



Who is Policing the Police? Kenya's Lame Duck Oversight Mechanism

By Isaac Otidi Amuke



I First Impressions

On the right-hand corner at the top of *Policing Lens*, the Independent Policing Oversight Authority (IPOA)'s quarterly newsletter, two heavily padded policemen positioned inside the frame of a magnifying glass are holding shields branded 'Police'. The duo have their baton-wielding fists raised in the air, poised to descend on a seemingly already subdued civilian lying motionless on the ground. This surreal image ushers one into IPOA's world, a Freudian admission that the National Police Service (NPS) may not be as transformed from what it used to be when it was known as the Kenya Police Force - still deploying brawn in place of brain.

This disturbing yet at once candid logo subconsciously summarises IPOA's statement of intent, which is that the statutory agency is not afraid of confronting the dark history and the not-so-squeaky-clean present day state of affairs within the police, an unflattering confession they are willing to make publicly. Conversely, the choice of IPOA's optics could be (mis)construed as an act of concession, confirming that despite its far-reaching powers and mandate, IPOA, just like the

overpowered civilian victim of police brutality, remains subdued by police excesses.

Yet the need for IPOA to live up to its full mandate cannot be gainsaid.

II

Waki, Alston and Ransley

During the 29 May 2009 United Nations Human Rights Council sitting in Geneva, Switzerland, Prof. Philip Alston, the then UN special rapporteur on extrajudicial, summary or arbitrary executions, faced a dilemma. Coming merely two months after his inaugural Kenya working tour, Prof. Alston was calling for the investigation of the Kenya Police Force in a case where it was suspected of involvement in the execution of two human rights defenders. But as he pushed for an investigation into the police, Prof. Alston regretted that as things stood at the time (and maybe as they still stand to date), it was impossible to investigate the police.

Prof. Alston wrote: *“As there is, according inter alia to the report of the Commission of Inquiry into Post-Election Violence (CIPEV, pages 420-421), no existing independent unit capable of effectively and credibly investigating possible police misconduct in Kenya, we consider it imperative that an independent investigation be carried out with support from a foreign police force.”*

Prof. Alston was partly basing his observation on the October 2008 Commission of Inquiry into Post-Election Violence (CIPEV) report authored by Court of Appeal Judge Philip Waki, who chaired the CIPEV, otherwise referred to as the Waki Commission. Apart from pointing out the extent to which it was impossible to investigate the police for suspected police-inflicted deaths and injuries, the Waki Commission showed the extent to which the police were suspected of serious human rights violations during the 2007/2008 post-election violence, where one in every three of the 1,133 deaths documented by CIPEV were as a result of bullet wounds. These figures, though supported by morgue data, were disputed by the Commissioner of Police, Maj. Gen. Hussein Ali, who knew of only 616 deaths, emphatically telling CIPEV that only the police could give authoritative figures for those who died as a result of the post-election violence.

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It was under these circumstances that CIPEV recommended the establishment of an “Independent Police Conduct Authority” outside the police, with the legislative power and authority to investigate complaints against the police and police conduct. By the time Alston was suggesting international investigation of police killings, nothing had happened to implement CIPEV’s crucial recommendation, but his report now made it imperative to establish an independent police oversight agency to curtail future contemplation of seeking foreign investigative assistance.

As if pre-empting Prof. Alston’s May 29 presentation in Geneva on 7 May 2009, President Mwai Kibaki tasked Justice (retired) Philip Ransley to look into concerns raised by the other two Philips – Alston and Waki – by appointing him to chair the National Task Force on Police Reforms. Ransley’s Commission aimed “to examine existing policies and institutional structures of the police, and to recommend comprehensive reforms that would enhance effectiveness, professionalism and accountability in the police services.” Ransley was given 90 days, and in October 2009, having wrapped up his hearings, Ransley handed his report, which contained a whopping 200

recommendations, to the head of state.

Ransley asked for, among other things, terminological change seeking the establishment of the National Police Service (NPS), a change from the scandal-ridden Kenya Police Force. The idea was to shift the mindset of the police towards civilians, a change from always resorting to force in the course of duty to one of offering a professional service. This was to also influence civilians' perception of the police, from that of antagonism to one of co-operation and collaboration. Ransley similarly asked for the setting up of the National Police Service Commission (NPSC), tasked with overseeing the human resource component of the NPS, starting from recruitment, appointments, promotions, and general welfare of the police, away from the Public Service Commission (PSC), which previously handled these responsibilities.

More importantly, and in responding to Alston's and Waki's concerns, Ransley recommended the establishment of the Independent Policing Oversight Authority (IPOA), a civilian body mandated by law to keep the proposed NPS in check. In imagining an ideal scenario, Ransley envisioned an IPOA to watch over financial spending by the NPS; ensure the NPS adhered to international best practices in policing; receive and initiate investigations into complaints on police misconduct; monitor, review and audit police investigations; as well as coordinate other institutions on issues of police oversight, among other things.

III The Resistance

That Ransley's task force completed its work within 90 days and submitted its report soon thereafter came as a surprise to sceptics, including those within the diplomatic corps. This was evidenced in a WikiLeaks [cable](#) originating from the US embassy in Nairobi, which read:

"...However, several prominent persons have expressed doubts about the government's motives in establishing the PRC. They note that the PRC's short 90-day mandate is far too little for such a massive task and that Police Commissioner Hussein Ali will act to thwart all but superficial reforms. We share some of these doubts, but will take a wait-and-see approach, recognizing that the PRC provides an opportunity - the only one at this time - for much-needed police reform. The UK shares our doubts, but will support the commission financially by paying for a UK and a Commonwealth police expert to serve on the PRC. If the GOK acts to implement real reform we are positioned to support the effort with funds...."

The Americans and the British might have had valid reasons to second guess the intentions in setting up the Ransley task force, referred to erroneously in the WikiLeaks cable as the Police Reform Commission (PRC). A few months earlier, before the appointment of Ransley and his team on 7 May 2009, the then powerful Minister of State for Internal Security and Provincial Administration, Prof. George Saitoti, had placed a mischievous announcement in the Kenya Gazette, Notice Number 8144 of September 2008. The alert was about a Police Oversight Board, a proposed agency populated by presidential appointees, which the minister wanted domiciled in his ministry, and whose members - named in the gazette notice - the minister had powers to dismiss at will. This therefore meant that the mandate to oversee the police would remain within the state, under the same ministry as the police, a bad attempt at pseudo self-regulation. Prof. Saitoti's actions seemed pre-emptive.

At around the same time, the non-statutory Kenya Human Rights Commission (KHRC), among others, was busy singing the chorus of the establishment of a civilian police oversight body. In fact, the KHRC had gone as far as drafting a bill proposing the creation of the Police Oversight Board, a

name and concept which the minister appropriated. The difference was that the KHRC was proposing an autonomous civilian agency, while the minister wanted to create an appendage of the police within his portfolio. It was these sorts of cat-and-mouse games that eroded credibility on efforts by the state towards police reforms, setting the stage for doubting Thomases as Ransley got working.

Further, in revelations contained in the aforementioned WikiLeaks cable, Prof. Saitoti was reported to have told the US Assistant Secretary of State for Africa, Johnnie Carson, that what was needed in police reform was “evolution, not revolution”. The minister had also been quoted – utterances he denied having ever made – saying that only “normal reforms are required [like] looking into the welfare of officers, adequate facilities to increase the morale and efficiency” of the police. This strategy, of doing cosmetic reforms by focusing on the more bureaucratic end of things as opposed to delving into the more substantive questions of police violations, is one which would later be used to keep IPOA distracted from its core mandate.

IV

The Inaugural Term

On 27 August 2010, almost a year after Ransley’s task force submitted its report to President Mwai Kibaki, Kenya promulgated a new constitution. With the new legal regime in place, and staying true to Ransley’s recommendations, Parliament passed the IPOA Act (Act No. 35 of 2011), legislation which paved way for the establishment of the Independent Police Oversight Authority (IPOA). This was a huge milestone. Other than South Africa’s Independent Police Investigative Directorate (IPID), there remains no other policing oversight agency in Africa.

However, rather than looking to South Africa, IPOA heavily borrowed its architecture from the UK’s Independent Office for Police Conduct (IOPC), formerly the Independent Police Complaints Commission (IPCC). This was possibly a direct result of the input by the British expert seconded to the Ransley task force, as explicitly intimated in the WikiLeaks cable. Consequently, IPOA’s objectives were outlined in Section 5 of the Act thus:

1. *a) Hold the Police accountable to the public in the performance of their functions;*
2. *b) Give effect to the provision of Article 244 of the Constitution that the Police shall strive for professionalism and discipline and shall promote and practice transparency and accountability; and*
3. *c) Ensure independent oversight of the handling of complaints by the Service.*

In adhering to the Act’s requirements on the hiring of the IPOA board, the president, through Kenya Gazette notices 6938 and 6939 of 22 May 2012, [appointed](#) IPOA’s inaugural chairman and the agency’s board members, who were all sworn in on 4 June 2012. Ransley’s team had outlined the composition of the board to include two persons with experience in public administration, alongside individuals with knowledge in financial management, corporate management, human rights, and one with experience in religious leadership. The board’s chairperson had to be someone qualified to be appointed a judge of the High Court of Kenya.

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As fate would have it, Macharia Njeru, currently a member of the Judicial Service Commission (JSC), who had served as a member of the Ransley task force, was picked as IPOA's first chairman. One would have imagined that having been part of the Ransley team, Njeru would hit the ground running, having had the advantage of being one of the agency's draftsmen. However, by the end of his board's six-year term, Njeru's team came under heavy criticism, for what was considered an utterly dismal performance, especially by victims of police excesses.

V The Numbers

During its inaugural term, IPOA received an average of four serious complaints a day. As a result, the common refrain against the agency was that of the almost 10,000 cases of police misconduct reported to it, IPOA had only secured a paltry three convictions. These were: High Court Criminal Case No. 41 of 2014 (Republic Vs Inspector of Police Veronica Gitahi and Police Constable Issa Mzee, and Criminal Appeal No. 23 of 2016 (Inspector of Police Veronica Gitahi and Police Constable Issa Mzee Vs Republic), and High Court Case No. 78 of 2014 (Titus Ngamau Musila).

Pundits argue that strictly speaking, these were two convictions. In the first case, two police officers were convicted, thereafter appealing the ruling. They lost at the appellate court, a development which saw IPOA count the double loss by the officers as two wins on its part.

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By 30 April 2018, when the inaugural board's mandate was just coming to a close, the agency had received a total of 9,878 complaints. These were both from members of the public and from within the police service. Of these, 5,085 were classified as needing to be investigated. The rest, as per IPOA's breakdown of the numbers, were referred to the Internal Affairs Unit of the National Police Service (748 cases), IPOA's inspections and monitoring directorate (364 cases), the National Police Service (249 cases), the National Police Service Commission (319 cases), the Kenya National Commission on Human Rights (41 cases), Officers Commanding Police Stations (370 cases), the Directorate of Criminal Investigations (289 cases), and another 312 cases were shared between the Ethics and Anti-Corruption Commission, the National Land Commission, and the Commission of Administrative Justice (Office of the Ombudsman).

Of the 5,085 cases meant for investigations, 752 were reported to have been investigated and completed, 458 were closed preliminarily, 72 were still under investigation, 76 were under legal review by IPOA, 103 were forwarded to the Office of the Director of Public Prosecutions, 11 were sent to the Ethics and Anti-Corruption Commission, with 6 referred to the National Police Service. Furthermore, 459 complaints were dismissed as falling outside IPOA's mandate, 1,642 cases were closed for what IPOA terms "withdrawal by complainants; matters before Court; not actionable; and insufficient information." 64 cases were before the courts.

As of March 2019, the total number of cases reported to IPOA stood at 12,781, with 136 cases taken to court. In a mark of progress, three more convictions have been added to IPOA's tally since the new board took office in September 2018. It goes without saying that the new board is to a large extent building on the groundwork done by their predecessors, meaning by the end of the six-year mandate, IPOA's second board should have better figures in comparison.

By any account, IPOA's 2012-2018 numbers are mind-boggling, its paltry three convictions not doing much in terms of building confidence within the aggrieved civilian population. As a matter of fact, naysayers will be forgiven for thinking the numbers being thrown around are all a well-choreographed game of smoke and mirrors, a case of motion without movement.

However, the question one may want to ask is, was IPOA set up for failure from the word go?

VI The Bureaucracy

While listening to Macharia Njeru campaigning to be picked as the male representative of the Law Society of Kenya in the Judicial Service Commission, it became obvious that the one talking point IPOA's inaugural chairman wouldn't let go of was that he had successfully built an institution from scratch.

Njeru's exit message as his term came to a close was on how much he, his board and IPOA's senior staffers had worked in putting in place systems. There was talk of financial management awards, all bureaucratic shenanigans - not unimportant but neither were they IPOA's core mandate. There was certainly need for institution building, but at what expense did this happen? Did Njeru's team sacrifice IPOA's primary oversight responsibility at the altar of corporatism, or was it a trap set for him from the word go - to keep him busy paper pushing and not allow his team adequate time and resources to focus on police misconduct?

When looking at IPOA's founding financials - an annual budget of Sh96 million (US\$ 960,000) in 2012/2013 - it is clear that from the beginning one of the ways the state wished to put the agency on a tight leash was by limiting its budgetary allocations. Seeing that the agency needed to build from the bottom up - hire premises, recruit and train staffers, establish regional offices, among other day-to-day operational logistics, it was evident that with a paltry financial allocation, the board would be kept busy micromanaging budget line items as police violations went through the roof. For instance, it is astonishing to note that in 2013, IPOA could only hire an initial staff of six people.

Possibly seeing that the agency had fallen into the institution-building-at-the-expense-of-its-core-mandate trap, IPOA's budget eventually grew to Sh696 million in 2017/2018 and Sh800 million in 2018/2019, barely Sh1,000 (US\$10) per complaint per day, and definitely an insignificant amount of money considering the scope of oversight expected of the agency. By the time Njeru's team was leaving, IPOA had acquired a total of 27 motor vehicles - a number one might find laughable, seeing that IPOA's operations needed to cover the entire country - and had a staff roster of a mere 143 employees. How was such an institution, even if perfectly structured, capable of overseeing a National Police Service that recruited an average of 10,000 police officers on an annual basis? Would IPOA ever be fit for purpose?

In 2014, the board developed a four-year strategic plan to coincide with its 2018 exit. The plan was built around four pillars, namely compliance by the police with human rights standards; restored public confidence and trust in police; improved detention facilities; a functional Internal Affairs Unit (IAU) of the National Police Service; and a model institution on policing in Africa. In its usual brick and mortar state of mind, IPOA reported that "it is pleased that the National Police Service has secured an office for the IAU, and indications are that the Unit will be operational by August 2018." Other than that, it is anyone's guess as to whether any of the other targets were satisfactorily achieved under the strained circumstances the agency was operating under.

VII The Backlash

By all means, IPOA's inaugural term had too many moving parts that kept the agency busy, thereby making it drop the ball on many occasions regarding delivery of its core mandate to civilians, who continue to suffer in the hands of rogue elements within the National Police Service. According to Wangui Kimari of the Mathare Social Justice Centre (MSJC), and as has become a common refrain in Kenyan society today, *vitu kwa ground ni different* (reality bites). For starters, IPOA is not perceived as a friend of the civilians, thanks to its one-size-fits-all bureaucracies.

"Victims of police brutality and families of those killed by the police in places like Mathare and Korogocho are weary of going to report their complaints to IPOA for many reasons," Wangui told me when we met in Nairobi. "Some of them are broke, they cannot even afford bus fare, yet they are expected to go to IPOA's intimidating head office to make a statement. Once at IPOA, the majority of the complainants, who are either illiterate or semi-literate, will always be harassed for either not filing their complaints properly or for leaving out crucial information. It is in filling these gaps that trusted grassroots organisations such as the social justice centers come into the picture, but even after lodging the complaints properly, the long periods of time which lapse before IPOA moves on the cases is discouraging to the victims and their families."

In a word, IPOA's operations are not fit for purpose since its user experience remains wanting.

According to Gacheke Gachihi, an MSJC activist, IPOA needs to have its tentacles in places such as Mathare, which record some of the highest numbers of extrajudicial killings. It is public knowledge that informal settlements in Nairobi have well-known killer cops, some whom go as far as parading their past, present and future conquests on social media. To Gacheke, the fact that IPOA does not have outposts in places like Mathare shows its top-bottom approach to oversight, where instead of going to the ground, the agency keeps to its air-conditioned offices.

"IPOA needs to come and be in the midst of the people who need it most," Gacheke told me. "Their presence here can work as a deterrent to rogue police officers. If they think residents of Mathare flood their registry, they will be surprised at the many cases which go unreported."

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In the opinion of some front line human rights aficionados who wished to remain anonymous - they do not wish to sanitise IPOA's arrogance with a comment - IPOA's biggest shortfall has been its opacity. They claim IPOA behaves as if it is ignorant of the fact that for it to succeed it needs to operate within an ecosystem comprising all kinds of stakeholders nurtured by trust. It is this sense of indifference from IPOA, they say, which has resulted in disengagement by human rights defenders, who are getting completely disinterested in IPOA's work processes. "They never answer calls or reply to emails," one of them told me. "It is a complete disgrace."

The other battle on IPOA's plate is that of perception. Wangui told me that when she brought mothers and widows of victims of extrajudicial killings to IPOA's open day, the majority of them did

not want to come close, since they considered IPOA as part of the National Police Service. “They wouldn’t go to the IPOA stand,” Wangui told me, “because to them, *hao ni polisi*.”

VIII The Missing Repository

According to leading human rights lawyer Sam Mohochi - previously executive director of the Independent Medico-Legal Unit (IMLU) and immediate former executive director of the Kenyan Section of the International Commission of Jurists (ICJ-K) - any suspicious death, and particularly death at the hands of or while in the custody of the police or of a prison officer, should automatically trigger a Magistrate’s Inquest under Sections 386 and 387 of the Criminal Procedure Code. In Mohochi’s view, IPOA should therefore be the undisputed repository for all such cases in instances where the police are involved, such that IPOA either exonerates or implicates them.

“All custodial deaths should result in an inquiry being instituted,” Mohochi told me in Nairobi. “But you will notice that as things stand, IPOA does not comply with provisions of the law.”

“If you look at most cases of extrajudicial killings in Kenya, unless the family or other actors complain, no automatic legal action occurs,” Mohochi told me. “But two, now bring in IPOA. All such cases are automatically expected to be referred to IPOA, directly, by the police. That then means that in IPOA’s progress reports, the agency should always indicate how many such cases have been forwarded to it, by the police. Unfortunately, if you look at IPOA’s progress reports, they are completely silent on that. Yet that would have been the repository where you could keep tally of extrajudicial killings, irrespective of whether investigations are complete or not. That way, there could be a credible tally of encounter killings by the police, reported by the police. What we mostly have are statistics of cases reported by victims, against the police.”

In Mohochi’s opinion, the ideal situation in cases where police bullets have been used to either harm or kill civilians should be that the Officer Commanding Station (OCS) who is in charge of the police in a given jurisdiction should be the one to forward any suspicious police action to IPOA as a measure of accountability. This means that if the police abuse their powers in a locality and the OCS does not report it to IPOA, then the agency should have punitive measures in dealing with such a non-compliant OCS.

And if dealing with an OCS gets cumbersome - which should not be the case since IPOA has statutory powers - then IPOA should at the very least have its own investigators stationed at every police station in order for the agency to get first-hand accounts of police excesses, which are then forwarded to the agency’s legal and investigative units. Failure to do this, Mohochi says, will result in the majority of police violations to go unreported; even if they get reported, there will always be the evidential challenge since the police, in protecting each other, will neither secure the crime scene nor get witness statements of their own volition.

“IPOA should issue a circular to all police stations,” Mohochi told me, “that should any case of extrajudicial killings occur, they need to be notified immediately. Failure to do so, even IPOA’s own investigators will not find it easy investigating a non-cooperative police service.”

Further, Mohochi told me, what IPOA is doing - documenting police violations and prosecuting rogue officers - is something that was already being done by non-state actors. However, the establishment of IPOA was meant to scale things up in terms of convictions, something which is not happening. In Mohochi’s recollection, police officers have been jailed before IPOA came into place,

but IPOA was meant to act as a bigger deterrent through higher conviction rates. If this is not attainable, Mohochi fears that IPOA will not be serving the purpose it was founded for.

IX

The Evidence Puzzle

Over the years, and as intimated by Mohochi, insufficient evidence has remained one of the prominent bottlenecks in litigating against police violations in cases of extrajudicial killings. For the most part, aside from entities such as the Independent Medico-Legal Unit (IMLU), who were for a long time the go-to place for independent, credible autopsies, especially in public interest cases, attempts to prosecute the police either by IPOA or other actors have run into headwinds for lack of admissible evidence on the cause and circumstance of death. As such, the passing of the National Coroners Service Act of 2017 came as a huge relief for both human rights defenders and evidence-based agencies such as IPOA. This meant that in the event of any suspicious deaths, then there would be a legally mandated entity which would take up the matter, preserve the evidence, institute an inquiry, after which prosecutorial steps can follow.

According to the Kenya National Commission on Human Rights (KNCHR) handbook on the Act, much as the Kenyan version of the coroner's office will not be quasi-judicial, as an important starting point, the Act establishes a framework for investigations and determination of the cause of reported unnatural deaths in the country. Some of the anticipated quick wins are that obstruction of investigations, bearing false witness, and refusal to comply with directions from the coroner will be things of the past.

Further, the Act provides immunity from civil and criminal prosecution, or any other administrative action for that matter, for those who give evidence to the coroner. This is a huge improvement from the current reliance on Sections 385-387 of the Criminal Procedure Code, which provide for an inquest in cases of suspicious deaths, but does not have the sorts of far-reaching powers provided by the Act. Unfortunately for IPOA and its civilian complainants, and in that typical Kenyan self-sabotage fashion, since the signing of the Act into law in July 2017, it remains gathering dust, and is still not operationalised.

X

The Recruitment Charade

However, after everything is said and done, one of IPOA's persisting headaches remains the almost always scandalous police recruitment exercise. It goes without saying that if the National Police Service keeps filling its ranks with individuals not suited for policing, then no matter what interventions IPOA resorts to, its in-tray will forever remain full of cases of police misconduct by rogue officers, persons who were never fit to be part of the service from the word go. To date, no matter what IPOA or other statutory watchdog agencies like the Kenya National Commission on Human Rights (KNCHR) do, the problem of shoddy police recruitment has kept recurring, courtesy of the now perfected selective application of recruitment guidelines.

For starters, recruitment of police officers is the sole prerogative of the National Police Service Commission (NPSC), as recommended by the Ransley task force. However, the law allows the NPSC some discretion, through which it can delegate this responsibility to the Inspector General of Police. This, however, should not be a recipe for subpar recruitment, because the recruitment process

should be strictly guided by the NPSC's Legal Notice No. 41 of 2015. The legal regulations contain general provisions, recruitment categories, gender, regional and ethnic balance requirements, functions of the NPSC in the recruitment, advertising timelines and positions to be advertised for, contents of the advertisement, composition of recruitment panels, calendar of activities for the entire recruitment process, determination of successful candidates, disqualifications, a complaints management system, training schedule and issuance of certificates upon appointment, and submission of the recruitment report to Parliament.

More importantly, Regulations 11-15 of the Legal Notice prescribe a two-tier recruitment process, where in the initial stage, interested candidates submit applications to the NPSC, which having considered education qualifications, gender and ethnic balance, et cetera, is then required to shortlist three times the number of prospective officers it wishes to enlist at each of the recruitment centers. These names are then meant to be shared with the public so that any objections about the recruitment of any individual can be brought forth. Thereafter, the NPSC is supposed to conduct verification of documents as well as medical and physical aptitude examinations. Taking into consideration how rigorous the process should be, from the time of advertisement of vacancies to when the new recruits report to training, Regulation 17 of the Legal Notice provides for a 90-day period for completion of the recruitment cycle.

Unfortunately, the NPSC and the Inspector General of Police have continued practising their traditional one-day recruitment exercises, where they focus not on intellectual aptitude, as the two-tier processes envisions, but give prominence to physical attributes. Aside from that, flawed advertisement processes, lack of public participation, cases of bribery and patronage, and the locking out of observers - who are mandated by law to have access to the entire recruitment process - continue to be the order of the day.

In July 2014, the newly established IPOA took a bold step by taking the NPSC to court after it observed incidents of corruption, fraud and massive irregularities during recruitment. IPOA sought for nullification of the entire exercise, prayers which were granted by the High Court. On appeal, IPOA's victory was upheld by the Court of Appeal under Petition No. 390 of 2014 and Civil Appeal No. 324 of 2014 (The Recruitment Decisions). According to those in the know, the government did not look at IPOA's actions favourably, resulting in reported cases of not-so-subtle intimidation, with strong attempts at creating factions within the IPOA board.

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In a sad turn of events, neither the NPSC nor the Inspector General of Police seemed to have learnt their lesson. Two years later, the Kenya National Commission on Human Rights (KNCHR) released a comprehensive report titled *"DisService to the Service: Report of the Monitoring of the 2016 Recruitment of Police Constables to the National Police Service"*, in which it extensively observed that police recruitment continued being marred with serious irregularities characterised by interference from the executive arm of government and a total disregard of the two-tier process, which is meant to attract a higher calibre of trainee officers.

In one of its pleadings, the KNCHR wrote, "The continuous lack of adherence to follow the two-tier process means that achieving professionalism within the National Police Service will remain a pipe dream. The recruitment process serves as the point of entry into the service, and thus any attempts at professionalising the service should begin at this level."

Therefore under the prevailing circumstances, where regulations are ignored at will by the highest organs of the state, IPOA will remain a lame-duck mitigating force inside a garbage-in garbage-out setup.

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