47 Tom Goodfellow, '"The bastard child of nobody"? Anti-planning and the institutional crisis in contemporary Kampala', Crisis States Working Papers Series No 2, 8-9.

48 John S Mbiti, *African religion and philosophy*, Praeger Publishers, New York, 1970, 28.

49 Mbiti, *African religion and philosophy*, 28.

I see in this not a deficiency, as critics like Newell Booth and Benjamin Ray have suggested with their charge of 'reversed teleology,' but a reorientation. An insistence that meaning lies in lived events rather than in abstract chronology.[50] This event-based way of thinking about time resonates with Mogobe Ramose's philosophy of *Ubuntu*, where being itself is an ongoing event of living with others.[51] From this vantage point, I begin to question institutions that 'function' on paper yet remain vacuous in practice. These institutions tick forward in bureaucratic time, but they do not move with the pulse of communal life.

This makes me wonder, what does it mean for a system to endure without truly serving its purpose? If, as Mbiti argues, time becomes real only through events, then an institution that fails to produce justice is timeless in the raw sense of the word, as in bereft of time. The violence of forceful sedenterisation visited upon the Somali and Borana communities during the Shifta Wars led them to precisely call this period *gaf Daba,* literally, 'when time stopped'.[52]

Such a system of deferred 'justice' is suspended, circling itself without substance. In that suspension, families and communities are left in a state of limbo, enduring the psychological, financial, and social toll of a justice that never materialises.[53] Its survival is not proof of vitality but of inertia. Ramose deepens this point when he reminds us that being is always being-with and justice that is not shared among all dissolves into contradiction.[54] A system that functions in form but fails in essence becomes a void presence. It exists, yet it negates the very communal life it was meant to affirm. In this sense, dysfunction does not merely accom-

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50 Newell S Booth, Jr quoting Mbiti, 'Time and African beliefs revisited', in Jacob K Olupona and Sulayman S Nyang (eds) *Religious plurality in Africa: Essays in honour of John S Mbiti,* Mouton De Gruyter, Berlin and New York, 1993, 84.

51 Ada Agada, 'Nietzsche and Ramose on being and becoming: An exercise in cross-cultural philosophising', 6(1) *Journal of World Philosophies* (2021) 5.

52 See Sean Bloch 'Stasis and slums: The changing temporal, spatial, and gendered meaning of "home" in Northeastern Kenya', 58(3) *Journal of African History* (2017) 403-23.

53 Mbiti, *African religion and philosophy*, 28.

54 Ada Agada, 'Nietzsche and Ramose on being and becoming: An exercise in cross-cultural philosophising', 5.

pany function. It becomes the very mode through which the institution lives on, sustained by the denial of its own promise.

Kenya's policing oversight bodies reveal such an enigma. These institutions established to curb abuse often end up legitimising it, functioning less as mechanisms of accountability than as theatres where justice is rehearsed but barely performed.[55] In the *Arshad Sharif* case, the Court of appeal noted the IPOA is the 'Wanjiku's watch man', a recognition that seemed to affirm its democratic mandate.[56] Yet this very designation situates the irony at the heart of oversight. While formally entrusted with guarding the public interest, such bodies often deliver only procedural compliance, withholding the substantive disclosures and decisive actions that accountability requires.[57]

What I perceive then is that substantive disclosure would, for instance, entail releasing full investigative findings including forensic evidence, timelines of police conduct, and internal communications. This aids families and the public to confront not merely that 'an inquiry was done' but what it revealed.[58] The absence of such disclosure in cases like the Kianjokoma murders, where trial delays obscure evidence, or in the killing of Arshad Sharif, where contradictory reports from Kenyan and Pakistani authorities deepened confusion, suggests that the failure is not accidental. It emerges from political interference and bureaucratic inertia, each of which ensures that accountability remains a performance rather than a practice.

As Africans, from an *Ubuntu* worldview, this dysfunction is especially stark. *Ubuntu* insists that 'I am because we are', showcasing that dignity, justice, and accountability are never private goods but communal conditions of existence.[59] Yet in practice, Kenya's accountability

[55] Amuke, 'Who is policing the police? Kenya's lame duck oversight mechanism'.

[56] *Independent Policing Oversight Authority v Siddique w/o Arshad Sharif and 6 others*, para 30.

[57] *Independent Policing Oversight Authority v Siddique w/o Arshad Sharif and 6 others*, para 100.

[58] *Independent Policing Oversight Authority v Siddique w/o Arshad Sharif and 6 others*, para 100.

[59] Sakiemi Idoniboye-Obu and Ayo Whetho, 'Ubuntu: "You are because I am" or "I am because you are"?', 20(1) *Alternation* (2013) 243.

structures fracture this ethic, making the experience of 'justice' episodic, felt only by those immediately affected, while the wider community remains untouched. This works in contradiction to the principle that all should have a voice in determining whether a justice system is advantageous to them or not.[60]

Put differently, from both the Arshad Sharif and Kianjokoma cases, even as these contradictions weigh heavily, we continue to trust the very institutions that betray us. Why? Because trust, in this sense, is not naïve belief but a wager of hope. To abandon trust altogether would be to abandon the communal horizon that *Ubuntu* calls us into: the conviction that 'I am because we are'.[61]

If we ceased to trust, we would tacitly concede that justice is impossible in common; that life together is condemned to fragmentation. It is this scenario that defines our condition, institutions endure not because they deserve trust, but because our hope in them is the only way to preserve the possibility of a shared life.[62] And yet, as the Sharif and Kianjokoma cases show, the system inverts *Ubuntu's* maxim into a cruel parody which truncates to 'you are because you suffer'.

Oversight, which should affirm collective security, becomes privatised, making injustice visible only to those who directly endure it. Justice thus appears not as a guarantee for all but as an accident of misfortune. The question, then, is not simply whether we can trust, but whether those who preside over such systems would act differently if they, too, were subjected to the very accountability they so easily defer. What then I recognise is that the measure of *Ubuntu* today is whether we can transform institutions so that suffering is not the only bond that reveals our shared humanity.

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60 Philip Ogo Ujomu and Felix Olatunji, 'Philosophical reflections on social justice and social order in postcolonial Africa', 5(2) *Lex Humane* (2013) 132.

61 Idoniboye-Obu and Whetho, 'Ubuntu: "You are because I am" or "I am because you are"?', 243.

62 Idoniboye-Obu and Whetho, 'Ubuntu: "You are because I am" or "I am because you are"?', 243.

We suffer because the system has made violence ordinary

Frantz Fanon warned us that colonial violence was never simply about domination of the body. It reshaped the mind, the imagination, and the very structures through which society organises life.[63] Colonial policing did not merely enforce order but inscribed fear as the grammar of authority.[64] What is unsettling is that this grammar has outlived formal colonialism.

Police brutality in Kenya still bears the imprint of that inheritance, where violence masquerades as legality and the baton or the bullet continues the colonial task of disciplining populations rather than protecting them. What is worse, however, is that this violence is no longer foreign, it is now natives brutalising their own. Kenyan police against Kenyan citizens, a haunting proof that colonial brutality has survived by wearing our face.[65]

Fanon never treated violence as one-dimensional. It was, for him, both the coloniser's pathology of domination and the colonised's horizon of liberation.[66] Violence stripped of its emancipatory potential was mere subjugation where violence reappropriated by the oppressed could become the crucible of freedom. When I look at police brutality in Kenya, I see this tension replayed in a distorted form. Violence no longer gestures toward liberation, it has been captured by the postcolonial state and turned inward against its own citizens.[67] Here lies the deepest inversion, what Fanon diagnosed as the coloniser's logic of control has been internalised as our own logic of governance.

The persistence of police violence in Kenya raises deeper questions about the very foundations of the state's authority. If law is to embody the will of the people, then Kenya's legal order, rooted in the reception

63 Frantz Fanon, *The wretched of the earth*, Grove Press, New York, 92-94.

64 Fanon, *The wretched of the earth*, 38.

65 Fanon, *The wretched of the earth*, 38.

66 B K JHA, 'Fanon's theory of violence: A critique', 49(3) *Indian Journal of Political Science* (1988) 360-363.

67 Amuke, 'Who is policing the police? Kenya's lame duck oversight mechanism'.

date of 12 August 1897, complicates this claim. On that day, the British Crown decreed that all statutes of general application in England passed before 12 August 1897 would be applicable in Kenya, unless repealed by local legislation.[68]

This arrangement effectively subjected Kenya to a vast body of English law, making the task of repeal nearly impossible and ensuring that, despite independence, Kenya's legal foundations remain tethered to colonial authority.[69] From my view, symbols such as the national flag and national anthem gesture toward independence, yet the underlying juridical order suggests that compulsion, rather than consent, continues to ground the authority of the Kenyan state.

But philosophically, this is where the tragedy deepens. The coloniality of policing is no longer imposed from without. It is not 'ours' in origin, yet we have adapted its taste to fit our own governance, normalising forms of violence once meant to secure democracy as now the routine language of state order.[70] What the colonial state invented as control, the postcolonial state sustains as necessity. Brutality becomes not merely a borrowed violence but a domesticated one, claimed as part of our own authority.[71]

Internationally, the picture is equally bleak. Fanon anticipated that colonial violence would not remain confined to its original borders but would seep into the global order – in this case Kenya.[72] Today, we witness its normalisation. From Kianjokoma to Kajiado, Kenya to Pakistan, state brutality is narrated as the defence of sovereignty, security, or democracy. When Kenyan police kill peaceful protestors and unarmed

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68 T Cashmore, 'Studies in district administration in the East Africa Protectorate (1895-1918)', Unpublished PhD Dissertation, Cambridge, Jesus College, 1965, 17.

69 Cashmore, 'Studies in district administration in the East Africa Protectorate (1895-1918)', 17-22.

70 Ali Mazrui, 'Who killed democracy in Africa? Clues of the past, concerns of the future', IX (1) *Development Policy Management Network Bulletin* (2002) 18.

71 Patrick Gathara, 'Kenya's police violence is colonial and institutional, as well as political', *The New Humanitarian*, 26 June 2025.

72 Eunice N Sahle, 'Fanon and geographies of political violence in the context of democracy in Kenya', 42(3-4) *The Black Scholar* (2012) 48.

civilians, their actions cannot be understood as isolated local excesses. Rather, they are performances in a global theatre of state violence, following a script drafted in colonial times and continually rehearsed in contemporary systems of policing and control worldwide.

A troubling fact however, is that this violence has lost the dialectical edge Fanon once saw in it. When police beat protestors, they do not simply negate the humanity of those they strike, they also negate their own humanity by becoming instruments of inherited domination.[73] In this way, coloniality of being is revealed: the officer denies the humanity of others because he has already been alienated from his own, reduced to a function of power rather than a subject of dignity.[74]

Colonial policing was never neutral. Its function was always political, designed to secure the interests of empire rather than the dignity of the colonised.[75] The colonial policeman was not merely an enforcer of law but an instrument of rule, embodying the violence through which authority was made visible and subjects were kept in line. What disquiets me is how little this has changed. In Kenya today, when police beat protestors or terrorise communities during elections and protests, they do not act as aberrations of democracy but as its shadow, performing violence with the quiet assurance that they will be shielded by political authority.

Philosophically, I see in this an unsettling economy of violence. The officer does not strike only to disperse a crowd; he strikes to announce loyalty. Brutality becomes a performance of allegiance to the state, an enactment of excess that communicates fidelity more clearly than words ever could. In this sense, violence is not accidental but transactional, the officer offers violence, and the ruling class reciprocates with protection. The baton or the bullet becomes a kind of political currency, a token of

[73] Fanon, *The wretched of the earth*, 266-268.

[74] Fanon, *The wretched of the earth*, 266-268.

[75] Aghamelu Fidelis and Ejike Emeka, 'Understanding Fanon's theory of violence and its relevance to contemporary violence in Africa', 3(4) *An African Journal of Arts and Humanities* (2017) 25-26.

exchange between the governed and the governors, where what circulates is not justice but impunity.

But herein lies the philosophical tragedy, violence corrodes not only the victim but also the perpetrator. By acting with the expectation of political protection, the police officer does not simply negate the protestor's humanity, he also relinquishes his own. He becomes less a subject and more an instrument, less a citizen than a weapon deployed by the political class. Fanon warned that colonial violence reduced the colonised to 'things'.[76] What I perceive today is an inversion of this warning, in offering themselves to the state as agents of repression, police officers risk becoming 'things' too, husks of violence, alienated from their own humanity.[77]

This is why oversight bodies often appear so impotent. They are not simply bureaucratically weak but structurally bound to the same logic. As my paper relays, institutions charged with accountability frequently defer to political authority rather than restrain it. Their compliance is not a failure of will but a reflection of the same transactional economy, to regulate violence is to risk disrupting the flow of loyalty that sustains the state. Thus, impunity is not an accident of dysfunction but a structural feature of institutional governance itself.

Conclusion

What I draw from Kianjokoma and Kajiado is that police brutality is not a failure of law but its antithesis. Not an aberration of democracy but its performance. Colonial violence has been domesticated, and its currency of loyalty still circulates between officers and political elites. Yet, if brutality corrodes the humanity of both the victim and the perpetrator, then it also corrodes the very possibility of politics as a shared life. Philosophically, I think our task is not merely to demand reform but to reclaim the measure of justice itself. To me, this requires a refusal

[76] Fanon, *The wretched of the earth*, 266-267.

[77] Fanon, *The wretched of the earth*, 267.

of the colonial tastes we have normalised, the preference for order over justice, for survival over freedom. Until we decolonise this inheritance, accountability will remain a mirage. The true challenge is whether we can reimagine governance so that the bond of our common life is not suffering, but dignity.

I do not offer recommendations here, because to prescribe within the same structures that breed and sustain brutality is to risk reproducing their logic. To recommend reform in a system whose very survival depends on dysfunction is to accept the grammar of delay and proceduralism that this paper has critiqued. Instead, I leave the reader with a philosophical horizon, that justice must be reimagined altogether. Not as a pretentious performance of sovereignty, but as the affirmation of our shared humanity.