



# Shrinking Civic Spaces in Institutions of Higher Learning Project

## Student-Police Dialogue



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## Abbreviations

**CUEA:** Catholic University of Eastern Africa

**DSJC:** Dandora Social Justice Centre

**DCI:** Directorate of Criminal Investigations

**DPP:** Director of Public Prosecutions

**GBV:** Gender Based Violence

**IPOA:** Independent Police Oversight Authority

**OCS:** Officer Commanding Station

**KU:** Kenyatta University

**LRF:** Legal Resources Foundation

**MMU:** Multi Media University

**RLS:** Rosa Luxemburg Stiftung

**UON:** University of Nairobi

**YVM:** Your Voice Matters

## Background

The Student-Police Dialogue is an activity part of Haki Nawiri Afrika's Shrinking Civic Spaces in Institutions of Higher Learning project supported by Rosa Luxemburg Stiftung (RLS). The goal of the project is to expand civic spaces among university students the goal of the project is to expand civic space among university students. The objectives of the project are to:

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- To Enhance the capacity of university students to demand and defend their rights
- To strengthen responsiveness to issues affecting students in institutions of higher learning
- To enhance the capacity of university students to access justice and develop the skills and knowledge of students to contribute to solving community problems.

Supported by the Rosa Luxemburg Stiftung-Eastern Africa Regional Office, Haki Nawiri Afrika organised a Student-Police dialogue on 18 November 2020 hosted by students at the Catholic University of Eastern Africa in collaboration with the deputy Officer Commanding Station (OCS) –Hardy Police post. The dialogue had 215 participants. Represented institutions were University of Nairobi, Kenya School of Law, students from Catholic University of Eastern Africa, Multi- Media University, Tangaza University and Dandora Social Justice Centre.

## Opening

The dialogue was opened by two students from Catholic University of East Africa .In the opening statement, the two students shared their experience as part of Your Voice Matters Project<sup>1</sup> (YVM) and their participation in Haki Nawiri Afrika's paralegal training and human rights training, what they had learnt and how they were utilising the knowledge both in the university and within their communities. The two students reported having learnt a lot and being exposed to what is happening in different parts of the world. One student called upon fellow students to be part of Haki Nawiri Afrika as a platform for continued learning and exposure. A fourth year student also shared his experiences visiting Tanzania and interacting with students from

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<sup>1</sup> <http://www.fahamu.org/your-voice-matters/>

universities in Uganda and Tanzania during a regional leadership and mentorship training under Your Voice Matters Project.

### Opening Remarks



The students were taken through an overview of Haki Nawiri Afrika including mission, vision and activities. It was explained that the aim of the Student-Police dialogue was to enable students understand justice system from a police perspective, build relationships with the police and create an enabling environment where students and police can collaborate in matters relating to human rights and social justice and at the same time address reduce rights violations meted on students by national security apparatus.

## Overview of Haki Nawiri and the Shrinking Civic Spaces in Institutions of Higher Learning Project



### Introduction

The dialogue brought together 215 participants. Represented institutions were: Kenyatta University, Catholic University of Eastern Africa, Multi-Media University (MMU), University of Nairobi (UoN), Kenya School of Law, Legal Resources Foundation, Kenya Police Service and Dandora Social Justice Centre (DSJC).

### Expectations

Asked their expectations of the police-student dialogue, the participants stated the following:

- To learn the role of police protecting the public.
- To better understand why police brutality happens
- To establish relationships between citizens and the police
- To better understand police motivations in how they handle Kenyan youth
- How to establish relationships between people and police
- To understand what the government has done in dealing with police brutality
- To understand our rights
- To learn mechanisms of promoting good relationships between

the police and student leaders

- To learn how the police operate in their work
- To understand how the Independent Police Oversight Authority (IPOA) works in handling police brutality
- To understand constitutional provisions through the law and how the police enforce these provisions
- To understand why the police use brutal means to get information from the public
- To know why is it difficult for the youth to access justice in Kenya
- To know what police service is doing to end police brutality
- To learn something new
- To know rights as stated in the constitution
- To understand the relationship between rights and policies
- To learn about justice system and how the law applies to everyone
- To know why police use foul language while addressing people
- To know how the police/students dialogue functions in enhancing peace
- To know why human rights are not part of police affirmative action
- To learn how to establish a good relationship with the police
- To learn about freedom

### **Participants sharing Expectations of the Student-Police dialogue**



- To understand more on police ethics and profession

- Learn share, interact and network
- Learn police ways of handling injustices and their remedies
- To interact with a police officers
- To learn more about national security
- To gain positively
- To develop and equip myself with the skills to protect and conserve humanity
- To learn how the police functions
- To understand criminal justice system
- To know whether there are any police officers assigned to Catholic University of Eastern Africa (CUEA) and how they handle students involved in cases
- To create a better mind-set about the police force
- To understand the main cause of police brutality
- To understand the laws against police brutality
- To gain new knowledge
- To know more about the police
- To learn how police operate and their policies when it comes to interactions with people
- To learn how police functions and more on how Independent Police Oversight Authority (IPOA) works
- To learn about the relationship between my rights and the policies
- To learn on how to establish a good relationship with the police unit
- To foster good rapport and relations between the police and the university students
- To understand how and why Kenyans are afraid of the police
- To understand relationships with others
- To learn how to navigate the justice system in Kenya
- To learn about police roles and effectiveness in our country
- To understand why police are using lethal force when dealing with civilians
- To understand the effectiveness of police work
- To understand how the police interact with civilians away from the police station set up



## Part 1: Experience Sharing: Students' Encounter with the Police and Navigating the Justice System

### Case 1: **Restricted Places**

"I had travelled to Kisumu to visit a friend .We decided to take a stroll to the Kisumu port. We encountered police officers that told us this was a restricted zone and that we had committed an offence for passing there. We did not at the time see any signage indicating that the area was out of bounds to the public. My friend had long hair; the police said in fact "this one is a criminal". We were told to part with money or otherwise our fingerprints would be taken and we would head to court. My friend and I contributed the money we had and gave to the officers. Upon release we met a senior officer who asked us what we were doing at the port environs. We had to come up with a story that we came to visit an uncle who is a police officer in the locality, otherwise, we would have been re-arrested"

"Why is having long hair among males associated with crime?"

### Case 2: **Bribery**

"I was passing close to a police station and was listening to music on my earphones. Two police officers called me and said I had committed an offence; I had to part with money to be released".

"Is it illegal to wear headphones while passing by a police station?"-  
Kevin Okoth, student, Catholic University of Eastern Africa

### **Experience sharing on encounters with the Kenya Police**



### Case 3: **Police Intimidation**

“It was during the school holidays and most students had left Nairobi for their home areas. I was alone since I did not travel. My friends left their household items in my house for safekeeping. One of my neighbours is a *boda boda*<sup>2</sup> rider; he had left his motorcycle in my house because his house is smaller. One day while resting in my house in Rongai, four police officers came, ransacked the house asking questions about the household items. I asked them who they were because they did not identify themselves. They told me they are police officers and that there had been break-ins in the locality. They asked who the owner of the motorcycle was; I had to call my neighbour who showed them the logbook. The police wanted to take the motorcycle away but the owner adamantly refused. We had to go to the police station to confirm whether the four officers who had ransacked my house were really police officers. This experience left me scared. I came back to Nairobi after 6 months.

### Case 4: **Social distancing**

“It was mentioned that with Covid19, there is an increase in arrests, particular in relation to Covid 19 regulations. When police arrest people, they are bundled in a police car, the Covid 19 regulations are flouted during these arrest. How do you enforce Covid 19 regulations when as an officer you are contravening the regulations?”

“Police officers arrested 14 and 12 CUEA students in a span of two weeks November 2020; the students were told they are arrested for not keeping social distance” –Maxwel Munyendo, student –Catholic University of Eastern Africa

## **Part 2: Questions from Students**

The deputy OCS responded to the questions posed by the students as follows:

### **QWhy does the police criminalise long hair?**

This is an attitude that has prevailed where long hair is associated with crime or intention to commit an unlawful act.

### **Q.Is it wrong to wear earphones while crossing a police station?**

It is not wrong to put on earphones while near a police station or police post. What is wrong is walking when the flag is being hoisted or lowered .One has to stand at attention when this is being done.

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<sup>2</sup> Bode boda is a term used to refer to a motor cycle

**Why are males more prone to arrests than females?**

It is assumed that more males engage in crime than females. Additionally, the boy child is stereotyped to engage in actions that go contrary to the law than the female gender.

**Q.Does the law allow police officers to track someone's movements in a case where one is in a relationship with the police officer?**

No law allows a police officer to track someone's movements, this is a criminal offence and if an officer does this they should be reported to IPOA.

**Q. Can I fight with a police officer, if it is in self-defence?**

Fighting with a police officer is considered a criminal offence. When one a civilian fights with a police officer they are liable to a 7 year jail term, when a civilian resists arrest, they are liable to a 4 –year jail term.

**Q. Why are the police always harsh when dealing with students?**

It is the attitude the students present when encountering the police, this makes the police react the way they do.

**Q. Why do police officers get into *matatus* and force the person seated in the front seat to alight or take free rides in *matatus*?**

This is because the police in the process ensure law and order and in case there are criminals in the *matatu*<sup>3</sup>, they can be easily apprehended, additionally in case of any bad occurrence, the police can easily alight from the vehicle.

**Q. If you complain about a police officer to the OCS, aren't you getting vulnerable because the same officer while in police custody will handle you?**

If a police officer is brutal, one has the right to complain about them either to the OCS or to IPOA, the police also have internal systems responsible for investigating the conduct of police officers.

**Q. Are the police allowed to track one's movement when one is dating a police officer?**

Police officers should not track ones phone even when they are dating, one can report the matter and it will be taken to a higher level, more so if reported to IPOA it will be a serious offence. Everyone has a right to privacy.

**A student raising issues of concern at the student-police dialogue**

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<sup>3</sup> Matatu is a minibus used as a form of transport



**Q. What happens if there is a criminal in your neighbourhood, but you are afraid to report him to the police for fear?**

When the criminal is found and it is determined that you knew about his activities but kept quiet, you will be charged as an accomplice to the offences.

### **Question and Answer session at the Student-Police dialogue**



## **Students and criminal offences**

It was emphasised that the law is very clear on what is a criminal offence and what is not and that when a student commits a crime, they will be charged as an adult citizen. The existing relationship between police and students was discussed .It was said that students never comfortable in the presence of the police and treat police with mistrust and animosity. It was pointed out that students should look at police officers as human beings and consider them as brothers and sisters.

## **Role of the Police**

It was discussed that the work of the police in Kenya is outlined in the Police Service Act <sup>4</sup>, and how as how to handle citizens is contained in the Kenyan Constitution (Art 244). Many students mentioned the issue of police brutality and bribery as key concerns for students. It was said that the type of training they get influences police brutality and that this brutality is also influenced by the different personalities of each officer.

## **Discussion on the role of the police and Kenya's Justice system**



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<sup>4</sup> <http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/PoliceAct.pdf>

## **Resisting Arrest**

It was said that fighting with a police officer is considered a criminal offence liable to a 7- year jail term in Kenya and resisting arrest is also an offence liable to a 3-year jail term. It was said that when the police is arresting a person, the best thing to do is just to cooperate. It is worth noting that the jail term for resisting arrest and fighting with an officer in essence puts the officer at an advantage over civilians and that some rogue police officers take advantage of this provision to unlawfully arrest and intimidate citizens.

On arrests, it was said that how police officers react when arresting depends on how the arrested person communicates or behaves. It was said that when encountering a police officer is it important to be calm and that the farthest a police officer will take an arrested person is the police station.

It was pointed out that safety begins at the individual level and that there are laws and regulations that govern every institution. An example of personal safety was given of a student owning a Kshs 50,000 laptop but having a Kshs 200 padlock. It was mentioned that there is need to ask ourselves what the law says in every situation and that every action has consequences both positive and negative. It was explained that as good citizens, students have a duty to acquaint themselves with rules and regulations and with laws that govern the country. It was said that despite the low arrest rates of students at CUEA, because of adherence to safe standards or safe regulations, there are others who are habitual offenders.

“My observation is that certain laws aid the police to commit crimes for instance if you beat a police officer in Kenya, you are liable to a 7 year jail term or a fine of 1 million. Although this acts as a deterrence to the public not to fight police officers, but on the other hand, it aids or may aid a police officer to take advantage of this right”-  
Brian Odhiambo, student, Kenya School of Law

## **Complaints against Police Officers**

It was said that in case one has complaints about police brutality, they can report the case to IPOA or can report it to the OCS who will investigate and in some cases bring the two parties together to settle their differences amicably. The students were cautioned against panicking when they see police officers. It was mentioned that the police has two (2) units responsible for investigating complaints against the police force. Additionally it was said that IPOA also deals with police conduct and one can write to them. It was also explained that if one has complaints against a police officer they can report to the OCS

of the relevant station and that if it something that is not serious mediation will occur and the officer apologise whereas for serious matters the police investigative unit takes over.

“When I got arrested, it was a dent to my integrity because I’m a law abiding citizen”-Maxwel Muyendo, student-Catholic University of Eastern Africa

### **Peer pressure and crimes**

It was said that the types of friends one keeps have influence how they behave and that it is important to choose the right friends.

### **Substance abuse among students**

It was mentioned that drugs is a major challenge affecting young people and that the main reason for students engaging in substance abuse is peer pressure. It was emphasised that when parents and guardians bring their children to university they expect the children to learn and finish school. It was observed that many students idle around universities but are not in classes because they have been suspended due to substance abuse and at the same time fear to tell their parents and guardians what is happening. The participants were asked whether if they were potential employers, they would employ a drunkard to work for them. It was emphasised that there is need for students to desist from bad peer pressure, as this is what leads them into drugs. It was said that students need to understand the purpose that brought them to school .The students were asked why is it that they do not get drunk at home in the presence of their parents and guardians as much as they drink when in learning institutions?. It was emphasised that a person’s situation when older depends on their behaviour while young and thus students have to make the right choices in life.

### **Police Responsiveness**

It was said that in case the students have issues, they can report them to police or dial 999 which works .The participants were cautioned against assuming that 999 doesn’t work and that police respond to this number. The participants were however cautioned against using the emergency number for flimsy reasons for example a student who is drunk .It was mentioned that the police response also depends on gravity of a situation for example rescuing a household under criminal attack would be given more priority compared to drunk students who are fighting. It was also pointed that in case a student is sick and alone in the house, they can call 999 and an ambulance will be facilitated for their rescue

## **Justice system**

It was said that justice system begins at the police station, when arrested there is the Bill of Rights under the constitution which is supposed to be adhered to. Before an arrest, the officer must tell the arrested person the reason for arrest. The police have to identify themselves either when they have the uniform, if they are civilian they have to show the police identity card, which has the rank and the service number. It was emphasised that these numbers are unique and distinct to each officer.

The judicial system usually starts with booking when you have done a mistake and a file opened and a charge sheet drafted stating what you have done, in a particular hour or place and the preferred charges. It was said that then the file taken to DPP to peruse whether the charge sheet has any mistake, then taken to court for the accused person to plead guilty or not guilty. It was mentioned that if one pleads not guilty, they are given 14 days then hearing proceedings begin.

It was pointed out that some police take advantage saying they will take fingerprints, it depends with if the offence is grievous. It was emphasised that petty offences do not warrant fingerprinting.

## **Assault and Violence**

It was mentioned that assault and violence are the major cases identified among students, with the bulk of the incidences being students fighting over boyfriends and girl friends and some fighting when drunk. The participants were cautioned to resolve their issues without resorting to violence.

## **Unlawful arrests by police**

In responding to a question on police swoops and the arrest of innocent people, it was said that police service depends on performance and that people get arrested because the police have to prove they are working thus need data to justify performance .It was said that police operations take place when people are idling, in *chang'aa*<sup>5</sup> dens especially where there are crowds. It was further said that with Covid 19 more arrests are being made because the police have to ensure the public adherence to Covid 19 regulations including social distancing, wearing of face masks and curfew rules.

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<sup>5</sup> Chang'aa is the name given to illicit brew



## **The boy child and the justice system**

It was mentioned that the boy child is a target during police operations and this is due to the stereotype that males are more prone to engage in unlawful acts than females. Additionally, it was said that majority of people involved in crime are young people. It was said that no police officer has a right to beat or mishandle an arrested person. It was mentioned that if a police officer mishandles an arrested person, the arrested person should take a P3<sup>6</sup> Form against the police officer. One student however pointed out that this could put the arrested person in an awkward position because the P3 Form is normally signed by a police officer, which may not want to endanger a fellow officer. It was said however that in such cases, complaints could be forwarded to IPOA for further follow up. It was pointed out that the police in Kenya has been evolving previously from a Police Force into a service-oriented entity namely Kenya Police Service.

## **Right of search**

It was said if a police suspects a civilian, they don't have to have a court warrant and this is provided for under the Constitution. It was mentioned that police officers of the 1990s and the police of 2020 have changed a lot and have undergone a lot of training in order to understand how to handle the public. It was noted that nowadays one can middle with the police, something that was unheard of in the 1990s, it was also pointed out that the police currently go through a lot of training and their operations have improved.

“ I have taken something from you, we will go and enforce “” –Pharis Irungu, Deputy OCS –Hardy Police Post

## **Gender based violence, psychosocial support and the justice system**

It was said that the law is clear on presumption of innocence until proven guilty however in practice this presumption does not work. It was said that it is important to know various referral mechanisms handling issues affecting communities such as Gender Based Violence (GBV), it was said that in case of emergencies, the participants can call 1195 which is a toll free line for GBV cases. It was said that trauma counselling is important, for victims or people with family members who are survivors of violence and that knowledge of where to refer the cases helps enable access to the much needed support.

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<sup>6</sup> <https://www.kenyapolice.go.ke/downloads/category/4-police-forms.html>

## **Students and police**

It was said that at CUEA, the police officers mostly forgive students when they encounter the police and this is due to an existing coordinated relationship between the police and the university administration.

## **Police and professionalism**

It was said that the police have different upbringing and thus behave differently .It was also mentioned that it is expensive to train a police officer , in addition to it being difficult training one police officer. It was also mentioned that another dilemma that allows for the existence of rogue officers is the difficult in striking a police officer out of a payroll because one has to justify why they have to be removed from a payroll, therefore making it difficult to root out rogue officers.

It was stated that when one meet a police office that appears rogue, not to argue with them but ask to see the OCS upon arrival at the police station. It was also mentioned that loose language among police officers has to do with their training and that it is quite unfortunate that some police officers despite their age continue to use crude language when arresting civilians.

It was mentioned that some police officers are rude but this rudeness is mostly an individual trait. It was further said that the police should endeavour to do good because they are supposed to work for taxpayers. It was emphasised that police need to handle each person with the dignity they deserve.

## **Fingerprints**

It was said that taking fingerprints by the police is part of the procedure of the justice system. It was mentioned however that some police officers use fingerprinting to intimidate civilians and instil fear, thriving on the fear of citizens not getting a Certificate of Good Conduct because their records of their fingerprints are in police custody. It was emphasised that not all offences warrant fingerprints and that in only serious offences does one require fingerprints.

It was stated that in criminal offences there are 3 sets of fingerprints are developed and 2 sets are taken to court .It was said that after fingerprints are taken, they are forwarded to the Directorate of Criminal Investigations (DCI) and if the Director of Public Prosecution (DPP) approves then the case is registered in court. It was mentioned that if one is acquitted of a charge, the have a responsibility to go to the DCI with the judgement indicating they have no case to answer in

order to have the fingerprints lifted from the records system. It was emphasised that in some cases the police use fingerprints as a mechanisms of deterring people from engaging in crime to bring about the fear of not getting a good conduct certificate.

“There is law in books and law in practice –for example although the law provides that one has a right to take a P3 Form if a police officer beats and injures them, this in practical aspects is not possible since the P3 Form is also filled by a police officer who may prefer to side with a fellow police officer”-Brian Odhiambo, student –Kenya School of Law

### **Part 3: Rights in the Justice System**

It was said that an accused person has the following rights:

- Right to be represented
- Parents or guardians informed
- Right to be silent
- Have the right to ask for someone else to handle the case
- Have a right to be taken to court within 24 hours, if you delayed in a police station one has a right to raise this in court unless it is a weekend

It was mentioned that 24 hours is the maximum one can be held in police custody according to the law unless the court files for an extension.

“ When students see the police, they run” – Maxwel Muyendo student, Catholic University of Eastern Africa

### **Participants' Comments**

The participants had the following comments:

“In sustaining building relationship with the police Hardy police to consider providing a platform for the students to work together, having a representative from student community being part of this platform when issues affecting students are brought up by the university management “- Lenson Njogu, Regional Coordinator, Legal Resources Foundation

“Police officers turn violent when asked questions, some are trigger-happy” –Olivia Aol, student, Catholic University of Eastern Africa

“These platforms need to continue and be made purposeful, even minus Haki Nawiri Africa, the students need to be able to invite the police to their university and engage them in dialogues” –Lenson Njogu, Regional Coordinator-Legal Resources Foundation

“Your juniors always let you down. My humble request go back and talk to the junior officers to change” – Maxwell Muyendo, student, Catholic University of Eastern Africa

“ The dialogue marked a new beginning as far as the relationship between law enforcement agency and university students is concerned –David Wipa, School President, Catholic University of Eastern Africa

### **Closure**

It can be concluded that the dialogue was able to respond to the student's expectations. The students were able to gain information about Kenya's justice system from a police service perspective, challenges in the justice system as well as share their experiences and concerns with regards to the police. The participants appreciated the dialogue in that it provided them with a platform for learning. The students also voiced calls for more similar platforms in future.

