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**APPRAISAL OF THE NATURE AND SCOPE OF KENYA POLICE  
REFORMS BETWEEN 1995 AND 2013**

**BY**

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**DECLARATION**

This research project is my original work and has not been submitted for the award of another degree or certificate qualification in this, or any other university:

Signed..... Date.....

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This research project has been submitted for examination with my approval as the University supervisor.

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## **DEDICATION**

This study is dedicated to my family for their constant encouragement and for being patient enough to see me go through my academic struggle thus realizing my long cherished dream.

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## **ACRONYMS/ABBREVIATIONS**

<b>AP</b>	Administration Police
<b>APS</b>	Administration Police Service
<b>ASTU</b>	Anti-Stock Theft Unit
<b>BCPR</b>	Bureau of crisis prevention and recovery
<b>CHRI</b>	Commonwealth Human Rights Initiative
<b>CID</b>	Criminal Investigation Department
<b>CJS</b>	Criminal Justice system
<b>CKRC</b>	Constitution of Kenya Review Commission
<b>DFID</b>	Department for International Development
<b>DIGPK</b>	Deputy Inspector General of Police
<b>DPKO</b>	Department of Peace keeping Operations
<b>GoK</b>	Government of Kenya
<b>GSU</b>	General Service Unit
<b>ICTJ</b>	international center for transitional justice
<b>IGP</b>	Inspector General
<b>IPOA</b>	Independent Police Oversight Authority
<b>KNDR</b>	Kenya National Dialogue and Reconciliation
<b>KNHCR</b>	Kenya National Commission on Human Rights
<b>KPC</b>	Kenya Police College

<b>KPF</b>	Kenya Police Force
<b>KPS</b>	Kenya Police Service
<b>NPC</b>	National Police Council
<b>NPS</b>	National Police Service
<b>NPSC</b>	National Police Service Commission
<b>NSMS</b>	National Security Management System
<b>NTFPR</b>	National Task Force on Police Reforms
<b>PEV</b>	Post- Election Violence
<b>PR</b>	Police Reforms
<b>PRIC</b>	Police Reforms Implementation Commission
<b>PSC</b>	Police Service Commission
<b>SSR</b>	Security Sector Reforms
<b>SSR</b>	Security Sector Reforms
<b>TI</b>	Transparency International
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme

## **ABSTRACT**

Many initiatives have been instituted on police reforms in Kenya at policy level, however this had not translated to practical policing outputs especially by the time of post-election violence (PEV) conflict in 2008. Since its aftermath some progress has been made in reforming policing: This progress includes development of comprehensive plans for reforms and constitutionalizing some of them. However, there exists a gap between the stated goals and what has been so far achieved. Impunity has persisted, resources availed are inadequate and the political will to effect the recommended changes is weak. There is need therefore for a study to appraise the nature and scope of Kenya Police Reforms between 1995 and 2013 in order to ascertain the implementation of the proposed Kenya police reforms.

The study used descriptive survey research design. The target populations were police officers from both the Mainstream and Administration Police formations. The study sample size was 30 respondents that comprised of 5 senior police officers, 10 civil society officials, 10 officials from the judiciary and 5 officials from Ministry of Interior and Coordination of National Government. Purposive sampling technique was used to select the sample. Secondary data was cleaned from policy documents on police reforms made between 1995 and 2013. Data obtained was analysed using content analysis while quantitative data was analysed using descriptive statistics.

It was found that the pace for the police reforms has been slow, as there is little evidence to show implementation of a comprehensive security policy. The bills enacted towards police reforms include; National Police Service Act, 2010, Independent Policing Oversight Authority Act, 2011, National Police Service Act, 2011, and Police Service Commission Act, 2011. The critical laws for initiation of police reforms have been passed and await systematic implementation. On its part, the Police Service has implemented various administrative reforms. The lack of fundamental reforms within the police force has sustained public dissatisfaction with the overall performance of the police. There has been some progress with the implementation of police reforms but the pace has been slow. The police are yet to adopt and implement best practices. The police still lack necessary communication infrastructure, adequate vehicles and equipments. The implementation challenges facing police reforms implementation were; lack of political will, corruption, poor capacity building and infrastructure, continued police impunity and structural challenges. According to the civil society, there should be full inclusion of the public in the planning, implementation and monitoring of the police reforms. On the other hand, the police management views that planning, implementation and monitoring of the police reforms as a police affair.

The study recommends that police officers of all ranks should be integrated in the design and implementation of the reform process. That Police reforms should be fully institutionalized. That the management of the police service should strive to win the hearts and minds of police officers in the entire police service by developing a culture that supports the proposed police reforms. That the Government should provide adequate funding to police units, formations and Directorates to enable them perform

their functions effectively. This is in addition to instituting adequate measures to deal with rampant corruption in the police ranks.

## **CHAPTER ONE: INTRODUCTION**

### **1.1 Background of the Study**

In the global context, police reforms entail transformation of the security system which includes all the actors, their roles, responsibilities and actions. Police reforms ensures that the police service is managed and operated in a manner that is consistent with democratic norms and sound principles of good governance, thus contributing to a well-functioning security framework. This is because a responsible and accountable police force reduces the risk of conflict, provides security for citizens and creates the right environment for sustainable development.

Thus, the overall objective of the police sector reform in a country like Kenya is to contribute to a secure environment that is conducive to development (DFID, 2003). Biddle (1998) defines police reforms as a variety of constitutional, legal, and policy changes that may be required to infuse the principles of accountability, professionalism, and efficiency in the police force. Experiences from post-conflict and transitional societies such as Sierra Leone and South Africa, shows that a reformed police service helps to create peace and suitable conditions for meaningful social reconstruction and development. Hence, there is need to transform the framework for security governance (Greene, 2000).

Overall, police reforms aims to enhance the effectiveness of the police services in undertaking their mandate and to ensure the systems are put in place to hold them accountable. Here in Kenya, police reforms have gained prominence in the last ten years. This is because the police play a pivotal role in controlling and mitigating recurrent injustices in the country. Thus creating an enabling environment for the county's economic progress and social order. Where police agencies are effective and accountable, they act as a critical deterrent to violence and crime. Where they are weak, unaccountable and criminalized, they become part of the problem as they cannot manage widespread lawlessness in their jurisdiction. For instance, during the post-election violence of 2007-2008, the Kenyan Police Force failed in its duty of protecting lives and property. This failure could be interpreted as an indictment that

the reform initiatives undertaken by the police since 2003 had either failed or were cosmetic. This failure was lucidly documented by the Post-Election Commission of Inquiry of 2008 which also proceeded to make a case for comprehensive police reforms (Commonwealth Human Rights Initiative, 2008). The suggested reforms were; establishment of a statutory Police Reforms Implementation Commission (PRIC) to coordinate, monitor and supervise the implementation of the reforms; restructuring the Kenya Police Services; establishment of a National Police Council (NPC); appointment of an Inspector General (IGP) and the Deputy Inspector General of Police (DIGPK); establishment of new ranking structure for the Kenya Police Service and establishment of an Independent Police Oversight Authority (IPOA). This study will therefore seek to investigate the extent to which the proposed police reforms have been effected with a view to assessing their achievement and failures.

The Waki Commission recommended for a comprehensive reform of the Kenya Police Service and Administration Police. It recommended that there should be a complete audit of the current police management, structures, policies, practices and procedures. That there should also be a thorough examination, review and revision of all tactics, weapons and 'Use of Force' employed by the Kenyan Police. It also recommended for the creation of a modern Code of Conduct, review of issues relating to ethnic and tribal balance and deployment within the Kenya Police Service and the establishment of a National Police Service Commission (NPSC). It further called for establishment of an 'Independent Police Conduct Authority' with the legislative powers and authority to investigate police conduct and provide civilian oversight. It also called for creation of a single police entity. The report of the United Nations Special Rapporteur on Extrajudicial killing recommended for the dismissal of the Police Commissioner, investigation of extrajudicial killing in Kenya and the subsequent arrest and prosecution of the police officers involved.

## **1.2 Problem Statement**

To date, the Government has made a number of efforts to reform policing in Kenya. However, the reforms have largely focused on operational and administrative aspects but not institutional, legal and policy areas that are necessary for the transformation of

the police force into a professional, efficient and effective service. Without fundamental police reforms, provision of adequate security to citizens would be undermined. It is against this background, that this study seeks to identify the institutional, legal and policy initiatives undertaken by the government so as to reform policing in Kenya. Any police reform effort must be interpreted within the broader context of the governance challenges faced by the government in implementing reform and transforming Kenya. The Kenyan context is characterized by many decades of impunity in various forms and across all levels of governance. There has also been endemic corruption, embezzlement of state resources, non-compliance with the law and with specific court orders.

In 2008, the United Nations Committee against Torture observed that corruption in the police force in Kenya was hindering efforts to deal with violations of human rights and arbitrary arrest by the police. In its concluding remarks, the Committee stated: The United Nations Committee urges the Kenyan government to address the problem of arbitrary police actions including unlawful and arbitrary arrests and widespread police corruption particularly in slums and poor urban neighborhoods, through clear messages of zero tolerance on corruption from superior officers, the imposition of appropriate penalties and adequate training (UN, 2008). Despite this recommendation, the government's efforts to deal with corruption seem to have stalled. The police are seen as the most corrupt institution in Kenya (Transparency International, 2012).

Lately, Police reform has taken on a rather legalist approach. Too great a focus on laws and legislation, though important, has left little room for emphasis on social change or policy development. The challenge with this approach is that it is rather narrow and leaves little room for locating reforms within the challenges of the real life experience of policing in Kenya. Besides there has been continued delay in the implementation of police reforms as provided for by the Constitution of Kenya 2010, National Police Service Act 2011 and the National Police Service Commission Act 2011 and the IPOA Act 2011. Without effective, responsive, representative and accountable police service, Kenya's nascent democratic transition and economic development is likely to regress. The country therefore urgently needs to fully

implement comprehensive police reform measures that will promote democracy, good governance, economic development, safety and security. However the reforms must be conducted transparently in order to guarantee that the process and outcome is constituted within a human rights framework and with adequate accountability to protections, and performs adequately without becoming predatory (CKRC, 2010).

Despite the backing of the provisions of Constitution of Kenya, 2010 and subsequent legislations on Police Reforms, the pace of police reform in Kenya is slow; not much has been done in terms of putting necessary reform structures and there has been general resistance within police services and coupled with divergent reforms perspectives between police management and civil society groups. Currently, there is high level of corruptibility of police officers, inadequate management, supervision and monitoring of police and lack of reasonable and transparent standards of vetting police recruits and those in service (Amnesty International, 2011). Therefore, a study would be critical in investigating the reasons for the delays in the implementation of police reforms as well as propose best practices in dealing with divergent reforms perspectives between police management and civil society groups.

The current police management structures can no longer sustain an efficient police service, taking into account the increased population, the high insecurity in Kenya, the emerging security challenges occasioned by national and international threats, and the increasingly well-informed and sophisticated Kenyan community. All these challenges points to the urgent need for the restructuring of the police reforms through radical reform (GoK, 2010). The available studies on Kenya Police Service by among others Wambugu (2004) and Simiyu (2011) focused largely on community policing issues, hence the need for a study on the nature and scope of Kenya Police Reforms between 1995 and 2013.

### **1.3 Key Research Questions**

The study sought to answer the following key research questions:

1. What does the police reforms entail as specified by the police reforms documents?

2. What are the challenges facing implementation of police reforms?
3. What divergent reforms perspectives exist between the Police Management and Civil Society Groups?

#### **1.4 General Study Objective**

To establish the nature and scope of Police Reforms that has been effected in Kenya since 1995 to 2013.

##### **1.4.1 Specific Objectives**

The study investigated the following specific objectives:

1. To establish the nature of police reforms as specified by the various police reform documents.
2. To compare Police Management and Civil Society Reform perspectives.
3. To establish the implementation challenges facing police reforms.

#### **1.5 Justification of the Study**

Police in Kenya have been portrayed as corrupt, inefficient, brutal and, at times, criminal. As a result, the trust and legitimacy by members of public has been very low. At the same time, public security and safety has increasingly become a major concern for many Kenyans. Not a day passes without disturbing cases of crime and threat to security being reported in the media. While the threat is not limited to any social class, the poor remain more vulnerable due to limited opportunities to protect themselves from insecurity (Amnesty International, 2012). This state of affairs therefore begs the question of why all the efforts to reforms the police service, have not yet borne fruits. This study therefore explored the various police reform initiatives that are being implemented to improve the security situation in Kenya. It focuses more specifically, on how police reforms have been instituted and whether they have led to an effective and accountable policing in Kenya. To do so, it identified and appraised reforms that have been implemented since 1995 to 2013. Thus, the study

lays a solid foundation of understanding the police reform process, their objectives, success and challenges.

The Kenya police service is perceived by majority citizens as a regime police, dedicated ultimately to the preservation of the government in power and protection of vested interests (Waki, 2007). These police reforms are therefore meant to streamline the anomaly by ensuring that it serves the interests of Kenyans via provision of secure environment to live in and work in. The study is thus important in establishing the existing bottlenecks in the police reforms and giving important insights to the relevant government ministries on ways to achieve effective police reforms.

The study may be beneficial to the government through the line ministries as it suggests better ways to reform the police preparedness. It may also help to spur on emotive subject of police reforms which has hitherto remained dormant within the government and academic arena. By so doing it may fill in the knowledge gap by illuminating the achievements, improvement areas and challenges of police reforms.

### **1.6 Scope and Limitations of the Study**

The study was based on the Kenya police service and the administration police. It is confined to the appraisal of the nature and scope of Kenya Police Reforms that were undertaken between 1995 and 2013. The study reviewed all major police reform documents authored from 1995 to 2013 namely: Philip Ransely report (2009), Philip Alston Report on Extrajudicial Executions (2009), the Waki report (2007), Kenya Police Strategic Plan 2003-2007, and Akiwumi report (1998). The study explored: the nature of policy reforms as proposed by various police policy reforms documents, challenges facing police reforms and the seemingly divergent reforms perspectives between police management and civil society groups. Apart from the review of the policy reforms documents, the study also collected information from thirty respondents drawn from the Kenya Police Service and ten respondents from the civil society groups. The research findings may not be generalizable to a different population since it was purely qualitative in nature.

## **1.7 Definition of Key Terms and Concepts**

**Police reform:** refers to the transformation of the state security system which includes security sector policies, institutions, and security actors' roles, responsibilities and practices from the authoritarian system of the past, to a new system that is managed and operated in a way that is subject to civil authority and is more consistent with democratic norms, human rights law and the principles of good governance.

**Police Management:** refers to the officers in the high ranks in the police service mandated to be in charge of the police operations in the country.

**Civil Society** refers to society considered as a community of citizens linked by common interests and collective activity.

**Implementation of Police reform** refers to actions taken to improve service delivery by police service and they include; restructuring the police services, police accountability, police management and human resource capacity and logistical, tooling and technological capacity.

**Public participation:** refer to involvement of the general public in police reform discourse to understand the views and collect views of the public. This gives the police reforms a civilian outlook.

**Legislative role:** refers to the contribution of the judicial arm of the government in police reform agenda in terms of inventing new laws to guide the implementation of Police reform.

## **CHAPTER TWO: LITERATURE REVIEW AND THEORETICAL FRAMEWORK**

### **2.1 Introduction**

This chapter presents a review of the nature and scope of Kenya Police Reforms through appraisal of the relevant police policy documents. It does this by exploring the nature of policy reforms that are specified by the various police policy reforms documents and the perceived reluctance on police reforms by both the government and police management cadre. It further explores the seemingly divergent reforms perspectives between police management and civil society groups in addition to reviewing theories that are relevant to the study.

#### **2.1.1 Global Police Reform Initiatives**

A number of the developed countries have undertaken police reforms to make them effective in their policing mandate. In the UK, for instance, Police reform has been high on the government's agenda in the in the past decade. Its government has therefore made great strides in fulfilling its police reforms agenda whose goals were to increase community engagement, to strengthen accountability, to ensure an overall structure to combat crime and anti-social behavior, and to create a police force with better combinations of skill levels. Essentially, the objective of police reform is to create better policing. Three key factors accounted for its success: an increase in police officers on the streets, robust community policing and management accountability (Franklin, 2007). Police reforms in United Kingdom were necessitated by increase in serious crimes and terrorism among others. These reforms set out to create a police structure that enables the country to fight serious crime while enhancing and sustaining community policing. This meant that either the existing 43 forces were to be co-operating much more effectively, or a new national force would be formed so as take responsibility for serious crime while much more localized forces focused on volume crime in their areas. The complexity and demands of modern policing meant that the police workforce was to be reformed to ensure that it

was flexible, well trained and highly motivated, with a diverse range of skills and expertise (Franklin, 2007).

However, the complexity and demands of modern policing in UK and elsewhere in the world meant that the police workforce was to be reformed to ensure that it was flexible, well trained and highly motivated, with a diverse range of skills and expertise. A key goal was to improve the ability of police chiefs to manage their workforces. The police reforms also replaced the central command on locally accountable leadership. Finally, police reforms in the UK made police officers properly accountable for their performance as well as their conduct, and their performance management framework only reward activity that delivers a better service, not activity which keeps officers busy and ticks boxes (Hawdon, 2008).

A number of police reforms have been initiated in United States of America. Initial efforts of reform were through establishment of external commissions that outlined reforms and left the burden of implementation to the police. Important changes in policing, in respect to civil rights and constitutional law, were realized through a number of court decisions (Walker, 2005). Court decisions between 1961 and 1966, especially Mapp versus Ohio and Miranda versus Arizona, were highly influential and thus began to set national policing standards. During the 1970s, special commissions were used to create changes in police and other law enforcement agencies. Permanent external oversight agencies were used to improve police accountability.

The agencies focused on individual improvements (Walker, 2005) and left out broader organizational issues that could result to long-term reform initiatives. Enactment of Violent Crime Control and Law Enforcement Act in 1994 allowed for suits against law enforcement agencies with regard to abuses resulting into many departments signing memorandum of understandings to reform. The United States Department of Justice conducted investigation on abuse patterns in police and brought legal action to force changes. “Less-than lethal” weapons like chemical sprays were introduced as alternatives to deadly force. Police reform encouraged police officers to try to deescalate situations with verbal warnings and persuasion and consider use of force continuum (United States Department of Justice, 2011).

Various countries in Africa have initiated police reforms in their countries. For instance police reforms in Botswana. In its 2005 human rights practices country report for Botswana, the US Department of State observed that the Government of Botswana generally respected human rights, but noted that there were a number of human rights concerns during year, including excessive use of force by the police against suspects and harassment of human rights activists. Further, two branches of the police force – the SSG and the CID–have been cited for their ‘high-handedness,’ ‘abuse and torture’ respectively (Botswana Police Force Corporate Development Strategy, 2003–2009). Since the mid-1990s, the Botswana Police Force has been engaged in a reform process focusing on community policing and respect for human rights. It has also carried out opinion surveys to gauge public perceptions of its work. The outcome was that (Corporate Development Strategy, 2003–2009). The Police Force is committed to ‘respecting, protecting and upholding the fundamental rights and freedoms of the individual’. The force also placed emphasis on community policing.

Police reform in South Africa is understood within the unique political context. Apartheid system had racial status as its main feature and security institutions were organized in a similar way. South African Police and the judiciary were dominated by white officers at the senior level. Apartheid was known for brutality of security forces and widespread violation of human rights. During 1960 – 1990, about 78,000 people were detained without trial by the police because of political activism against apartheid. Seventy-three executions in detention by police were recorded during that period of formal apartheid. In recent years, security forces were responsible for high levels of torture, extra-judicial executions and disappearance of pro-democracy activists. The coercion of unpopular racist laws created a deep crisis of legitimacy in the pre-reform criminal justice system in South Africa. In the late 1980s, the state of apartheid was in serious crisis forcing the police, army and bureaucracy to invent strategies, one being National Security Management System (NSMS) to defeat the liberation movements. The police and military suppressed protests during the State of Emergency declared in 1985 and there were mass arrests, trials, persecution, and murder.

Police reform was shaped by negotiated political settlement after apartheid, which agreed to retain all employees of the apartheid government, police officers included. The settlement also created a Government of National Unity and Truth and Reconciliation Commission which dealt with some police abuses in apartheid. As negotiations were going on, the police were already involved in framing new arrangements for the management of public order and security of elections under the auspices of the National Peace Accord multi-party experience that gave the police a preview of the style required by democratic government.

The police reform process was given highest priority in the first period of transition and state institutions relevant to effective combat of crime were put in place (Fivaz, 1996). Mandela government had a challenge to build trust between state agencies, including the police, and the citizens. The police was given legitimacy of being associated with the new regime and was attached to repression of apartheid. Police-community relationship was to be built to allow the basic functionality of the police institution (National Secretariat for Safety and Security, 1996). The initial steps to police reform in South Africa were shaped by clear strategic decision taken by the government with strong emphasis on accountability and oversight. In the second term of the democratically elected government, after political control and legitimacy has been achieved, the government started to emphasize the role of police in fight against crime. With many unresolved issues in initial stage of police reform, the government gave great importance to several strategic priorities and policies leading to great ideas in paper but inadequate capacity to implement policies in the police institution. Though South African experience of police reform is cited as a model for other African states, the process was laborious and often agonizing for members of the police organization (Shaw, 1996).

## **2.2 Overview of Police Reforms in Kenya**

Police reform is a relatively new concept in state transformation, development and post-conflict peace-building. It addresses security problems and tries to improve the situation through institutional reforms. Security and peace are seen as a public good (Mendez, 1999). The list of countries in need of police reform is long. The reasons

why police reform is necessary in each of these countries vary. They include post-conflict rebuilding, transition from military or one-party rule to participatory forms of government, recent independence, a lack of transparency and accountability in public affairs, a disregard for the rule of law, problem in conflict mediation due to an often conflict-exacerbating role by actors in the security sector, difficulties in the management of scarce resources, as well as inadequate civilian capacity to manage and monitor the security forces (UN, 2010).

Frequently conceived as an adjunct to SSR, police reform is still not prioritized sufficiently, reflecting the lack of understanding concerning its importance for nation-building. Unfortunately therefore, Tonita Murray suggests that ‘the range of solutions and capabilities that police can bring to peace building is not fully appreciated’ (Goldstein, 1998).

Failure to create police oversight institution prevents the formation of a security service in a context where reconstruction and peace-building can flourish. History also teaches that policing is a fundamental factor contributing to both the problem and solution of insurgency. In contrast to blunt military force, successful counter-insurgency campaigns have been the major force employed by the government. Not by their utilisation as auxiliary military forces, but as civilian law enforcement agents rooted in the local community and with relationships to the populace. Their importance is frequently and bloodily highlighted by the number of attacks insurgents launch against police targets (Maguire, 2010).

Just as importantly, lack of effective policing not only hinders the tackling of insurgency, but actively contributes towards it. Complex insurgencies can be powered by widespread crime, insecurity and predatory, corrupt and unaccountable police forces which are often the face of the government to the general public. Insurgency is waged across the virtual terrain of governance and legitimacy just as much as the urban and rural geographies of a country. The classical counter-insurgency theorist Bernard Fall (1965) wrote that a government which is losing to an insurgency isn’t being outfought, it’s being out-governed (Auerbach, 2004).

Security Sector Reforms (SSR) or police reforms (PR) involve bringing police under civilian control and aligning their operations to international best practices. PR also involves transforming the underlying values, norms, and politics that frame the operations of the police force. Successful Police Reforms (PR) implementation will therefore partly depend on whether the state actually punishes human rights violations and corrupt acts committed by police officers. So far, however, the rather slow pace of reforms in Kenya's criminal justice system continues to shield abusive police force. In light of this background, ICTJ brought together eight experts with backgrounds in civil society, academia, and the security sector to share perspectives at a two-day meeting which sought to build new understanding on PR (Schafer, 2008).

The first presentation contextualized the idea of PR within the broader issue of transitional justice. The second presentation examined international best practice for PR as it relates to Kenya. The third presentation focused on the state and performance of Kenya's security agencies, drawing its analysis from three official reports: the Report of the Commission of Inquiry into Post-Election Violence (CIPEV), the Report of the National Task Force on Police Reforms (NTFPR), and the Report of the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions. The fourth presentation examined how the practice of vetting might be used to transform Kenya's police force, while the fifth and sixth ones discussed the possibilities for a police oversight body and penal reform, respectively. The seventh presentation explored PR as it relates to the problem of the proliferation of vigilantes, gangs, and militia in Kenya. Finally, the eighth presentation argued for the need to regulate the Kenyan private security sector (Toch, 2008).

The synthesis and analysis of the eight presentations explored several questions among them: What is the state of security and the security sector in Kenya? What have been the outcomes of PR measures undertaken so far? What approaches for police sector transformation are desirable for Kenya and how might they be pursued? What kind of linkages are policy-makers making between PR and other issues in the governance realm?

Public confidence in Kenya's police force has been eroded due to accusations of impunity, excessive use of force and brutality, disregard for human rights, abuse of due process and malignant corruption. The promulgation of a new Constitution in August 2010 was designed to change all that. It provided the bedrock for instituting extensive police reforms in Kenya after decades of demand for political and socio-economic transformation.

Public outcry for transformation in the police force in particular has been driven by the ills in the police force whose nefarious reputation has eroded public trust. Those feelings continue to persist but the on-going police reforms have brought some hope that the 'force' will transform into a 'service' that is accountable, professional, transparent and possessing a human rights sensitive approach; as well as the operational capacity to deliver on its obligations to the Kenyan public (GoK, 2010).

Prior to the passing of the new Kenyan Constitution, the Commission of Inquiry into the Post-Election Violence (PEV) in Kenya submitted an indicting report in 2008 regarding police conduct, as did a subsequent report by the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions. Both reports offered recommendations for the overhaul of the existing policing system. In pursuit of these recommendations, the government set up the National Task Force on Police Reforms (NTFPR) in May 2009 headed by Judge (Rtd) Philip Ransley, to recommend proposals for police reforms in the country. Afterwards, the Police Reform Implementation Committee (PRIC) was set up by the President to fast-track and coordinate the implementation of the 200 recommendations by the Ransley Task Force in line with the new Constitution. PRIC has since prepared five Bills that provide a framework for the implementation of the reforms which, if properly enacted as stipulated in the Bills, should effectively transform the previous policing system. The Bills are the National Police Service Bill, the National Police Service Commission Bill, the Independent Policing Oversight Authority (IPOA) Bill, the National Coroners Bill and the Private Security Industry Regulation Bill (GoK, 2010).

Undoubtedly civilian oversight is critical to the democratic control and governance of the police force, and the creation of the Independent Police Oversight Authority,

stipulated in the IPOA Bill is crucial as it will provide the much needed accountability and monitoring functions over the Police Service. Part of the IPOA mandate has been to receive public complaints regarding police conduct and also have the powers to conduct its own independent investigations. If faithful to its responsibilities, this civilian oversight body will contribute in restoring public confidence in the police and in stemming political interference, which has been a major hindrance to police performance. Those mandated to run the body should as such be of impeccable character, vetted by the public and possess the will and ability to carry out their responsibilities without fear or favour (GoK, 2010).

Another significant reform affects the management of the Police Service, through the introduction of a single police command structure. The National Police Service and the Administration Police, previously run separately, should now be headed by an independent Inspector-General of Police, who is appointed under the advice of the National Police Service Commission (NPSC) (Ransely report, 2009). Effective transformation of the police from a 'force' into a 'service' is also another important reform aspect expected to reverse decades of a police culture characterized by impunity, secrecy and brutality into one that is more transparent, humane, responsive and proactive rather than reactive. To support these efforts, the Police Code of Conduct is to be revamped in order to transform general police behaviour and end years of unethical conduct (Schafer, 2008).

Other reforms address issues of capacity within the police service. Gaps in terms of manpower and training fostered by years of malignant corruption, nepotism and lack of resources have also contributed to poor service delivery by the police. The police morale as a result of poor pay, deplorable living and working conditions and an unsympathetic public (which finds it hard to appreciate some of the good work of the police), are also challenges to efficient and effective police performance. The reforms which the then ministry of internal security estimated would cost over 80 billion Kenya shillings over a three year period was used to address these capacity gaps through proper remuneration and housing, refurbishment of police stations, new equipment and vehicles, upgrading communication equipment and skills training.

Community policing strategies introduced almost a decade ago to enhance public confidence but which have produced little success are also set to become more effective once the reforms take hold. In order to properly address these capacity issues, government should therefore ensure that budgets and funding for the various projects are adequate, released on time and that reforms remain sensitive to gender and minority concerns (Oettmeier, 1998).

Granted, local ownership of the police reform process is fundamental to effective police reforms in Kenya. However, critical to the reforms is the continued engagement with the international community, since their involvement has previously contributed significantly to filling of critical gaps through provision of technical expertise and funding along the reforms journey; Sweden, the United Kingdom, the US, Japan and the UN are some of the key partners and donors supporting the police reform efforts, and to the extent necessary their continued participation should be encouraged (GoK, 2010).

In order to effect comprehensive systemic change, coordination with other parts of the security sector and its actors are also critical in achieving the desired reform outcomes. This is because owing to their function, the police are inextricably intertwined with the criminal justice institutions and their performance inevitably impacts on their effectiveness. It is therefore significant that the judiciary and other security sector actors such as the Criminal Investigations Service and the National Security Intelligence Services are undergoing similar reforms. However, these efforts should be well coordinated in order to achieve a properly functioning and efficient criminal justice system, able to deliver with fairness and justice (Maguire, 2010).

Successful implementation of the police reforms in Kenya would serve as a good model for PR in Africa. Also, with the next general elections set for 2017 and considering police conduct during the 2007 elections, the reforms have been widely welcomed by the public. The political will displayed thus far by the government to the reform process is as such, commendable and imperative for sustaining the reforms and delivering meaningful institutional change within the Police Service and also across the security sector in general. In this respect, outstanding Bills that have yet to

be passed in parliament and signed into law by the President should be expedited. Also, civil society actors, who indeed play an invaluable and active role in the reforms process, should continue to raise awareness, advocate for and monitor performance in the reform process, conduct research and provide information and expertise relevant to achieving sustained and successful police reforms in Kenya (Kenya Police Strategic Plan, 2003-2007).

### **2.2.1 National Task Force on Police Reforms**

According to the National Task Force on Police Reforms chaired by Justice (Rtd) Philip Ransely, the power of appointment at both the presidential level and at the Commissioner's level in the old constitution was characterised by lack of checks and balances. For example, the power to appoint the commissioner of police had been vested in the President without reference to any other institution and without any competitive selection criteria or transparency (Auerbach, 2004; Hills, 2007). This meant that Presidents always appointed or dismissed appointees only on political considerations. No explanations were ever provided for appointments or sacking of police commissioners.

This absolute control of the police by an imperial presidency has had quite far-reaching consequences for the performance of the police force. It is generally viewed as a regime police, dedicated ultimately to the preservation of the government in power and the protection of vested interests' (Auerbach, 2004). Furthermore, once appointed the commissioner had absolute powers to appoint officers, transfer, deploy, promote or influence their promotion, dismiss them, and the general control, direction, management and command of the police force. Additionally, the commissioner had the sole prerogative of issuing the administrative orders that become the force standing orders for the running of the police force. According to TI (2012) the administration of the police in Kenya is characterised by a highly centralised command structure with the headquarters in Nairobi controlling all aspects of police operations. This has contributed to low motivation and lack of creativity at the lower levels of police operations.

Like many other countries in Africa, the police in Kenya are also generally poorly equipped and ill-prepared for their work. They lack basic equipment such as vehicles, modern crime-fighting and investigation equipment (GoK, 2009:10). In a context characterised by increasing sophistication of crime, this has meant that police have always been inadequately prepared to deal with criminals, who have access to more lethal weapons. A major issue of concern to the public has been lack of an accountability mechanism for the police. Though the Police has a comprehensive internal mechanism for dealing with complaints from the public against the police, they have little impact because of lack awareness on the part of the public and lack of external oversight that would enforce and report to the public. Accordingly, this means that police do not have to refer any complaints of misconduct for external investigation, but are required to handle the reporting and investigation of their own misconduct (Auerbach, 2004). This has resulted in complaints against the police being addressed impartially or ignored altogether.

With respect to recruitment, the main requirement for entry into the police until recently has been completion of primary education and physical fitness. However, this has gradually changed to secondary level qualification that takes twelve years, especially for the lower cadres of staff. The low entry requirements has led to a perception that the work of the police is for the academically weak and those who cannot find jobs elsewhere and not a respectable profession. In addition, due to the poor conditions and terms of employment, the police have been unable to retain quality professionals. Further, the process of recruitment and promotion has been riddled with issues of corruption, nepotism and tribalism (Kenya Police Strategic Plan, 2003-07:14).

However, with the deepening of democracy in the country, the question of how to create an effective and professional police force that enjoys the trust and confidence of the public has increasingly become an important and relevant issue. The violence that followed the December 2007 elections and led to a power sharing government between the two main parties has provided an opportunity to build consensus on reforms that have otherwise been resisted over the years. During the violence the

police were accused of committing gross violations on citizens such as murder, rape of women and girls. In order to deal comprehensively with many of the issues related to police performance and relations with the public, the government appointed a task force with the mandate of undertaking a comprehensive evaluation of the police and to recommend on how the organization could be reformed (GoK, 2009:3).

The task force came up with a list of around 200 recommendations which were grouped around five main themes and provides a comprehensive framework for creating a professional and accountable police force. The five main pillars are: organizational re-structuring of the police; professionalism and terms and conditions of service; logistical and operational preparedness; community policing and partnerships and enhancing national security. Since then, changes in the police service following regime changes following the 2002 and 2013 general elections, besides some appreciable opening up of the democratic space; Nevertheless, the police service continue to be perceived as corrupt, inefficient, brutal and criminal institution (Saferworld, 2008:25).

### **2.2.2 Philip Alston Report on Extrajudicial Executions**

In his investigations Alston (2009) identified three major issues that required to be addressed by the government regarding police reforms. The first was the police death squads that had been suspected to kill hundreds of people arbitrarily and brutally. He called for the dismissal of the Police Commissioner whose responsibility was documented. The Police Commissioner was relieved of his command, but promoted to another high Government post. Otherwise, before then, there had been no serious Government investigation into the police death squads, and none of the known perpetrators had been arrested or prosecuted. The second issue concerned torture and unlawful killings by the police and military in Mt Elgon. Again, no serious investigation had been undertaken and both groups remain in denial about the abuses. The third issue concerned prosecutions of those responsible for the post-election violence which killed well over 1,300 persons in December 2007 and January 2008. Alston recommended the dismissal of the Police Commissioner, investigation on extrajudicial killings and the subsequent arrest and prosecution of the police involved.

This study therefore sought to find out whether Alston's (2009) recommendations had been implemented.

### **2.2.3 The Police Reform Task Force**

This government-appointed Task Force was charged with reviewing the *Kenya Police Strategic Plan 2003-2007*, advancing police reforms and acting as a coordinating body with other on-going reforms. Its work culminated in a report entitled *Reforming Policing Services for the Social and Economic Development of Kenya*. The report champions community policing on the grounds that considerations should be given to approaches that more effectively utilize the limited resources of the Kenyan Police.<sup>47</sup> It would seem as if the Constitution of Kenya Review Commission talks of 2002-2004 endorsed the continued autonomy and role of the Administration Police as a core provider of safety and security (Commonwealth Human Rights Initiative, 2006).

### **2.2.4 The Waki Report**

The investigation focused on three main time frames: The pre-election period, which primarily looks at the preparedness of SSAs, the period of the post-election violence itself (between 27th December 2007 when the presidential results were announced and the 29th of February 2008, to see how agencies responded) and the time since then, with regard to how they have dealt with the aftermath.

The duty imposed on Police of protection of life and property has been reduced to perception that they are to eradicate life and destroy property of innocent people. The experts on commission for enquiry and thinkers of reforms came up with recommendations in their reports after the 2007-2008 Post Election Violence which associated most loss of life to the excessive use of force by police amongst other vices and omissions. Waki Report (2008) indicates that the security forces were powerless against the violence.

It could not be established that this intelligence was shared in a timely or appropriate way with the government through the CSC or if it was, whether it influenced decision

making at that level. Nor could it be established whether the NSAC disseminated the intelligence to the provincial and district committees (Waki Report, 2008).

### **2.3 Challenges Facing Police Reforms**

Any reform effort must be interpreted within the broader context of the governance challenges faced in implementing reform and transforming Kenya. The Kenyan context has been characterized for many years by impunity in various forms, across all levels of governance. Endemic corruption, embezzlement of state resources, non-compliance with the law and with specific court orders, including by the very state institutions that are supposed to uphold the rule of law, as well as illegitimate political interference are all too common in Kenyan history, and not easily rooted out. The failure to position the policing debate within the context of state renewal may have contributed to limited progress in the sector. Kenya has made some important changes to legislation, but these have not been put into practice, and a number of specific barriers have hindered their implementation (Amnesty International, 2012).

Kenya has struggled for many years with endemic impunity at various levels of governance, particularly the repeated use of the police as a tool of oppression. Undue delays by the executive and legislature in enacting constitutionally-required legislation have posed a barrier to efforts to create new structures to address the legacy and mistrust created by longstanding impunity.

In 2008, the United Nations Committee against Torture observed that corruption in the police force in Kenya was hindering efforts to deal with violations of human rights and arbitrary arrest by the police. In its concluding remarks, the Committee stated: “The Committee urges the State Party to address the problem of arbitrary police actions including unlawful and arbitrary arrests and widespread police corruption particularly in slums and poor urban neighborhoods, through clear messages of zero tolerance to corruption from superior officers, the imposition of appropriate penalties and adequate training. Arbitrary police action must be promptly and impartially investigated and those found responsible punished (UN, 2008).

One key area that should be addressed when institutionalizing police reform is an assessment of the department's organizational culture. The management of a police department must make efforts to "win the hearts and minds of officers in the department" to develop a culture that supports the proposed change (Goldstein and Herman, 1998).

A department needs to confront the attitudes of officers in the service early in the change process if its efforts are to succeed (Schafer, 2001). The officers essentially need to be re-socialized (that is, change the culture of the department) to accept the new philosophy of police reforms. Revised training, promotional guidelines, performance evaluations, and mission statements may be very useful tools in re-socializing officers.

When attempting to change behaviors, attitudes, and beliefs, the culture of police officers across the ranks and a department so that they are conducive to police reform, a variety of techniques can be utilized. Changing the culture is important since many recognize that the culture of a department may very well be the major factor in determining police officers behavior (Goldstein, 1998). Officers must have sufficient knowledge, favorable attitudes, and behaviors, if they are really going to utilize and embrace the policing philosophy.

A new and just system of rewards and promotions is crucial to achieving organizational change. This includes the procedures for routine officer performance evaluation and for making promotion decisions. Keeping the traditional performance measures sends the message that the old ways of doing things are still important (Goldstein, 1998). New performance measures should emphasize the principles supporting the new ways of policing and officers need to be evaluated to establish whether they are performing in accordance with these values (Greene, 2000). Performance evaluations socialize police officers in what is expected of them in the organization (Oettmeier, 1998). Related to this are the new behaviors and job functions emphasized by the new organizational philosophy, which should have more values and weight placed on them in the revised performance measures. By rewarding and promoting officers who engage in behaviors in accordance with the new

organizational philosophy, police departments and supervisors show what behaviors are important.<sup>45</sup> Essentially, these new accountability and performance measures can push officers to adopt the new strategy as a way of doing police business (Schafer, 2001).

For the values of a department to be assimilated by officers more effectively during a time of change, communication within the department is essential (Schafer, 2002). Lower ranking officers need more access to their supervisors to address the questions or problems they may encounter (Skogan, 1997). Some contend that police departments should reduce the hierarchical nature of their organizational structure to one that is more decentralized (Maguire, 2010). By thinning out their rank structures, communication in the department may be facilitated because there would be fewer communication blockades between officers. Communication is important since police officers have to know what the department wants them to do, as Sparrow contends, police officers do not like uncertainty (Wasserman, 2000). The department should therefore reduce this uncertainty by clearly stating and emphasizing the goals, values, and directions of the department and the change effort through written mission statements or by the behaviors exhibited by individuals in the organization (Wasserman, 2000).

Wilkinson and Rosenbaum (1994) looked at how organizational structure can affect the adoption of reform (specifically community policing) and found that creating specialized units to experiment or implement a new philosophy or concept essentially served to create a “split” in the department. Other members of the department became cynical and judgmental of the unit’s efforts, and essentially, the culture of the rest of the department does not support the change effort. Midlevel managers can also play an important role in emphasizing and obtaining cultural support for the reform from officers under their command; that is, front line supervisors or officers (Wilkinson, 1994).

In a study on large scale police reform efforts in the US Bayley found that significant reform has always been top-down and outside-inside (Bayley, 2008). Exclusion of rank-and-file members of the police regularly caused dissatisfaction and resistance

(ibid.). Toch (2008) argues that reform will be effective only if police officers are integrated in the design and implementation, and thus become change agents. The people affected by change will consider the reform as a zero-sum game where they will lose and others will gain (O'Neill, 2005). To circumvent this frequent obstacle, Police in Sierra Leone gave itself a new vision at the beginning of the reform progress labeled "A Force for Good" which worked as motivation and reminder for all ranks where the change was directed (Sesay and Hughes, 2005: 82).

Kotter (1995) aims at creating short-term wins. He argues that if progress is not visible within the first 12-24 months the institution itself as well as the general public will lose confidence in the envisioned change. Short-term wins could, for example, represent better contact between local communities and police, better and/or adequate equipment or advanced training courses (O'Neill, 2005). Moreover, it is important to consolidate the improvements, thus making a relapse into old practices unlikely. It will also build credibility to change structures and policies that do not fit the vision (Kotter, 1995). In the final step the new approaches should be institutionalized in order to make the police reform sustainable and prepare the ground for continuous organizational learning. If successful the change process ensures leadership development and continuity in the case of succession (Kotter, 1995).

Police leaders can become effective innovators if they build leverage for reform not only from the top-down but also from the bottom-up (Wood, Fleming and Marks, 2008). Police reform programs are challenging in nature but there is a lot at stake. Its success or failure has implications far beyond the security sector. Kotter acknowledges that "in reality, even successful change efforts are messy and full of surprises" but suggests eight phases that can prevent some of the gravest mistakes during the process (1995: 67). In the end a positive change of the interaction between police and society can contribute a great deal to the overall reconstruction effort. Or in other words, the way in which "the police interacts with the people and enforces the law will delineate the face of peace and justice" (Mani, 2000: 22).

## **2.4 Divergent Stakeholders Reforms Perspectives**

Security sector reforms do not always mean assisting security forces, (and improving policing will almost certainly require working with and enhancing the capacities of other institutions besides police forces). Strengthening the rule of law, accountability, and crime reduction are multi-faceted endeavors that go well beyond the capabilities of police forces to influence. An evaluation of British bilateral police assistance underscored this point, concluding that, “A more holistic approach would recognize that strengthening the effectiveness of the police without addressing other parts of the formal justice system, or increasing the openness and accountability of government is unlikely to be productive in increasing access to justice” (Auerbach, 2005). BCPR’s framework paper also emphasizes the interdependence of judicial and law enforcement bodies and the necessity of working with civilian oversight bodies and non-state actors. One of the challenges of police reform is to determine which institutions to work with and work through in order to enhance justice and police responsiveness, accountability and effectiveness.

Those who design reforms, especially governments, often focus narrowly on the police, courts and prosecutors. Left on their own, governments may overlook capacity-building: of ministries, where necessary leadership resides; of inter-institutional efforts (drawing together multiple executive ministries and agencies); of legislative actors and overseers; or of human rights ombudspersons and other government oversight bodies. They also tend to be disinterested in or hostile to support for civil society organizations that may criticize their performance. It requires careful planning, extensive collaboration, and sound choices to map out a reform strategy that can effectively enhance policing.

A second challenge is to ensure the execution of conceptual decisions about the appropriate actors in a reform process. One of the most oft-cited lessons in post-conflict security assistance literature is the need to address police forces in conjunction with the judiciary and the corrections system. Nevertheless, in the field such integration has been difficult. A United Nations Development Programme (UNDP) / Department of Peace keeping Operations (DPKO) review of the Balkans

found that this lesson had been lost, as the international community failed to address a problematic judicial system in Bosnia for several years (UNDP, 2011). It is all the more difficult to work with civil society and state organizations when they view one another with suspicion. Implementing multi-faceted police reform efforts that necessarily cut across several types of institutions requires not only careful conceptual planning based on a sound diagnosis of the problems, but sensitivity and constant attention to inter-organizational relations and cooperation.

## **2.5 Theoretical Review**

The study is based on social capital theory and social exchange theory.

### **2.5.1 Social Capital Theory**

Empirical findings by Field (2003) suggest that crime is the result of weak informal social controls and low capacity to mobilize such formal external resources as law enforcement agencies (Field, 2003:60). In an attempt to explain why some areas have weak informal social controls, and therefore prone to crime than others, researchers have applied the theory of social capital (Field, 2003; Howdon, 2008). In addition, social capital has also been applied to investigate and explain why collective action is more successful in some places than others.

Social capital may be defined as consisting “features of social organization, such as networks, norms, and trust that facilitates action and cooperation for mutual benefit and results in high levels of interpersonal trust and interaction, and norms of aid and reciprocity, and high rates of civic participation” (Putnam, as quoted in Howdon, 2009:189). Two forms of social capital are distinguished: bridging and bonding capital. Bridging capital accounts for civic interaction and engagement; whereas bonding form of capital explains relationship between those we have shared experiences and expectations with a component of hope for future interactions such as family members and relatives (Howdon, 2009).

Based on the findings that communities that depict greater cohesion and shared expectations also tend to have lower rates of crime and disorder, it is claimed that

such strong networks of communities have the potential for deterring crime (Field, 2003:60). This is attributed to the fact that where such cohesion exists members of such communities share a responsibility to intervene before behavior gets out of hand but also because such environments provide its young members 'with a sense of status and self-esteem, which supports their integration in the society' (Field, 2003). Thus communities that have strong social controls are thought to have lower levels of crime and conversely, weak social capital is associated with high levels of social disorder. It is suggested that public institutions such as the police will encounter more support in places where social capital is high, which provides rationale for policy support for programs that increase levels of bridging capital.

Criticism of social capital holds that it fails to engage with issues of power relations. Further, social capital theorists are criticized for holding on to idealized notions of social capital that are primarily focused on social benefits. It is argued that 'social capital may not necessarily be an unproblematic social 'good' as it can also be a social 'bad' (Adkins, 2005). Furthermore, it is noted that networks are not just benign constructions as they do marginalize those not belonging to particular networks. From a feminist as well as from sociological point of view, critics have argued that the networks of men and women are not equally privileged as those of women tend to belong to networks that command fewer economic resources (Adkins, 2005)

### **2.5.2 Social Exchange Theory**

Social Exchange Theory is a social psychological and sociological perspective that explains social change and stability as a process of negotiated exchanges between parties. Social Exchange Theory posits that all human relationships are formed by the use of a subjective cost-benefit analysis and the comparison of alternatives. The Social Exchange perspective argues that people calculate the overall worth of a particular relationship by subtracting its costs from the rewards it provides. The Social exchange theory explains social exchange and stability as a process of negotiated exchanges between parties. Social Exchange Theory explores the nature of exchanges between parties. As with everything dealing with the Social Exchange Theory it has its outcome satisfaction and dependence of relationships. Both parties in a social

exchange take responsibility for one another and depend on each other. According to Laura Stafford (2008), economic exchanges and social exchanges have some differences: Social exchanges involve a connection with another person; social exchanges involve trust, not legal obligations; social exchanges are more flexible; and social exchanges rarely involve explicit bargaining. "The guiding force of interpersonal relationships is the advancement of both parties' self-interest".

According to Michael Roloff (1981) interpersonal exchanges are thought to be analogous to economic exchanges where people are satisfied when they receive a fair return for their expenditures. Fulfilling self-interest is often common within the economic realm of the Social Exchange Theory, where competition and greed can be common. Social exchange theory emerged within family sciences in the latter part of the twentieth century, first being considered in a meaningful way in the early 1960s. It arose out of the philosophical traditions of utilitarianism, behaviorism, and neoclassical economics.

Early social exchange theory applications in family science arose out of the work of sociologists (Blau, 1964; Homans, 1961; Thibaut & Kelley, 1959) who focused on the rational assessment of self-interest in human social relationships. At its most basic, social exchange theory may be viewed as providing an economic metaphor to social relationships. The theory's fundamental principle is that humans in social situations choose behaviors that maximize their likelihood of meeting self-interests in those situations. In taking such a view of human social interactions, social exchange theory includes a number of key assumptions. First, it operates on the assumption that individuals are generally rational and engage in calculations of costs and benefits in social exchanges. In this respect, they exist as both rational actors and reactors in social exchanges.

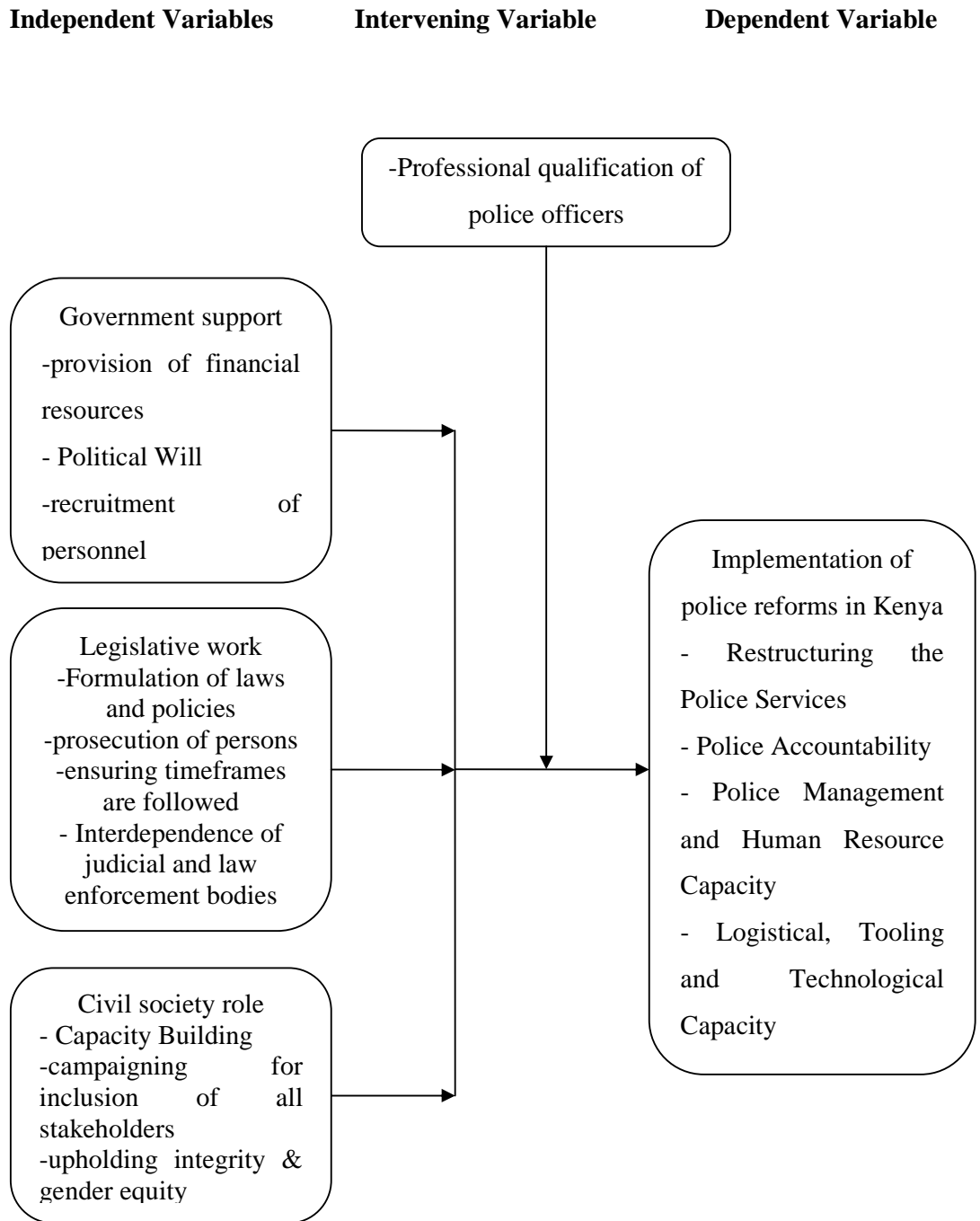
This assumption reflects the perspective that social exchange theory largely attends to issues of decision making. Second, social exchange theory builds on the assumption that those engaged in interactions are rationally seeking to maximize the profits or benefits to be gained from those situations, especially in terms of meeting basic individual needs. In this respect, social exchange theory assumes social exchanges

between or among two or more individuals are efforts by participants to fulfill basic needs. Third, exchange processes that produce payoffs or rewards for individuals lead to patterning of social interactions. These patterns of social interaction not only serve individuals' needs but also constrain individuals in how they may ultimately seek to meet those needs. Individuals may seek relationships and interactions that promote their needs but are also the recipients of behaviors from others that are motivated by their desires to meet their own needs. Social exchange theory further assumes that individuals are goal-oriented in a freely competitive social system.

Because of the competitive nature of social systems, exchange processes lead to differentiation of power and privilege in social groups. As in any competitive situation, power in social exchanges lies with those individuals who possess greater resources that provide an advantage in the social exchange. As a result, exchange processes lead to differentiation of power and privilege in social groups. Those with more resources hold more power and, ultimately, are in a better position to benefit from the exchange. At the heart of social exchange theory are the concepts of equity and reciprocity. Homans (1961) originally introduced the notion that individuals are most comfortable when they perceive they are receiving benefits from a relationship approximately equal to what they are putting into the relationship.

Social institutions are dynamic structures in need of consistent change. This is the case with the National Police Service, National Police Service Commission, Independent Policing Oversight Authority and County Policing Authorities that are implementing police reforms in Kenya.

## 2.6 Conceptual Framework



**Figure 2.1.** Conceptual Framework

## **CHAPTER THREE: RESEARCH METHODOLOGY**

### **3.1 Introduction**

This chapter presents the site selection and description, research design, the target population, the sampling procedure, the sample, research instruments, data collection procedure and data analysis.

### **3.2 Site Description**

Kenya had two police forces namely, the Kenya Police Force (KPF) and the Administration Police (AP). The two forces developed separately since their inception and did not change much from structures and the roles set by the colonial administration. The Kenya Police service (KPS) is headed by a Commissioner of Police who is appointed by the President. The Kenya Police Force comprises of other departments or units, which include the paramilitary General Service Unit (GSU), Criminal Investigation Department (CID), Anti-Stock Theft Unit (ASTU), the Kenya Police College (KPC) and the Traffic Police Department among others. KPF is the oldest of the two police arms. For administrative purpose, the force is divided into provinces and formations with the provinces further sub-divided into divisions, stations and police posts, with the police stations and posts being the level at which many citizens interact with the police on a day to day basis.

The second force known as the Administration Police (AP), supports the Provincial administration and other Government departments in executing their public administration mandate around the country. The commandant of the Administration Police is the minister in charge of provincial administration and Internal Security, a ministry in the office of the President (GoK, 2009:13). This partly explains its image as a pro-regime police unit. The AP has 18,400 police officers while the Kenya Police Force has over 50,000 officers. The roles of the KPF and AP are stipulated in the Police Act, Cap 84 and Cap 85 of the laws of Kenya, which sets out their functions, organization and discipline. The mandate includes:

**Table 3.1: KPF and AP mandate**

<b>KPF</b>	<b>AP</b>
Maintenance of law and order	Assisting the government officers in exercise of their lawful duties
Preservation of public peace	Preservation of peace
Protection of life and property	Maintenance of law and order
Prevention and detection of crime	Protection of life and property
Apprehension of offenders	Apprehension of offenders
Enforcement of laws and regulations	Prevention of commission of offenses
Regulation and control of traffic	Defense of Kenya in event of war or emergency

**Source (GoK, 2012)**

The study established that the promulgation of the new Constitution of Kenya on 27 August 2010 defined a new critical path towards Police Reforms. The new constitution (2010) established the National Police Service consisting of the Kenya Police Service and Administration Police Service both under the command of the Inspector-General. The National Police Service Commission is to recruit and appoint persons to hold or act in officers in the service, confirm appointments, and determine promotion and transfers within the National Police Service.

The current police service structure has three main structure that reports to the inspector general of police namely: Kenya police service, administration police service and directorate of criminal investigation. The Kenya police service, administration police service are headed by deputy inspector general while directorate of criminal investigation is headed by director (GOK, 2014).

### **3.3 Research Design**

Dooley (2007) defines a research design as the scheme, outline or plan that is used to generate answers to research problems. Further, Richards (2009) notes that a research

design is the structure of the research, it is the “glue ” that holds all the elements in a research project together.

For purposes of this study, the researcher employed descriptive survey research design. A descriptive survey research study is concerned with the discovery of ideas and insights by allowing the study to be flexible enough to provide opportunity for considering different aspects of a problem under study (Bryman and Bell, 2003). The descriptive research design was a valid method for researching specific subjects and as a precursor to quantitative studies. The present study used descriptive survey research design complemented by quantitative and qualitative data collection and analysis techniques. The research design was preferred because the researcher was able to collect in-depth data to answer questions concerning the status of the subject of study. The qualitative approach used key informants interviews that enabled the researcher to collect qualitative data for descriptive statistics. Qualitative research determines and reports the way things are and also helps a researcher to describe a phenomenon in terms of attitude, values and characteristics (Orodho, 2003). The design was suitable since it helped to describe the state of affairs as it existed without manipulation of variables which was the aim of the study.

#### **3.4 Unit of Analysis and Observation**

This study’s unit of observation was the Kenya Police Service. The study’s unit of analysis was the policy reforms as specified by the various policy reform documents, implementation challenges facing police reforms and the police management and civil society reform perspectives.

#### **3.5 Sources of Data**

The sources of data were the four major police reform documents authored from 1995 to 2013 namely; Philip Ransely report (2009), Philip Alston Report on Extrajudicial Executions (2009), the Waki report (2007), and the Kenya Police Strategic Plan (2003-2007). The secondary data was collected through library research, review of police reforms documents, newspapers, journals, periodicals and government

publications. Secondary data was important because it revealed the nature and magnitude of the problem at hand and identified the problem areas to be tackled.

The study also obtained primary data from 30 respondents. The data collected from them was both qualitative and quantitative in nature. This was because the two methods leave a possibility of change and of asking complimentary questions. Qualitative aspect is more dynamic, interactive and generates a more detailed data that contributes to in-depth understanding of the context in which the phenomenon under study takes place. On the other hand, the quantitative approach makes it possible for the generation of the salient background characteristics of the study population. The approach therefore, was triangulated in nature comprising of interview guide.

### **3.6 Study Population**

According to Kothari (2004), a population is a well-defined set of people, services, elements, and events, group of things or households that are being investigated. Mugenda (2008) explains that the target population should have some observable characteristics, to which the researcher intends to generalize the results of the study. This definition ensures that population of interest is homogeneous. The target population was the Kenya Police Service management.

The study sought information from 30 respondents that included 5 senior police officers, 10 civil society officials, 10 officials from the judiciary and 5 officials from Ministry of Interior and Coordination of National Government.

### **3.7 Sampling procedure**

The respondents were selected purposively. In this method, the researcher purposively targets a group of people believed to be reliable for the study (Denscombe, 2008). The 30 respondents comprised of 5 senior police officers, 10 civil society officials, 10 officials from the judiciary and 5 officials from Ministry of Interior and Coordination of National Government.

### **3.8 Methods and Tools for Data Collection**

In this study qualitative data was collected. The qualitative aspect is more dynamic, interactive and generates a more detailed data that contributes to in-depth understanding of the context in which the phenomenon under study takes place.

#### **3.8.1 Secondary Data**

This method of data collection primarily deals with data that has already been collected and is readily available from other sources like journals and technical reports. The data may either be published or unpublished (Kothari, 2004). The study reviewed secondary data from the government reports, humanitarian communities' sources and other agencies sources dealing with police reforms.

#### **3.8.2 Primary data**

Primary data will be collected using respondents interviews. The respondents are people who know more about the police reforms. They are people who have a particular knowledge on the nature of the problem or subject. This method was used to get qualitative data from the information on primary data and the past history of the implementation and approaches of the police reforms in Kenya. This information was collected from 30 respondents that comprised of 5 senior police officers, 10 civil society officials, 10 officials from the judiciary and 5 officials from Ministry of Interior and Coordination of National Government.

### **3.9 Data Analysis Techniques**

Qualitative Data Analysis is the range of processes and procedures whereby we move from the qualitative data that have been collected into some form of explanation, understanding or interpretation of the people and situations we are investigating. It is usually based on an interpretative philosophy. The idea is to examine the meaningful and symbolic content of qualitative data. In this research, the qualitative data from the secondary data review was analyzed using content analysis. This was by developing a thematic framework from the key issues, concepts and themes emanating from the

transcripts and field notes. The information generated was then interpreted and explained.

The quantitative data collected was analysed using descriptive statistics. The descriptive statistics features generated using statistical package for social sciences (SPSS-version 20); namely frequencies, and percentages. The findings were illustrated using graphs and tables while explanation was given in prose.

### **3.10 Ethical Considerations**

The researcher sought permission from the relevant authorities before commencing the study. Approval was sought from the university, the ministry of education and the Keya police service to carry out the study. Respondents were assured that the study was only for academic purpose only, and that their responses were treated with utmost confidentiality.

### **3.11 Challenges encountered at the field**

The study faced the challenge of mobilizing study respondents to participate in the study. Some of the respondents feared participating in the study owing to the fact that police reforms are viewed as highly sensitive information. The study was further affected by the government bureaucracy which slowed the flow of the data collection. The study was also restricted by the access to documents on police reforms since the majority of them were not in the public domain.

## **CHAPTER FOUR: DATA PRESENTATION AND ANALYSIS**

### **4.1 Introduction**

This chapter presents analysis and findings of the study on appraisal of the nature and scope of Kenya Police Reforms between 1995 and 2013. The research sought to answer these research questions: What does the policy reforms entail as specified by the police policy reforms documents in Kenya? What are the challenges facing implementation of police reforms in Kenya? What are the divergent reforms perspectives between police management and civil society groups? The sources of data were the major police reform documents authored from 1995 to 2013. Secondary data was collected through library research, review of police reforms documents, review of newspapers, journals, periodicals and government publications. The study also sought to obtain primary data from 30 respondents who comprised of 5 senior police officers, 10 civil society officials, 10 officials from the judiciary and 5 officials from Ministry of Interior and Coordination of National Government.

### **4.2 The nature of policy reforms as specified by the various policy reform documents.**

The first objective of the study was to establish the nature of policy reforms as specified by the various policy reform documents. The findings are as stipulated in the subsequent sections. The study established that the police reforms in Kenya are an on-going process as specified by various policy reform documents since 1995 to 2013. The main policy reform documents that indicated the progress of the police reforms in Kenya included; Philip Ransely report (2009), Philip Alston Report on Extrajudicial Executions (2009), the Waki report (2007), and the Kenya Police Strategic Plan (2003-2007).

The study established that the Kenya National Dialogue and Reconciliation (KNDR) (2008) agreement brought about the establishment of an Independent Police Commission. The KNDR parties reviewed laws relating to security and policing in order to make them consistent with modern democratic norms. Consequently, two commissions of inquiry were set up to investigate the post-election violence as well as

recommend reforms on the Police force (the CIPEV or the 'Waki Commission) and the Independent Review Commission on the General Elections (or the Kriegler Commission). The National Accord signed in February 2008 recognized urgent implementation of Police Reforms as one of the items under 'Agenda 4'. Pursuant to commitment to implement Reforms, the Government appointed the NTFPR to examine the institutional, policy, legislative and operational framework in which the Kenya Police and the Administration Police operated and make recommendations for comprehensive Reforms to transform the Police Services into professional and accountable security agencies that can effectively and efficiently deliver on their mandate. The implementation of Reforms began on 8 January 2010 with the appointment of the PRIC. The Committee had the mandate to coordinate, oversee and supervise the implementation of Reforms. The Committee was dissolved in June 2012.

In May 2009, the government appointed the NTFPR (Ransley Taskforce), which submitted detailed recommendations for far-reaching police reforms. In January 2010, the government appointed PRIC to oversee the implementation of the recommendations from the Ransley Taskforce.

By the end of 2011, about four years after the Waki Commission had completed its task and given recommendations that the government debated and accepted, fundamental reforms envisaged under the KNDR agreement had not been rolled out. The recruitment of police officers was put in abeyance for a while awaiting these recommended police reforms. For instance the police-to-population ratio is about 1:900, which is way below the UN standard of 1:400.

The KNDR agreement required the government to develop and implement a national security policy. Again, four years on, there is little evidence to show implementation of a comprehensive security policy. The government has nonetheless begun to draft a Bill on national security. The review of the Administration Police as envisioned under the KNDR agreement had not taken place and neither did integration of the Administration Police and the regular police occur. This has remained a sticking point and an issue where there has been little or no progress. Similarly, introducing a

centralised command through recruitment of an Inspector-General of Police elicited substantial discussion, with some in the police opposing the hiring of a civilian to fill the post. Furthermore, PRIC took about two years to be constituted. Nonetheless, the committee drafted the relevant Bills to facilitate a coordinated and comprehensive approach to police reforms in Kenya. Since then, parliament has enacted the following bills: National Police Service Act, 2010, Independent Policing Oversight Authority Act, 2011, National Police Service Act, 2011, and Police Service Commission Act, 2011.

By the end of December 2011, parliament had debated and enacted all the Bills except the National Coroners Bill, 2010, and the Private Security Regulation Bill, 2010. Thus, the critical laws for the initiation of police reforms had been passed and awaited systematic implementation.

By mid-January 2012, the selection panel for IPOA shortlisted candidates for the membership of the Board. The process of choosing the next Inspector-General of Police was conducted and the selection panel interviewed applicants for positions in the NPSC.

The Police Service has implemented various administrative reforms. The internal affairs unit of the police force has been set up and is currently manned by both Administrative Police and the regular police. A training needs assessment was undertaken, and a new code of conduct was developed by the police (Mary, 2010). These administrative changes were important but have not as yet gone to the heart of the much needed fundamental reforms. The transfer of officers from one station to another, or promotion to higher ranks, is not, in itself, sufficient to enhance reforms envisaged under Agenda item 4 and the constitution. The study revealed that police officers appreciate the fact that police reforms are not about administrative changes alone, but radical changes in the capacity of the institution:

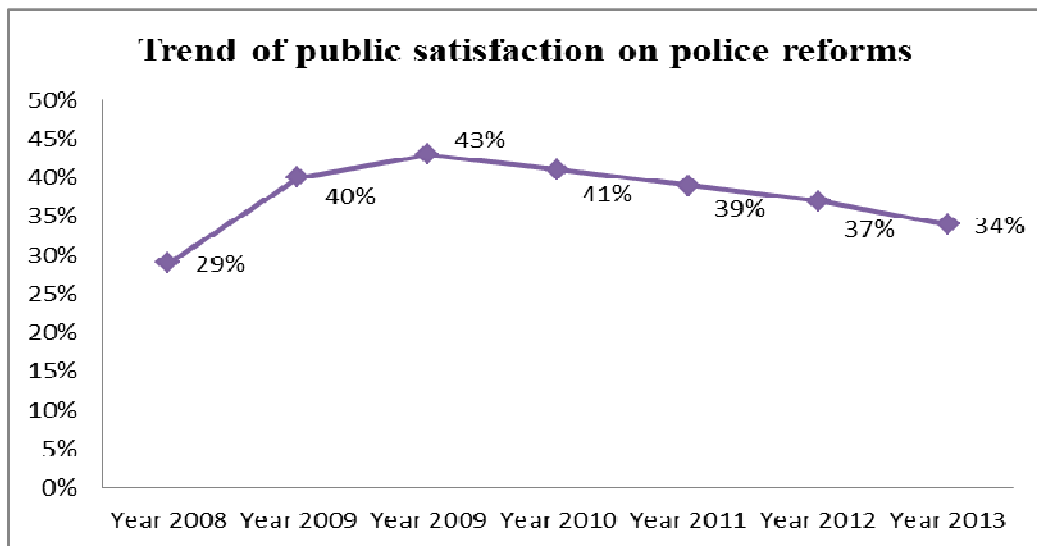
*According to the respondents the government needs to invest resources in police reform and give such reforms political support. Reforms [that] do not*

*build the capacity of individual officers to carry out their mandate at the level of the local police station are cosmetic reforms.*

The study established that on the whole, reforms in the police force have not been significant to alter people's perception of the service. The public generally view the police as lacking integrity and having poor attitudes and behaviour; and that their behaviour is not consistent with the values upheld in a democratic and open society.

The study sought to establish the trend of public satisfaction on police reforms over the years. The figure below shows the trend.

**Figure 4.2 Trend of public satisfaction on police reforms**



**Source: (Transparency International 2013)**

Figure 4.2 above shows that lack of fundamental reforms within the police force has led to sustained public dissatisfaction with the overall performance of the police. In 2008, only 29 per cent said they were satisfied with the performance of the police. This increased to about 40 per cent in subsequent surveys in mid-2009 and was at 43% at the end of 2009. In 2010, public satisfaction with the performance of police dropped to 41%, in 2011 it further dropped to 39%, in 2012 it was 37% while in 2013 the public satisfaction stood at 34%. The majority of the public, 56 per cent, are

generally dissatisfied with the performance of police (KII, civil society officials, 2014).

The lack of fundamental reforms in the police remains worrisome in light of the role played by the police in the PEV. For instance, the Waki Commission estimated that 405 persons died of bullet wounds. Also allegations of extra-judicial killings continue to resurface even after the commission's findings. Incidents of human rights abuses and corruption by individual police officers have eroded public confidence in the institution. The credibility of the police force has remained low as is manifest in the public perception of police performance. Generally, people remain concerned about the role of the police: only a small number of people (14% in September 2011 and 8% in December 2011) claim they could seek security from the police if political violence occurred again in Kenya (KII, judiciary Officials).

Evidently, the public have a generally poor image of the police. The police also appear to be resisting change and are not keen to radically alter the status quo. Delays in implementing radical reforms have simply created an opportunity for agents of the status quo to re-organise and gain some voice to oppose radical changes thus the small strides taken in reforming the police appear to be out of tune with people's expectations.

Analysis of secondary data established that the reports of the Commission of Inquiry into the Post-Election Violence in Kenya (CIPEV, 2008) and the UN Special Rapporteur on Extrajudicial killings (Philip Alston, 2009) recommended the overhaul of the existing policing system. In 2009, the government set up the NTFPR (also known as the Ransley Task Force) to follow through on the two sets of recommendations. Subsequently PRIC was established to fast-track and co-ordinate the implementation of the 200 recommendations of the Ransley Task Force (2009) in line with the new constitution. PRIC prepared five bills to this end, all of which were passed by Parliament during the last quarter of 2011. These are: the National Police Service Act, the National Police Service Commission Act and the Independent Policing Oversight Authority (IPOA) Act.

These laws provided an overall framework that could lead to the reform and transformation of the police force and the entire criminal justice system. The creation of the Independent Policing Oversight Authority provided the much needed accountability and monitoring functions over the Police Service through civilian oversight (IPOA, 2009). The laws also affected the management of the Police Service, through the introduction of a single police command structure headed by an independent Inspector-General of Police, who was appointed under the advice of the Police Service Commission as well as the transformation of the police, from a 'force' into a 'service' (Irene, 2011).

The study established that other than the bills passed by Parliament, a vetting process for senior police officers commenced in June 2011 in line with the recommendations of the Ransley Report (2009). The vetting panel was drawn from the PSC, PRIC, the EACC, NIS, AP, KPS and the UoN. The vetting panel began to interrogate the officers of the rank of superintendent and above. The vetting process was however, faulted for lacking transparency and clear criteria for determining suitability of the officers to continue serving in the police force or their fate if found to be unsuitable (ICTJ, 2011). In July 2011 the vetting process was suspended altogether due to the lack of legislation to guide it and the delays in setting up of the body tasked to undertake the vetting, the National Police Service Commission (Cyrus, 2011). At then, there were disagreements between the two Principals (president and prime minister) as to the persons to be nominated to form part of the Commission as well as complaints from sections of the public on the same issue (Caroline, 2012).

The police reforms as advocated for by various documents such as Waki Commission (2007) and Kriegler Commission (2009) mainly focused on the following areas; restructuring the Police Services; police accountability; police management and human resource capacity; state of preparedness of the Police Services; and the operational, tooling, logistical and technological capacity.

The study established that the promulgation of the new Constitution of Kenya on 27 August 2010 defined a new critical path towards Police Reforms. The new constitution (2010) established the National Police Service consisting of the Kenya

Police Service and Administration Police Service both under the command of the Inspector-General, the National Police Service Commission to recruit and appoint persons to hold or act in officers in the service, confirm appointments, and determine promotion and transfers within the National Police Service.

During the years 2012 and 2013, several legislations were enacted to implement Chapter 14 of the Constitution on National Security. These have seen the creation of the National Police Service Commission, the Independent Policing Oversight Authority and the appointment of the Inspector General who has since taken up the command and control of the NPS. In addition, the appointment of the two Deputy Inspector Generals and the Director of Criminal Investigation has also been made so as to enhance command of the Kenya Police Services, the Administrative Police Service and the Directorate of Criminal Investigations.

The study further found out that generally, there has been some progress with the implementation of police reforms but the pace has been slow. Of a total of 207 recommendations identified by the National Task Force on Police Reforms, 40 recommendations are on track with significant progress on implementation. Almost 103 recommendations are pending full implementation, albeit with serious challenges, 34 recommendations have had no significant action on them while 30 recommendations are stalled or blocked.

**Table 4.2 Respondent Response on National Task Force recommendations implementation by 2013**

	<b>Frequency</b>	<b>Percent</b>
Recommendations on track with significant progress	40	19.7
Recommendations pending full implementation	103	50.7
Recommendations with no significant action	30	14.8
Recommendations stalled or blocked	30	14.8
<b>Total</b>	<b>203</b>	<b>100</b>

**Source: (Field Data by Respondents, 2015)**

Table 4.2 above shows that laws passed in 2011 contain comprehensive framework for police reform which if fully implemented would overhaul the entire structure of the police service. However, while some measures have been put in place, several of the most urgent and important reforms are yet to be made. It was also observed that some recommendations that are critical to the reforms process are either pending implementation, seen no action, or stalled due to delays in the necessary appointments.

**Table 4.3 Distribution of adoption of best practices by security agencies**

	<b>Frequency</b>	<b>Percent</b>
Best practices implemented with limited progress	8	25
Best practices pending implementation	15	46.9
Best practices with no significant action	4	12.5
Best practices blocked or stalled	5	15.6
<b>Total</b>	<b>32</b>	<b>100</b>

**Source: (Field Data by Respondents, 2015)**

The study further identified that many security agencies, including the police are yet to adopt and implement best practices as far as the recommendations of the Commission suggested. Of a total of 32 specific recommendations on best practices made by the Commission of Inquiry into Post Election Violence on state security agencies, only 8 have been implemented with limited progress. 15 are pending implementation, 4 have had no significant action on them and 5 are blocked. Critical reforms necessary to improve preparedness of and coordination of security agencies are yet to be implemented. Similarly, coordination mechanisms across state security agencies remain a major problem and a security risk.

Findings on table 4.3 above suggests that the slow pace of police reforms have increased the risks of insecurity in the country as police are no better prepared to address challenges posed by the terrorist groups and organized criminal gangs, let alone to cope with crime and the ever increasing security challenges.

#### **4.2.1 Restructuring the Police Services**

The study investigated the extent to which police reforms aimed at restructuring the police services and providing a policy and legislative framework that provides a long term legal and institutional basis for the reforms process. According to the respondents, the creation of legal framework for reforms through the enactment of the *National Police Service Act 2011*, *National Police Service Commission Act 2011*, *Independent Policing Oversight Authority Act 2011*, followed by the establishment of three key institutions (Independent Policing Oversight Authority, National Police Service Commission, the Office of the Inspector General of Police) are important achievement towards police reform and have been implemented.

#### **4.2.2 Police Accountability**

The key informants further pointed out that the impact of IPOA is yet to be seen. The body has since received many complaints against the police and started investigations but its findings and report are yet to be made public. In addition, they indicated that to date, no single police officer has been held to account. In addition, impunity for violations of laws committed by individual police officers continues and the public is yet to see disciplinary measures and punishment brought against officers for violation of laws including human rights.

#### **4.2.3 Police Management and Human Resource Capacity**

The study further established that police reforms are yet to promote high standards of professionalism and enhance performance in service delivery. The National Police Service Commission charged with the responsibility to oversee appointments, promotions and transfers of police officers, to address corruption in recruitment and career management, and also disciplinary matters is yet to take forward its role. The key informants further indicated that the NPSC is yet to formulate recruitment, promotion and transfer policies. The mechanism for oversight over the disciplinary process and removal of members of the Police Service are yet to be agreed while the vetting of all current members of the service by the Commission is ongoing but is

faced with many court injunctions from the police officers who are found unfit to continue being in the service.

The study further revealed that the Office of the Inspector General charged with the responsibility to determine the distribution, deployment of officers in the Service is yet to take up its role. The study further indicated that a new Police Training Curriculum that extends the period of training from 9 to 15 months of basic training and an additional 6 months for cadet training for university graduate recruits. However, not many police officers have received the necessary training and the training of police officers in senior command and middle level management courses has been slow. As at November 2013, only a total of 446 officers from Administration Police Service and 2,323 officers from Kenya Police Service from the rank of Inspector and above had been trained, this is a meagre 5% of the total number of police officers in the country.

The study further revealed that the recommendations on recruitment have not been fully implemented. The Committee developed recruitment guidelines that were used in the first recruitment by both Police Services. The delayed appointment of members of the NPSC was hampering the development of policy on recruitment, transfer, promotion, and deployment of police officers within National Police Service.

The respondent further pointed out that the number of police officers has not grown significantly since 2009. The current deficit and level of understaffing in 249 police stations in Kenya stood at 34,000 police officers in the year 2014. The first batch of 7,000 police officers recruited and trained under the new curriculum graduated in August 2013.

#### **4.2.4 Logistical, Tooling and Technological Capacity**

The study investigated the extent to which logistical capacity of the police have been upgraded so as to address current policing challenges. However, to the key informants, the police still lacks necessary communication infrastructure, adequate vehicles, plant and equipments. In 2009, the KPS and AP had a vehicle deficit of 2,229 and 628 respectively. Nevertheless, Government had only made provisions of

116 vehicles to KPS and 77 vehicles to AP. The KPMU has acquired 5 speed boats and Administration Police Seaport Operation Unit has acquired 2 speed boats.

The study further established that the vehicle deficit as at then was approximately 8 vehicles per police station in the 249 police stations around the country. As at June 2012 the Kenya Police had vehicle deficit of 1,992 vehicles for Kenya Police Service while Administration Police had a vehicle deficit of 570. The vehicle deficit continues to impact on service delivery and police operations. Where the vehicles are available they lack appropriate maintenance and many of them are broken down. The police also still receive insufficient fuel which is currently at 16 to 20 litres per vehicle per day. The visit to police stations observed that the police are yet to acquire and adopt modern policing technology. At the very basic level the police stations lacked computers, local radio with transfer connectivity capability, mobile phones, patrol dogs and tracker dogs, VHF radios.

### **4.3 Implementation Challenges Facing Police Reforms**

The second objective of the study was to establish the implementation challenges facing police reforms. The findings are as follows:

#### **4.3.1 Lack of Political Will**

Like many other African countries, Kenya is struggling with entrenched impunity in some of its governance institutions. Since independence, the police service has served more as a tool of repression and oppression for the executive arm of the government. Other times the police service has failed to comply with the law due to interference from politicians. There is lack of political will to have necessary legislation and properly fund the police service so as to ensure that it is in sync with global policing trends. There seems to be a lack of political will to institute necessary structures to address the lethargy, inefficiency and mistrust created as a result of long standing impunity.

### **4.3.2 Corruption**

From the interview with the respondents, it emerged that the police service is seen as the most corrupt institution in Kenya. According to the East Africa Bribery Index (EABI) 2014, the National Police service was ranked as the most corrupt public sector with the level of bribery ranked at 60%. Hence the need for efforts to institute mechanisms to ensure that integrity within the KPS is restored. Corruption within the police service seems to be deeply entrenched and the government appears unable to contain it effectively especially in the traffic department and other key policing units. It is argued that some senior officers who are beneficiaries of graft in the police sector may be among those stalling police reforms.

### **4.3.3 Capacity Building and Infrastructure**

From the study findings, it is evident that the NPS is underfunded; This has hampered its efforts to modernize itself and be up to task to match the sophisticated nature of crime and criminals. For example, the CID does not have a forensic laboratory to tackle sophisticated crime. Vehicle patrols and responses are bogged down by lack of serviceable patrol cars. This has led to weaker responses and coordination during incidences of crime and disasters requiring police response. Police officers were uninsured yet most of the time they find themselves in life threatening and dangerous situations when tackling crime or discharging their duty to citizens. Lack of life insurance had left many families of officers who die while on duty paupers with nothing to fall back to in form of compensation. The study also established that the police service lacks personnel in Information Communication Technology (ICT) to tackle cyber related crime, using up to date technology. This is arguably an area that needs to be given serious consideration by the NPSC and the Ministry of Interior and National Coordination.

### **4.3.4 Continued Police Impunity**

The study further established that lack of accountability in the NPS in form of prosecuting police officers who violate rights of citizens and officers who abuse their powers with impunity is another challenge that may hinder proper police reforms.

There are many cases of police cover-ups, political manipulations and interference where perpetrators of crime go scot free when they ought to be prosecuted. In as much as IPOA ought to ensure such officers are prosecuted, the inertia of the Executive and Attorney General over cases of police brutality and human rights violations because they were acting on behalf of the government raises serious and legitimate concerns over government's commitment to police reforms. It therefore appears as if some police officers operate above the law with the blessings of the Executive.

#### **4.3.5 Other Structural Challenges**

The respondents were of the view that Kenyans are becoming more open and are willing to come forward to report cases of police brutality and excessive use of force. To date discourses on police reform have taken too much of a legalistic jargon and yet there is much that needs to be done in form of social change and development of proper policing policies. Thus, reform focus on laws and legislation is rather myopic since it does not address real challenges facing the policing sector. The state has for instance launched community policing in an effort to address the mistrust between the Police service and citizens; however, this noble initiative fizzled out and in some areas it was misunderstood and taken as a government policy for communities to form vigilante groups and private militias. This has led to lynching of suspects and in some cases, innocent people suspected of engaging in criminal activities were hacked to death. Some of this vigilante groups have mutated into extortionist gangs, who force local citizens to part with money in form of "protection/security fee". Some of these gangs are used by politicians to settle political scores.

Evidently, many initiatives have been instituted at the policy level but this has not translated to practical policing outputs. Nevertheless some progress has been made in reforming the policing in the aftermath of PEV. This progress includes development of comprehensive plans for reforms and constitutionalizing some of them. For instance, the constitution has established a legal framework for an independent, effective and accountable policing. Also the government has expressed commitments towards reform. However, there exist a gap between stated goals and what has been

achieved. Impunity has persisted, resources available are inadequate and the political will to effect such changes is weak.

#### 4.4 Police Management and Civil Society Reform Perspectives

The third objective of the study was to compare police management and civil society reform perspectives. The findings are as stipulated in the Table 4.4 Below.

**Table 4.4 Comparing police management and civil society reform perspectives**

Reform perspectives statements	Police management officials		Civil society officials	
	Frequency	Percent	Frequency	Percent
the country is yet to rid the Service of corruption, favouritism in recruitment in police service	2	20	9	90
leaders of security agencies are entangled in self-interest, conflict of interest and sabotage	1	10	7	70
interview process of IG and two DIGs to command the KPS and APS upheld the principles of transparency with uninhibited participation of the public, the civil society, the media, local and international observers	9	90	8	80
During vetting of police officers serious integrity issues ranging from corruption, drug trafficking, contempt of court and the 2007/2008 PEV be investigated and the reports made public to enhance public confidence and	4	40	10	100

accountability				
civil society support for police reforms are premised on fundamental principles as provided for by the constitution including integrity, gender equity, diversity and public participation	1	10	9	90
Kenyan government attempts to regulate the country's police force is likely to water-down key police reforms to regulate the country's police force which would allow human rights violations to continue and officers to act with impunity	2	20	10	100
The level of public participation was poor and required to be improved	2	20	9	90
the proposed time frame for the proposed amendments is inadequate for any meaningful public participation to occur	1	10	8	80
police reforms were on track and would yield the desired outcomes	8	80	1	10
there should be full inclusion of the public in the planning, implementation and monitoring of police reforms	2	20	8	80
police reforms is more a political process than a judicial process	9	90	3	30

which requires a more holistic approach				
There should be interdependence of judicial and law enforcement bodies and the necessity of working with civilian oversight bodies and non-state actors	3	30	9	90
<b>Total</b>	<b>10</b>	<b>100</b>	<b>10</b>	<b>100</b>

**Source: (Field Data by Key Informants, 2015)**

The study findings showed that nearly three years after Kenya began implementing police reforms, the country is yet to rid the force of corruption, favouritism in recruitment as indicated by 90% of civil society officials. The finding also shows that whereas 70% of civil society officials indicated that leaders of the security agencies being entangled in self-interest, conflict of interest and sabotage only 10% agreed to this opinion.

The study established that the civil society and police management supported the NPSC in the recruitment process for the IG) and the two DIGs to command the KPS and APS. The civil society and police management recognized that the interview process upheld the principles of transparency with uninhibited participation of the public, the civil society, the media, local and international observers as indicated by 80% of civil society officials and 90% of police management officials.

Whereas the civil society appreciate the efforts made by NPSC to balance various interests including gender, academic qualifications, experience, integrity and regional balance in recommending the candidates for appointment, they recommended that serious integrity issues ranging from corruption, drug trafficking, contempt of court and the 2007/2008 PEV be investigated and the reports made public to enhance public confidence and accountability. This was as indicated by 100% of the civil society officials and only 40% of police management officials. Their request did not amount

to blocking police reforms, but was an endeavor in upholding requisite levels of integrity as provided for by the Constitution.

From 90% of civil society officials and only 10% of police management officials, the study established that civil society support for police reforms are premised on fundamental principles as provided for by the constitution including integrity, gender equity, diversity and public participation. It is on the basis of these principles that the civil society continue to raise their reservations about the entire process of reforming the police including recruitment of the top command.

The study further established that the civil society (100%) differed with the police management (20%) in that they perceived the attempts by the Kenyan government being likely to water-down key police reforms to regulate the country's police force and indicated that this would allow human rights violations to continue and officers to act with impunity. The civil society were of the opinion that the constitutional amendments proposed by the then inspector general of police in 2013 (David Kimaiyo) and endorsed by the interior ministry would however either put duties meant for NPSC back in the hands of the police chief, or would require the NPSC at least to consult with the police chief and the interior ministry before taking any decisions.

The Police Reforms Working Group speaking on the same issue indicated that the proposed amendments would prevent IPOA from fulfilling its mandate of investigating and acting on police abuse of power, torture and extra-judicial executions. The civil society (90%) also indicated that the level of public participation was poor and required to be improved as opposed to police management (80%) who felt that it was sufficient. They further posited that given the fundamental implications of the proposed amendments, the proposed time frame is inadequate for any meaningful public participation to occur as indicated by 80% of civil society officials but 10% of police management felt the same way. The civil society also criticized confrontations between the office of the inspector general and National Police Service Commission.

The study revealed that the police management (80%) felt that police reforms were on track where as the civil society (10%) felt that the police reforms had stalled or were being implemented in a snail's pace and therefore would not yield the desired outcomes.

The police management and the civil society further differ on the best approaches that should be applied in implementing police reforms. According to the civil society (80%), there should be full inclusion of the public in the planning, implementation and monitoring of police reforms. On the other hand, the police management (80%) views that planning, implementation and monitoring of the police reforms is a police affair such that the inclusion of other stakeholders should be minimal. Police management (90%) views police reforms as political process whereas the civil society (70%) views it as a judicial process which requires a more holistic approach. The holistic approach advocated for by the civil society recognizes that strengthening the effectiveness of the police without addressing other parts of the formal justice system, or increasing the openness and accountability of government is unlikely to be productive in increasing access to justice.

The civil society (90%) emphasizes the interdependence of judicial and law enforcement bodies and the necessity of working with civilian oversight bodies and non-state actors. On the other hand, the police management (70%) regards the police service as independent, hence its dis-interest in getting support from civil society organizations, and even less so of their criticisms.

## **CHAPTER FIVE: SUMMARY, CONCLUSION AND RECCOMENDATIONS**

### **5.1 Introduction**

This chapter presents summary of findings, conclusion and recommendations of the study in line with the objectives of the study. The research sought to answer these research questions: What does the policy reforms entail as specified by the police policy reforms documents in Kenya? What are the challenges facing implementation of police reforms in Kenya? What are the divergent reforms perspectives between police management and civil society groups?

### **5.2 Summary**

#### **5.2.1 The nature of policy reforms as specified by the various policy reform documents.**

The first objective of the study was to establish the nature of policy reforms as specified by the various policy reform documents. The study established that implementation of police Reforms began on 8 January 2010 with the appointment of the PRIC with the mandate to coordinate, oversee and supervise the implementation of Reforms but the Committee was dissolved in June 2012. The police reforms mainly focus on; restructuring the Police Services; police accountability; police management and human resource capacity; state of preparedness of the Police Services; and the operational, tooling, logistical and technological capacity.

The pace of implementation of a comprehensive security policy has been slow. The promulgation of the new Constitution of Kenya on 27 August 2010 defined a new critical path towards Police Reforms. The new constitution (2010) established the National Police Service consisting of the Kenya Police Service and Administration Police Service both under the command of the Inspector-General, the National Police Service Commission to recruit and appoint persons to hold or act in officers in the service, confirm appointments, and determine promotion and transfers within the National Police Service.

PRIC drafted the relevant Bills to facilitate a coordinated and comprehensive approach to police reforms in Kenya. Since then, parliament has enacted the following bills: National Police Service Act, 2010, Independent Policing Oversight Authority Act, 2011, National Police Service Act, 2011, and Police Service Commission Act, 2011. By the end of December 2014, parliament had debated and enacted all the Bills. Thus, the critical laws for the initiation of police reforms had been passed and awaited systematic implementation. Other than the enactment of bills by Parliament, a vetting process for senior police officers commenced in June 2011 and has been ongoing. The vetting process was however, has been faulted for lack of transparency and clear criteria for determining suitability of the officers.

During the years 2012 and 2013, several legislations were enacted to implement Chapter 14 of the Constitution on National Security. These have seen the creation of the National Police Service Commission, the Independent Policing Oversight Authority and the appointment of the Inspector General. The Police Service now has a single police command structure headed by an independent Inspector-General of Police, who was appointed under the advice of the Police Service Commission. So far the Inspector-General of Police and the deputies have been selected and are serving in their position. In addition, the Police Service has implemented various administrative reforms. The internal affairs unit of the police force has been set up and is currently manned by both Administrative Police and the regular police.

The study further found out that generally, there has been some progress with the implementation of police reforms but the pace has been slow. Of a total of 207 recommendations identified by the National Task Force on Police Reforms, 40 recommendations are on track with significant progress on implementation. Almost 103 recommendations are pending full implementation, albeit with serious challenges, 34 recommendations have had no significant action on them while 30 recommendations are stalled or blocked. In addition, the police are yet to adopt and implement best practices recommended.

The study further established that on the whole, police reforms have not been significant to alter people's perception of the service where they view the police as

lacking integrity and having poor attitudes and whose behaviour is not consistent with the values upheld in a democratic and open society. The police also appear to be resisting change and are not keen to radically alter the status quo. Delays in implementing radical reforms have simply created an opportunity for agents of the status quo to re-organize and gain some voice to oppose radical changes.

The creation of the Independent Policing Oversight Authority, provided accountability and monitoring functions over the Police Service through civilian oversight. However, the impact of IPOA in its mandate is yet to be felt despite the many complaints made by the public on police officers. The study further established that police reforms are yet to promote high standards of professionalism and enhance performance in service delivery. The National Police Service Commission charged with the responsibility to oversee appointments, promotions and transfers of police officers, to address corruption in recruitment and career management, and also disciplinary matters is yet to take forward its role. In terms of logistical, tooling and technological capacity, the police still lacks necessary communication infrastructure, adequate vehicles, plant and equipments.

### **5.2.2 Implementation challenges facing police reforms**

The second objective of the study was to establish the implementation challenges facing police reforms. The major implementation challenges facing police reforms identified included; lack of political will, corruption, capacity building and infrastructure challenges, continued police impunity and structural challenges.

It was evident that there is lack of political will to have necessary legislation and properly fund the police service as well as to institute necessary structures to address the lethargy, inefficiency and mistrust created as a result of long standing impunity.

Corruption within the police service is deeply entrenched and the government appears unable to contain it effectively. This has affected the rate of implementing police reforms in Kenya. Some senior officers who are beneficiaries of graft in the police sector are stalling police reforms for fear of being sent away as well as being prosecuted.

The underfunding of NPS by the government has hampered its efforts to modernize itself and be up to task to match the sophisticated nature of crime and criminals. In addition, police officers were uninsured yet most of the time they find themselves in life threatening and dangerous situations hence the low morale in their duties. The study further established that lack of accountability in the NPS in form of prosecuting police officers who violate rights of citizens and officers who abuse their powers with impunity is another challenge that may hinder proper police reforms.

### **5.2.3 Comparison between police management and civil society reform perspectives**

The study has established that there have been divergent perspectives between the police management and the civil societies concerning police reforms. The civil societies believed that the country still has far to go to rid the force of corruption, favoritism in recruiting and other problems.

The study established that the civil society supports the National Police Service Commission (NPSC) in the recruitment process for the Inspector General (IG) and the two Deputy Inspector Generals (DIGs) to command the Kenya Police Service (KPS) and the Administration Police Service (APS). The civil society recognized that the interview process upheld the principles of transparency with uninhibited participation of the public, the civil society, the media, local and international observers.

Whereas the civil society appreciated the efforts made by the NPSC to balance various interests including gender, academic qualifications, experience, integrity and regional balances in recommending the candidates for appointment, they recommended that the serious integrity issues ranging from corruption, drug trafficking, contempt of court and role during the 2007/2008 post-election violence leveled against four of the nine recommended candidates by the public, be investigated.

The study further established that the civil society differ with the police management in that they perceive the attempts by the Kenyan government being likely to water-down key police reforms to regulate the country's police force. The civil society were

of the opinion that the constitutional amendments proposed by the new inspector general of police (David Kimaiyo) and endorsed by the interior ministry would however either put duties meant for NPSC back in the hands of the police chief, or would require the NPSC at least to consult with the police chief and the interior ministry before taking any decisions.

The study found out established that the civil society is not satisfied with the level of public participation in the process of police reforms. The civil society also criticizes confrontations between the office of the inspector general and National Police Service Commission. The study revealed that the police management felt that the police reforms were on track where as the civil society felt that the police reforms had stalled or were being implemented in a snail's pace and therefore would not yield the desired outcomes.

The police management and the civil society further differ on the best approaches that should be applied in implementing the police reforms. According to the civil society, there should be full inclusion of the public in the planning, implementation and monitoring of the police reforms. On the other hand, the police management views that planning, implementation and monitoring of the police reforms as a police affair where the inclusion of other stakeholders should be minimal. The police management views the police reforms as political process while the civil society view the process as a judicial process which requires a more holistic approach. The holistic approach advocated for by the civil society recognizes that strengthening the effectiveness of the police without addressing other parts of the formal justice system, or increasing the openness and accountability of government is unlikely to be productive in increasing access to justice.

The study found out established that the civil society emphasizes the interdependence of judicial and law enforcement bodies and the necessity of working with civilian oversight bodies and non-state actors. On the other hand, the police management regards the police service as independent the police management tended to be disinterested in support from civil society organizations which is likely to criticize their performance in implementing the police reform agenda.

### **5.3 Conclusion**

#### **5.3.1 The nature of police reforms as specified by the various policy reform documents.**

The study concludes that implementation of police Reforms has been ongoing since 2010 where various structures and institutions have been established. The police reforms being implemented revolve around; restructuring the Police Services; police accountability; police management and human resource capacity; state of preparedness of the Police Services; and the operational, tooling, logistical and technological capacity. The parliament has debated and enacted the following bills: National Police Service Act, 2010, Independent Policing Oversight Authority Act, 2011, National Police Service Act, 2011, and Police Service Commission Act, 2011. The vetting process for senior police officers has also been ongoing. These have seen the creation of the National Police Service Commission, the Independent Policing Oversight Authority and the appointment of the Inspector General. There has been progress with the implementation of police reforms but the pace has been slow. Of a total of 207 recommendations identified by the National Task Force on Police Reforms, 40 recommendations are on track with significant progress on implementation. Almost 103 recommendations are pending full implementation, albeit with serious challenges, 34 recommendations have had no significant action on them while 30 recommendations are stalled or blocked. In addition, the police are yet to adopt and implement best practices recommended.

#### **5.3.2 Implementation challenges facing police reforms**

The study concludes that the major implementation challenges facing police reforms identified included; lack of political will, corruption, capacity building and infrastructure challenges, continued police impunity and structural challenges. There is lack of political will to have necessary legislation and properly fund the police service as well as to institute necessary structures to address the lethargy, inefficiency and mistrust created as a result of long standing impunity. Corruption within the police service is deeply entrenched and the government has affected the rate of

implementing police reforms in Kenya. The underfunding of NPS by the government has hampered its efforts to modernize itself and be up to task to match the sophisticated nature of crime and criminals. In addition, police officers were uninsured yet most of the time they find themselves in life threatening and dangerous situations hence the low morale in their duties. The study further established that lack of accountability in the NPS in form of prosecuting police officers who violate rights of citizens and officers who abuse their powers with impunity is another challenge that may hinder proper police reforms.

### **5.3.3 Comparison between police management and civil society reform perspectives**

The study has concludes that there have been divergent perspectives between the police management and the civil societies concerning implementation of police reforms in Kenya. The civil society is not satisfied with the level of public participation in the process of police reforms. The civil society also criticizes confrontations between the office of the inspector general and National Police Service Commission. The police management believes that the police reforms are on track where as the civil society believes that the police reforms had stalled or were being implemented in a snail's pace and therefore would not yield the desired outcomes. The police management and the civil society further differ on the best approaches that should be applied in implementing the police reforms. According to the civil society, there should be full inclusion of the public in the planning, implementation and monitoring of the police reforms. On the other hand, the police management views that planning, implementation and monitoring of the police reforms as a police affair where the inclusion of other stakeholders should be minimal. The police management views the police reforms as political process while the civil society view the process as a judicial process which requires a more holistic approach. The holistic approach advocated for by the civil society recognizes that strengthening the effectiveness of the police without addressing other parts of the formal justice system, or increasing the openness and accountability of government is unlikely to be productive in increasing access to justice.

#### **5.4 Recommendations**

1. Since the significant police reforms are top-down and outside-inside, the study recommends that police officers of all ranks should be integrated in the design and implementation of the reforms and be made change agents.
2. The study recommends that the police reforms should be fully institutionalized in order to make the police reform sustainable and prepare the ground for continuous organizational learning.
3. The study recommends that the management of a police department should make efforts to win the hearts and minds of officers in the entire police service by developing a culture that supports the proposed police reforms. This should be coupled with re-socializing the police officers to accept the new philosophy of police reforms. There should also be revision of training, promotional guidelines, performance evaluations, and mission statements as tools in re-socializing officers.
4. There is urgent need for the Government to provide adequate funding for the institutions to enable them perform their functions effectively. The Inspector General, Deputy Inspector Generals, the National Police Service Commission and the Independent Oversight Authority should be given resources to set up their offices and enable them perform their functions
5. The fight against corruption has not registered adequate success. Lack of political will to deal with powerful individuals involved in corruption appears to reduce the drive on police reforms. Therefore, the government should institute adequate measure to deal with corruption in the police service.
6. There is need to begin undertaking urgent measures, especially improving the culture of policing to conform to the norms of an open society governed by the values of integrity and transparency.

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## APPENDICES

### APPENDIX I: INTERVIEW GUIDE FOR THE KEY INFORMANTS

#### Preamble

I am a final year student at the University of Nairobi undertaking a Masters of Arts Degree in Criminology and Social Order. I am currently undertaking a research on “*Appraisal of the nature and scope of Kenya Police Reforms between 1995 and 2013*”.

I would be grateful if you could spare some time from your busy schedule and provide the information being sought.

#### **Section A: To establish the nature of police reforms as specified by the various policy reform documents.**

1. What are the police reform documents that you are aware of?
2. Kindly explain the importance of each of the police reform documents that you mentioned?
3. What is the progress made in implementation of police reforms in Kenya?
4. Has the government invested adequate resources towards the implementation of police reforms in Kenya?
5. How would you rate the public’s satisfaction on police reforms?
6. What is your take on the vetting process that is on-going?

**Section B: To establish the implementation challenges facing police reforms.**

1. What are the challenges facing the implementation of police reforms in Kenya?

**Section C: To compare Police Management and Civil Society Reform perspectives.**

2. What is your comment on the perspective of civil society and police management on police reforms?
3. What are the differences that exist between the civil society and police management on police reforms?

**Thank you for your time and participation**