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Police Impunity and Compliance with Human Rights Standards in Tanzania: A Comparative Analysis of Tanzania and Kenya

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ABSTRACT

Police officers exercise the most coercive powers of the state, and the legitimacy of those powers depends on how effectively their abuse is investigated, sanctioned and remedied. This article examines police impunity and compliance with human rights standards in Tanzania through a comparative doctrinal analysis with Kenya. Tanzania's accountability architecture remains predominantly internal: disciplinary authority sits largely within the Police Force under the Inspector General, and the only external body with a mandate over police complaints, the Commission for Human Rights and Good Governance, can make only non-binding recommendations, enforceable only through court action. Kenya's 2010 Constitution, by contrast, entrenches police professionalism, transparency and accountability and separates discipline from operational command through the National Police Service Commission, while Kenyan statute establishes the Independent Policing Oversight Authority (IPOA), which the High Court has held has exclusive jurisdiction over deaths and serious injuries caused by police action. Drawing on Principal-Agent Theory, Democratic Policing Theory and the Human Rights-Based Approach, supported by Institutional Theory, the article finds that the two states share the same binding obligations under the ICCPR and the African Charter but diverge sharply in domestic institutional design. Kenya produces verifiable, if still modest, outcomes in the form of published data and convictions of officers; comparable Tanzanian data is unavailable. Kenya's own backlog, delay and continuing custodial deaths nevertheless show that institutional design alone cannot eliminate impunity. The article recommends constitutional entrenchment of police accountability standards, separation of disciplinary authority from operational command, an independent oversight authority with exclusive jurisdiction over serious misconduct, a statutory duty on the prosecuting authority to respond to oversight recommendations, publication of outcome data and protected resourcing, while cautioning against uncritical legal transplantation.

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I. INTRODUCTION

Police institutions may arrest and detain, search premises, restrict movement and, in prescribed circumstances, use lethal force. Because these powers bear directly on bodily integrity, liberty, dignity and life, their exercise must remain subject to constitutional legality, judicial control and international human rights standards. The legitimacy of policing therefore depends not only on the capacity of the police to prevent and investigate crime, but also on their compliance with the law and on accountability when public power is abused.[1]

This article treats police impunity as a condition in which allegations of unlawful police conduct are not effectively investigated and, where evidence establishes criminal or disciplinary responsibility, do not result in appropriate prosecution, sanction or remedy.[2] Impunity is thus wider than the absence of convictions: it may arise at any point in the accountability chain, from failure to register a complaint to failure to implement a decision. A complaint system controlled exclusively by the institution complained against risks lacking both actual independence and public credibility.[3]

International law places positive obligations on states to protect individuals against unlawful interference by public officials and to provide effective remedies when violations occur. The International Covenant on Civil and Political Rights (ICCPR) protects the rights to life, liberty and security of the person and freedom from torture,[4] and the African Charter on Human and Peoples' Rights guarantees the same rights together with the right to have one's cause heard.[5] Tanzania and Kenya are both parties to these two instruments. Yet the two states have organised police accountability very differently. Tanzania's Constitution protects the substantive rights engaged by policing, but the machinery for investigating and sanctioning police misconduct remains largely internal.[6] Kenya's 2010 Constitution expressly requires the National Police Service to promote professionalism, transparency and accountability,[7] and the Independent

[1] DAVID H. BAYLEY, CHANGING THE GUARD: DEVELOPING DEMOCRATIC POLICE ABROAD 23 (2006).
[2] U.N. COMMISSION ON HUMAN RIGHTS, *Updated Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity*, princ. 1, U.N. Doc. E/CN.4/2005/102/Add.1 (Feb. 8, 2005).
[3] CIVILIAN OVERSIGHT OF POLICING: GOVERNANCE, DEMOCRACY AND HUMAN RIGHTS 1–15 (Andrew J. Goldsmith & Colleen Lewis eds., 2000).
[4] International Covenant on Civil and Political Rights arts. 6, 7, 9, Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR].
[5] African Charter on Human and Peoples' Rights arts. 4–7, June 27, 1981, 1520 U.N.T.S. 217 [hereinafter African Charter].
[6] TANZ. CONST. arts. 12–17 (1977).
[7] KENYA CONST. art. 244 (2010).

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Policing Oversight Authority Act 2011 created a civilian authority with a statutory mandate to investigate deaths and serious injuries caused by police action.[8]

This article examines the legal and institutional frameworks governing police accountability and compliance with human rights standards in Tanzania and Kenya, the effectiveness of the existing mechanisms in Tanzania, and the lessons Tanzania can draw from Kenya, comparing institutions according to the functions they perform, namely complaint reception, investigation, oversight, discipline, prosecution and remedy, rather than by their names or formal classifications.[9] The comparison is not premised on the assumption that Kenya has solved police impunity. Its value is institutional rather than celebratory: it permits an examination of whether statutory independence, investigative powers and civilian oversight create stronger accountability pathways than predominantly internal mechanisms. The article argues that compliance with human rights standards is demonstrated not by the existence of rights on paper but by independent, transparent and adequately resourced institutions capable of converting those rights into accountability.

II. Background to the problem

The internationalisation of human rights after the Second World War shifted the legal question from whether police possess coercive powers to how those powers may be exercised consistently with rights. The Universal Declaration of Human Rights proclaimed the rights to life, liberty and freedom from torture;[10] the ICCPR and the Convention against Torture (CAT) converted them into binding treaty obligations; and the UN Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms elaborated standards of necessity, proportionality and accountability specifically for law enforcement.[11] Within Africa, the African Charter and the interpretive practice of the African Commission supply a regional benchmark.[12]

Policing in both countries has colonial roots. Colonial police structures were designed substantially around the maintenance of authority and public order, and independent Tanzania inherited and adapted rather than replaced them. The entrenchment of a Bill of Rights in the

[8] Independent Policing Oversight Authority Act, No. 35 of 2011, §§ 6, 7, 25 (Kenya) [hereinafter IPOA Act].
[9] Konrad Zweigert & Hein Kötz, An Introduction to Comparative Law 33–35 (Tony Weir trans., 3d ed. 1998).
[10] Universal Declaration of Human Rights arts. 3, 5, G.A. Res. 217 (III) A (Dec. 10, 1948).
[11] Code of Conduct for Law Enforcement Officials, G.A. Res. 34/169, arts. 2–3 (Dec. 17, 1979); Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Aug. 27–Sept. 7, 1990, U.N. Doc. A/CONF.144/28/Rev.1 [hereinafter Basic Principles].
[12] Frans Viljoen, International Human Rights Law in Africa (2d ed. 2012).

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Constitution in 1984 provided a stronger normative basis for controlling state power, but the historical inheritance of a centralised police institution remains relevant to questions of independence and civilian oversight.[13] Accountability concerns in Tanzania have been documented over a sustained period. A Commonwealth Human Rights Initiative assessment concluded that the police were affected by inadequate resources, broad discretion and weak accountability, and linked these weaknesses to public distrust and misconduct.[14] These materials are not treated as proof that every allegation is established; they are evidence of a recurring accountability concern that warrants legal examination.

Kenya followed a comparable colonial and post-colonial trajectory, but its reform path changed after the post-election violence of 2007–2008. The 2010 Constitution introduced a rights-based framework for national security organs, and the National Police Service and IPOA legislation created arrangements intended to separate police oversight from ordinary internal discipline.[15] The High Court has recently reaffirmed that investigation of death or serious injury in police custody, or caused by police on duty, falls within IPOA's mandate rather than that of ordinary police investigators.[16] Yet Kenya continues to experience allegations of excessive and lethal force, including during public demonstrations, together with delays and limited prosecutions in serious cases.[17] The background to this study is therefore not a comparison between a weak Tanzanian system and a successful Kenyan one. It is an inquiry into whether two different accountability architectures, operating in broadly comparable regional, legal and political environments, differ in their capacity to investigate misconduct, impose responsibility and provide remedies.

III. THEORETICAL FRAMEWORK

The analysis is anchored in three complementary theories. First, Principal-Agent Theory conceives the public, acting through the state, as the principal and police institutions as agents entrusted with delegated coercive power. Because agents know more about their own conduct than principals can observe, accountability mechanisms operate as monitoring devices; weak, under-resourced or non-independent monitoring permits a persistent divergence between the

[13] CHRIS MAINA PETER, HUMAN RIGHTS IN TANZANIA: SELECTED CASES AND MATERIALS (1997).
[14] MICHELLE KAGARI, COMMONWEALTH HUMAN RIGHTS INITIATIVE, THE POLICE, THE PEOPLE, THE POLITICS: POLICE ACCOUNTABILITY IN TANZANIA 1–72 (2006).
[15] KENYA CONST. arts. 238–247.
[16] *Legal Advice Centre t/a Kituo Cha Sheria & 2 Others v. Cabinet Secretary, Ministry of Interior Security and Co-ordination of the National Government & 9 Others*, Petition E194 of 2022, [2025] KEHC 5718 (KLR), ¶¶ 182–183 (H.C. Kenya May 9, 2025) [hereinafter *Kituo Cha Sheria*].
[17] HUMAN RIGHTS WATCH, *World Report 2026: Kenya* (2026).

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mandate given to the police and their conduct, which manifests as impunity.[18] Second, Democratic Policing Theory supplies the normative benchmark: the police must be accountable to law rather than to government alone, protect the rights of all persons, and be transparent and subject to external review.[19] Third, the Human Rights-Based Approach supplies the compliance benchmark, requiring that mechanisms of accountability exist to give practical effect to formally guaranteed rights, including the duty to investigate promptly, impartially and effectively and to provide an effective remedy.[20]

These are supplemented by Institutional Theory, which draws attention to the gap between formal rules and informal norms, such as solidarity that discourages reporting colleagues, and so explains why a statute establishing an oversight body does not by itself guarantee accountability in practice;[21] and by Responsive Regulation Theory, which asks whether a graduated range of responses, from internal counselling to criminal prosecution, genuinely exists and whether escalation occurs predictably and irrespective of an officer's rank.[22] Because Tanzania and Kenya share a colonial and common-law heritage and substantially the same treaty obligations, they should score similarly on the foundational and normative theories. Their divergence is therefore best explained by differences in the design of monitoring mechanisms and in informal institutional culture, rather than by any difference in formal acceptance of human rights norms.

IV. Comparative legal framework

A. International and regional human rights framework

Article 2(3) of the ICCPR requires states parties to ensure that any person whose rights are violated has an effective remedy, determined by competent authorities and enforced when granted.[23] The Human Rights Committee interprets this as requiring prompt, thorough and effective investigation through independent and impartial bodies, and the bringing to justice of those responsible.[24] The Basic Principles require an effective review process, responsibility of superior officers who knew or should have known of unlawful force and failed to act, and access

[18] Michael C. Jensen & William H. Meckling, *Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure*, 3 J. Fin. Econ. 305, 308–10 (1976).
[19] Bayley, *supra* note 1, at 17–25.
[20] Office of the U.N. High Commissioner for Human Rights, Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation 15–17 (2006).
[21] Douglass C. North, Institutions, Institutional Change and Economic Performance 3–10 (1990).
[22] Ian Ayres & John Braithwaite, Responsive Regulation: Transcending the Deregulation Debate 35 –40 (1992).
[23] ICCPR, *supra* note 4, art. 2(3).
[24] U.N. Human Rights Committee, *General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, ¶¶ 15, 18, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004).

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to an independent process, including a judicial process, for those affected.[25] Under the law of state responsibility, the conduct of any state organ, including the police, is attributable to the state, and an internationally wrongful act may consist of an omission, so that a failure to investigate, prosecute or remedy police misconduct can itself engage responsibility independently of the underlying violation.[26]

At the regional level, the African Charter guarantees the rights to life, dignity and security of the person and the right to have one's cause heard,[27] and article 1 obliges states to adopt measures to give effect to those rights. The Robben Island Guidelines require prompt, impartial and effective investigation of allegations of torture and accessible complaints mechanisms independent of the institution complained against.[28] In *Zimbabwe Human Rights NGO Forum v. Zimbabwe* the African Commission found a violation of articles 1 and 7(1) because a clemency order barring prosecution of politically motivated crimes foreclosed any avenue for investigating the abuses and prevented victims from seeking an effective remedy,[29] confirming that closing off investigation and remedy is a distinct legal wrong rather than merely evidence of an unresolved complaint. In *Jawara v. The Gambia* it held that a domestic remedy must be available, effective and sufficient, a standard equally apt for testing police complaints mechanisms.[30]

One qualification is necessary. Tanzania and Kenya are both parties to the ICCPR and the African Charter, and the investigative obligation derived from those instruments binds both. Kenya is also a party to the CAT, which in articles 12 and 13 requires prompt and impartial investigation wherever there are reasonable grounds to believe torture has been committed.[31] Tanzania, however, has not ratified the CAT.[32] For Tanzania, the CAT and the Optional Protocol[33] therefore operate as persuasive benchmarks of good practice and as a standard the

[25] Basic Principles, *supra* note 11, princs. 22–24.
[26] INT'L LAW COMM'N, *Draft Articles on Responsibility of States for Internationally Wrongful Acts* arts. 2, 4, U.N. Doc. A/56/10 (2001).
[27] African Charter, *supra* note 5, arts. 4–7.
[28] AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS, *Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines)* ¶¶ 17–19 (2002).
[29] *Zimbabwe Human Rights NGO Forum v. Zimbabwe*, Commc'n 245/2002, African Commission on Human and Peoples' Rights, ¶¶ 210–215 (2006).
[30] *Jawara v. The Gambia*, Commc'ns 147/95 & 149/96, African Commission on Human and Peoples' Rights, ¶¶ 31–32 (2000).
[31] Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment arts. 12–13, Dec. 10, 1984, 1465 U.N.T.S. 85.
[32] HUMAN RIGHTS WATCH, *World Report 2026: Tanzania* (2026).
[33] Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 18, 2002, 2375 U.N.T.S. 237.

state has yet to accept, not as binding treaty obligations, although the same duty to investigate torture is derived from the ICCPR and the African Charter.

B. Tanzania's legal framework

The Constitution of Tanzania guarantees equality before the law, the right to life, the right to personal freedom and freedom from torture and from cruel, inhuman or degrading treatment.[34] Article 30(3) and (4) confers original jurisdiction on the High Court to hear applications alleging contravention of basic rights, constituting the principal constitutional avenue for victims of police misconduct.[35] In *Director of Public Prosecutions v. Daudi Pete* the Court of Appeal held that these provisions confer jurisdiction even without specific enabling legislation, and that deprivation of personal liberty is permissible only under circumstances and a procedure prescribed by law.[36] Reported Tanzanian decisions addressing police accountability for serious misconduct specifically are, however, comparatively scarce.

The Police Force and Auxiliary Services Act vests command in the Inspector General of Police, subject to the directions of the responsible Minister, empowers the Inspector General to make standing orders governing internal administration and discipline, and provides for disciplinary proceedings before boards of inquiry and tribunals constituted from within the Force itself.[37] Officers who investigate and adjudicate allegations are thus members of the institution complained against. The Criminal Procedure Act regulates arrest, search and detention, including the requirement that an arrested person be informed of the reasons for arrest and brought before a court within the prescribed period;[38] non-compliance is both a disciplinary matter and a potential ground for constitutional redress. The Commission for Human Rights and Good Governance has statutory powers to investigate complaints, including complaints against the police, but its decisions have the status of recommendations to the appropriate authority. That authority must report back within a period set by the Commission, not exceeding three months, on the action it has taken, and if no adequate action follows the Commission may bring, or recommend that a competent authority bring, court proceedings to enforce its recommendations.[39] Unlike Kenya's Constitution, Tanzania's does not expressly constitutionalise professionalism, transparency and accountability as binding standards applicable to the police as an institution.

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[34] TANZ. CONST. arts. 12–15.
[35] TANZ. CONST. art. 30(3)–(4).
[36] *Director of Public Prosecutions v. Daudi Pete*, [1993] TLR 22 (CA) (Tanz.).
[37] Police Force and Auxiliary Services Act, Cap. 322 (R.E. 2023) (Tanz.); Kagari, *supra* note 14, at 29.
[38] Criminal Procedure Act, Cap. 20 (R.E. 2023) (Tanz.).
[39] Commission for Human Rights and Good Governance Act, No. 7 of 2001, §§ 17(1), 28(2)–(3) (Tanz.).

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C. Kenya's legal framework

The Constitution of Kenya requires the National Police Service to strive for professionalism and discipline and to promote and practise transparency and accountability,[40] limits direct political control over operational decisions by vesting command in the Inspector-General,[41] and establishes the National Police Service Commission.[42] The National Police Service Act establishes an Internal Affairs Unit for complaints that do not engage IPOA's mandate, codifies use-of-force standards requiring non-violent means first, and criminalises specified misconduct including torture and cruel, inhuman or degrading treatment.[43] The National Police Service Commission Act vests recruitment, promotion, discipline and removal in the Commission, separating these functions from the Inspector-General's operational command.[44]

The IPOA Act is the centrepiece. It declares that, in performing its functions, IPOA is not subject to any person, office or authority;[45] empowers it to investigate any death or serious injury resulting from police action;[46] obliges the Police Service to preserve evidence and notify IPOA of such incidents on pain of committing an offence;[47] and empowers IPOA to recommend prosecution or discipline, requiring the Director of Public Prosecutions (DPP) to respond formally to such recommendations.[48] Most of these features lack a close Tanzanian equivalent. In *Kituo Cha Sheria* the High Court declared that investigation of deaths resulting from police action, deaths in police custody, and deaths or serious injuries caused by police on duty falls within IPOA's exclusive mandate and not within the jurisdiction of the Internal Affairs Unit, the Directorate of Criminal Investigations or any other police unit, in a petition alleging that parallel investigations allowed the police effectively to investigate themselves.[49]

V. Institutional framework and effectiveness in practice

Effectiveness is assessed against four indicators drawn from the theoretical framework: the volume and disposition of complaints; the rate at which investigations culminate in sanction or conviction; the time taken to conclude investigations and prosecutions; and evidence of continuing or recurrent misconduct of the kind the institution was created to prevent. Neither

[40] KENYA CONST. art. 244.
[41] KENYA CONST. art. 245.
[42] KENYA CONST. art. 246.
[43] National Police Service Act, No. 11A of 2011, §§ 87, 95 & sched. 6 (Kenya).
[44] National Police Service Commission Act, No. 30 of 2011, § 10 (Kenya); KENYA CONST. art. 246(3).
[45] IPOA Act, *supra* note 8, § 4.
[46] IPOA Act, *supra* note 8, §§ 7(1)(a)(x), 25(1).
[47] IPOA Act, *supra* note 8, § 25(2)–(3).
[48] IPOA Act, *supra* note 8, §§ 7(1)(a)(ix), 7(1)(d), 29(1).
[49] *Kituo Cha Sheria*, *supra* note 16, at Held (7), (9) & Order (b).

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jurisdiction publishes complete, independently verified statistics, so each indicator is treated as evidence of practical operation rather than a comprehensive audit.

A. Tanzania

Independent reporting records a recurring pattern of serious police misconduct. The United States Department of State's 2024 report recorded numerous reports of arbitrary or unlawful killings, most often at the hands of security forces, police or prison guards, many credible reports of enforced disappearances and reports of mistreatment by police officers, prison guards and soldiers, and concluded that although the government in some cases took credible steps to identify and punish officials, impunity in the police and other security forces was common.[50] Human Rights Watch reported that, since February 2024, police were linked to the killing of at least six people near the North Mara Gold Mine in Tarime District, with no arrests made by the time of its report.[51] Ali Mohamed Kibao, an official of the opposition party CHADEMA, was reported missing in September 2024 and his body was found the following day, beaten and doused with acid; no arrests had been made when Human Rights Watch reported in October 2024.[52] The Tanganyika Law Society listed eighty-three persons reported abducted or missing between 2016 and August 2024, some of whom were later found alive or dead,[53] and Amnesty International reported widespread violations, including enforced disappearances, torture and extrajudicial killings of opposition figures and activists, ahead of the 2025 general election.[54] Human Rights Watch's World Report 2026 recorded that government critics continued to face arbitrary arrest, abduction, enforced disappearance and extrajudicial killing without those responsible being held to account.[55] These are treated as evidence, drawn from several independent sources over a sustained period, of the persistent pattern that the concept of police impunity describes, not as proof of each individual allegation.

Internal disciplinary outcomes are not published in disaggregated form, a gap that is itself significant, since without outcome data neither the public nor researchers can verify whether

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[50] U.S. DEP'T OF STATE, *2024 Country Reports on Human Rights Practices: Tanzania* exec. summ., §§ 1–3 (Bureau of Democracy, Human Rights and Labor 2025), https://www.state.gov/reports/2024-country-reports-on-human-rights-practices/tanzania/.

[51] HUMAN RIGHTS WATCH, *Tanzania: Police Linked to Killings at Gold Mine* (June 12, 2024), https://www.hrw.org/news/2024/06/12/tanzania-police-linked-killings-gold-mine.

[52] HUMAN RIGHTS WATCH, *Tanzania: Address Rights Ahead of Local Elections* (Oct. 16, 2024), https://www.hrw.org/news/2024/10/16/tanzania-address-rights-ahead-local-elections.

[53] TANGANYIKA LAW SOCIETY, *Taarifa kwa Umma: Ongezeko la Vitendo vya Utekaji na Upoteaji wa Watu Nchini* (Aug. 9, 2024), https://web.archive.org/web/20240915123044/https://tls.or.tz/wp-content/uploads/2024/08/Tamko-Kutekwa-na-Kuteswa.pdf.

[54] AMNESTY INTERNATIONAL, *Tanzania: Unopposed, Unchecked, Unjust: "Wave of Terror" Sweeps Tanzania Ahead of 2025 Vote* 4 (Oct. 20, 2025), https://www.amnesty.org/en/documents/afr56/0376/2025/en/.

[55] HUMAN RIGHTS WATCH, *World Report 2026: Tanzania*, *supra* note 32.

complaints are resolved and sanctioned. Successive State Department reports record that police often detained persons without judicial authorisation and did not consistently comply with the requirement that arrested persons be charged before a magistrate within twenty-four hours, without indicating that such non-compliance routinely attracts internal discipline.[56] The Commission for Human Rights and Good Governance has been assessed as limited in practice because it has no legal authority to prosecute, though it can recommend remedies or call media attention to abuses, with stakeholders expressing concern that the government constrained its willingness to condemn abuses.[57] In June 2022 it released a report on police conduct concluding that it was satisfied with police conduct generally, although the same report documented violence against detainees to obtain information, sometimes causing serious injury or death.[58] Earlier reporting indicates modest scale: in one twelve-month period the Commission managed 2,081 complaints across its whole mandate, of which 307 were new, and of 600 complaints closed only 204 were resolved, 236 failed for insufficient evidence and 60 could not be considered.[59] This figure is dated and covers the Commission's whole mandate, but it illustrates the gap that Institutional Theory predicts between formally adequate powers and effective operation. Prosecutorial and judicial engagement appears limited: the scarcity of reported decisions on torture, extrajudicial killing or enforced disappearance by police suggests that litigation against officers is not occurring at a frequency proportionate to the documented allegations.

B. Kenya

Kenya's oversight architecture has not eliminated serious misconduct. Human rights organisations have claimed that IPOA was not effective in investigating complaints of brutality against protesters.[60] In June 2025 the blogger Albert Ojwang died in police custody two days after his arrest for allegedly criticising a senior police official; police initially claimed he had injured himself, but an autopsy revealed injuries that pathologists considered unlikely to be self-inflicted, prompting protests, the arrest of a police constable and an IPOA-led investigation.[61]

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[56] U.S. DEP'T OF STATE, *2019 Country Reports on Human Rights Practices: Tanzania* § 1(d) (Bureau of Democracy, Human Rights and Labor 2020).
[57] U.S. DEP'T OF STATE, *2023 Country Reports on Human Rights Practices: Tanzania* § 5 (Bureau of Democracy, Human Rights and Labor 2024).
[58] U.S. DEP'T OF STATE, *2022 Country Reports on Human Rights Practices: Tanzania* § 5 (Bureau of Democracy, Human Rights and Labor 2023).
[59] U.S. DEP'T OF STATE, *2014 Country Reports on Human Rights Practices: Tanzania* (Bureau of Democracy, Human Rights and Labor 2015).
[60] U.S. DEP'T OF STATE, *2023 Country Reports on Human Rights Practices: Kenya* § 5 (Bureau of Democracy, Human Rights and Labor 2024), https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/kenya/.
[61] *Kenya Police Officer Arrested Over Blogger's Death in Custody*, AL JAZEERA (June 13, 2025), https://www.aljazeera.com/news/2025/6/13/kenya-police-officer-arrested-over-bloggers-death-in-custody.

IPOA's own reporting provides the most direct evidence of its operation. Between 2018 and 2024 it received and processed 20,112 complaints, of which 12,732 were resolved; it conducted 4,865 investigations, recommended 773 files to the DPP, and secured the conviction of 30 officers, bringing the total secured since its establishment to 33.[62] By early 2026, 3,988 officers were reportedly under investigation for deaths, serious injuries, sexual offences and other violations, of whom only 47 had been convicted across thirty-three case files.[63] IPOA also disclosed a backlog of 3,600 unresolved cases attributed to budgetary limits, together with the need for additional resources to conclude at least 971 further cases and support more than 300 ongoing court matters.[64] Between July 2021 and June 2022 IPOA investigated 178 deaths caused by police action, of which only five led to murder convictions and one to a conviction on another charge.[65]

Convictions are rare but real. In *Titus Ngamau Musila Katitu v. Republic* the Court of Appeal upheld a murder conviction and fifteen-year sentence against a police officer, the trial having relied substantially on evidence gathered by IPOA after it found that the police firearms movement register had been manipulated; the Court observed that Kenyan police have in certain circumstances covered up wrongdoing by fellow officers,[66] a vivid illustration of the informal solidarity that Institutional Theory predicts. Delay is a further limit: the prosecution arising from the 2016 murder of the human rights lawyer Willie Kimani, his client and their driver took six years to reach conviction, and activists called in October 2022 for cases of police brutality and extrajudicial killings to be concluded within three years.[67] In February 2026 an officer was sentenced to thirty years' imprisonment for manslaughter following an IPOA-led investigation into a fatal shooting in Nyandarua County, and a former station commander in Mombasa was sentenced to life imprisonment for a 2018 murder.[68] Prosecutions do not always succeed: in April 2025 the DPP appealed the acquittal of three officers charged with torturing a suspect at Homa Bay Police Station.[69]

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[62] INDEPENDENT POLICING OVERSIGHT AUTHORITY, *IPOA Board End-Term Performance Report 2018–2024* 17, 54 (2024), https://ipoa.news/wp-content/uploads/2024/08/Board-End-Term-Report-2018-2024-1.pdf.
[63] *Policing the Police with Drones and Body Cameras: IPOA's Surveillance Push Sparks Fierce Debate Ahead of 2027 Elections*, DAILY NATION (Nairobi), May 24, 2026.
[64] *Set Up for Failure: How Low Budget Is Crippling IPOA*, DAILY NATION (Nairobi), May 21, 2026.
[65] U.S. DEP'T OF STATE, *2022 Country Reports on Human Rights Practices: Kenya* (Bureau of Democracy, Human Rights and Labor 2023), https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/kenya/.
[66] *Titus Ngamau Musila Katitu v. Republic*, [2020] KECA 705 (KLR).
[67] U.S. DEP'T OF STATE, *2022 Country Reports on Human Rights Practices: Kenya*, *supra* note 65.
[68] *Kenya: Police Officer Handed 30-Year Jail Term for Manslaughter in Nyandarua Fatal Shooting*, ALLAFRICA (Feb. 19, 2026).
[69] *Kenya: DPP Appeals Acquittal of Three Police Officers in Torture Case*, ALLAFRICA (Apr. 10, 2025).

Kenya's more directive design has therefore produced tangible outputs with no close Tanzanian equivalent: published complaint statistics, referrals to prosecution, secured convictions and judicial willingness to convict on the strength of IPOA-led investigations. At the same time, the custodial death of Ojwang, a substantial backlog attributable to under-resourcing, a modest conversion rate between investigation and conviction, and delays of several years show that superior design has not by itself eliminated impunity.

VI. FINDINGS

The comparative analysis yields five principal findings. First, Tanzania and Kenya share the same core binding obligations under the ICCPR and the African Charter, each requiring prompt, independent and effective investigation of alleged police misconduct, and the African Commission has confirmed that foreclosing investigation and remedy is itself a breach.[70] The two states do not diverge in their formal acceptance of these norms, although only Kenya is bound by the CAT.

Second, the divergence lies in domestic design. Kenya constitutionally entrenches police accountability standards, separates disciplinary authority from operational command and vests exclusive investigative jurisdiction over the most serious misconduct in a statutorily independent authority, a jurisdictional allocation judicially confirmed.[71] Tanzania protects the same substantive rights but retains disciplinary authority largely within the chain of command and relies on an advisory commission whose recommendations bind no one unless enforced through the courts.

Third, both jurisdictions exhibit serious, documented police misconduct, including unlawful killing and torture and, in Tanzania particularly, enforced disappearance. The existence of misconduct is therefore not itself a point of divergence.

Fourth, the jurisdictions diverge sharply in verifiable outcomes. IPOA publishes disaggregated data on complaints, investigations, referrals and convictions, and Kenyan courts have convicted officers of murder and manslaughter on the basis of its investigations; comparable data is not published for Tanzania's internal processes, and reported Tanzanian prosecutions specifically targeting police misconduct are comparatively scarce.

Fifth, institutional design is necessary but not sufficient. Kenya's backlog, delay, modest conversion rate and continuing custodial deaths demonstrate that the advantage of its design should not be overstated.

[70] *Zimbabwe Human Rights NGO Forum*, *supra* note 29.
[71] *Kituo Cha Sheria*, *supra* note 16, at Order (b).

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VII. Discussion of findings

The findings support the proposition that the principal problem in Tanzania is not the absence of rights but the absence of independent machinery for enforcing them against the police. Applying Principal-Agent Theory, an arrangement in which the primary monitoring function sits within the same hierarchy as the agents monitored predictably produces weaker information flow to external principals, including the public and the Commission, than an arrangement in which monitoring is institutionally separate. Where, as in Tanzania, the same chain of command that directs operations also largely controls investigation and discipline, and outcome data is not published, the monitoring architecture is inadequate by design.

Measured against Democratic Policing Theory, accountability that exists only on paper, or that is exercised solely within the police institution, fails the requirement of effective external review. Measured against the Human Rights-Based Approach, a state does not comply with its obligations by reciting equivalent guarantees in its constitution; it must establish and operate the mechanisms those obligations require. The Commission's advisory powers, its dependence on court action to enforce its recommendations and its reported reluctance to criticise the police fall short of the standard of independent, effective and impartial investigation required by article 2(3) of the ICCPR and article 7 of the African Charter. State responsibility reinforces the point: the failure to investigate and sanction is not merely administrative weakness but a distinct breach of obligation.

Responsive Regulation Theory sheds further light. Kenya's combination of an Internal Affairs Unit for lesser matters and an independent authority for the gravest cases reflects a graduated pyramid capable of escalation to serious sanction, at least in some cases. In Tanzania the absence of a credible apex means that even if internal discipline operates, the deterrent logic of the pyramid collapses for killings, torture and disappearances, the cases that matter most.

Kenya's experience, however, also confirms Institutional Theory's warning. The *Katitu* court's observation of cover-ups, the Ojwang death, the *Kituo Cha Sheria* litigation over parallel investigations and the IPOA backlog all show that formal independence must overcome entrenched informal norms and chronic under-resourcing. A Tanzanian authority built on the Kenyan model without secure funding, investigative capacity and political commitment risks replicating Kenya's difficulties rather than avoiding them. Lessons are therefore drawn from the functions the Kenyan framework performs more effectively, in line with the functional method, rather than from the wholesale adoption of Kenyan institutional forms. The study's doctrinal

design also means that these conclusions concern the legal and institutional accountability chain; they do not measure the frequency of misconduct or the lived experience of complainants.

VIII. CONCLUSION AND RECOMMENDATIONS

A. Conclusion

This article has shown that Tanzania and Kenya share the same core binding obligations to investigate police misconduct and provide effective remedies, and that both continue to experience serious documented misconduct. They diverge principally in the domestic design through which those obligations are given effect. Kenya's constitutionally entrenched and statutorily independent oversight architecture has produced verifiable, if still limited, outputs in the form of published data and convictions of officers for serious misconduct. Tanzania's predominantly internal disciplinary architecture, complemented by an advisory commission, has not demonstrated a comparable, independently verifiable record. At the same time, Kenya's own backlog, delays and custodial deaths caution against treating institutional transplantation as a complete solution. Effective police accountability requires the cumulative operation of constitutional standards, independent institutional design, adequate resourcing and sustained political commitment; the absence of any one risks reproducing the gap between formal design and practical effectiveness that this study has identified.

B. Recommendations

First, constitutional entrenchment of police accountability standards. The Constitution of Tanzania should be amended, or implementing legislation enacted under existing constitutional authority, to impose express standards of professionalism, transparency and accountability on the Police Force as an institution, in terms functionally equivalent to article 244 of the Constitution of Kenya, giving the courts a benchmark against which ordinary police legislation may be tested under article 30(3) and (4).

Second, an independent police oversight authority. Parliament should establish a standing, statutorily independent authority, modelled functionally though not necessarily in institutional form on IPOA, with exclusive investigative jurisdiction over deaths, serious injuries, torture and enforced disappearance alleged to have been caused by police officers. The legislation should expressly exclude concurrent investigation of such matters by the Force's internal units, in line with the clarity achieved through *Kituo Cha Sheria*.

Third, separation of disciplinary authority from operational command. The Police Force and Auxiliary Services Act should be amended to vest recruitment, promotion, transfer and serious

disciplinary decisions in a body, or an insulated unit, institutionally and functionally separate from the Inspector General's operational command.

Fourth, a statutory duty to respond. The DPP should be placed under a duty to respond formally, within a prescribed period, to any recommendation for prosecution by the oversight authority.

Fifth, publication of disaggregated outcome data. The Police Force and the oversight authority should be required to publish periodically data on complaints received, investigations conducted, sanctions imposed and prosecutions pursued, in a form comparable to IPOA's reporting, to permit independent verification and strengthen public confidence.

Sixth, adequate and protected resourcing. Any new or reformed oversight body should enjoy budgetary protection comparable to that of other independent constitutional bodies, since Kenya's experience shows that formal independence without secure funding produces backlog and undermines effectiveness.

C. Future research agenda

This study is confined to doctrinal and documentary analysis and has not generated primary evidence from police officers, complainants, prosecutors or oversight officials. First, empirical research, including interviews and surveys with complainants and officers in Tanzania, would test whether the institutional reforms recommended here are likely to overcome the informal institutional culture that Institutional Theory identifies as an obstacle. Second, comparative research extending to other African jurisdictions with independent civilian oversight bodies would test whether the lessons identified hold across different institutional and resource contexts and identify design features, such as funding formulae or reporting obligations, that reduce the risk of backlog. Third, longitudinal research tracking the outcomes of any Tanzanian reform would assess whether practical effectiveness has in fact improved. Finally, research on the implications of Tanzania's non-ratification of the CAT and the Optional Protocol for police accountability, including the prospects of ratification and of an independent national preventive mechanism for places of detention, would address a gap this study has only been able to note.

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