

UNACCOUNTABLE AND UNRESTRAINED:

Unmasking Human Rights Violations by
Kenya's Quasi-Policing Agencies



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List of Abbreviations

AP	Administration Police
BATUK	British Army Training Unit Kenya
CSO	Civil Society Organisation
CUC	Court Users Committee
DCI	Directorate of Criminal Investigations
DRC	Democratic Republic of Congo
FGD	Focus Group Discussion
GSU	General Service Unit
HRBA	Human Rights-Based Approach
IAU	Internal Affairs Unit
IBEA	Imperial British East Africa
IMLU	Independent Medico-Legal Unit
IPOA	Independent Policing Oversight Authority
KCGS	Kenya Coast Guard Service
KDF	Kenya Defence Forces
KFS	Kenya Forest Service
KHRC	Kenya Human Rights Commission
KII	Key Informant Interview
KNCHR	Kenya National Commission on Human Rights
KPS	Kenya Prisons Service
LSK	Law Society of Kenya
NIS	National Intelligence Service
NPR	National Police Reservists
NPS	National Police Service
NPSC	National Police Service Commission
NPSSO	National Police Standing Orders
NYS	National Youth Service
ODPP	Office of Director of Public Prosecutions
SOPs	Standard Operating Procedures
SPSS	Statistical Package for the Social Sciences
UWA	Uganda Wildlife Authority

Executive Summary

This study by the Kenya Human Rights Commission (KHRC) aims to investigate human rights violations perpetrated by quasi-policing agencies in Kenya during their operational activities. The quasi-policing agencies in the country include the Kenya Wildlife Service (KWS), Kenya Forest Service (KFS), Kenya Coast Guard Service (KCGS), Kenya Prisons Service (KPS), and county inspectorates. These agencies are mandated to undertake some specific security-related enforcement duties. However, they do not strictly fall under the National Police Service (NPS) structure or command in normal circumstances and as such, they fall outside of police accountability mechanisms. Kenyan law also allows for integration of these agencies into the NPS during extra-ordinary public order management situations, such as election security or widespread protests.

In this context, this research focuses on several key areas: the nature and extent of these violations, the effectiveness of existing oversight and accountability frameworks and mechanisms, and the identification of policy and legal shortcomings that contribute to these violations.

The study aims to achieve several goals. First, it aims to pinpoint the underlying causes that perpetuate human rights violations committed by quasi-policing agencies in Kenya. Second, it seeks to evaluate the effectiveness of existing oversight and justice mechanisms in ensuring accountability within the quasi-policing agencies. Third, the research intends to assess the contributions of civil society organizations (CSOs) and the media in documenting, analyzing, reporting, and exposing human rights vio-

lations perpetrated by these agencies. Fourth, the study aims to identify the obstacles hindering improvements in oversight and accountability, as well as to evaluate the efficacy of current legislation and policy frameworks in overseeing the enforcement of human rights protections. The core focus is to understand the root causes of violations, assess accountability mechanisms, evaluate the roles of civil society and media, and identify impediments to effective oversight and the enforcement of human rights laws.

The research employed a mixed methods approach, integrating both quantitative and qualitative data collection techniques. This strategy was implemented to facilitate triangulation, thereby strengthening the validity of the study's conclusions by drawing upon diverse data sources and types. The data collection process incorporated both primary and secondary data sources. Specifically, the study utilized the following data collection tools: document analysis, key informant interviews, a focus group discussion, and survey questionnaires.

The study reveals several critical issues concerning quasi-policing agencies and their adherence to human rights standards. It highlights significant shortcomings in existing legal and policy frameworks designed to hold these agencies accountable for human rights violations. A prominent finding is that torture, cruel, inhumane, or degrading treatment or punishment constitutes the most prevalent form of human rights violations by quasi-policing agencies in Kenya, with a reported response rate of 64.2%. The study also identifies the absence of a strong, independent, single agency-wide

oversight body as a major concern, hindering the ability to curb human rights abuses across these diverse agencies. Furthermore, the research points to impunity, a lack of transparency and independent oversight, as well as unprofessional conduct and lack of integrity as key factors undermining adherence to human rights standards. The study emphasizes the urgent need for comprehensive civic education to improve public understanding of both the functions of quasi-policing agencies and the rights of individuals and community members. Finally, the study notes the challenges posed by chronic underfunding, inadequate staffing, and political interference within these agencies.

Based on the key findings, the study proposes several recommendations for various stakeholders, including the quasi-policing agencies, the Executive, Judiciary, Parliament, and CSOs. These recommendations aim to improve human rights compliance and accountability. The following are some of the primary recommendations of the study:

- The quasi-policing agencies should adopt technology, such as body cameras, CCTV, GPS, digital tracking systems, e-governance, and digital reporting platforms, to enhance compliance and facilitate convenient public reporting of misconduct.
- The quasi-policing agencies should roll-out a comprehensive training program to enhance their compliance with human rights as well as their competence in conducting investigations and building community trust.

- Parliament should establish a robust, agency-wide independent oversight body to ensure all agencies adhere to the rule of law concerning human rights, or alternatively, expand the mandate of the Independent Policing Oversight Authority (IPOA) to cover all agencies.
- Parliament should ensure adequate budgetary allocations for oversight bodies to enable them to effectively fulfil their mandates.
- The Judiciary should implement a comprehensive capacity-building training program for judicial officers to improve their handling of human rights violation cases, and staff at quasi-policing units, to educate them on human rights approaches.

This study holds significant strategic importance for the KHRC, a leading human rights organization in Kenya. As a key player in upholding human rights standards and advocating for relevant legal and policy frameworks, the KHRC's mission is directly served by the study's findings and recommendations. These insights will serve as invaluable tools for the organization's interventions, ultimately contributing to the improvement of the human rights situation in Kenya. The study thus aligns with the KHRC's core objectives of ensuring adherence to human rights principles and adapting to evolving needs within the country.

Acknowledgements

Quasi-judicial agencies in Kenya, including the Kenya Wildlife Service (KWS), Kenya Wildlife Service (KWS), Kenya Forest Service (KFS), Kenya Coast Guard Service (KCGS), Kenya Prisons Service (KPS), and county inspectorates, have long been known to be perpetrators of human rights violations. Yet, they have historically been unaccountable and unrestrained, operating in an environment characterized by entrenched impunity. In this first-of-its-kind study, the Kenya Human Rights Commission (KHRC) unmask the human rights violations committed by these quasi-policing agencies. By shining a spotlight on the agencies, the KHRC seeks to contribute to efforts aimed at filling the existing accountability gap and fostering a culture of respect for human rights among Kenya's quasi-policing agencies.

This study is a product of the collaborative work of a dedicated list of individuals both within and outside the organization. First and foremost, we are truly indebted to the many individuals, drawn from all walks of life, that offered their reflections and insights during the data collection stage of this study. Without them, this study would not have been the masterpiece that it is.

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1.0 INTRODUCTION

1.1 Quasi-policing culture and human rights in Kenya

Quasi-policing agencies in Kenya include the Kenya Wildlife Service (KWS), Kenya Forest Service (KFS), Kenya Coast Guard Service (KCGS), Kenya Prisons Service (KPS), and county inspectorates (with Nairobi's being the largest). These agencies are mandated to undertake some specific security-related enforcement duties. They also operate with mandates that bring them into close public contact. However, they do not strictly fall under the National Police Service (NPS) structure or command in normal circumstances and as such, they fall outside of police accountability mechanisms. Kenyan law also allows for integration of these agencies into the NPS during extra-ordinary public order management situations, such as election security or widespread protests.¹

Although quasi-policing agencies fall outside the direct command and control of the NPS, their operations raise significant concerns regarding oversight and accountability for human rights violations. Their interactions with the public can and often lead to human rights violations. The lack of direct oversight over the operations of quasi-policing agencies has led to an accountability gap, fostering a culture of impunity.

The Constitution of Kenya and relevant pieces of legislation provide a comprehensive framework for human rights protection, outlining fundamental rights and freedoms. This framework is further supported by institutions like the Kenya National Commission on Human Rights (KNCHR), the Independent Policing Oversight Authority (IPOA), and the Internal Affairs Unit (IAU) of the NPS. The KNCHR, for instance, plays a crucial role in monitoring, investigating, and addressing human rights violations. The IPOA is specifically mandated to investigate police misconduct, including human rights violations by police officers. The IAU within the NPS also has a role in internal investigations of police conduct.

Despite the existence of these mechanisms, the effectiveness of human rights protection remains relatively weak. The continued documentation of human rights violations raises questions about the efficacy of the existing oversight and accountability structures. This ongoing concern highlights the need for continuous evaluation and improvement of these mechanisms to ensure that human rights are effectively protected in Kenya.

¹ Constitution of Kenya, Article 240(6)(a)

1.2 The root of the problem

Human rights excesses by policing agencies in Kenya is a legacy of the colonial past. The Imperial British East Africa Company (IBEAC) introduced policing in 1887 to protect the company's trading interests. This institutional-oriented policing would be reinforced after Kenya formally became a British Crown Colony in 1920, when it was renamed the Kenya Police Force.²

Policing history in Kenya bears the hallmark of impunity and lack of accountability from the very beginning. The police force was structured to serve colonial interests and to coerce and subdue Africans by denying them a range of rights including the right to freedoms of expression, assembly and association. To bolster the enforcement mandate of the police, colonial authorities gradually introduced other quasi-police formations. Therefore,.

Successive post-independence administrations failed to align the work of the police to reflect the new environment and continued to use the police to stifle dissent, and generally perpetuate their power and elitist tendencies, hence internalising impunity.³ This trend of human rights violations and impunity in policing has seemingly defied numerous legal and policy safeguards and continued to evolve and change character over the years for both the police as well as quasi-policing agencies.

The above historical context of policing in Kenya has significantly shaped the operational environment of national security institu-

tions, leading to egregious violations of rights and rampant impunity due to lack of adequate oversight and accountability mechanisms security agencies, including quasi-policing agencies. The political leadership has perpetuated 'regime policing' other than democratic and accountable policing, where the political elite often exert their influence over police actions to favour their circumstances. This is manifesting in various ways, including the selective application of the law, the suppression of dissent, and the misuse of resources. This has undermined their effectiveness and eroded public trust in the institutions.

The frequency of human rights violations points to serious gaps in the existence of coherent and meaningful oversight and accountability mechanisms for the adherence of human rights standards. Reports by human rights organizations highlight actions by various quasi-policing agencies in Kenya that not only violate the domestic laws but also contravene international human rights treaties to which Kenya is a party. The existing legal and policy safeguards for holding quasi-policing agencies accountable seem inadequate. Even though there are provisions in Kenyan law that allow for oversight, the implementation is often hampered by lack of political good will, bureaucracy, capacity and insufficient resources. Existing oversight institutions have limited authority and independence, undermining their ability to thoroughly investigate complaints.

2 Law And Order: Unmet Goals for Kenya's 2010 Police Reforms, ICJ Kenya Chapter, 2024. Accessed at: <https://icj-kenya.org/news/law-and-order/unmet-goals-of-kenyas-2010-police-reforms/>

3 Nicole Mazurova. 2022. Law Enforcement Development in Kenya: History, Reform, and Path Forward. Washington, DC: Office of Community Oriented Policing Services. Published 2022

Understanding and addressing ongoing human rights violations committed by quasi-policing agencies during their operations is crucial, especially given existing legal and policy safeguards, as well as potential gaps in accountability and oversight. This study is both timely and

1.3 Objectives of the study

The overall objective of this study is to undertake detailed research on accountability, oversight and human rights violations by quasi-policing agencies in Kenya.

The study's specific objectives are to:

- a. Provide a historical, legal, political, and philosophical perspective of the conduct and behaviour of the personnel among the quasi-policing units.
- b. Identify the root causes that drive quasi-policing forces to continue committing serious human rights violations while discharging their duties.

1.4 Research questions

1. What are the historical, legal, political, and philosophical perspectives of the conduct and behaviour of the personnel among the quasi-policing bodies?
2. What are the root causes that drive quasi-policing entities to continue committing serious human rights violations while discharging their duties?
3. Have oversight and justice mechanisms been instrumental in enhancing the accountability of the quasi-security organs?

essential as it aims to provide valuable insights into these violations. Furthermore, the findings are instrumental in assisting KHRC and other human rights organizations in formulating targeted advocacy strategies.

- c. Establish whether oversight and justice mechanisms have been instrumental in enhancing the accountability of the quasi-policing organizations.
- d. Examine the role of civil society and the media in documenting, analysing, reporting, and exposing the conduct and behaviours of quasi-policing outfits.
- e. Examine the impediments to holding such agencies accountable for their conduct during the discharge of their statutory duties and assess the efficacy of legislation and policy frameworks in enhancing accountability of the agencies.

4. What is the role of civil society and the media in documenting, analysing, reporting, and exposing the conduct and behaviour of quasi-policing units?
5. What are the impediments to holding agencies accountable for their conduct and to what extent is the efficacy of legislation and policy in enhancing accountability of the units in Kenya?

1.5 Justification of the study

A study of quasi-policing agencies in Kenya is crucial for understanding the complexities of security governance, oversight, and human rights within the country. These agencies, which operate with policing-like powers but often outside the traditional police structure, have raised significant concerns regarding their operational oversight and adherence to human rights standards. Reports from both local and international human rights organizations highlight a pattern of abuse linked to these agencies, underscoring the need for rigorous examination. Accountability is a cornerstone of any democratic society, and the actions of these quasi-policing bodies directly impact the human rights of citizens.

This study specifically examines the existing accountability frameworks within these quasi-policing bodies to assess their effectiveness in preventing human rights violations. By identifying gaps in the current accountability structures, the research aims to contribute to the development of more robust systems. The ul-

imate goal is to ensure compliance with both national laws and international human rights standards, thereby safeguarding the rights and freedoms of the Kenyan people. This research is vital for promoting transparency, justice, and the rule of law within the security sector.

Effective oversight is essential to ensure that quasi-policing organs operate within their legal mandate. Understanding the functionality of these mechanisms or lack thereof will provide insights into the systemic issues that allow human rights violations to persist. The frequency of human rights violations by agencies necessitates a thorough investigation into specific cases and patterns. This research study will highlight individual stories alongside statistical data, with a view to presenting a comprehensive picture of unchecked power and unregulated issues among the institutions. This study aims to contribute meaningfully to ongoing discussions about security governance, potentially leading to reforms and improved human rights protections.

1.6 Scope of the study

This study examines accountability and oversight mechanisms, as well as human rights violations, of key quasi-policing agencies in Kenya. The research was conducted across seven counties: Elgeyo Marakwet, Isiolo, Kilifi, Kisumu, Migori, Mombasa, and Nyeri. The agencies under scrutiny included the Kenya Wildlife Service (KWS), Kenya Forest Service (KFS), Kenya Coast Guard Service (KCGS), and County Inspectorates. The National Youth Service (NYS) and the National Police Reservists (NPR) were excluded from the study. The NPR falls under the mandate of the Kenya Police Service while the NYS typically undertakes unarmed duties.

1.7 Definitions

For purposes of this study, quasi-policing agencies in Kenya are defined as those bodies that perform police-like functions but are not officially part of the police service. Created through legislation, their duties are not ordinarily maintenance of law and order but enforcement of very specialised services. They include the following agencies: KWS, KFS, KCGS, KPS and Nairobi County Inspectorate.

1.8 Research design and methodology

This study adopted a mixed-methods approach to investigate accountability, oversight, and human rights violations perpetrated by quasi-policing agencies. This comprehensive strategy integrated both quantitative and qualitative research methods to facilitate a thorough understanding of the complex issues at hand. This approach allowed for the triangulation of data, enhancing the validity and reliability of the findings by combining the strengths of both methodologies.

The data collection methods included several key approaches. Document analysis was conducted by examining existing literature, reports from human rights organizations, government publications, and legal documents pertaining to the operations of quasi-policing agencies. This involved a thorough review of relevant materials to establish a foundational understanding of the subject and identify key themes and issues.

Furthermore, semi-structured interviews were conducted with key informants to gather in-depth insights. These informants included representatives from human rights organizations, legal practitioners, policymakers, media professionals, and security agencies. The interviews, which were guided by pre-prepared questions, aimed to capture personal experiences and perspectives, providing a rich qualitative dimension to the study.

A focus group discussion was conducted to gather in-depth qualitative insights from individuals residing within the geographical areas relevant to the research questions. These discussions allowed for exploration of nuanced perspectives and experiences.

The study also utilized questionnaire surveys to collect quantitative data. These surveys were administered to individuals in areas affected by quasi-policing actions, with the aim of quantifying perceptions related to accountability and oversight. This approach facilitated the measurement of specific attitudes and beliefs, providing a basis for statistical analysis and comparison.

a. Population and sampling techniques

The target population for this research encompassed a wide array of stakeholders impacted by the activities of quasi-policing entities in Kenya. This included individuals who have suffered human rights violations allegedly committed by these agencies as well relatives of victims of extrajudicial killings and enforced disappearances. Furthermore, the study focused on civil society organizations actively involved in human rights advocacy. Additionally, government officials responsible for oversight and accountability mechanisms within Kenya were included in the study

b. Sampling techniques

The study utilized a mixed-methods approach, employing various sampling techniques to gather data. Purposive sampling was the primary method for selecting participants and organizations with pertinent knowledge and experience regarding the operations of quasi-policing agencies in Kenya. This technique was also instrumental in choosing the seven counties for the study. In this regard, a key consideration was the availability of information on human rights violations by quasi-policing agencies in these counties.

To ensure a representative sample within the selected counties, simple random sampling was used. This probability sampling method provided each member of the population within these counties an equal opportunity to participate in the research. This approach aimed to mitigate bias and enhance the generalizability of the findings within the specific geographical areas under investigation.

Quota sampling was also used to select participants for focus group discussions. This method involved the researcher assigning quotas to various demographic groups to ensure a representative sample reflecting the target population's characteristics. These characteristics included gender, age, sex, type of business, and location, allowing for a holistic understanding of the perspectives within the study. This approach aimed to capture a diverse range of viewpoints and experiences related to the research topic.

c. Data analysis and presentation

Quantitative data, gathered through surveys, underwent statistical analysis using SPSS and Excel. This analysis aimed to uncover trends and correlations within the data related to the participants' views on accountability and oversight mechanisms. The use of statistical software allowed for a rigorous examination of the numerical data, enabling the identification of significant relationships and patterns.

Qualitative data, derived from interviews, was meticulously transcribed and subjected to thematic analysis. This involved both a case-specific examination and a cross-case analysis to extract recurring themes and insights from the participants' narratives regarding their experiences with human rights violations. The research findings are presented descriptively in this report, supplemented by visual representations such as charts, graphs, and histograms to enhance clarity and understanding. These visual aids are used to effectively communicate complex data and findings to the audience.

d. Reliability, validity, and ethical considerations

To ensure the research's validity, the study employed rigorous methods for measuring human rights violations and accountability mechanisms. This involved using established frameworks derived from international human rights law. Furthermore, the research incorporated feedback from local stakeholders to ensure the findings accurately reflected the realities experienced by affected communities. A pilot study was conducted to refine data collection instruments, ensuring they effectively captured relevant information.

The research also prioritized ethical considerations. Informed consent was obtained from all participants to ensure their voluntary participation. Confidentiality was strictly maintained throughout the research process, particularly given the sensitive nature of discussions regarding potential abuses by state-affiliated entities.

1.9 Limitations of the study

The study encountered several limitations that affected the breadth its findings. A significant constraint was the scope and method of data collection. Specifically, the researchers failed to conduct the planned FGDs in two crucial locations: Isiolo, involving the KWS, and Elgeyo Marakwet, involving the KFS. This omission meant that the study missed valuable perspectives from these key stakeholders, potentially impacting the overall completeness of the data collected.

Furthermore, the research team struggled with issues of participant trust and data integrity. The officers who were interviewed during the research requested that their identities remain undisclosed, suggesting concerns about their safety or professional standing. Moreover, the quasi-policing agencies did not respond to KIs,

and only the City Inspectorate honoured the request, resulting in a low 20% response rate. Consequently, the findings derived from this tool were subjective and may not have accurately represented the situation across different organizations.

Another significant challenge was a lack of trust from the victims. This distrust stemmed from past experiences, especially “fatigue in information gathering by other entities that failed to lead to legal redress.” Meaning these victims had previously participated in similar information-gathering exercises without experiencing any tangible benefits or legal recourse. This history of unfulfilled expectations likely contributed to their reluctance to fully engage with the researchers and share sensitive information.

2.0 HUMAN RIGHTS VIOLATIONS BY QUASI-POLICING AGENCIES: HISTORICAL, LEGAL, AND POLITICAL PERSPECTIVES

2.1 Historical perspective

The evolution of quasi-policing agencies has historical roots, with origins in ancient and medieval times when rulers established specialized security forces distinct from regular policing units for specific purposes. In Africa, the emergence of quasi-policing is more recent, stemming from the colonial era's recruitment of Africans into security forces to maintain colonial control. This practice was subsequently adopted and adapted to serve the post-independence elite. Modern quasi-policing agencies in Kenya, such as the KWS, KFS, and KCGS, continue to raise concerns regarding human rights violations, despite existing legal and policy safeguards for human rights.

Human rights violations related to conservation efforts and security measures are not isolated to Kenya. Similar issues are observed in other African countries, such as the Democratic Republic of Congo (DRC), where forest conservation measures have been linked to gross human rights violations, and in Uganda, where the Benet people face human rights challenges from the Uganda Wildlife Authority (UWA) due to their proximity to a park.⁴

Kenyan quasi-policing bodies are responsible for a range of services, including internal security, crowd control, and counterterrorism efforts. The enforcement of laws like the Public Order Act, which governs public gatherings, has, at times, resulted in excessive use of force, particularly during episodes of electoral-relat-

ed violence. Furthermore, following terrorist attacks, such as the 2013 Westgate Mall attack, the implementation of anti-terrorism legislation has led to instances of arbitrary mass arrests, detentions, and human rights violations during neighbourhood sweeps conducted by military and quasi-policing agencies, even in situations where there was a lack of clear evidence of militant activity within those communities.⁵

The Kenyan city inspectorates, particularly in Nairobi, trace their origins to the colonial era, modelled after London's metropolitan police, and have evolved while continuing to enforce laws rooted in that period. Initially tasked with controlling the movement of Africans and animals, the poorly defined roles and mandates of these officers contributed to post-indepen-

4 The Indigenous World 2025, 39th Edition

5 More than 1,000 Somalis rounded up in Nairobi, held incommunicado, Thomson Reuters Foundation News, 2014

dence brutality. This has resulted in documented abuses of power, including arbitrary arrests and harassment of street hawkers during violent crackdowns. These actions have been accompanied by documented instances of excessive beatings, sexual assault, rape, and even murder perpetrated by these officers.⁶

Historically, accountability concerns within quasi-policing agencies involved in conservation efforts have been significantly shaped by violations stemming from these very efforts. Agen-

cies like the Game Department, KWS, KFS have faced scrutiny, with documented instances of forceful evictions and human rights violations targeting indigenous groups such as the Ogiek. A comparative analysis of wildlife bodies in the DRC, Uganda, and Kenya reveals a pattern: conservation policies across these three countries exhibit similar instances of severe human rights violations, often occurring under the guise of enforcing conservation measures sanctioned or directed by their respective governments.

2.2 Constitutional and legal perspective

Constitutional provisions in Kenya establish the legal framework for national security organs and quasi-policing agencies, particularly concerning human rights. Article 238 of the Constitution outlines the roles of national security organs, mandating strict adherence to human rights, democratic principles, and fundamental freedoms in the pursuit of national interests. Furthermore, Article 239 identifies the Kenya Defence Forces (KDF), the National Intelligence Service (NIS), and the National Police Service (NPS) as national security organs, explicitly placing them under civilian authority and prohibiting the establishment of quasi-policing organizations without parliamentary approval. This framework ensures that national security operations are conducted within the bounds of the law, respecting human rights and democratic principles.

Chapter Four of the Constitution establishes an extensive Bill of Rights. Article 20(2) mandates that “Every person shall enjoy the rights and fundamental freedoms in the Bill of Rights to the greatest extent consistent with the nature of the right or fundamental freedom.” Furthermore, Article 21(1) imposes a fundamental duty on the State and every State organ to observe, respect, protect, promote, and fulfil the rights and fundamental freedoms outlined in the Bill of Rights. Crucially, Article 25 safeguards fundamental freedoms, including freedom from torture and cruel, inhuman, or degrading treatment or punishment; freedom from slavery or

servitude; the right to a fair trial; and the right to an order of habeas corpus.

The quasi-policing agencies in Kenya are also governed by acts of parliament. KWS, charged with the protection, conservation, sustainable use, and management of the country’s wildlife resources is governed by the Wildlife Conservation and Management Act (2013). Section 112 of the Act outlines the conduct of KWS wardens when enforcing the stipulations set forth in the legislation.

6 Kenya National Commission on Human Rights, Annual Report and Financial Statements 2017/2018

The Forest Conservation and Management Act (2016) establishes the KFS and outlines its roles, the scope of their mandate and penalties where breach of rule of law is evident as well as encouraging public participation in the dispensation of their roles. Similarly, the Kenya Coast Guard Service Act (2018) establishes the Kenya Coast Guard Service (KCGS) to guard Kenya's territorial waterways, prohibit illicit fishing, and prevent human trafficking and smuggling.

The City Inspectorate, known in local parlance as “Kanjo”, is an organ of the Nairobi County government and is responsible for enforce-

ment within the city. It is guided in its mandate, supervision, and accountability through a mix of national and county legislation. In line with constitution under Article 6(2), Nairobi, as have other counties, enacted the Nairobi City County Inspectorate Act of 2017, instrumental in establishing the county specific inspectorate, outlining their training and operational guidelines, provides an oversight and accountability framework and emphasizes on the requirement for all officers under these inspectorates to operate within the law and uphold human rights of citizens.

2.3 Oversight and accountability frameworks

The primary body for fostering police accountability in the country is the Independent Policing Oversight Authority (IPOA). Established by the IPOA Act of 2011⁷ the IPOA serves as a crucial oversight body for the NPS. The NPS includes the Kenya Police Service, the Administration Police (AP), and the Directorate of Criminal Investigations (DCI). The IPOA's mandate focuses on ensuring accountability within the police force by investigating misconduct, abuse of power, and excessive use of force. It aims to enhance transparency in law enforcement through its independent investigations and reporting mechanisms. The IPOA operates independently of the police service and has the authority to recommend disciplinary actions or charges based on its findings. Furthermore, the IPOA is obligated to publish its reports and findings, which promotes public awareness and engagement with police activities.

However, the IPOA's jurisdiction is limited. It does not have oversight over quasi-policing agencies. This limitation means that certain law enforcement activities fall outside the direct purview of this key human rights watchdog, potentially affecting the scope of its accountability efforts.

The other key oversight institution is the KNCHR, an independent institution established under Article 59 of the Constitution and the KNCHR Act.⁸ It serves as the primary agency for promoting and protecting human rights in Kenya. Its mandate includes monitoring government compliance with human rights standards, investigating violations, and providing redress to victims. The commission actively works to foster a culture of respect for human rights through education, advocacy, and research, while also overseeing quasi-policing agencies.

7
Independent Policing oversight authority Act, Microsoft Word - paged Independent Policing Oversight Authority Act _No. 35 of 2011_.doc
8 <https://www.knchr.org/About-Us/Establishment>

Parliament also plays a crucial role in holding the government accountable to the public. This is achieved through various oversight activities, including approvals, reviews, interrogations, and directives stemming from parliamentary engagements. This function ensures that government actions align with citizens' interests and welfare. Through house committees, Parliament conducts oversight that promotes transparency, accountability, and good governance.

2.4 Policy frameworks

Relevant policy frameworks include the National Police Service Standing Orders that cover a range of areas, including structures, operational approaches, ethical conduct, use of force, and dedication towards protecting human rights⁹. Furthermore, Standard Operating Procedures (SOPs) for the investigation and prosecution of human rights violations have been established. These SOPs are a collaborative effort involving the Office of the Director of Public Prosecution (ODPP), the IPOA, and other relevant bodies. The SOPs are specifically designed to address serious human rights violations committed by police officers. However, a notable limitation of these SOPs is that they do not explicitly include quasi-policing bodies, which may hinder the comprehensive investigation and prosecution of human rights abuses involving these entities.

2.5 Political perspectives

The history of quasi-policing agencies, often referred to as paramilitary agencies in various jurisdictions, is intricate and globally diverse. These agencies are frequently established and utilized to uphold the rule of law across numerous countries, with the intention of addressing political, social, and economic deficiencies. Rexton (2019) highlights that the authority granted to these agencies by the principal agent can lead to the erosion of the rule of law, potentially fostering authoritarianism, exploiting political instability for their own gain, and even perpetuating violence.

In Kenya, quasi-policing agencies have demonstrated a susceptibility to political influence, often serving as tools for political control rather than functioning as impartial enforcement bodies. Under the leadership of President Jomo Kenyatta and his successor President Daniel arap Moi, quasi-policing agencies were frequently employed to suppress opposition, stifle dissent, and ensure political allegiance.¹⁰ These agencies were often employed to forcefully disrupt political gatherings and instil fear among opposition leaders.¹¹ This practice has persisted through various administrations, raising concerns about the role and conduct of these agencies in maintaining public order. This pattern of use underscores the potential for these agencies to be misused, undermining the very principles of justice and impartiality they are intended to uphold.

9 The national police service Standing Orders. Retrieved from: <https://nationalpolice.go.ke/sites/default/files/2024-08/National%20Police%20Service%20Standing%20Orders.pdf>

10 The Politics of Dissent in Kenya, Patricia Stamp, Vol. 90, No. 556, Africa, 1991 (MAY, 1991), pp. 205-208, 227-229;

11 Constitution of Kenya Review Commission, 'The Final Report of the Constitution of Kenya Review Commission' (2005), p. 30.

A significant concern with these quasi-policing services is their inadequate training for civilian interactions, despite their frequent involvement in situations requiring human engagement. Agencies like KWS and KFS are primarily focused on conservation efforts, lacking the necessary training in crowd management and human rights-oriented policing. Similarly, county inspectorates, tasked with enforcing county laws, often lack the appropriate training to interact with civilians, leading to instances of brutality. This deficiency in training highlights a significant gap in the agencies' ability to effectively and humanely manage interactions with the public, raising concerns about accountability and the protection of citizens' rights.

Understanding the public's perception of quasi-policing agencies is crucial for effective com-

munity engagement and upholding fundamental rights. A significant challenge lies in the public's limited comprehension of these agencies' roles and responsibilities. This lack of awareness hinders meaningful interaction between citizens and these agencies, potentially leading to misunderstandings and mistrust. When the public is unfamiliar with the functions of quasi-policing entities, it becomes difficult for them to hold these agencies accountable or to understand the scope of their authority, which can lead to violations of rights and freedoms. This lack of clarity can undermine public trust and impede the agencies' ability to operate effectively within the community.

This issue is further explored through empirical evidence gathered from public surveys and interactions.

2.6 Public interaction with quasi-policing agencies

Empirical evidence reveals a mixed picture of public awareness and interaction with quasi-policing agencies. The data indicates that 44.3% and 47.1% of respondents reported being "very familiar" and "somewhat familiar" with quasi-policing agencies. Only 8.6% of the respondents indicated that they were unfamiliar with the agencies. This suggests a considerable portion of the public has at least some level of awareness. The findings are illustrated below:

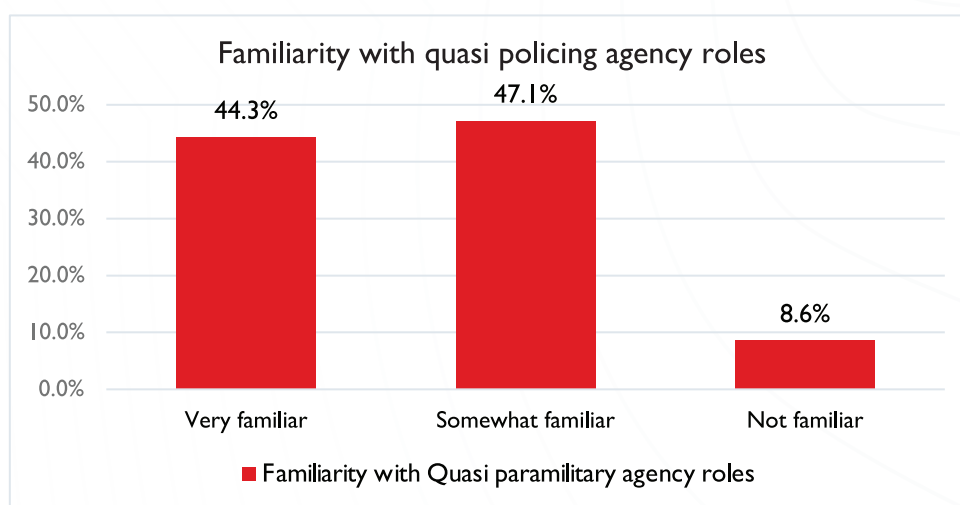


Figure 1: Familiarity with quasi-policing agency roles

Furthermore, the findings show that at least 83.6% of respondents had interacted with quasi-policing agencies, while 16.4% had no interactions at all. This highlights that the majority of the public has had some form of contact with these agencies, providing opportunities for engagement and understanding.

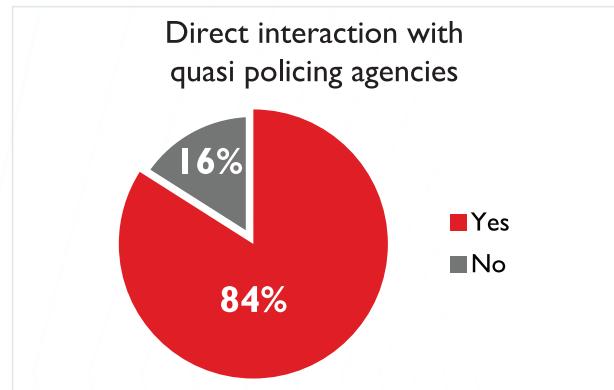


Figure 2: Interaction of Community with quasi-policing agencies

The most frequent interactions were with the KWS and inspectorate services, with response rates of 60.7% and 57.1%, respectively, compared to 39.3% with the KFS. These statistics highlight the need for improved public education and communication to foster greater understanding and facilitate more effective engagement between the public and these agencies.

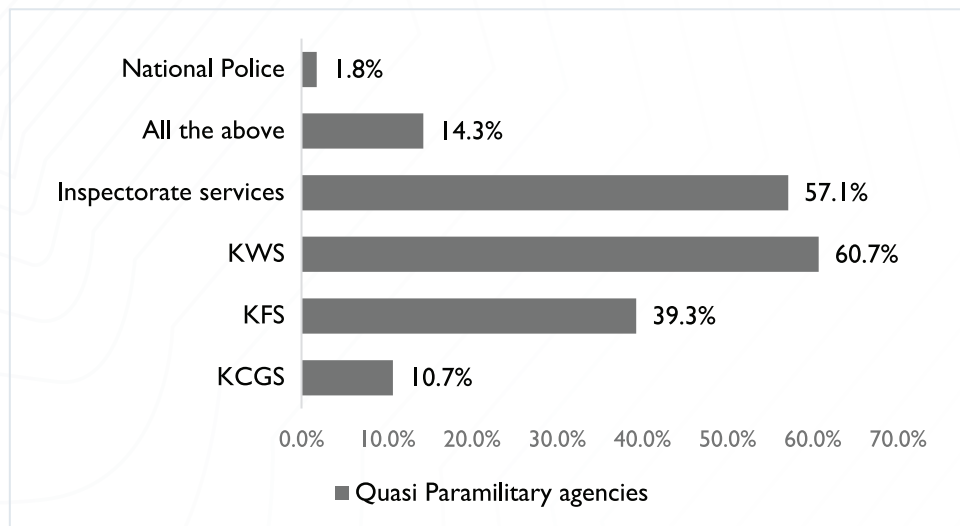


Figure 3: Agencies interacted with the communities

The interactions between respondents and quasi-policing agencies are multifaceted, with community activities representing the most frequent point of contact. A significant 33% of engagements occurred through community activities, indicating a substantial presence of these agencies in local events and initiatives. Routine patrols accounted for 19% of interactions, suggesting a visible presence within communities. Furthermore, 17% of the interactions stemmed from frequent operational exercises conducted by these agencies, which may involve drills, simulations, or training activities that bring them into contact with the public.

Beyond these proactive engagements, a considerable portion of interactions arose from law enforcement activities. Arrests constituted 14% of the interactions, with some respondents reporting

arbitrary arrests, raising concerns about the fairness and legality of these actions. Investigations accounted for 11% of the interactions, reflecting the agencies' role in addressing specific incidents or complaints. Checkpoints and petitions each represented 3% of the interactions, indicating less frequent but still present forms of engagement between the public and these agencies. The findings from this research are illustrated below.

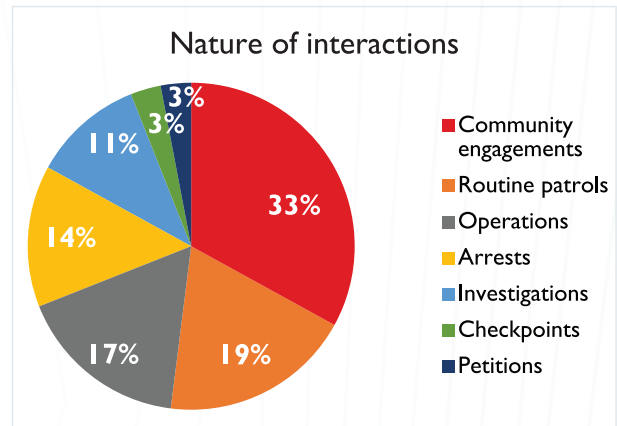


Figure 4: Nature of interactions

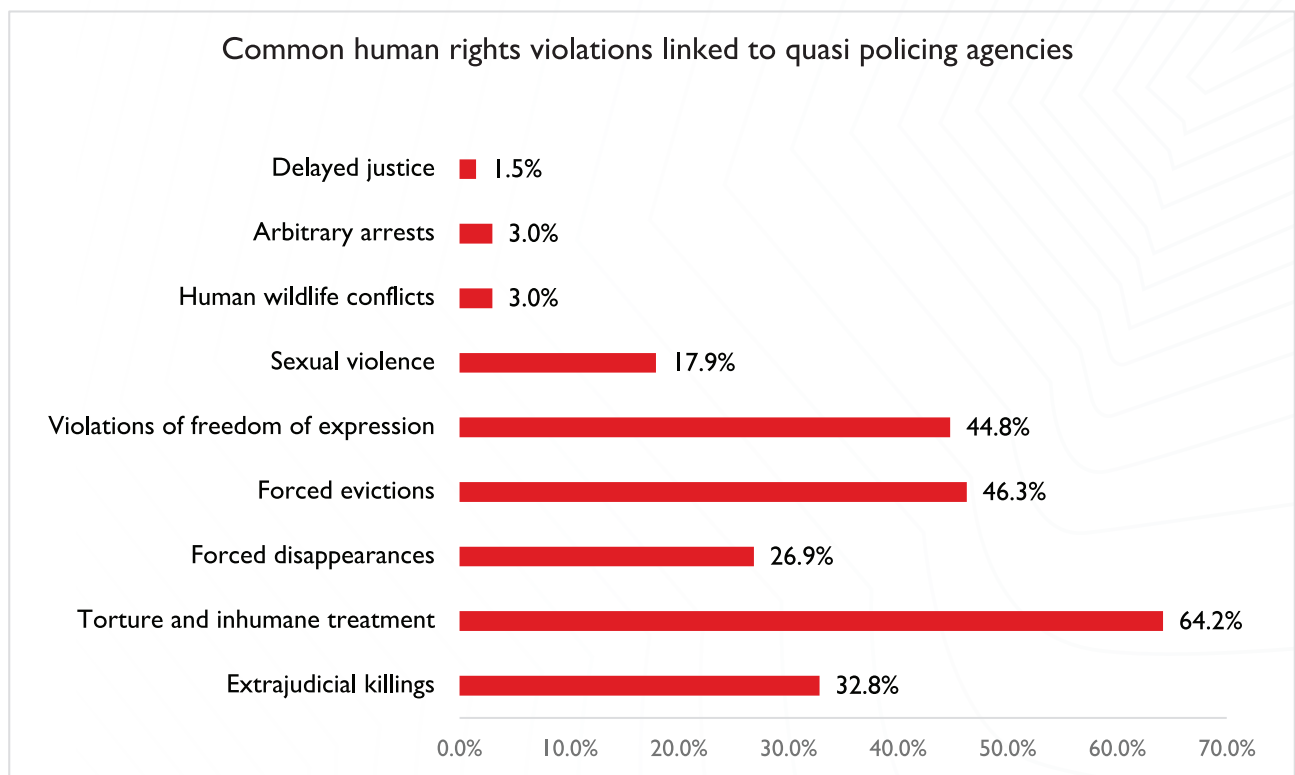


Figure 5: Common human rights violations

The study results reveal a concerning pattern of human rights abuses. As shown in Figure 5 above, torture and inhumane treatment were reported at a high rate of 64.2%. This suggests a widespread occurrence of practices that inflict severe pain or suffering, either physical or mental, on individuals. Forced evictions were reported by 46.3% of respondents. This signifies a significant number of people being forcibly removed from their homes, often without due process or adequate compensation. Forced disappearances, where individuals are taken into custody by state agents or those acting with state support, and their whereabouts were concealed, were reported by 26.9% of the public. Finally, sexual violence, encompassing a range of abuses, was reported by 17.9% of the respondents. These statistics paint a picture of significant human rights concerns, highlighting the need for further investigation and action to protect vulnerable populations.

3.0 ROOT CAUSES OF HUMAN RIGHTS VIOLATIONS BY QUASI-POLICING AGENCIES

3.1 Overview of root causes

A number of factors are deemed to contribute to the serious human rights violations attributed quasi-policing organisations in Kenya. To start with, the lack of robust accountability structures allows these auxiliary bodies to operate with inadequate oversight. Additionally, under-funded oversight institutions, entrenched impunity, limited public scrutiny, and a lack of civilian supervision all compound the problem. Not only do the gaps in accountability mechanisms enable misconduct, but it also creates an atmosphere of abuse, eroding public trust and undermining the rule of law and human rights. The laws intended to regulate the conduct of members of quasi-policing agencies have been weakened by inadequate oversight by the government, insufficient capacity and political interference¹². Moreover, despite the presence of IPOA, it is only assigned to oversee the police and not any other agency, thereby necessitating reforms to its mandate or the creation of other oversight bodies that may encompass all agencies.

Weak legal frameworks and stalled police reforms also affect compliance with oversight authorities. Secrecy is often associated with security issues, and more often than not, there is reluctance to comply with oversight author-

ity requests under the guise that this would compromise operations or undermine national security. For example, the Security Laws (Amendment) Act, 2014)¹³ raised concerns on the independence of oversight bodies and the potential increase in abuse of power by paramilitary agencies without fear of repercussions or scrutiny from oversight bodies.

Poor enforcement record and lack of capacity by oversight bodies have also contributed significantly continuing human rights violations by the quasi-security agencies. Some are severely underfunded, understaffed and experience political interference, making them ineffective in performing their roles. Due to resource constraints, bodies such as IPOA and KNCHR are often unable to fund investigative processes leading to delay in justice or even abandonment of investigations altogether. Similarly, politicisation of appointment processes for staff serving in these bodies hinders transparency of investigations and operational efficiencies. In some cases, cultural resistance from within the bodies becomes a drawback, with officers viewing accountability and oversight bodies as their enemies, thereby negating efforts at cooperation and transparency.¹⁴

12 Kenya: Police Impunity Raises Election Risk | Human Rights Watch

13 Human rights audit of the security laws (amendment) bill 2014. Memo on security amendment bill.pdf

14 The effectiveness of the investigative powers of the Independent Policing and Oversight Authority. The+effectiveness+of+the+investigate+powers+of+the+Independent+Policy+and+Oversight+Authority.pdf

Similarly, lack of operational transparency becomes an impediment where the organizations work under a shroud of significant secrecy, making mockery of accountability, and in so doing, enable widespread abuses of human rights. Lacking transparent reporting channels, independent review, and public scrutiny, such organs conduct operations unimpeded and unexamined, and tracking abuses, let alone holding offenders accountable, is incredibly challenging. Transparency suffers particularly in covert operations, when communities are neither notified nor involved, and abuses such as arbitrary detentions, excessive use of force, and forced evictions occur.

Finally, limited prosecutions and insufficient legal precedents for human rights violations act as hindrances to enforcing human rights adherence by quasi-policing agencies. Extrajudicial executions, torture, and forced disappearances often go unaddressed, fostering a culture of impunity within security agencies. Many victims lack recourse, and face unpredictable, ineffective judicial remedies against violations.¹⁵ The absence of judicial precedent is a key impediment to securing access to justice for both victim and human rights activists. Judicial organs have a predisposition towards extended case processing when confronted with fewer precedents for arrests and persecutions¹⁶.

3.2 Public perceptions of root causes

Research findings, supported by empirical data, shed light on the public's perception of the root causes of human rights violations committed by quasi-policing agencies. This study reveals that a significant majority of respondents identified specific factors as primary contributors to these violations. Specifically, 84.6% of respondents pointed to inadequate oversight and control as the leading cause of human rights violations by these agencies. This finding suggests a widespread concern about the lack of effective mechanisms to monitor and regulate the actions of quasi-policing agencies, potentially leading to unchecked power and misconduct.

A significant portion of the respondents, 76.9% to be precise, cited a lack of adherence to the rule of law and impunity as another major contributing factor. This indicates a perception that these agencies operate with a disregard for legal frameworks and face little to no consequences for their actions, fostering an environment where human rights violations can occur with greater frequency and severity. These findings highlight critical areas for reform, emphasizing the need for strengthened oversight, adherence to the rule of law, and accountability within quasi-policing structures to safeguard human rights. These findings are illustrated in Figure 6 below.

15 Kenya 2022 human rights report. Retrieved from: https://www.state.gov/wp-content/uploads/2023/02/415610_KENYA-2022-HUMAN-RIGHTS-REPORT.pdf

16 Kenya 2017 human rights report. Retrieved from: <https://www.state.gov/wp-content/uploads/2019/01/Kenya-1.pdf>

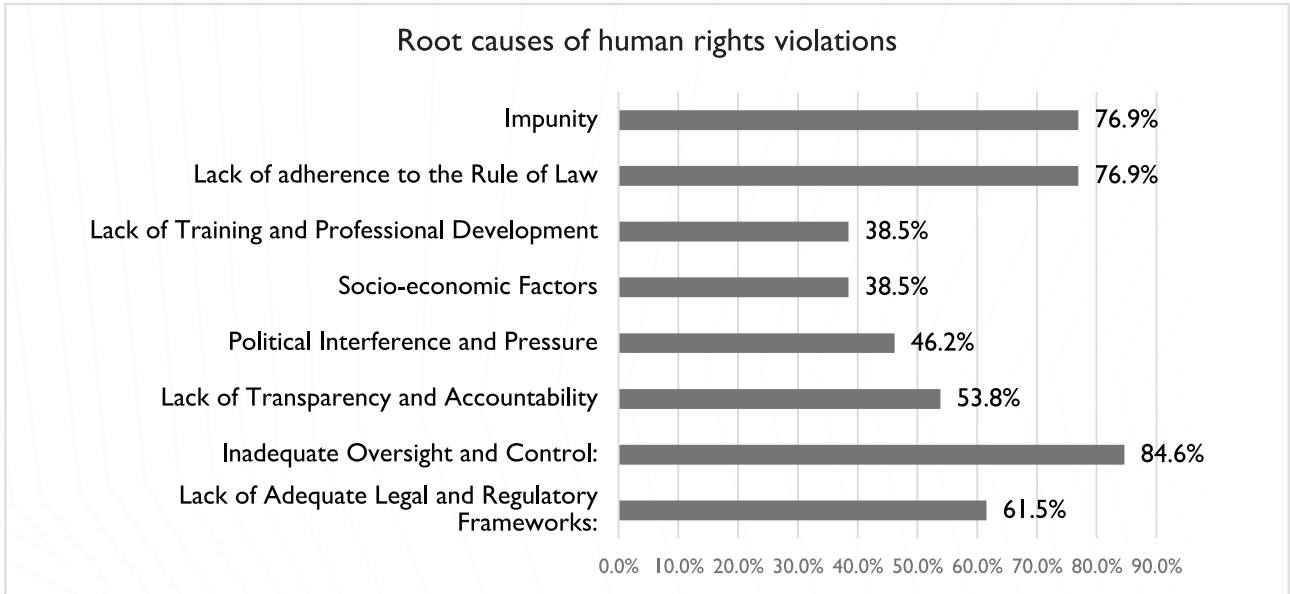


Figure 6: Root causes of human rights violations identified by the public

3.3 Insights from CSOs

CSOs provided additional insights. They identified bribery as a form of corruption that significantly contributes to a culture of impunity, further exacerbating the problem. CSOs also expressed concern about political interference, noting that it can skew decisions to favour the interests of the elite, potentially at the expense of human rights. This highlights the complex interplay of factors that contribute to human rights violations, including inadequate oversight, lack of adherence to the rule of law, corruption, and political influence.

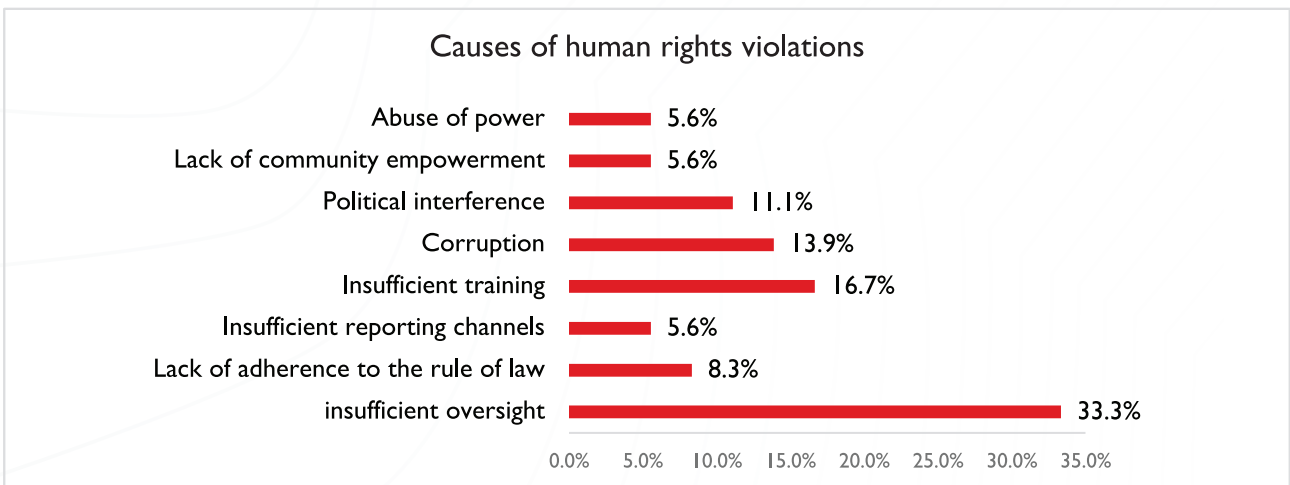


Figure 7: Causes of human rights violations as identified by CSOs

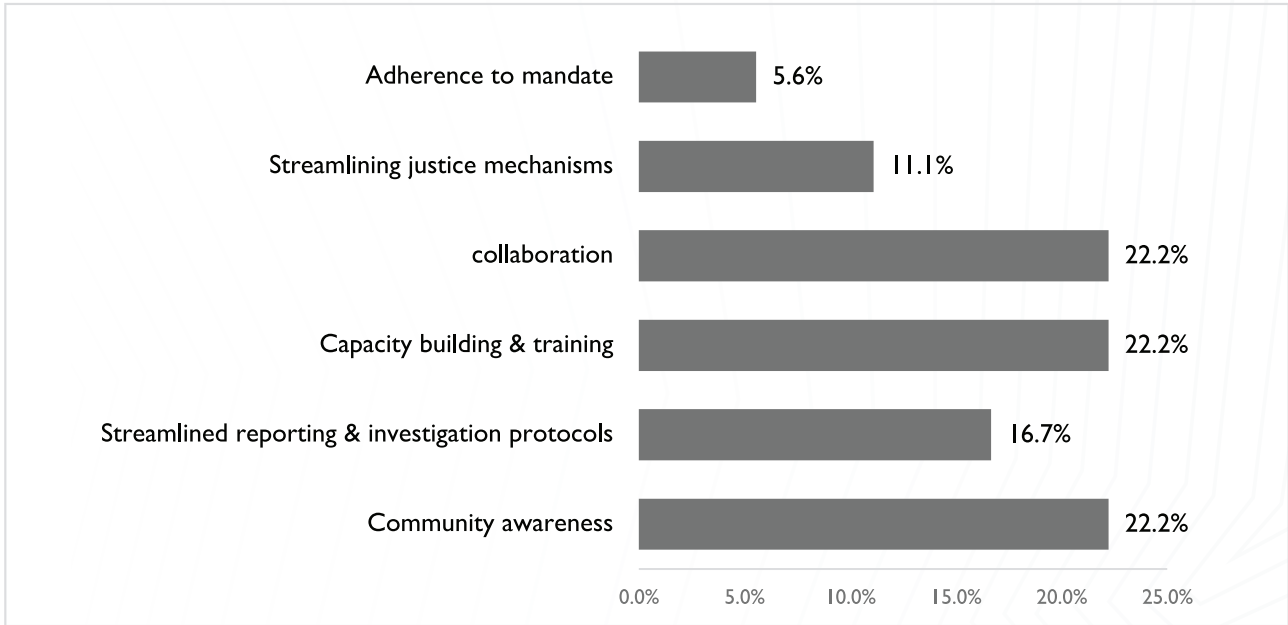


Figure 8: Roles that can be played by civil society organizations to improve oversight

As shown in Figure 8 above, CSOs can significantly enhance human rights oversight of quasi-policing through several key strategies. They can streamline justice mechanisms by advocating for and supporting accessible and efficient legal processes to address grievances related to quasi-policing activities. This involves ensuring that individuals have avenues to report abuses and seek redress. Furthermore, CSOs can build partnerships through collaborations with various stakeholders, including governmental bodies, other CSOs, and community groups, to create a unified front for human rights protection. These collaborations can strengthen advocacy efforts and provide a broader base of support. Another crucial role is capacity building and training by equipping CSOs and community members with the knowledge and skills necessary to monitor, report, and address human rights violations. This includes training on streamlined reporting and investigation protocols, as well as community awareness campaigns to educate the public about their rights and how to report violations.

4.0 **ROLE OF OVERSIGHT AND JUSTICE MECHANISMS: HOLDING QUASI-POLICING AGENCIES ACCOUNTABLE**

4.1 Overview of oversight mechanisms

Legal frameworks, institutional bodies, and processes form the basis of accountability and supervision for quasi-policing agencies where human rights issues are concerned. The Internal Affairs Unit (IAU) was established by the NPS Act 2011 with the mandate to undertake comprehensive and unbiased investigations into alleged police violations. This unit audits only police misconduct. On the other hand, quasi-policing bodies such as KWS, KFS, KCGS, and city inspectorates all have internal disciplinary mechanisms including internal investigations.

These agencies solely depend on their codes of conduct relating to violations of human rights to guide the behaviour of their officers. However, these internal oversight mechanisms stipulate that they must cooperate with external oversight institutions such as KNCHR where there are allegations of gross violations of human rights by officers. One of the key challenges with the existing internal oversight mechanisms is the lack of transparency in their processes since the majority of them operate within closed systems where cases of human rights violations are often not publicly disclosed making it tough for victims.

The IPOA was established with the sole mandate to oversight the conduct of the police service in discharging their duties. It acts independently of the NPS and makes recommendations upon investigations, including disciplinary sanctions and charging officers found to have violated regulations, laws or code of conduct.

However, IPOA has often come under sharp criticism from stakeholders and the public for its lacklustre record in successfully prosecuting officers and having them convicted.¹⁷ The organisation defends itself by pointing out to lack of cooperation by the police, lack of adequate capacity and understaffing due to low budgetary allocations.¹⁸ It does not have oversight powers over the auxiliary policing institutions.

17 Ometo, Bryson, Improving Police Accountability in Kenya: Curing the Shortcomings of the IPOA in Bringing an End to Police Brutality in the Country (April 4, 2020). Columbia Human Rights Law Review, Forthcoming, Available at SSRN: <https://ssrn.com/abstract=3568251> or <http://dx.doi.org/10.2139/ssrn.3568251>

18 IPOA, Performance Report January - June 2020

The KNCHR has a wider mandate of driving human rights agenda, including oversight, compliance and policy advocacy across all government MDAs. It reports to parliament each year on the status of human rights in the country and proposes necessary policy recommendations. But even this very critical institution faces a myriad challenges, similar to those singled out by IPOA as well as politicisation of human rights issues by the elite.¹⁹

4.2 Public perceptions of accountability mechanisms

Significant gaps exist in the development of accountability and oversight frameworks for human rights violations by quasi-policing agencies. Responses highlighted the institutionalised oversight role of the NPS compared to other quasi-policing entities. The DCI came in for mention for addressing cases of misconduct in the quasi-policing agencies. Additional accountability frameworks mentioned included the Office of the Chief Registrar of the Judiciary (OCJRC), the Ombudsman, IPOA, general regulations and the police service standing orders, as well as relevant provisions from the Penal Code and various parliamentary acts.

The Constitution serves as the fundamental reference point for accountability, especially in the Bill of Rights outlined in Chapter Four. Further the KNCHR Act mandates it the monitoring, investigation, and reporting of human rights violations. Several other legislative acts contribute to the accountability framework for quasi-policing agencies, including the Prevention of Torture Act of 2017, the National Coroners Service Act of 2017, and various County Government Acts that regulate the operations of inspectorate officers as well legislation regulating KWS, KFS, KCGS, and KPS.

Respondents cited recent cases involving officers of quasi-policing agencies, detailing who initiated these processes and the outcomes. Research findings revealed that some actors within the criminal justice system had not achieved any successful cases, while others had experienced varying degrees of success in meeting the expectations of victims of human rights abuses. Notably, respondents cited several IPOA initiatives leading to successful convictions, such as those involving violations by KCGS officers that resulted in fatalities, as well as investigations into abduction and murder allegations by KWS officers in Isiolo.

Other successes include involves investigations into cases of murder and assault by city county enforcement officers and KNCHR investigations into human rights abuses by KWS wardens in 2021. These investigations uncovered human rights violations, including forced evictions and excessive use of force. In response, KNCHR recommended comprehensive training on human rights for all KWS officers and called for the establishment of operational guidelines to ensure the protection of human rights.

19 Miyandazi, V. (2023). Human Rights and Equality Commissions in Kenya and Their Role in Tackling Poverty and Economic Inequality. *Federal Law Review*, 51(4), 422-441. <https://doi.org/10.1177/0067205X231212026> (Original work published 2023)

The findings reveal varying perceptions regarding the effectiveness of accountability mechanisms within the criminal justice system. A significant portion of criminal justice actors, 30.8%, viewed these mechanisms as only slightly effective, while 15.4% found them very effective, and a smaller 7.7% considered them very ineffective. This suggests a mixed assessment of the current accountability measures. The findings are illustrated below.

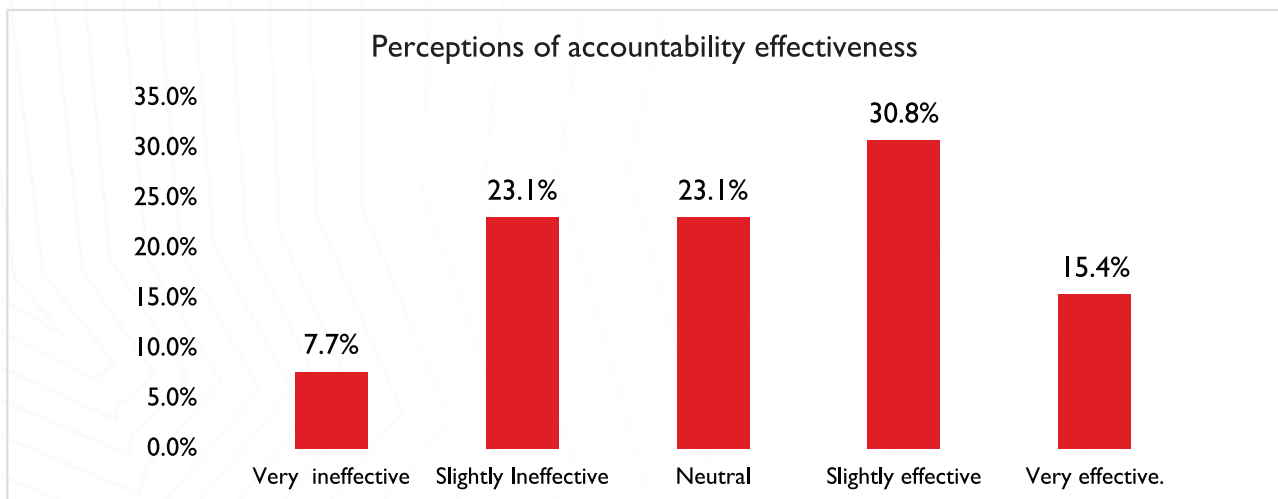


Figure 9: Perceptions of effectiveness of accountability mechanisms

In assessing the effectiveness of oversight bodies in addressing human rights violations, the KNCHR was perceived as the most efficient, with an 18.5% rating. Other bodies, including IPOA, the ombudsman office, and the IAU, received a lower rating of 3.7%. A significant portion of respondents, 22.2%, indicated that none of the existing oversight bodies were effective, highlighting a potential lack of confidence in these institutions. These findings are shown below.

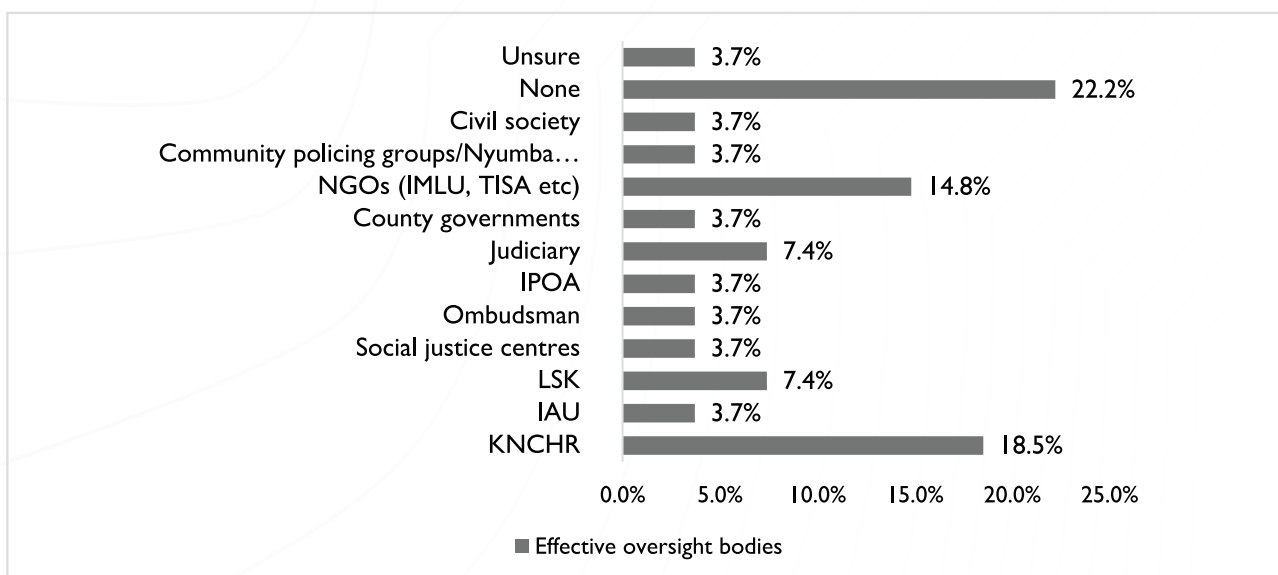


Figure 10: Effectiveness of oversight bodies

The research, which gathered insights from civil society respondents, identified critical shortcomings in current oversight and accountability frameworks. The most prominent gap highlighted was insufficient monitoring and support, accounting for 26.7% of the identified issues. This was followed by weak enforcement mechanisms, representing 13.3% of the concerns as indicated below. This data suggests that while frameworks may exist, their practical implementation and effectiveness are significantly hampered by inadequate monitoring and a lack of robust enforcement capabilities. This situation calls for immediate action to strengthen monitoring and support systems, as well as to bolster enforcement mechanisms to ensure greater accountability and effectiveness within civil society organizations and related frameworks.

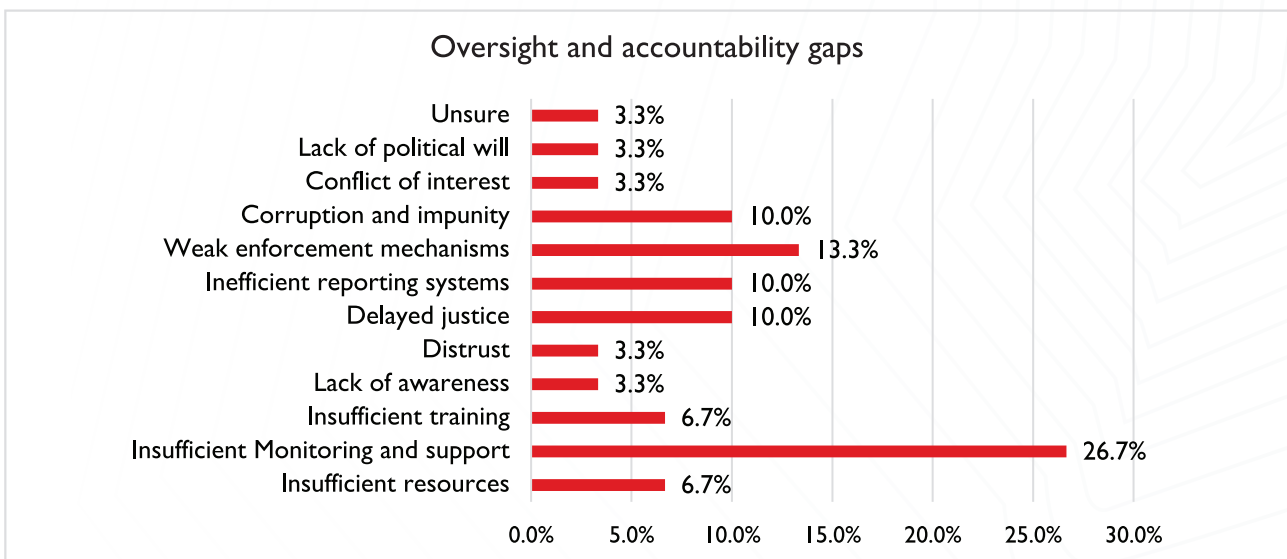


Figure 11: Gaps in oversight and accountability

The study also identified a serious gap in institutional audits, with very few being conducted. The frequency of these audits is highly variable, influenced by internal policies, legislative mandates, and the directives of external oversight entities. This suggests a potential vulnerability in ensuring consistent compliance and accountability across institutions.

To address this critical gap, institutions should prioritize the implementation of regular and comprehensive audits. This includes reviewing and strengthening internal policies, ensuring compliance with all relevant legislation, and actively engaging with external oversight bodies to align audit practices with best practices and regulatory requirements. This proactive approach is crucial for enhancing institutional integrity and mitigating potential risks.

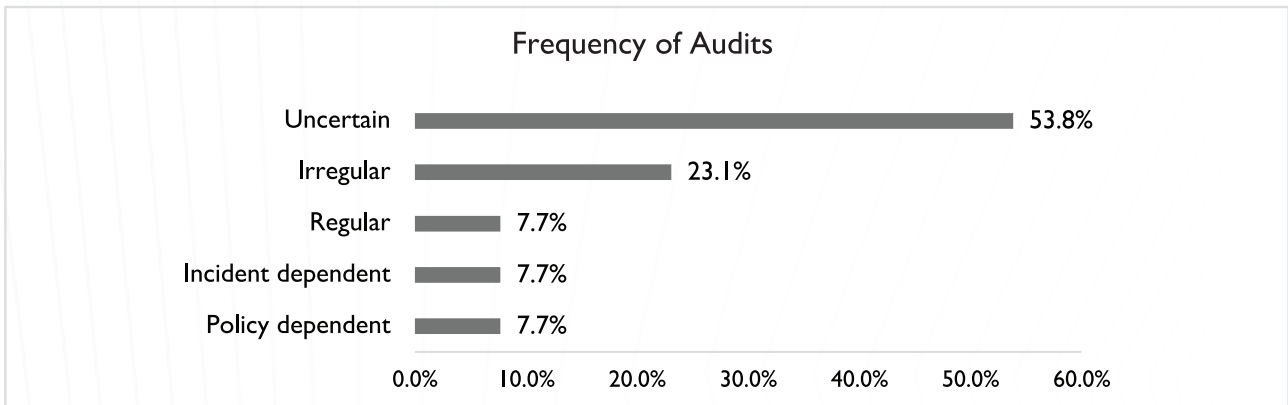


Figure 12: Frequency of audits of quasi-policing agencies

Regarding the effectiveness of existing oversight mechanisms for quasi-policing entities. The data indicates a substantial disparity in perceptions: a majority of 53.7% of respondents deemed these mechanisms ineffective, while only 38.8% considered them effective. This suggests a widespread belief that current accountability measures are not adequately implemented or enforced. Furthermore, the findings hint at a potential lack of public awareness regarding the existence and function of these oversight mechanisms. This lack of confidence in accountability, coupled with potential public ignorance, raises serious questions about the ability of these entities to operate transparently and responsibly. Findings are illustrated below.

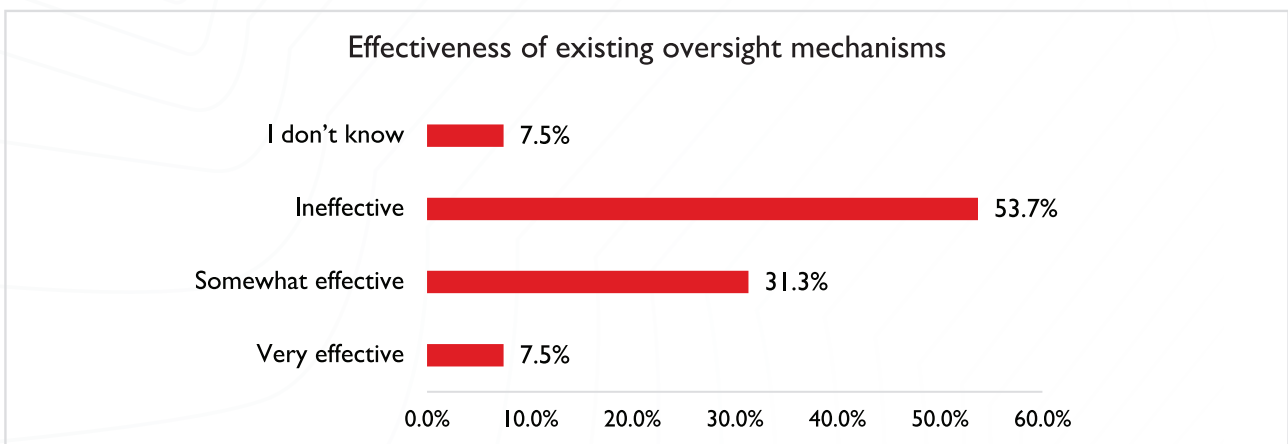


Figure 13: Effectiveness of existing oversight mechanisms

Several key findings emerge regarding how oversight institutions monitor the activities of quasi-policing units. Response was cited as the primary method for handling public complaints (61.5%) while 46.2% of respondents reported that their institutions collaborate with other agencies to address these issues as shown below. This collaborative approach suggests a recognition of the complex nature of these issues and the need for coordinated efforts across different entities.

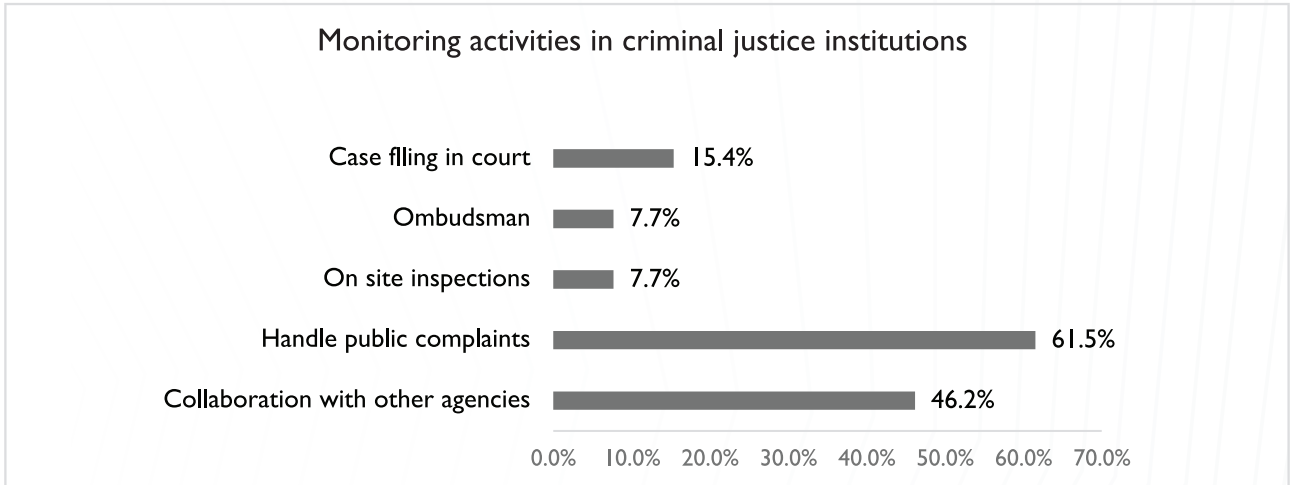


Figure 14: Monitoring and oversight processes conducted by criminal justice actors

In an evaluation of the effectiveness of oversight mechanisms for agencies, a substantial 61.6% rated these mechanisms as severely inadequate. This indicates a widespread perception of failure in the current oversight frameworks. Furthermore, 23.1% registered an average or neutral assessment, suggesting a lack of clear effectiveness or a mixed perception of the mechanisms' performance. Only a small fraction, 15.4% considered them adequate, underscoring the need for urgent reform and improvement in the existing systems. These numbers collectively highlight a systemic deficiency that demands immediate attention and strategic interventions to enhance accountability and effectiveness within these agencies as illustrated below.

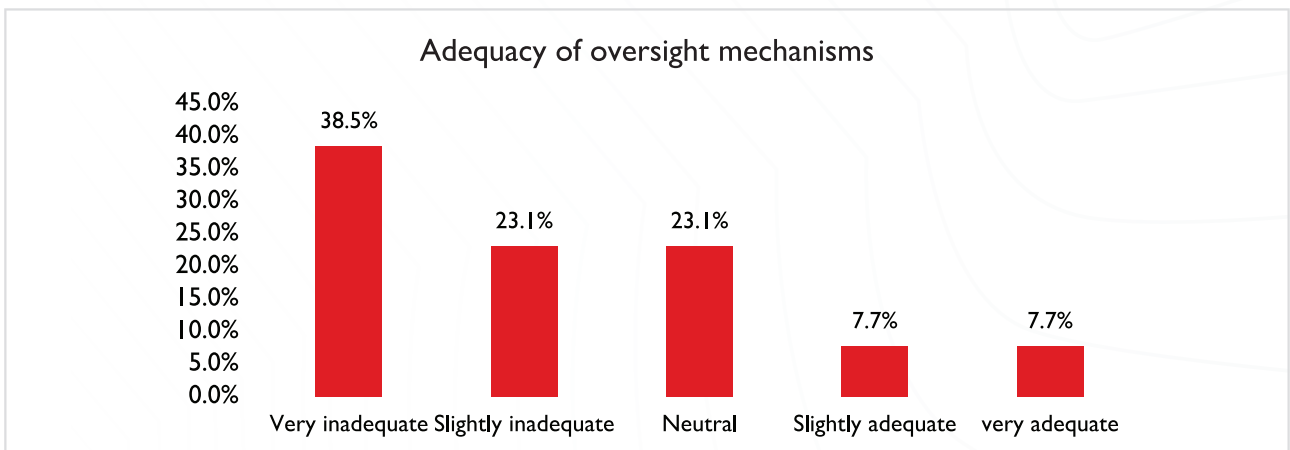


Figure 15: Adequacy of oversight mechanisms for quasi-policing agencies in Kenya

In addition, public respondents were asked about their actions to ensure accountability for violations. The survey revealed varied responses: 22.4% of respondents did not take any measures, 17% documented the violations, and 23.9% demanded accountability through public protests and petition signing. These figures highlight the public's diverse approaches to holding quasi-policing agencies accountable for human rights violations as indicated below.

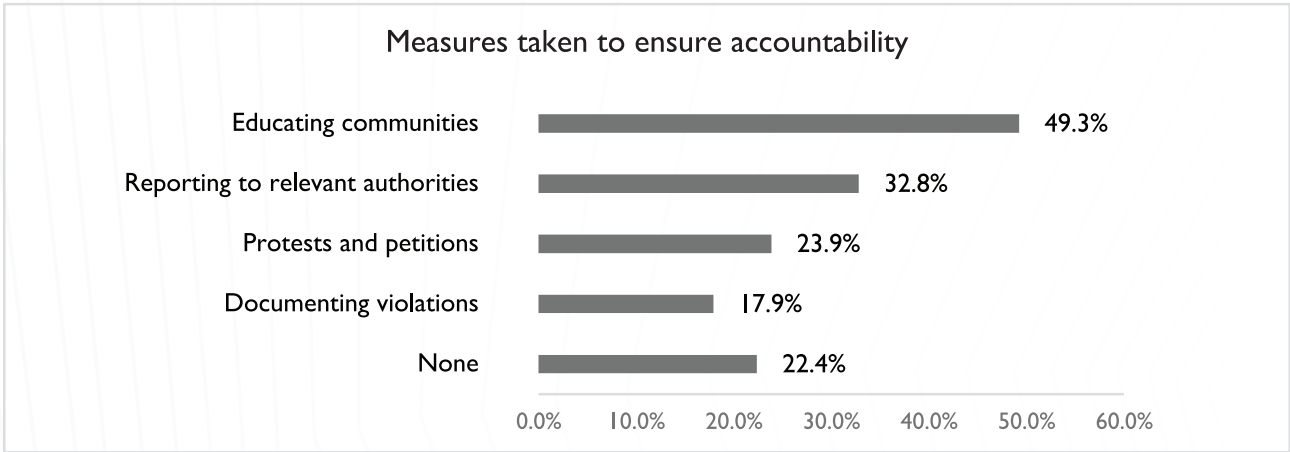


Figure 16: Measures taken to ensure accountability



Figure 17: Accountability levels

As illustrated in Figure 17 above, respondents also revealed majority of the issues they raised remained unaddressed highlighting a significant gap in the efforts to enforce accountability among quasi-policing units.

5.0 ROLE OF CIVIL SOCIETY AND MEDIA: DOCUMENTING, MONITORING AND REPORTING HUMAN RIGHTS VIOLATIONS BY QUASI-POLICING AGENCIES

5.1 Civil society

Civil society organizations (CSOs) are crucial in Kenya for upholding human rights. They actively monitor and document human rights violations, especially affecting vulnerable groups, and report these abuses to hold perpetrators accountable and advocate for victims' rights. Organizations like the KHRC and the Independent Medico-Legal Unit (IMLU) are key players in monitoring and documenting violations by entities such as city inspectorates, KFS and the KWS.

Human rights organizations have documented serious abuses by security forces in Kenya. Between 2016 and 2020, IMLU reported numerous enforced disappearances, unlawful arrests, excessive use of force, and extrajudicial executions. The KHRC has also documented extrajudicial executions by security forces, particularly in anti-terror operations in the coastal and north-eastern regions. Furthermore, Haki Africa, a Mombasa-based NGO, highlighted enforced disappearances and unlawful killings linked to counter-terrorism efforts in its 2016 report, *"What Do We Tell the Families?"* (Haki Africa, 2016). In 2019 alone, Haki Africa documented over 100 cases of enforced disappearances and unlawful detentions by security agencies, urging action from local and international bodies. These civil society organizations play a crucial role in gathering evidence to hold perpetrators accountable and advocate for justice.²⁰

CSOs also aim to increase public awareness through campaigns to educate communities about the law and their rights. For example, through community film screenings and forums, the grassroots organization Inform Action brought forced evictions by KFS to the headlines (Inform Action, 2015). While most of these evictions are for the purpose of conservation, they leave thousands of indigenous people without homes and violate their land and cultural rights (Amnesty International, 2018). Others include campaigns around police brutality and quasi-policing misconduct.²¹ During the COVID-19 curfew, for example, Amnesty International documented how people were brutally subjected to curfew implementation, causing several deaths and injuries (Amnesty International, 2020).

20 haki africa.or.ke/wp-content/uploads/2020/03/State-of-Human-Rights-at-the-Coast-of-Kenya-2019-Report.pdf

21 Nine weeks of bloodshed: how brutal policing of Kenya's Covid curfew left 15 dead | Police | The Guardian

Additionally, CSOs often offer legal support to victims of human rights violations and undertake strategic litigation to check systemic failures in quasi-policing organs by filing public interest cases against perpetrators while also undertaking institutional reforms. A case in point is Katiba Institute's challenging of the militarization of civilian functions, such as the use of such units in non-combat engagements without necessary scrutiny by Parliament. This is meant to ensure that all actions by such units are within the boundaries of the constitution (Katiba institute, 2025). Similarly, Kituo Cha Sheria,²² offers legal assistance to communities affected by forced evictions and abuses by governmental agencies. Furthermore, organizations like the National Coalition of Human Rights Defenders actively lobby for policy and legal reforms, such as expanding the mandate of the IPOA to investigate complaints against all policing agencies.

5.2 Media

The media is crucial in exposing violations and abuse of power by quasi-policing organizations. It amplifies the influence of public opinion in holding the organizations accountable through pressuring authorities to take disciplinary action. The shooting of a hawker by two policemen during riots in Nairobi's central business in June 2025 generated intense pressure, resulting in the Deputy Inspector General of police to step aside while an OCS was among those charged with the shooting.²³

Investigative reporting plays a crucial role in uncovering incidences of human rights violations globally, regionally and locally. For instance, Citizen TV uncovered extrajudicial killings,²⁴ ²⁵ and forced evictions of indigenous people from forests by KFS in Embobut and Mau Forests²⁶ (Citizen TV Kenya, 2018), exposing displacements, economic insecurity, disruption of livelihoods and amplification of pre-existing vulnerabilities (Fouad, Holloway, & Sturridge, 2024). When media outlets air cases of violations of the rule of law, they imminently amplify the voices of victims and raise public awareness which results in shaping public opinions.

By highlighting victim stories and systemic abuses, the media informs citizens about their rights and at the same time educates them on demanding accountability from security forces. A significant example is the case of widespread police brutality against protesters, which has been covered by different media outlets. This has gone a long way in galvanizing world public opinion against such abuses. Pressure is thus created on the government and the relevant agencies to look into the grievances with a view to preventing future violations.

To conclude, the media plays a crucial role in facilitating dialogue through talk shows and interviews with human rights activists, citizens, government and quasi-policing organizations in order to influence public awareness, highlighting community concerns and conflicts and influence public policies

22 <https://kituochasheria.or.ke/advocacy-governance-community-partnerships-agcp-programme/>

23

24 Sunday Live: Extra Judicial Killings. [https://youtu.be/fsI\]utwvVEE](https://youtu.be/fsI]utwvVEE)

25 Where Are Our Children? [Part 2] - Willie Kimani: The Lawyer They Didn't Like. <https://youtu.be/nTDrJHDGRWI>

26 Kenya's Ogiek people fight on against eviction from Mau Forest | Indigenous Rights | Al Jazeera

(Puddephatt, 2006). Media as a forum for educating the public, has the ability to enhance collaborative efforts with regional and international civil organizations which amplifies the impact of media reports. It is therefore a key tool in advocating for policy frameworks and systemic reforms since it is able to highlight gaps in oversight mechanisms.

5.3 CSO's perceptions of quasi-policing agencies

Besides upholding human rights and accountability mandates, most CSOs emphasized their roles in enhancing peace and facilitating conflict resolution, providing civic education to communities, improving governance within quasi-policing agencies, conducting research to inform human rights policies, and representing victims of human rights abuses. The figure below is a summary of their key areas of focus.

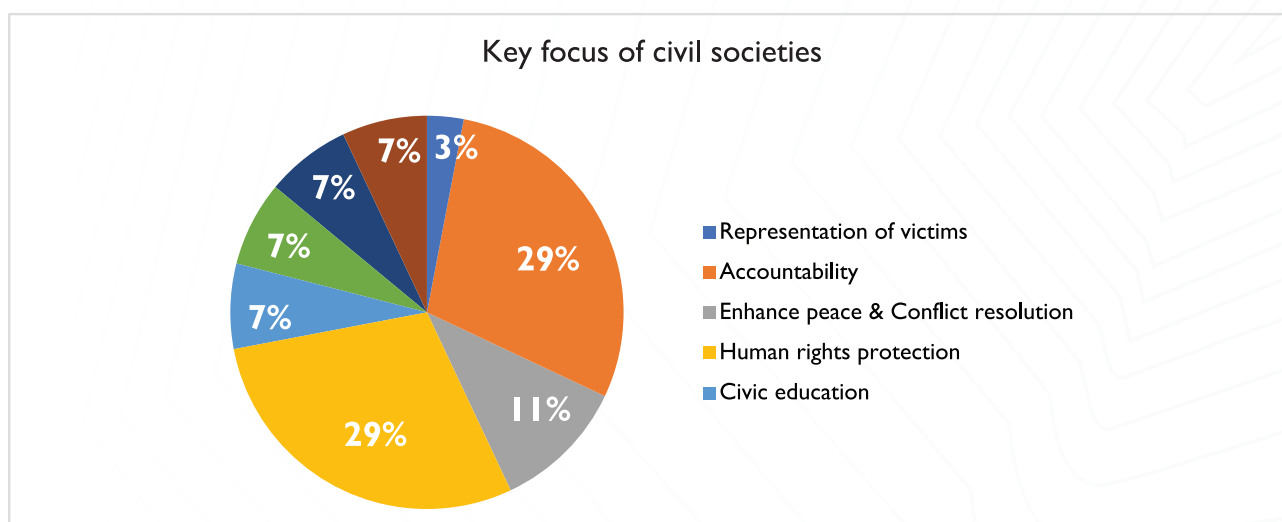


Figure 18: Key focus of civil societies

From a civil societies' vantage point, quasi policing bodies are regarded as perpetrators of human rights violations when carrying out their duties. They are also perceived to lack integrity due to allegations of corruption involving officers who accept bribes. Specific agencies, such as the city inspectorate (Kanjo) and the KFS, were frequently mentioned in relation to human rights violations.

Other negative perceptions included public indifference towards these agencies, a disregard for public opinion by their officers, and views that they are disruptive, inefficient, and unreliable, with insufficient oversight to ensure accountability. Despite these predominantly negative views, some respondents noted a positive perception of these agencies. The findings illustrate a complex public perception landscape regarding quasi policing agencies, characterized by significant concerns over human rights violations and corruption. Findings are presented below.

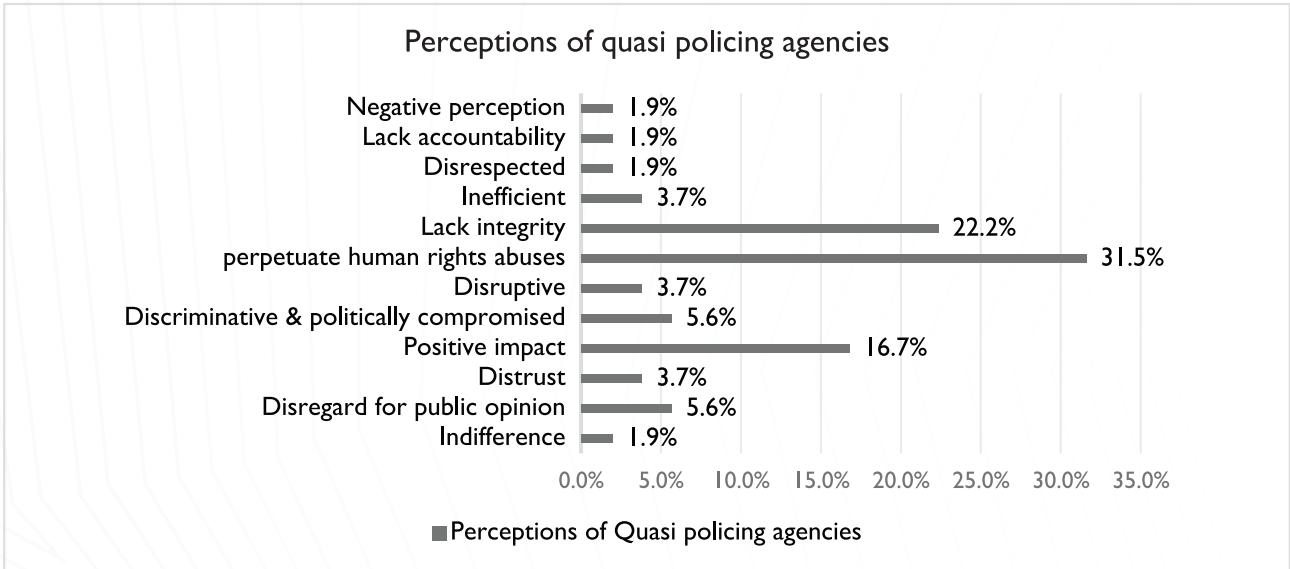


Figure 19: Public perception of quasi policing agencies

To evaluate the adherence of quasi policing agencies to human rights principles, respondents from civil society were asked about their perceptions on the agencies' compliance in their operations. The findings revealed a nearly unanimous perception regarding the adherence to human rights, with 51.9% of respondents indicating no adherence and 33.3% reporting weak adherence levels. Overall, there exists a significant gap of 74.1% between perceptions of non-adherence and adherence, as illustrated in the accompanying data below.

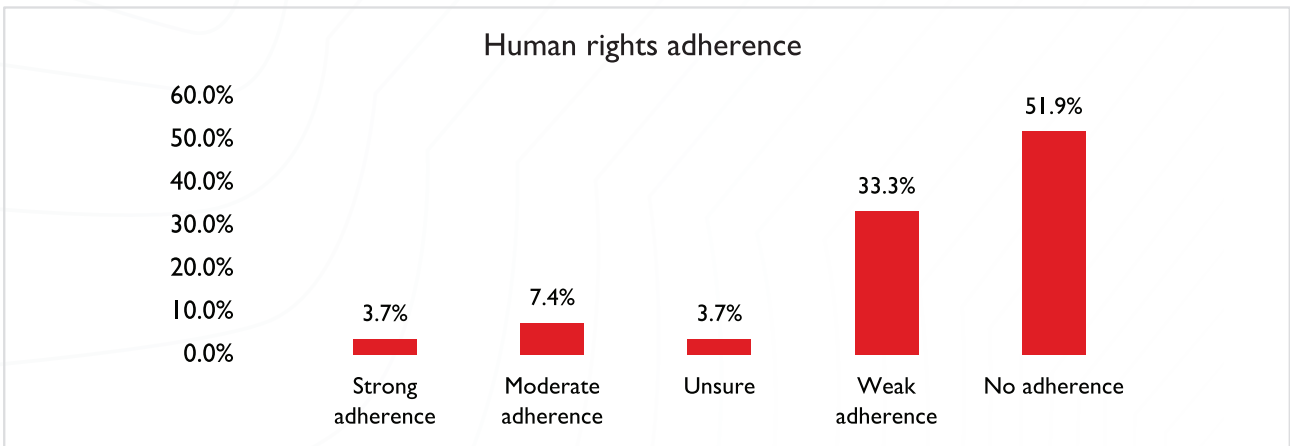


Figure 20: Adherence levels to human rights by quasi-policing agencies

Civil society respondents identified various quasi-policing bodies as human rights violators, with all agencies implicated to some degree. The city inspectorate was reported to have the highest frequency of violations, accounting for 36.6% of the reported incidents. KFS and the KWS followed, both with a reported violation frequency of 26.8%. The KCGS was mentioned less frequently, with a rate of 7.3%. This data suggests a significant disparity in the frequency of reported human rights violations across these different agencies, with the city inspectorate being the most frequently cited violator, followed by the KFS and KWS, and the KCGS being the least frequently cited. The findings are as shown below.

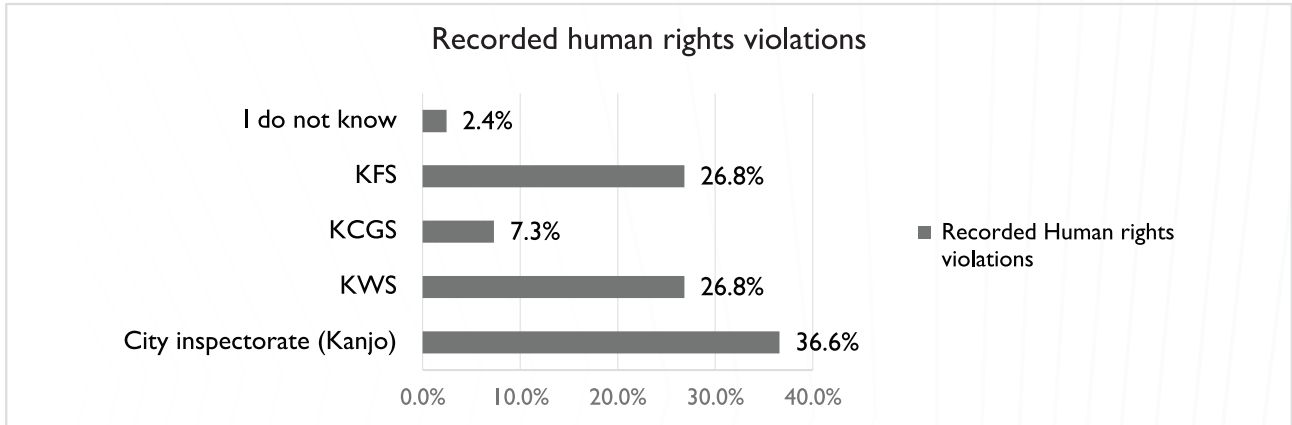


Figure 21: Recorded incidences of human rights violations by agency

The study examined the role of CSOs in ensuring justice and support for victims of human rights violations. The findings reveal that CSOs facilitate victims' access to justice by guaranteeing their right to report violations and present evidence freely, providing legal representation and guidance on filing cases and seeking compensation, and referring them to witness protection programs. Furthermore, CSOs contribute to thorough investigations by collecting witness testimonies and forensic reports. In critical situations, CSOs may petition courts for urgent interventions, such as filing habeas corpus applications for unlawfully detained individuals.

The most significant consequence of violations according to the CSO interviewed is primarily economic in nature. This economic impact manifests through several key channels, including the loss of property, the destruction of livelihoods, forced displacement of populations, and the pervasive issue of corruption. These findings highlight the interconnectedness of human rights violations and economic stability, demonstrating how such violations can undermine economic well-being and societal development.



Figure 22: Impact of human rights violations to communities

The study also attempted to identify regions or communities most vulnerable to human rights violations by the entities under study. Nairobi came top with the highest frequency at 26.5%. Most of these incidents were reported in informal settlements like Kibera, Mathare, Mukuru, and Korogocho, as well as in the Nairobi Central Business District (CBD), where hawkers operate. Nakuru County followed with a second-highest rate of 11.8%. Elgeyo Marakwet recorded an 8.8% frequency of mentions regarding human rights violations, with respondents specifically citing locations such as Embobut Forest. The findings were as below.

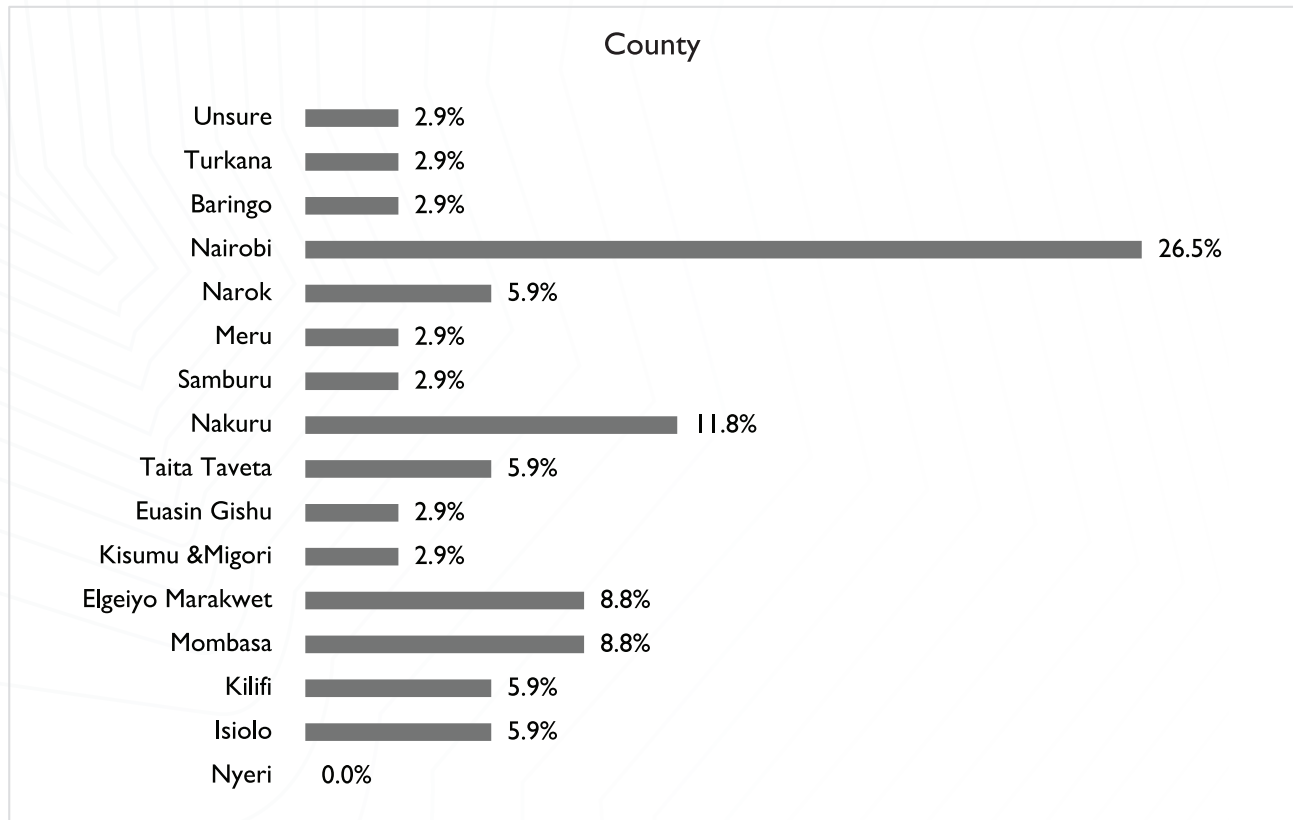


Figure 23: Counties that are more vulnerable to human rights conflict.

5.4 Insights on enhancing CSOs role

Several recommendations were suggested that could potentially assist CSOs to effectively prevent and address human rights violations. The majority of responses emphasized on public awareness and civic education, at 29.2% followed by advocacy for reporting, policy, and legal reform at 20.8%. Additionally, 18.8% highlighted the importance of monitoring, legal aid, litigation, and justice support, while 16.7% focused on documentation and reporting.

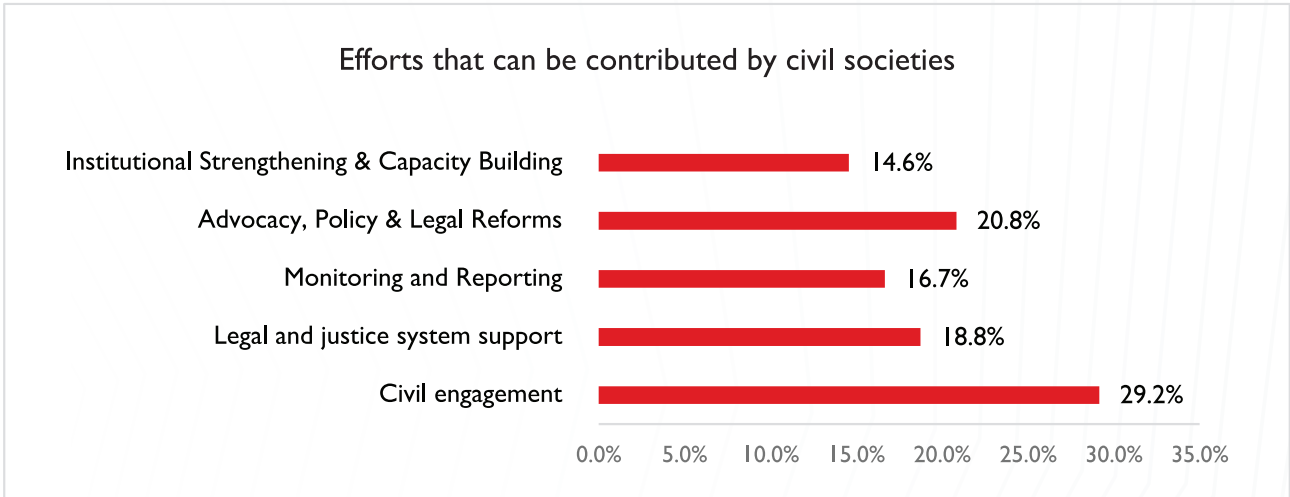


Figure 24: Efforts contributed by civil societies

Responses to open-ended question about the role of global and regional entities in assisting civil societies in Kenya to uphold human rights standards, revealed a critical need for funding and financing, which received a 25% response rate. Additionally, capacity building and training accounted for 18.8%, while advocacy and accountability garnered 16.7%. Policy and legal support, as well as networking and collaboration, each represented 8.3%.

The insights indicate significant areas where global and regional entities can enhance their support for civil societies in Kenya to uphold human rights standards. To effectively address human rights violations, it is crucial to provide funding and infrastructure dedicated to tracking these issues. This includes establishing training and capacity-building programs for civil society groups, which will empower them to advocate more effectively.

International advocacy plays a vital role in this context; therefore, supporting the drafting and lobbying for stronger human rights policies and frameworks is essential. Facilitating connections with international human rights networks can foster solidarity and protection for local activists, while also providing safe houses, legal support, or emergency funding for those at risk.

Moreover, sharing international protocols and commitments by the government can enhance accountability and transparency. It is equally important to share expertise that can bolster local efforts in addressing human rights concerns. Funding accessibility initiatives for persons with disabilities (PWDs), such as sign language interpreters and accessible complaint mechanisms, ensures inclusivity in advocacy efforts and increasing research engagement will also inform evidence-based responses to human rights challenges. Strengthening digital and media advocacy will further amplify these efforts, allowing civil societies to reach broader audiences and mobilize support effectively. These findings are illustrated below.

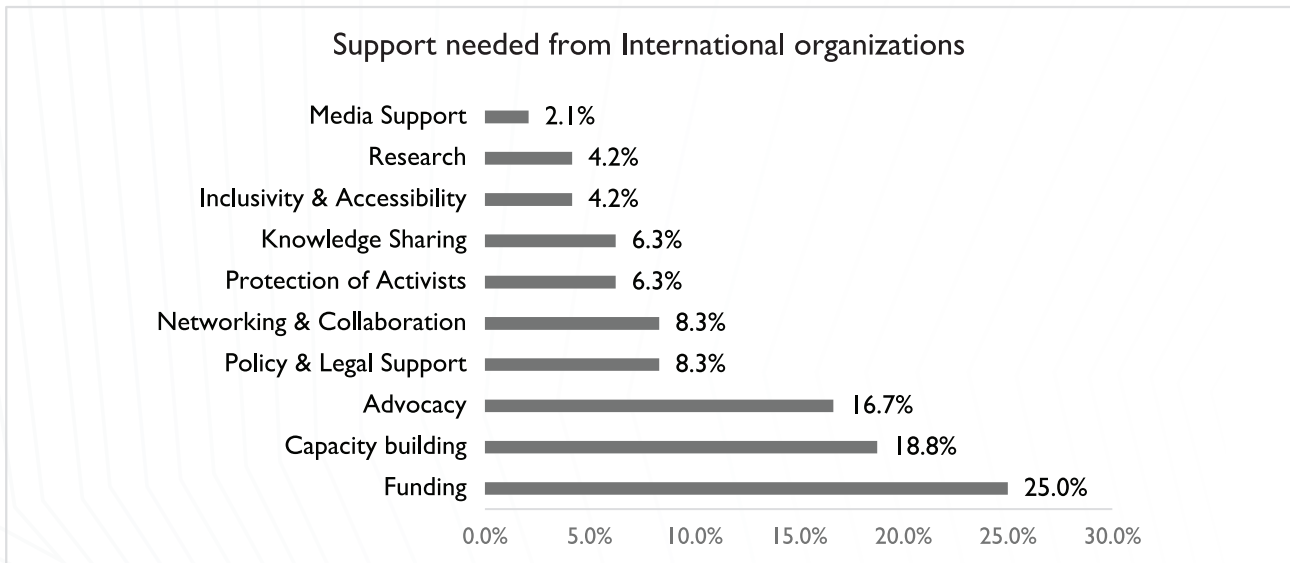


Figure 25: Support needed from international partnerships

On whether best practices from other countries could help to improve accountability and oversight in quasi-policing agencies, a significant percentage of the respondents (31.4%) expressed uncertainty, indicating either a limited awareness of them or doubts about their applicability in Kenya. However, the majority of respondents suggested that adopting international best practices would be beneficial. These recommended practices include those currently implemented in the USA, where it is mandatory to document arrests through video recording.

This practice ensures that the time of arrest is accurately recorded and that the rights of offenders are communicated effectively, thereby protecting them and facilitating the reporting of any misconduct. Other suggested practices encompass the introduction of accountability processes such as town hall meetings and parliamentary inquiries, which are standards observed in both the UK and the USA.

Additionally, respondents advocated for the adoption of public participation models inspired by Scandinavian countries, as well as inter-agency collaborations similar to those seen in Ghana. Other noteworthy practices were drawn from countries like Brazil and Colombia. Other suggestions include institutional reforms aimed at improving and strengthening independent oversight bodies. This can be achieved through the establishment of these bodies, granting them legal powers to investigate, prosecute, and recommend actions against officers who violate human rights. It is important to also ensure government supervision of agencies to maintain adherence to their mandated roles.

Furthermore, responses indicated that Kenya could benefit from adopting existing anti-corruption models and measures, such as those found in Scandinavian countries. Benchmarking successful cases and applying diplomatic pressures were also suggested as effective strategies. Another area for improvement highlighted by respondents was community engagement.

While some initiatives are currently implemented in Kenya, there is a consensus that these efforts need enhancement. Establishing community advisory boards would increase transparency, and introducing mandatory public engagement forums would further facilitate this process. These findings are illustrated below.

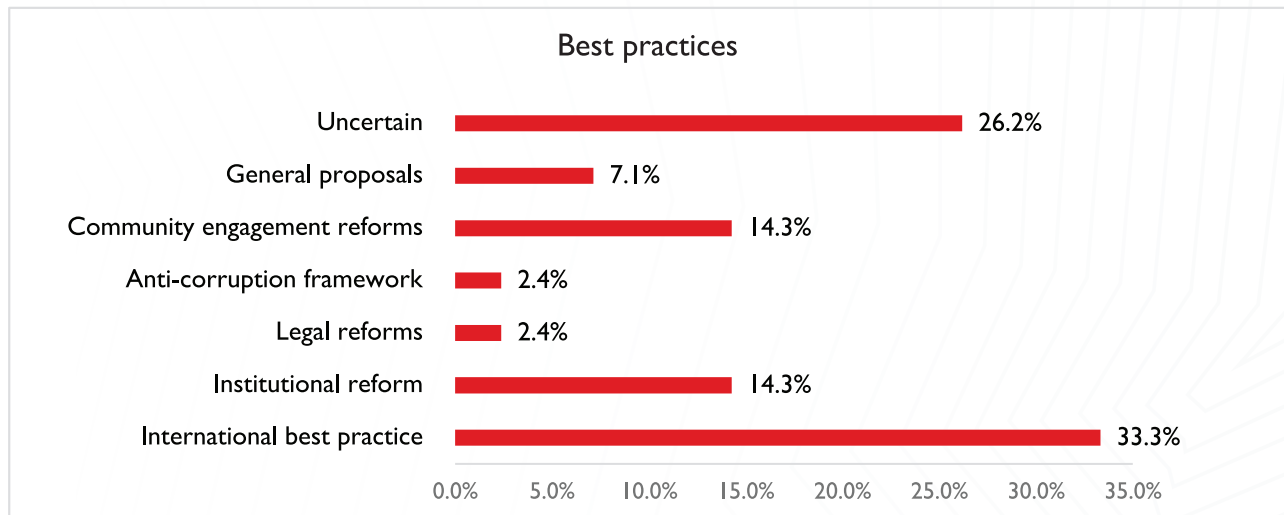


Figure 26: Best practices that may be applicable to quasi policing agencies in Kenya

Further, respondents indicated that civil society organizations can enhance their collaboration with government institutions to promote accountability and protect human rights through various strategies. A key approach is engaging in stakeholder activities and dialogue, which includes working alongside existing oversight mechanisms to facilitate information sharing and advocate for necessary policy reforms. Additionally, fostering community collaboration by establishing citizen oversight boards was highlighted as a significant mechanism for enhancing civic engagement. Another important suggestion was for civil societies to actively participate in legislative processes, including drafting new policies and amending existing legislation to ensure that human rights considerations are integrated into the legal framework.

Moreover, respondents emphasized the need for extensive capacity building through training programs and collaborative status reporting. This would empower civil society organizations to operate more effectively within their communities. Furthermore, there was a consensus on the importance of conducting further research to facilitate knowledge sharing among stakeholders, ensuring that findings and reports are publicly accessible.



Figure 27: How CSO's can effectively collaborate with the government

As shown in Figure 27 above, some responses collected were categorized under cross-sectoral partnerships, including suggestions for government funding of oversight bodies and CSOs to fast track the efficiency of access to justice and rule of law. Other responses highlighted the need for CSOs to continue to advocate for human rights protections, similar to the efforts of the KHRC, and to engage in petitions and written submissions. However, some respondents expressed uncertainty about how CSOs can enhance collaborative efforts with government institutions.

6.0 BARRIERS TO EFFECTIVE ACCOUNTABILITY AND EFFICACY OF EXISTING LEGISLATION AND POLICY FRAMEWORKS

6.1 Overview of barriers

Numerous barriers exist to the effective accountability and oversight of quasi-policing organizations' adherence to human rights standards. The challenges stem from a variety of reasons including social factors, non-adherence to the rule of law and operational factors. Failure to adhere to the rule of law is the biggest challenge facing oversight bodies. In addition, ambiguity in regulations creates room for weak oversight and accountability efforts. For instance, the deployment of quasi policing units in internal security operations is sometimes conducted without adequate oversight, hence raising concerns regarding the legitimacy of their acts and the conformity of these deployments to constitutional and legal mandates. In these circumstances, overlap in mandates is likely to occur.

Often, limited resource allocation to oversight bodies may severely constrain oversight mechanisms. Stakeholders note that the biggest challenge to effective oversight bodies is poor funding and budgetary constraints, resulting in resource shortfalls, inadequate staffing and high employee turnover thus leading to lack of sufficient capacity to address instances of human rights violations.²⁷ The lack of sufficient resources and funding often leads to reduced capacity by the oversight institutions for outreach activities concerning relevant mandates and reporting mechanisms available, thereby perpetuating a culture of violations and non-reporting.

Institutional culture may also make it hostile for whistle-blowers within quasi-policing agencies to report incidences of human rights violations. A practice termed as the "blue code of silence"²⁸ within the agencies makes it extremely challenging to effect the identification of violators of human rights, thus denying victims justice (*Titus Ngamau, Musila Katitu v Republic [2020] eKLR, 2018*). Fear of intimidation, harassment and illegal arrests dissuade victims, civil societies, human rights defendants and journalists from seeking redress. Additionally, the restricted access to some of the policing operations in conflict zones or forested areas limits documentation and reporting by civil societies, the media and oversight bodies.

27 Civilian Oversight System and The Regulation of Police Work in Kenya: The Case of Independent Policing Oversight Authority. <https://erepository.uonbi.ac.ke/handle/11295/104978#:~:text=The%20study%20established%20numerous%20challenges,limitations%20in%20the%20existing%20legal>

28 Police Reforms: Killing the Leviathan, a Case for Command Responsibility for Police Superiors in Kenya <http://dx.doi.org/10.2139/ssrn.4312492>

6.2 Public perceptions on barriers

Public perception reveals significant challenges to accountability, with a lack of transparency and independent oversight, and unprofessionalism and integrity standards, both cited by 58.2% of respondents as major barriers. These concerns are closely followed by impunity at 49.3% and political interference at 38.8%. The findings demand immediate action. Policymakers, civil society organizations, and relevant stakeholders must prioritize reforms to address these critical issues. This includes strengthening transparency and oversight mechanisms, establishing robust integrity standards, combating impunity, and safeguarding accountability processes from political interference. Implementing these reforms is crucial to restoring public trust and ensuring that those in positions of power are held accountable for their actions. Findings are illustrated below.

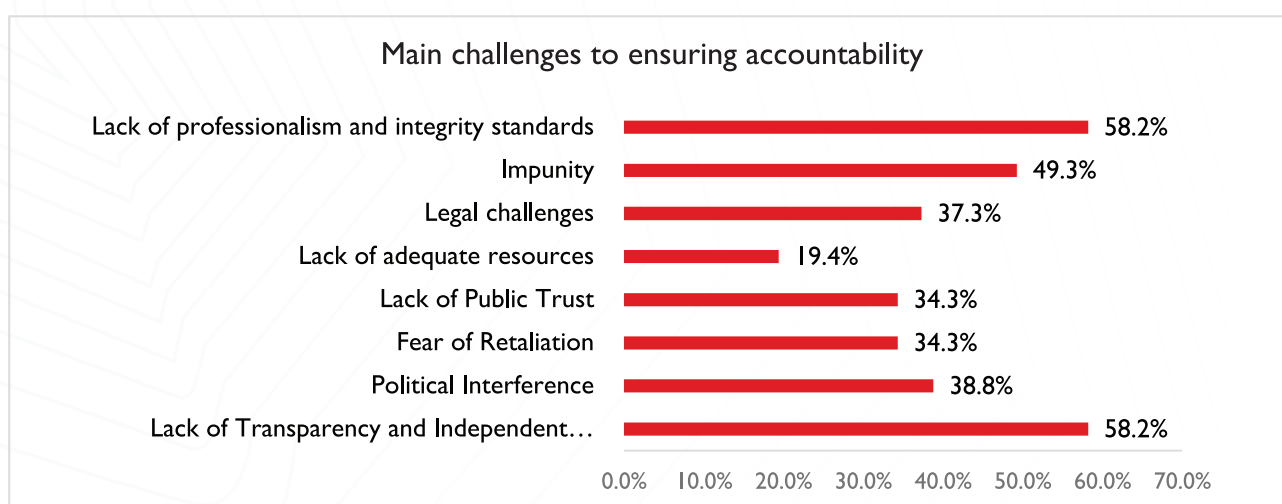


Figure 28: Challenges to ensuring accountability of quasi policing agencies

But according to the justice actors, legal challenges were cited as the primary barrier, with a rating of 28.6%. This category encompasses issues such as inadequate legal frameworks and expensive legal processes. Institutional failures follow closely at 23.8%, highlighting non-cooperation from agencies and weak internal disciplinary systems.

Impunity and corruption rank third at 19%, encompassing concerns about cover-ups, threats against whistleblowers, and the “blue code of silence” that discourages reporting misconduct. Additional challenges include resource constraints, a lack of awareness among stakeholders, and weak oversight mechanisms. These findings highlight the complex nature of the obstacles faced by those working to uphold human rights in these contexts.

Addressing the primary barrier of legal challenges requires immediate attention to strengthen legal frameworks and streamline legal processes. This could involve legislative reforms, increased funding for legal aid, and training for legal professionals. Simultaneously, efforts must be made to combat institutional failures by promoting inter-agency cooperation and strengthening internal disciplinary systems. Furthermore, tackling impunity and corruption demands robust measures to protect whistleblowers, investigate misconduct, and dismantle the “blue code of silence.” By prioritizing these actions, we can work towards creating a more just and accountable environment for all.

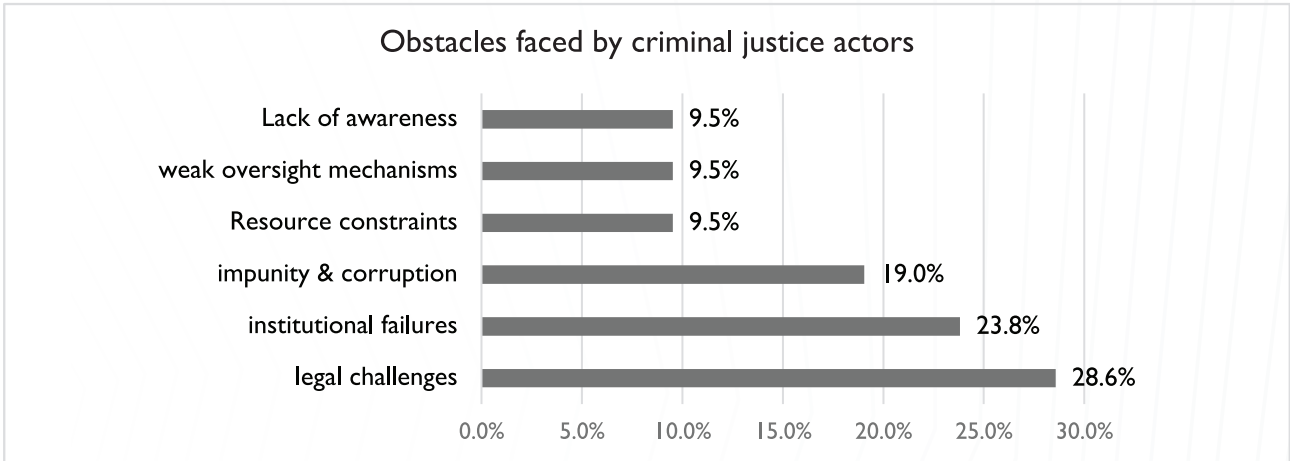


Figure 29: Challenges facing criminal justice actors

The data reveals a significant concern regarding the reporting of human rights violations. A substantial majority, 82.1%, believe that such violations are frequently unreported, indicating a widespread perception of underreporting. Conversely, only 13.4% of respondents suggest that reporting is rare. These figures underscore the need for enhanced mechanisms to encourage and facilitate the reporting of human rights abuses, ensuring accountability and justice for victims.

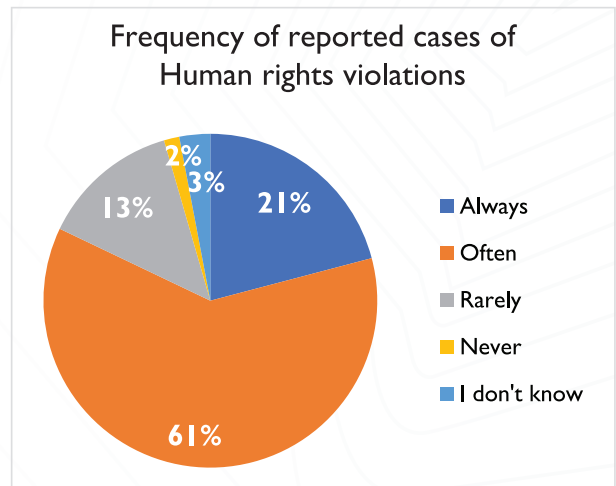


Figure 30: Frequency of reported cases of Human rights violations

A significant majority of communities remain largely unaware of their rights, at a substantial 62% compared to 26% who are aware. This highlights a pressing need for extensive civic education to enhance understanding of both the functions of quasi-policing agencies and the rights of community members. These findings are illustrated below.

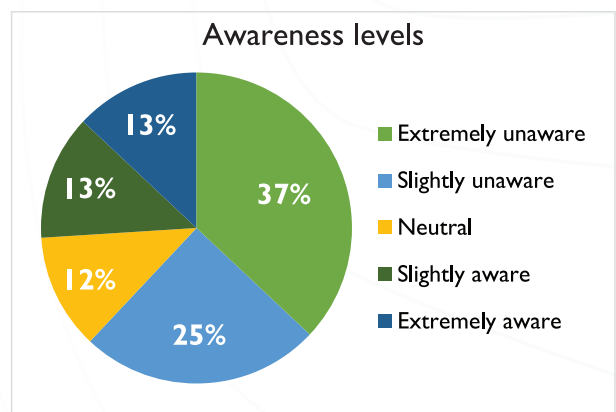


Figure 31: Level of awareness of human rights within communities

Challenges to accountability within the Nairobi County Inspectorate for example are multifaceted, hindering effective investigation and redress for human rights violations. These challenges include resource limitations, insufficient human rights training, political interference, corruption, fear of retaliation, and cultural biases. The most significant obstacle is corruption and bribery, accounting for a substantial portion of the issues.

The numbers represent the percentage breakdown of the identified challenges: Corruption and bribery constitute 37.5% of the challenges, indicating a significant systemic issue. Institutional gaps and fear of retaliation each represent 25%, highlighting the impact of structural weaknesses and intimidation. Political interference is noted at 12.5%, demonstrating the influence of external factors on the Inspectorate's operations. These findings are illustrated below.

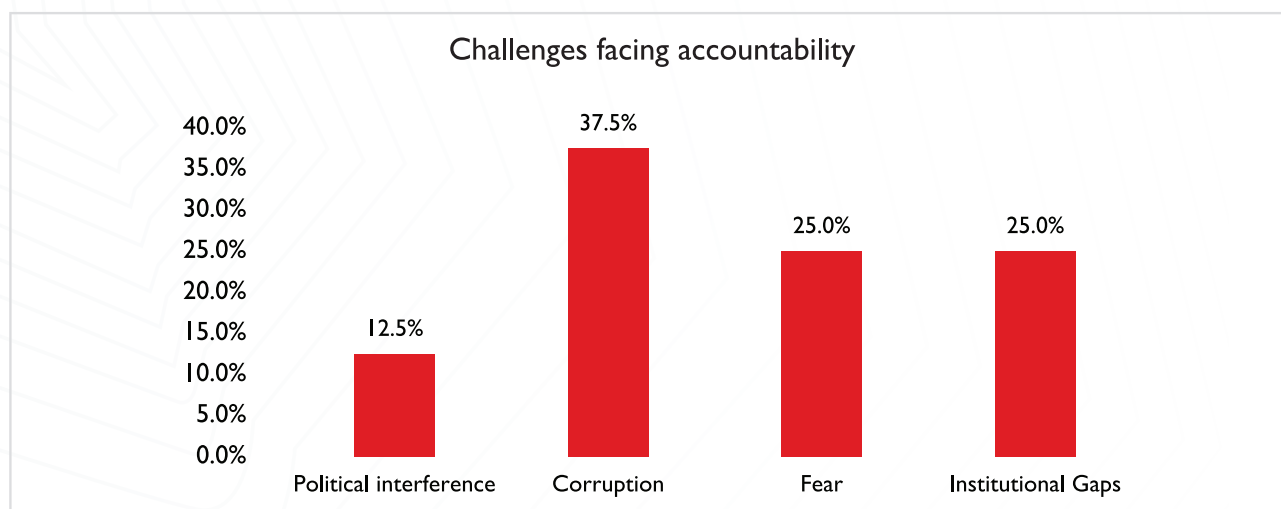


Figure 32: Challenges facing accountability of City County agency

Pertaining to the effectiveness of the existing accountability measures within the Nairobi County inspectorate, responses were mixed. Some believed these measures had led to improvements in officer conduct and a reduction in human rights violations. They attributed this progress to the efforts of CSOs in monitoring operations and filing legal suits. However, there were those who disagreed, arguing that systemic issues remain unaddressed due to a lack of transparency and political interference. The majority reported that the absence of an independent oversight body for county administrations has weakened enforcement mechanisms, rendering existing internal processes insufficient. This situation has contributed to a continued lack of public trust in the agency.

7.0 CONCLUSION AND RECOMMENDATIONS

7.1 Conclusion

Based on the research findings and the literature reviewed, it is evident that despite the progressive Constitution of 2010, legislation and the establishment of independent oversight bodies, severe human rights violations by quasi-policing agencies are still widespread in Kenya. This reality starkly contravenes both the spirit and letter of our Constitution. The case of Brian Odhiambo serves as a tragic illustration; he went missing in January 2025 after allegedly being picked by KWS wardens at Nakuru National Park, and to date, his whereabouts remain unknown. Six KWS officers were interdicted, and the Director of Public Prosecutions recommended charges against them. This case is not isolated; numerous similar incidents have been reported where individuals have suffered at the hands of quasi-policing agencies without adequate recourse for justice.

Moreover, there is a notable absence of an effective oversight body tasked with monitoring the operations of these quasi-policing bodies. This lack of oversight exacerbates the situation, allowing for continued abuses with little fear of repercussions. In addition to direct human rights violations, there has also been alarming political interference in policing matters. Such interference has led to forced evictions in various regions across the country, resulting in deaths, injuries and homelessness for many affected individuals. The combination of inadequate oversight mechanisms and political meddling creates an environment where human rights are routinely violated. It is imperative that reforms are instituted to strengthen accountability measures for law enforcement agencies and ensure that victims like Brian Odhiambo and many more receive justice. Only through comprehensive oversight and adherence to constitutional principles can we hope to protect human rights effectively in Kenya.

7.2 Recommendations

This study proposes a number of recommendations to be considered for implementation and follow up as follows;

a. Quasi-policing agencies

- i. Adopt technology, such as body cameras and CCTV, GPS and digital tracking systems, e-governance and digital reporting platforms to enhance compliance and allow the public to report misconduct cases conveniently.
- ii. Comprehensive training for quasi-policing officers to enhance investigative competence and build community trust
- iii. Establish citizen oversight boards to foster community dialogues and civic engagement.

- iv. Ensure full disclosure of procedures, policies, and budgets through the publication of financial reports, operational procedures, and performance audits to enhance transparency.
 - v. Decentralize oversight functions to foster a more accommodating environment for both the public and entities.
- b. Legislature**
- i. Establish a robust, agency-wide independent oversight body to ensure that all agencies comply with the rule of law on human rights. Alternatively, expand the mandate of an existing body, such as IPOA, to encompass oversight over all agencies.
 - ii. Ensure adequate budgetary allocations for the oversight bodies to facilitate them in carrying out their mandate.
- c. Judiciary**
- i. Implement structural reforms, including strengthening oversight mechanisms and accountability frameworks, alongside comprehensive training for judicial staff on handling cases involving human rights violations related to quasi-policing bodies.
- d. Executive**
- i. Coordinate the introduction of a framework to establish a multi-sectoral team to co-create content-specific intervention strategies to energize a human rights approach.
 - ii. Strengthen partnerships with stakeholders through regular communication, joint projects, and shared resources.
 - iii. Propose stricter sanctions for violations and show goodwill in enforcement of infractions.
 - iv. Fully implement the Rapid Reference Guide by the ODDP, which is designed to facilitate efficient handling of cases under the Prevention of Torture Act (POTA).
- e. Civil Society Organizations**
- i. Promote knowledge sharing among stakeholders through further research and ensure public accessibility of findings and reports.
 - ii. Implement comprehensive civic education to raise public awareness regarding rights, the roles of quasi-policing entities, and misconduct reporting procedures.
 - iii. Increase legal aid for victims of human rights violations by quasi-policing entities.
 - iv. Advocate for policy adjustments to align human rights standards and protocols with current needs.

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