



PRESS STATEMENT

CALL FOR THE INSPECTOR GENERAL TO RESPECT THE CONSTITUTIONAL MANDATE OF THE NATIONAL POLICE SERVICE COMMISSION.

20TH JUNE 2023, 09.00 (EAT)

The Police Reforms Working Group (PRWG) has supported and advocated for police reforms since the promulgation of the 2010 Constitution. We are cognizant of the police reform journey especially concerning where we came from and where we want to go as a country.

Our attention has been drawn to the supremacy battle between the National Police Service Commission (NPSC) and the Inspector General of Police (IG) regarding the promotion of over 500 police officers.

How policing is carried out is at the centre of the freedom, democracy, and human rights struggle in Kenya since Kenya gained independence. Policing before 2010 was a cesspool of tribalism, nepotism, corruption, state capture and human rights violations against the people of Kenya. The police were an extension of and beholden to the regime and were used to harass and neutralise any persons who would challenge the government of the day. For acting at the behest of the political elite, they were allowed to abuse and extort Kenyans without consequence.

After the atrocities of the Post-Election Violence (PEV), where police were responsible for 400 out of 1133 deaths, police reforms were meant to realign policing to transform it into a service dedicated to protecting the life, rights, and property of all Kenyans in a professional, accountable and human rights compliant manner.

In line with the recommendations of the Philip Waki Report on Post Elections Violence, the Phillip Alston Report on Extra-Judicial Killings and the Philip Ransley Report on Police Reforms, the 2010 Constitution was explicit that a separate, independent civilian body should carry out human resource functions, i.e. the employer of all police officers in Kenya.

However, we are increasingly witnessing a clawback of these reforms. Firstly, Parliament removed National Police Service Commission's role in the recruitment and appointment of the IG; second, Cabinet Secretaries often give operational instructions to the IG contrary to the law. The latest development, the tussle between the NPSC and the IG regarding the promotions of officers illustrates either a misinterpretation or contempt of the sovereign will of the people of Kenya.

We would like to point out clearly that the Commission is the police employer, in charge of the human resources function. We reiterate that the Commission draws its powers and functions from Article 246 of the Constitution, which gives it powers to recruit and appoint persons to hold or act in offices in the Service, confirm appointments, determine promotions and transfers, and exercise disciplinary control over and remove persons holding or acting in offices within the Service.

On the other hand, we affirm that the Inspector General is the overall commander of the NPS, and not the employer. The IG is mandated under the NPS Act to implement policy decisions, audit police operations and functioning, co-ordinate all police operations, prepare budgetary estimates

and develop a policing plan. He is to determine the establishment and maintenance of police stations, posts, outposts, units or unit bases in the county and determine the boundaries of the police stations, outposts or unit bases. He is to determine the distribution and deployment of officers in the Service and recommend to the Commission.

We know that The NPSC have a working arrangement that officially delegated promotions of officers below the Assistant Superintendent of Police or Deputy OCS rank. It does not include transfers and dismissals.

The PRWG-Kenya reiterates that all human resources functions of the National Police Service belong to the NPSC. The IG (the Commander of the NPS) and 2 Deputy IGs, sit in the NPSC to ensure their concerns and input regarding operations and officers are tabled, discussed, and considered by the NPSC.

The PRWG-Kenya, therefore, demands the following: -

- 1. The NPSC stamp its authority regarding its mandate and jealously protects it. The sovereign people of Kenya gave them that mandate, and they are the only ones who can remove or reallocate such powers.**
- 2. The IG forthwith ceases to disregard the law and the Constitution regarding promotions, transfers and other human resource functions. The IG's opinion, wishes and reservations should be canvassed at the Commission level, where he sits as a member alongside his deputies.**
- 3. The NPSC and the IG must work together to ensure Kenyans have an accountable and professional police service. The Constitution does not envisage a situation where the two offices work independently of each other.**

We reiterate that the current situation is injurious to the morale of police officers, and by extension to the security and safety of all Kenyans, and should therefore be resolved without further delay.

This statement is signed by members of the Police Reforms Working Group-Kenya, an alliance of national and grassroots organisations committed to professional, accountable and human rights-compliant policing. They include:

1. Amnesty International Kenya,

2. Defenders Coalition,

3. Katiba Institute,

4. Kenya Human Rights Commission (KHRC),

5. The Kenyan Section of the International Commission of Jurists (ICJ Kenya),

6. International Justice Mission (IJM-K),

7. HAKI Africa

8. Kariobangi Paralegal Network,

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9. Women Empowerment Link,

 10. Social Welfare Development Program (SOWED),

 11. Independent Medico-Legal Unit (IMLU),

 12. Federation of Women Lawyers (FIDA- Kenya),

 13. International Centre for Transitional Justice (ICTJ - Kenya),

 14. Social Justice Centres Working Group (SJCW),

 15. Usalama Reforms Forum,

 16. Transparency International Kenya,

 17. Shield For justice,

 18. Wangu Kanja Foundation,

 19. Constitution and Reform Education Consortium (CRECO),

 20. Kenyans for Peace, Truth and Justice (KPTJ).
