

# Police Perceptions, Attitude and Preparedness in Managing Public Assemblies

Dr Duncan Onyango and Dr Petronila Otuya

## Introduction

The ability to assemble and act collectively is vital to democratic, economic, social and personal development; to the expression of ideas and to fostering engaged citizenry. An assembly is an intentional and temporary gathering in a private or public space for a specific purpose and includes demonstrations, inside meetings, strikes, processions, rallies, or even sits-in that play a vibrant role in mobilising the population and formulating grievances and aspirations, facilitating the celebration of events and influencing public policy (Kiai 2012). Freedom of peaceful assembly, though limited in some instances as stipulated by the Kenyan Constitution (Article 37) and other relevant laws, is a fundamental human right that allows persons and groups to organise and participate peacefully together and publicly convey their positions and opinions. It allows citizens to protest and demand action by the authorities without fear of threat, harassment, intimidation, reprisal or arrest. It also gives persons power to gather publicly or privately and collectively express, promote, pursue and defend their common interest (Constitution of Kenya 2010: Article 37).

Peaceful public demonstrations are a right in Kenya although the Constitution -- in Article 24 -- provides that the right may be limited to the extent that the limitation is provided by law and then only to the extent that the limitation is reasonable and justifiable in an open and democratic society, taking into account other listed factors including the availability of less restrictive means to achieve the purpose of the limitation. Lawful purposes for which the right to freedom of assembly may be limited are expressed in statute, including the Penal Code Cap 63 and the Public Order Act Cap 56 of 2012. Section 78 of the Penal Code defines unlawful assembly as a situation in which three or more persons assemble with intent to commit an offence or cause persons in the neighbourhood to fear that they are likely to commit a breach of the peace or provoke other persons to commit a breach of the peace. Section 8 of the Public Order Act provides that an assembly may be stopped or prevented when there is clear, present or imminent danger of a breach of the peace or public order.

International, regional and national laws --which Kenya is a party to-- provide for the right to peaceful assembly and obligate police to ensure public safety and the protection of the lives and property of citizens during protests. Article 11 of the African Charter on Human and Peoples' Rights provides for the right of people to freely assemble with others and that the right shall be subject only to necessary restrictions provided for by law, in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedom of others. Article 21 of the International Covenant on Civil and Political Rights

(ICCPR) also provides that no restrictions may be placed on the exercise of the right to freedom of assembly other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

The Bill of Rights (Chapter 4) and Article 37 of the Constitution provide for freedom of peaceful assembly and states that “every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities”. The State has an obligation to respect, protect and fulfil the rights of those peacefully assembled and unarmed, including by protecting them from third parties provocateurs or violent elements (National Police Service Act 2011: Part III, Section 24). As outlined in the National Police Service Act (2011), police are required to provide assistance to the public when in need, protect life and property, and comply with the constitutional standards of human rights and fundamental freedoms (Constitution of Kenya 2010: Article 24 (1)).

Respect for human rights has become an essential component of policing in Kenya. The National Police Service (NPS), which comprises the Kenya Police Service (KPS), the Administration Police Service (APS) and the Directorate of Criminal Investigation (DCI) (Constitution of Kenya 2010: Article 243; NPS Act 2011: Part III, IV and V) is supposed to uphold human rights in execution of duty and to be accountable. It is notable that like the rest of the world, policing in Kenya has changed and become more complex, knowledge-based, professional and continues to evolve (Flynn and Herrington 2015). This includes through measures to regulate the use of force and use of weapons by police as provided in the Sixth Schedule of the NPS Act and Chapter 58 of the Service Standing Orders.

Despite the legal restrictions on the use of force, there still exist significant challenges on the regulation of use of force, particularly in response to protests. For example, in 2016, at least 5 people died and 60 were wounded by gunfire as police tried to obstruct peaceful protests in Nyanza region (Kenya Human Rights Commission 2017). At the same time, police response to protests following the disputed August 2017 presidential election and October 2017 repeat presidential election, left at least 214 people shot or beaten to death by the police (Ng’ethe 2017). Many more sustained gunshot wounds, debilitating injuries such as broken bones and extensive bruising as a result of police violence.

It is notable that police use of force against protesters took place despite on-going police reforms, which had aimed at making the police more professional in the management of public order. The reforms also sought to enhance civilian accountability for the service through the creation of the Independent Policing Oversight Authority (IPOA). It is against this background that this paper assesses the police culture in public order control. It does this by examining the structure and leadership in public order control as well as public perception of police public order control in Nairobi County.

An exploratory research design was adopted to gather opinion on police effectiveness in public order control. The data was collected from police officers within Nairobi County and members of the Kibera community that have interacted with the police during assemblies. The research was conducted between 25 November and 10 December 2018. There are approximately 5,000 police officers within the 34 police stations in 12 divisions of Nairobi County Regional police command. During public order control operations, each police division allocates at least 10 officers for such an operation in what is known as 1+1+8 in the NPS terms, that is, one Inspector, one Non-Commissioned Officer (NCO) and eight constables. In extremely large events, where the general duty police are overwhelmed, police deploy anti-riot standby officers known as *Kifaru* (Swahili for buffalo) while General Service Unit (GSU) personnel are called upon to assist.<sup>4</sup>

Simple random sampling technique was adopted to select a sample of 124 respondents from police officers within the 12 divisions in Nairobi Region police command providing a 95 per cent confidence level, to ensure that the sample represents the population. From the study findings, majority (73 per cent) of the respondents were male while 27 per cent were female. The respondents were relatively young with over 60 per cent being below 35 years, of the rank of constable, with secondary level education and had served in the NPS for less than 15 years.

Purposive sampling was used to identify key informants for interviews from police training campuses in Nairobi County, staff officers responsible for operations in Nairobi Region police command and other stakeholders including civil society representatives. A focus group discussion (FGD) was conducted with ten members from Kibera community in Nairobi.

The findings of this study are significant to various stakeholders in the security sector, civil society and the public both in Kenya and across developing nations where the challenges of public order control are remarkably similar. It will also be an eye-opener to the NPS in terms of operational effectiveness and efficiency, policy makers in the security sector including the National Police Service Commission (NPSC), IPOA, the Ministry of Interior and Coordination of National Government, police commanders and police campuses instructors and researchers.

After this introduction, this paper reviews literature on police culture, structure, leadership and perceptions in relation to public order control. It then analyses the research results and makes relevant policy conclusions.

## Police culture, leadership and perception

Maintenance of public order is a complex activity involving “chaos and confusion” where police commanders make decisions under pressure and the consequences of those decisions may be serious, including death or serious injury to members of the public or

<sup>4</sup> An informal interview with a station commander in Nairobi County, November 2018; and records from Nairobi Area police headquarters, November 2018.

police officers themselves (Barham 2016:13). Although there is a logical assumption that public order policing always involves violence, many assemblies take place peacefully and police commanders demonstrate their professional expertise, discretion and judgement through their actions and responses (Barham2016: 14). However, these police actions are heavily guided by the culture, organisational structure and leadership of the police, as well as public perception of officers' actions.

## **Police culture**

Organisational culture is the pattern of values, norms, beliefs, attitudes and assumptions that may not have been articulated but are a product of historical processes that shape the ways in which people behave and things get done in an organisation (Martins and Terblanche 2003). It is concerned with the subjective aspects of what goes on in an organisation (Schein 1990), is rarely completely static over long periods of time but is influenced by organisational environment. Organisational culture is subject to a continuous process of development and change due to learning that occurs as employees seek answers to problems of external adaptation and internal integration. These include the visible surface level artefacts such as physical environment, order of dress, language, stories told and the observable actuals and ceremonies, the publicly-espoused beliefs and values and the basic underlying assumptions (Schein 2004).

The process of socialisation, which creates the 'blue fraternity' begins at the police campuses and continues throughout a police officer's career (Workman-Stark 2017). These include protective, supportive and shared attitudes, values, understanding and views of the world (Cox et al 2017). As a profession, the police in Kenya, like in any other country, have veered off from Sir Robert Peel's ideals that the police are the people, and the people are the police, towards a culture and mindset more like warriors at war with the people they are sworn to protect and serve (Rahr and Rice 2015). The police administrative structure in Kenya is organised along military lines in command and control where there is reliance on rank authority, use of formal orders, reward on rule following and punishment for violations as well as hierarchal decision-making that controls and directs police operations from the top. This military model is not compatible with a profession that uses discretion like the police (Hughes and Newton 2010) and unfortunately this culture, that is, the practice of paramilitary style policing and intelligence gathering that is quite brutal and disproportionate with penal excesses (Bell 2013), has not changed much from the British era especially in public order control in which the police was centralised, militarised and usually under direct political control. The officers had recourse to wide emergency and special legal powers (Dzenisevich 2016;Bell 2013) and had no observation or protection of human rights while rampant indiscriminate abuse of power was tolerated (Oloka-Onyango 1990). Societal attitudes on the police use of force have been indecisive and citizens consider police misconduct a rampant problem and deeply ingrained in the culture of policing in Kenya (CHRIPS 2014:18).

Police culture may be understood from examining the perspective of officers who frequently deal with the public and with criminal suspects. It is intrinsically negative from the operational policing perspective as there is glorification of violence, the “us versus them”, isolation and solidarity and being prejudiced, authoritarian and suspicious (Waddington 1999). The atmosphere of secrecy “brotherhood” also promotes a culture that enhances a wide gap between formal rules and informal practices and causes social isolation (Loftus 2012). This is attributed to the police perception that they are in constant danger at work (Champion 2017) and the need to be suspicious, secretive, in solidarity and sometimes violent in order to properly carry out their role of protection of life and property (Greene 2007). This is also coupled with the authority to use force to achieve the ends expected by the society (Cox et al 2017).

Police culture, according to most police officers is also based on their body size, strength, and gender (Westmarland 2017). Police behaviour is also influenced by their culture and the working-class backgrounds of police recruits some of whom tend to view violence as legitimate and are preoccupied with maintaining self-respect as they prove their masculinity (Cox et al 2017). Culture is regarded as the by-product of modern police work, with common themes relating to the danger of the street environment, authority to use violence, officer discretion, isolation from the public, shift-work, bureaucracy, vague and conflicting mandates and conflict between front-line officers and managers (Workman-Stark 2017). One positive feature of police culture is reflected in their sense of duty and focus on the mission of policing in which the officers share values that enable them to survive a difficult and emotionally taxing assignment whose sub-culture includes supportiveness, teamwork, perseverance, empathy and caring that enables them to cope with post-traumatic stress (Cox et al 2017).

All these factors create an environment in which behaviour that violates existing and generally-accepted social norms and may be seen as deviant -- for example violence and aggression (Hanimoğlu 2018) -- are accepted by the police as a necessary norm, which is internalised, rationalised and passed on to all new recruits and promoted as a necessary attribute for success in the policing career.

## **Police structure and leadership**

Leadership directly affects the behaviour of organisations and is a tool that helps in reaching institutional goals and influencing employees positively (Ghazzawi et al 2017). It is a process of motivating, inspiring, convincing, persuading and using different ways of compelling others to follow. It involves moving people, the organisation and processes to preferred states of being in order to enhance equity, efficiency and efficacy of police operations while exercising command and authority in times of crisis (Schafer and Boyd 2010).

Police officers are public servants and are held to higher standards than those they serve and should not break the law (Pollock 2010) but should instead display a sense of justice in

which all individuals are treated fairly and equally regardless of their status in the society. In order for the NPS to professionally perform its strategic task, it has a clear, transparent and a proper organisational command structure right from the headquarters to the station or ward level with all commanders having the legal instruments and the necessary tools and equipment to discharge their mandate (NPS Act 2011: Section 8). Compliance is complicated by the fact that most police work, especially during quelling of riots, is performed in a low-visibility context free from direct supervisory oversight and decision-making scrutiny (Giblin 2017). However, the established police structure minimises the risk of violence or use of force and ensures accountability for unlawful acts by police officers.

Police work comes with a number of duties and responsibilities which involve use of discretion and power in public service (NPS Act 2011: Section 49). Police officers have enormous discretionary power throughout every rank and have great freedom to make operational decisions, including the authority to deprive people of their freedom through arrest, search, seize, questioning in the maintenance of law and order, and to determine when to use force and firearms. This discretion is a fundamental precondition for fair effective policing (KNCHR and CHRP 2015:38; Pollock 2014). Power is critical, serving as both a means to coordinate the actions of individuals within the NPS for example, to structure and secure obedience from uncooperative offenders. Due process therefore protects the citizens from abuse of these powers in which certain freedoms are expected.

Protests are avenues for people to be heard by the government and though intended to be peaceful, in many cases when the police are called in, lives are lost and property destroyed. One of the tactics used by police leadership in public order control to minimise the loss of lives and destruction of property is the use of intelligence sources to identify potential aggressive or violent members during a protest then applying strategic anticipation techniques to counter the violence. Others include the establishment of no-protest zones; increased use of less lethal weapons for example water cannons and batons, arrests, surveillance and infiltration of protests. As much as these strategies increase public order, they serve as evidence to protesters that the police and the government do not respect the rights of citizens to protest (Redekop and Pare 2010).

## Perception

Policing is generally described as a service industry where those who request assistance from police are members of the public who are police clients and are ultimately involuntarily subjected to police authority (Maguire and Johnson 2010). These members of the public have varying opinions about the quality of the service they receive from the police. There is consensus globally that public support is important both for the legitimacy and ability of the police to effectively carry out their mandate. There is a wider audience among the family and friends of each person who comes in contact with the police and once they feel they have been treated well or badly, their feelings toward the police appear to spread throughout these social networks (Miller et al 2004).

Generally, the public has low confidence in the police, are unwilling to cooperate with them and share information due to corruption and the fear of harassment by the officers (Amnesty International 2013). A 2016 study conducted in Kenya revealed that 53 per cent of the respondents were dissatisfied with the manner in which the police handled their issues (Transparency International 2016), and they view the police as a corrupt organisation that has institutionalised an extortion racket using illegal and violent methods to uphold the status quo. Perception persists that police do not always appear to behave in a professional way. Moreover, other people feel they do not adequately provide safety and security and their customer orientation when dealing with the public is wanting. This negative public perception of the police has impacted on the institution and is further reinforced when the police use force against protesters with impunity.

While independence of the police is necessary and important, oversight is crucial and the NPS has, therefore, come under scrutiny from both the general public and government oversight bodies. The NPS Internal Affairs Unit (IAU) receives and investigates complaints against officers<sup>5</sup> while the NPSC is responsible for the recruitment, appointment, deployment, transfer and dismissal of all police officers (Constitution of Kenya 2010: Article 246 (3); NPSC Act 2014). IPOA provides civilian oversight over the work of police officers by investigating deaths and serious injuries caused by police actions and misconduct with the aim of preventing impunity and enhancing accountability (IPOA Act 2011). The Commission on Administration of Justice (CAJ) investigates any conduct in State affairs or any act or omission in public administration in any sphere of government and complains of oppressive, unfair or unresponsive official conduct (Constitution of Kenya 2010: Article 59 (4); CAJ Act 2011: Section 1). The Kenya National Commission on Human Rights (KNCHR) documents cases of gross human rights violations including torture, extrajudicial killings and other violations (KNCHR Act 2012). Non-governmental organisations (NGOs) such as the Kenya Human Rights Commission (KHRC) foster human rights, democratic values, human dignity and social justice by holding State and non-State actors accountable for the protection and respect of all human rights for all people and groups (KHRC 2017). There are many other human rights and development partners working towards enhancing accountability of the police service in Kenya. The challenge, however, is to ensure officers comply with supervisors' directives, organisational roles and legal mandates.

## **Police Perceptions about Public Order Control**

### **Public order control training**

Policing all public order events is a difficult task regardless of the groups involved due to lack of hierarchical structure affecting communication. The Kenyan Constitution and international human rights law require that police officers are properly trained in the lawful use of force and non-discrimination to prevent human rights abuses. 85 per cent of the police officers interviewed said they had participated in public order control while 14.5 per cent indicated otherwise. Of those who had participated in public order control, 72.5 per

<sup>5</sup> See Chapter 5 of the National Police Service Standing Orders on Internal Affairs Unit (IAU); Section 1 on establishment of IAU, Section 3 on functions of IAU and Section 4 on powers of IAU.

cent said they have never had any other specialised training on public order control other than the initial police training. Further, the research findings show that the young and energetic police officers are mostly preferred in the allocation of public order control duties at the station level.<sup>6</sup> Yet, these officers mostly have not gained much experience in terms of police work and more so public order control. This is a very significant finding given that public order control requires specialised training other than the initial or subsequent police on job training.

The study further sought to establish the types of trainings from the 27.5 per cent of the officers who indicated having been trained. From the respondents, the following types of trainings were undertaken: New Riot Act, baton use when quelling riots, tear gas use, public order control, riot management, crowd control, riot drill, community policing, public relations, international rules and standards for policing, mediation and reconciliation, security management in the university and understanding crowd psychology. This kind of training readies officers to react and expect violence and prepares them for worst-case scenarios. However, it does not prioritise communication, dialogue and graduated use of force (KHRC 2018), which are vital for de-escalation of tensions and chaos during assemblies.

The study also found out that 50 per cent of the respondents strongly disagreed or disagreed that the crowd dynamics and psychology training offered during the initial recruit training were adequate. About 53 per cent of the officers were of the opinion that training provided on crowd control was inadequate, 31 per cent strongly disagreed or disagreed while 16 per cent were neutral. However, 71.8 per cent strongly agreed or agreed that the training needs improvement by increasing hours of training, reviewing of the curriculum by adding more content such as human rights, group psychology, first aid and drills, firefighting, taming propaganda and passive position to cover riots. Of those interviewed, 16.9 per cent strongly disagreed or disagreed while 11.3 per cent were neutral on the need for improvement on public order control training that officers undergo in police campuses. Public order control training should prepare officers to exercise good judgement and engage in balanced decision-making aimed at protecting and promoting the rights of protesters (KHRC 2017). Nevertheless, 48.4 per cent of the respondents strongly agreed or agreed that the training is effective while 26.6 per cent strongly disagreed or disagreed while 25 per cent were neutral. Whether the training was realistic, 42 per cent strongly agreed or agreed, 28 per cent strongly disagreed or disagreed while 30 per cent were neutral. About 45.1 per cent strongly agreed or agreed that the training was well-planned, 51.6 per cent said it was well-organised and 46 per cent strongly disagreed or disagreed that the training is reinforced periodically throughout the year.

Approximately 60 per cent of the respondents acknowledged that equipment and materials used in police campuses were insufficient and need to be increased and updated with latest technologies. About 47 per cent strongly disagreed or disagreed that the annual refresher course for serving officers was adequate and 38.7 per cent strongly disagreed or disagreed that the annual crowd control training for supervisory personnel was adequate.

<sup>6</sup> Interview with a station commander in Nairobi County, November, 2018

Training on public order control is an important part of police culture, yet a majority of the officers are not well-trained to deal with members of the public - 40 per cent disagreed that the NPS policies and procedures on crowd control are adequate. It is through socialisation that recruits are induced into police subculture enabling it to maintain its norms and continue existing (Volti 2008). Majority of the FGD members were of the opinion that a substantial number of police recruits are sometimes bitter because of their past experiences while growing up and become very excited to kill as part of their revenge mission to the society for the suffering they underwent while young.<sup>7</sup> According to one of the discussant in the FGD:

*“...the police are known not protect lives and property in Kibera in that majority are usually interested in causing suffering to the people and confiscating their properties especially electronics without regard to the existing laws and cannot enforce what they do not understand and as such the youths have been wrongly accused by the police of crimes they did not commit. I have been wondering whether these police officers are really well-trained. ‘Mtu msumbufu anakuwa polisi msumbufu’ na ‘wengi wao hawajui sheria’ (a stubborn person will definitely make a stubborn police officer and most of them do not understand the law...)”.*

Lack of planning, analysis and limited investment in specialised trainings and resource requirements involved, lie in the police culture of action. Police discipline still lacks current, collective standards for training officers to manage crowds.<sup>8</sup> Rarely do police policies get any deeper than superficial overviews, mainly due to complexities of each event, making training increasingly important.

## **Police culture and public perception on use of force**

In all societies, police occupy an important position in the engagement between governments and citizens and have monopoly over the use of legitimate force, which gives them a special responsibility. A police officer must always attempt to use non-violent means and only resort to use of a firearm in managing assemblies when all other methods of crowd control have proven inadequate and only for the purpose of protecting life of the officer or other persons (NPS Act 2011: Sixth Schedule).

From the study findings, 42 per cent of police officers strongly agreed or agreed that an aggressive tough bearing culture is more useful than a friendly courteous manner in public order control, while 52 per cent either disagreed or were neutral. This displays an existing police culture of using excessive force in the execution of their duty.

Close to half of the respondents (43.5 per cent) strongly agreed or agreed that use of the quasi-military structure is the most effective organisation model for the police and this speaks to the culture of violently dispersing protests. In addition, 59.7 per cent of the respondents strongly agreed or agreed that police officers respond with violence during public order control owing to the risk of injury. This reflects the complexity of

<sup>7</sup> Focus group discussion held with community members in Nairobi, November 2018.

<sup>8</sup> Interview with an officer attached to Nairobi Area operation command centre, 2018.

factors informing police use of violence during management of assemblies. However, approximately 85.5 per cent strongly agreed or agreed that enforcing the law is the most important responsibility of the police and 76.6 per cent strongly agreed or agreed that clear roles and responsibilities should be assigned during public order control for efficiency.

It is important to note that peace, stability and security are largely dependent on capacity of the police to enforce laws and effectively maintain public order control (International Committee of the Red Cross 2014). Police have a duty to maintain security while facilitating peaceful protests and must act within the law when policing protests. However, the public perceives them negatively as people who do not understand their role during riots and use excessive force out of anger. The police are also seen as intimidating, violent, government-oriented, inhuman, ruthless and unreasonable with no respect for the rule of law.<sup>9</sup> Anger control can act as a buffer in situations of impulsive decision-making especially when such anger is induced during public order control (Brown and Daus 2015).

The study also found that 56.5 per cent of respondent police officers strongly disagreed or disagreed that most people respect their authority during riots. About 50 per cent of the officers strongly agreed or agreed that citizens will not trust police to work together with them in managing assemblies. This finding alludes to the fact that citizens have less trust working with the police. It hampers citizens-police relations especially in managing assemblies, yet such a partnership could help in isolating those who want to cause violence and hence, ensure peaceful gatherings. According to the FGD participants, any person the police come across during peaceful gatherings must be seriously beaten. To them, when police are called in, they do not control the crowd but instead cause more harm as they use live bullets and tear gas. This has left many families struggling with sick people due to misuse of tear gas, beatings and shootings when police violently disperse protesters. In most assemblies, there are always opportunists waiting for such moments to loot, but police have failed to establish this. Culprits involved in causing chaos view officers as brutal while victims see police officers as saviours.<sup>10</sup> Police need to use their own intelligence to identify and arrest those involved in fracas.<sup>11</sup> This can be done when the police embrace the community policing aspect and the *Nyumba Kumi* initiative by involving the local youths in identifying those out to engage in illegal or disruptive activity. As in some of the cases where the police are called in to quell riots, it turns out that there are usually some people from other localities that are involved in causing mayhem and not allowing the police to access the riot venue and control the protesters in a peaceful manner thereby endangering the lives of the protesters and the police, forcing the police to act the way they do to protect lives and property.<sup>12</sup> However, approximately 66.9 per cent strongly agreed or agreed that inadequate equipment and lack of resources affects their attitude towards discharging their mandate. The police have a key function and authority with regard to keeping peace,

<sup>9</sup> Focus group discussion held with community members in Nairobi County, November 2018.

<sup>10</sup> *Ibid.*

<sup>11</sup> Interview with senior police officers in Nairobi County responsible for planning of operations such as the public order control November, 2018; Focus Group Discussion with community members in Nairobi County, November 2018.

<sup>12</sup> Focus group discussion held with community members in Nairobi County, November 2018.

maintaining public security and safety and preserving common property for citizens in the society which are basic, physical needs in human society. Work effectiveness is the key to successful operation in an organisation and with limited resources and inadequate equipment, effectiveness is hampered (Tengpongsthorn 2017).

Law has always shaped and directed police work, serving as a source of power that helps get the job done. It also operates to limit, direct and render their power accountable. Section 78 of the Penal Code defines unlawful assembly and riot, Section 79 stipulates the punishment for unlawful assembly and riot while Section 80 gives conditions that warrant police intervention. The Penal Code grants the police enormous powers permitted under specific circumstances, which can be abused to deprive citizens of their freedom through arbitrary search of their person and dwelling, seizure of their property and unlawful use of force as stipulated in Section 82 and 83 of the Penal Code.<sup>13</sup> Nevertheless, 51.6 per cent of the respondents strongly agreed or agreed that police officers act professionally according to their training standards and the existing laws during public order control exercising discretion in many of the instances. 46 per cent strongly agreed or agreed that the statutory law with regard to crowd control is adequate.

## Police Structure and Leadership

About 40.3 per cent of the respondents strongly disagreed or disagreed that the NPS policies and procedures of crowd control are adequate, 37.9 per cent strongly agreed or agreed while 21.8 per cent were neutral. 52.4 per cent strongly agreed or agreed that the command decision-making structures during public order control are clear. From the findings, police effectiveness in public order control requires a structure where both protestors and police officers will not be injured, which is achievable by reviewing the current ways in which riots are managed since the methods are outdated. It is noted that the NPS training curriculum has been standardised for both the KPS and APS training campuses. However, no progress has been made towards the envisaged establishment of the National Police Academy that will ensure that officers undergo the same training conditions especially when dealing with assemblies and human rights (KNCHR and CHRP 2015:40).

One characteristic for public order control operations where special police tactics are used, compared to every day police work, is that there are temporary units created for the duration of an event. Some of these units are drawn from other specialised units within the NPS and even the military.<sup>14</sup> Sometimes the police commanders are not well-informed enough on what is actually on the ground as the general operation command is given from the operation command centre away from the event.<sup>15</sup> This puts great demands on the competency of commanders to influence a system of persons and techniques.

From the study findings, 50 per cent of the respondents strongly disagreed or disagreed

<sup>13</sup> Interview conducted with human rights civil society representatives in Nairobi, November 2018.

<sup>14</sup> Interview with senior police officers in Nairobi County responsible for planning of operations such as the public order control, November 2018.

<sup>15</sup> *Ibid.*.

that the crowd dynamics and psychology training offered during the initial recruit training are adequate, while 41.9 per cent strongly agreed or agreed that utilisation of the incident command post during riots is effective and the intervention strategies with regard to crowd control are well-planned (35.5 per cent). Of those interviewed, 53.2 per cent strongly agreed or agreed that the lessons learnt from previous crowd control situations were realistic and that supervisory leadership on crowd control is not effective (39.5 per cent), tactical decision making in crowd control is effective (47.6 per cent) and that team arrest techniques are adequate (38.7 per cent).

Important command principles identified were, among others, ability of the command to communicate and organise in a systematic way with roles, responsibilities and resources clarified for each level; coherence between the analysis of the complexity of the event, possible developments of events and the command structure; support of the strategic command level to the operational level; the quality of the preparatory work; flexibility to adjust the actions to changed situations and a lot of responsibility for lower level commanders within the assignment given to them.<sup>16</sup>

## Conclusion

This paper has argued that police officers are not effective in public order control and there are serious flaws in the crowd control training of the NPS officers. Lack of adequate knowledge, use of different tactical models by units from different formations called upon during public order control has led to inadequate coordination. Further, police public order practice is mainly based on outdated crowd theories and officers often act improperly in anger, frustration and in fear of real or imagined aggression.

Police officers often use unwarranted force during public order control despite the laws and regulations on the use of force being in place. Force should only be used when it is absolutely necessary and should be minimum and proportionate to the situation and use discontinued as soon as the danger to life and property subsides. In violent assemblies, firearms should be used only as stipulated in the law. Integrity is an important characteristic to demonstrate in police work. Without ethical conduct, the police lose legitimacy, and without legitimacy, they are ill-equipped to carry out their duties.

For uniformity, it would be crucial for the NPS to have a specialised directorate or unit charged with the duty of public order control and trained on specific skills related to crowd management. Officers need to be retrained on identifying those involved in the riot and handling the public during riot professionally.

There is also the need for proper and different channels for reporting of police brutality without fear of intimidation. This will require strengthening of the oversight mechanisms already in place such as internal IPOA and police IAU to properly investigate and hold officers accountable for their actions. When such mechanisms are in place, the police will not act with impunity and will be charged accordingly in court for their actions that may be outside the ambit of the law.

<sup>16</sup> *Ibid.*

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