ASYMMETRICAL CONFLICT AND HUMAN SECURITY: REFLECTIONS FROM KENYA

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Abstract

This paper focuses on contemporary challenges to the human security framework through an examination of asymmetrical conflict generated by extremist insurgents, specifically *Al Shabaab* in Kenya. The political and security dynamics generated by extremist groups often find re-inforcement in local contestations over power and territory, resulting in an interaction between local and 'external'. It is the product of these interactions in the form of opportunities, resultant discourses, responses and what they offer to an expansion of normative ideas about human security and conflict that this paper focuses on. Using Kenya as a case study, this paper explores the interface between the growth of *Al Shabaab,* securitisation of governance and political elite consensus on the policy relationship between human security *versus* a state security model. This paper pursues the argument that the rise in the intensity and nature of *Al Shabaab* attacks in Kenya has influenced the inter-pretation of the country's security threats and the application of strategies. Rather than aiding the application of human security as central to na-tional security, it has rolled back previous gains.

1.   Introduction

The post-Cold War period has seen a shift from inter-state wars to intra-state armed conflict as the dominant form of military conflict in the inter-national system. In the last decade, a dimension of intra-state conflict has gained increasing prominence. Where large-scale violence and in-

securities have occurred, they are increasingly associated with insurgency groups and asymmetrical conflict such as in Afghanistan, Syria, Libya, Mali and Somalia. The rise of extremist groups that are transnational and trans-continental in nature, such as *Al Shabaab* in East Africa, *Boko Haram* in Nigeria, *Al Qaeda in the Islamic Maghreb* (AQIM), *Mouvement pour l'unicité et le jihad en Afrique de l'Ouest* (MUJAO) have complicated the peace and conflict terrain. The proliferation of extremist insurgent groups has influenced both the discourse and application of conflict resolution frameworks, especially for states in the Horn of Africa and the Sahel, that have borne the brunt of an increase in diverse groups that pledge sympathy and/or act in solidarity with the global network — *Al Qaeda* and today Islamic State of Iraq and Levant (ISIL).

Conventional definitions of insurgency have subsequently changed in the last decade due to the financial, military and ideological support that extremist insurgent groups draw from both the populace and global networks. Some scholars describe these new insurgencies as new wars, shaped by the inability of the state to discharge its basic functions such as the maintenance of peace and security, to act as a neutral arbiter in competing public claims, provider of the public goods and amenities or become an engine of development (See Buncker 2005; Dartnell 2006 and Salehyan 2009). Social factors such as ethnicity, religion and identity politics, which become a basis for claims made against regimes, reflect a crisis in state and nation making. In identifying land or territory as a key resource or basis for making demands for independence, these movements reflect the failure of states in this region to create a consensus in belonging within the borders of nation-statehood. In effect, debates on security, conflict resolution and peace-building are being tested significantly due to this shift in the peace and security landscape.

As a result of the context above, two sets of conversations have converged and dominated normative approaches to peace and conflict. The first is the evolution of a peacebuilding agenda through *An Agenda for Peace* in 1992, which was an effort to develop a coordinated international approach to peace making and conflict resolution efforts (Boutros-Ghali 1992). The Boutros-Ghali led *Agenda for Peace* co-incided with debates on human security, a concept, which is noted to be one of the most significant shifts in the way that security has been understood since the end of the Cold War. While the history of human

security can be traced to the growing dissatisfaction with prevailing notions of development and security in the 1960s, 1970s and 1980s, it was only in the early 1990s that an explicitly human security perspective was articulated with some rigour. The *1994 United Nations Human Development Report* highlighted the importance of the shift to the individual, noting that the real security threats were associated with poverty. However, the stabilisation approach to peacebuilding that gained currency post the September 2001 terror attacks in the United States (US) has complicated the place of the individual as an important fulcrum for security.

Stabilisation as a framework, particularly, in the post 9/11 environment has been characterised by an emphasis on ensuring stable secure states, expressed through well-policed borders. The aim is to manage the localisation and therefore the diffusion of terror networks into the Global North. Consequently, the coercive power of the state has become key, resulting in the conflation and rise of militarisation as peacebuilding (See Curtis & Dzinesa 2012). One of the most prominent ways in which this has been manifested in Africa is through two American led initiatives. The Pan Sahel Counter Terrorism Initiative (PSI) — now Trans-Sahara Counterterrorism Partnership and Operation Enduring Freedom — initiated in November 2002 was designed to protect borders, track movement of people, combat terrorism, and enhance regional cooperation and stability. PSI targeted Mali, Niger, Chad, and Mauritania and was argued to respond to suspicious movement of people and goods across and within their borders through training, equipment and cooperation. The initiative's goals merged with US national security interests in Africa: waging the war on terrorism and enhancing regional peace and security (Ellis 2004). US Africa Command (AfriCOM) on the other hand was spearheaded by the Bush administration to "ensure security and interventions to prevent war and conflicts, which by full operation should have military bases across 53 countries in Africa" (Ganzle 2011). The securitisation of development, which these two initiatives argue to be their approach — no security without development and *vice versa* — has been contested with concerns raised about America's push towards using military power against states that "threaten the US national security" and AfriCOM operating with little oversight from Congress or international bodies like the United Nations' (UN) (See Kidane 2008; Mesfin 2009; Gänzle 2011).

The stabilisation approach has implications for the already con-

tested realm of human security. In the same way that peacebuilding frameworks have been challenged for their prescriptive nature and failing to account for local peculiarities and conflict realities, the human security framework has been the site of much debate. Taken together, the stabilisation approach to peacebuilding and the human security framework, find a ready critique through scholars who argue that both frameworks offer the West an opportunity to assert control over the developing world in order to protect itself from disorder emanating from the South (Paris 2001; Cilliers 2004). The expansive nature of both concepts and the related problem of measurement and definition challenge their applicability.

The conceptual and practical tensions become more pronounced when placed in the context of ongoing extremist insurgencies across sections of Africa and in this case Kenya. Granted, the ideals contained within the human security framework such as protection from the threat of disease, hunger, employment, crime, social conflict and political repression find validation as triggers and root causes of rising extremism. However, in making a link between security and human development there is a growing appreciation of the borderless nature of security challenges generated by extremism in particular. Conflict and its impact are interdependent, spreading beyond the confines of affected states. States therefore have to collectively and robustly reflect on what constitutes the security problem: security for whom, security based on which values, security from what threats, and security by what means? (Cilliers 2004; Gasper 2008). In doing this, the social contract continues to be tested in many contexts, leading to a reconstruction of the ways in which governments and citizens engage. It is on the interface between citizen and regime engagement that this article focuses.

This article analyses the role of asymmetrical conflict in Kenya, in opening up state-centric security approaches to public debate and consequently pushing for increased accountability to citizens. To do this, it focuses on two broad questions. It begins by examining the intersection between state security and human security as part of a national security strategy. The second is the discursive and practical tension in making a case for an inverse relationship between increased socio-economic security and reduced military spending in order to address the threat of violent extremism locally. In this regard, the relationship between elite consensus on the origins and resolution of security threats will also be examined. The findings of the 2008 Commission of Inquiry

on Post Election Violence (CIPEV) on security sector reform framed by the Westgate terror attack in September 2013 and its aftermath is used as the basis of the analysis in this article.

2.   Security sector reform in Kenya: A brief overview

The expansion of security sector reform debates in Kenya occurred after the Commission of Inquiry on Post Election Violence (CIPEV) recommended extensive police reforms (See CIPEV 2008). The police service was targeted because they were adversely implicated in extra-judicial killings, rape and other human rights abuses during the post-election crisis. It is important to note though, that discussions on profes-sionalising the police service have been part of policy conversations between actors in the security sector and various governments since 1992. These 'insider' conversations have focused on two main areas. The first area was driven by a concern with the conditions of service, which included a review of remuneration, institutional hardware such as facilities and equipment and software such as issues of recruitment, training, retention and career progression. The second area dealt with strengthening the rule of law. It is in this area that a significant amount of civil society support has been directed through diverse forms of human rights compliance trainings for police officers (See Omeje & Githigaro 2012).

        The CIPEV recommendations catapulted these efforts through the creation of a National Task Force on Police Reforms in May 2009, which was mandated to make proposals for police reform in the country. Some of the major changes included the development of the *National Police Service Act* passed in August 2011, which merged the Kenya Police and the Administration Police into one hierarchy and established the role of Inspector General of Police with authority over both policing branches. The Act also placed limits on the use of force by police, stipulating that an officer may use "force and firearms, only as is necessary" (See Government of Kenya 2011). A civilian board was also established to oversee recruitment and appointments of police officers, review standards and qualifications, and receive complaints from the public and refer them to the Independent Policing Oversight Authority (IPOA) and other government entities (Government of Kenya 2011).

However, by March 2013 there were increasing calls by the Inspector General of Police to increase the powers given to him. More worrying was the call to empower the police to exercise more force (HRW 2013). These calls were indicative, as would be expected, of operational difficulties between the civilian oversight bodies and the police hierarchy. However, they were also framed against an increase in insurgency attacks in the country as well as generalised insecurity such as home invasions, rape and car-jacking. Increasing the power allocated to the Inspector General of Police and democratising the use of force by the police would move away from the initial spirit of the constitution, which was to manage excessive, unsupervised police power. Civilian oversight was intended to increase accountability to citizens to whom services are provided.

3.   The Westgate siege in context

The staggered efforts at security sector reform were disrupted by the Westgate terror attack on 21 September 2013, which was described as a retaliatory action by *Al Shabaab* for Kenya's military incursion into Somalia. *Operation Linda Nchi* (protect the country), was a coordinated military operation between the militaries of Somalia, Kenya and Ethiopia that began on 16 October 2011 into Southern Somali territory occupied by *Al Shabaab*. The initial military operation has since been absorbed into the African Union Mission in Somalia (AMISOM).

The history of transnational terrorist actions in Kenya can be traced back to the first bus park attack in 1975 and escalated in 1998 with the *Al Qaeda* attack on the US embassies in Nairobi and Dar es Salaam. These attacks cannot be read outside international global power politics and retaliations against US allies. The rise of *Al Shabaab* must also be situated in this context and can be traced to the forced dissolution of the Islamic Courts Union (ICU) in 2007. The ICU was a loose formation of Islamic judicial systems created in mid-2004 that managed to restore some sort of civil order after years of a violent anarchy in Somalia and received significant support from the Somali people (Wise 2011). ICU had taken over most of southern Somalia in the second half of 2006 and was in direct opposition to the Transitional Federal Government that was more palatable to actors internally and in the sub-region (Wise 2011). *Al Shabaab* was the militant wing of the ICU. In December 2006 and January 2007, Somali government and

Ethiopian forces supported by the international actors rooted out the ICU formation but the radical *Al Shabaab* retreated into the South (Wise 2011; START 2013).

Prior to Kenya's incursion into Somalia in 2011 through *Operation Linda Nchi*, research demonstrates that what existed in Kenya were sleeper cells and increased local radicalisation rather than an overt *Al Shabaab* presence. Kenya as a site of *Al Shabaab* fury is noted to be rooted in *Al Shabaab's* claim to a historical Pan Somalia project but has found mobilisation capacity in deep rooted state-society fragility including state institutional weaknesses (Botha 2014; ICG 2014). Since 2011 and prior to the Westgate mall attack, *Al Shabaab* targets were diverse, ranging from bars in downtown Nairobi, to crowded bus terminals and churches, and the majority of their casualties and targets have been civilians at 25,9 per cent with military targets constituting 22,4 per cent (START 2013: 2).

The Westgate attack was considered significant in comparison to previous *Al Shabaab* claimed attacks, largely due to its target, an upmarket mall on a weekend, the number of casualties and the fact that its evolution revealed sophisticated preparation by the assailants. The siege resulted in four days of combined engagement between the police, army and other special security forces and the assailants. At the end of the four days and to date there remains haziness about the number of assailants and whether there was sufficient actionable intelligence that could have averted the crisis. Of importance to this article though is what the management of the siege revealed about the state of security management in Kenya. The Westgate siege illuminated historical structural and institutional weaknesses related to national security thinking and the sector charged with its delivery.

The first layer of historical weaknesses is structural in nature and evident in the space created for militia groups non-aligned to *Al Shabaab* groups to thrive. For instance, there is consensus that the rise of the *Mungiki* coincided with the return to a multi-party democracy in Kenya and accompanying state-sponsored ethnic violence across sections of the country between 1991 and 1994. Scholars argue that it is this political environment that provided *Mungiki* with fertile ground for recruitment from the large numbers of displaced people (Kagwanja 2005; Rutere 2008). Rutere notes that while *Mungiki's* presence was initially strongest among the displaced Kikuyu it quickly spread to the low-income areas of Nairobi particularly the slum areas where it established

a stronghold due to a crisis in public security (2008: 8). Nonetheless, while the political transition may have provided an incubator for the movement to grow, Rutere argues that the politics of vigilantism and violence in which *Mungiki* was implicated makes it difficult for the movement to be characterised as part of a global agenda or a voice of the masses but one in which a political moment helped deepen their patron –client relations with the Kenyan African National Union (KANU) elite (Rutere 2008).

Some of these groups' histories are rooted in political elite machinations to manage opposition, consolidate support through widespread insecurity while others are embedded in historical water and pastoral conflicts some of them across borders such as those amongst the Pokot and Karamajong communities of the Rift Valley in Kenya. In this regard, the November 2012 death of 42 police officers that were part of a police operation in Suguta Valley to address escalated cattle rustling between the Samburu and Turkana communities illustrates the extent of structural decay (See Amnesty 2013; Ronoh 2014). Cattle rustling in this region has increasingly grown violent over the years due to the emergence of better armed local militia groups resulting in increased fatalities. Subsequent investigations into the incident revealed that most of the officers involved in the operation were newly recruited and that there had been no clear commander of the operation, nor provision of adequate equipment (Amnesty 2013; Ronoh 2014).

Weaknesses such as those evident in the Suguta Valley attack have resulted in two main approaches to local security provisioning. The first is that in which citizens in collusion with security officers from whom they contract licensed firearms heighten a militarised approach to resolving local matters that arise from state absence. Second, is the existence of organised criminal gangs using insecurity as a means to extract goods from the population and in some instances to create a subaltern security apparatus. In addition, the high levels of corruption within the force and weaknesses in border management and enforcement have led to the proliferation of unlicensed arms in the hands of civilians. Like the Westgate siege, the Suguta Valley case points to a security apparatus that is ill-equipped on multiple fronts to respond to daily incidences of insecurity let alone those that arise from extremism. The structural challenges within the police force not only speak to the institutional decay that if invested in would deal with basic operational procedures and build morale that leaves those in service and the

society more vulnerable. Insecurity in effect is bred from within. The co-ordination question in Baragoi and Westgate reflects a relational dys-function across the security sector on the one hand but also a chasm between the sector and the citizenry on the other hand.

The second layer of structural and institutional weaknesses concerns the extent of security sector reform, which hitherto focused on the police but had failed to capture with the same veracity other parts of the sector. In question here is the intersection between internal security, border management and territorial integrity. Border management is the Achilles heel of Kenya and other countries that bear the brunt of extremist insurgents. While insurgents find socio-economic deprivation as catalysts for recruitment and proselytising, this is enhanced by the absence of state machinery in sections of the country, which are often far away from the centre and border other countries. State absence refers to the lack of basic service delivery whether this is education, water, health, sanitation, infrastructure and security. Some of the most vulnerable entry points for extremists in Kenya have been the coastal strip and the Northern part of the country. There are two important dynamics worth noting in relation to these two areas. The first dynamic is connected to the low levels of socio-economic development in these regions largely due to successive regime neglect and political patronage. The second dynamic is shaped by the proximity of the Coast and North East Kenya to Somalia, which has had a protracted internal civil conflict. Kenya has borne the brunt of Somalia's extended civil war not only as a refugee receiving country but also through conflict generated dynamics such as the increased illegal sale of small arms and light weapons.

Topographically, the coastal area also features small islands and forests that allow for easy access to the mainland with minimal detection. These contextual factors have therefore shaped the space for extremist groups to operate. Botha highlights the ways in which specific actors allied to *Al Qaeda* have historically used the Coast of Kenya as a rear base. Botha refers to the movement of *Al Qaeda* operatives in Kenya from as early as 1993, such as Khalid al-Fawwaz who would later become a spokesperson for Bin Laden in Britain to Abu Ubaidah al-Banshiri, one of *Al Qaeda's* military commanders to Muhammad Atef in 1994 who would be killed during the US bombing of Afghanistan in November 2001 (Botha 2013: 17). *Al Qaeda* established bases in Lamu and Ras Kiamboni, along the Kenyan–Somali border by 1996 (Botha

2013: 18). These movements find reinforcement in historical exclusion in these areas.

4.   An overview of North Eastern Province and the Coastal Belt

The exclusion of Northern Frontier District (NFD) as it was called was an inherited problem from the colonial government. The British colonial government designated the NFD as a closed area through the *Outlying District Ordinance of 1902*, which restricted both residents' movement and the relationship of the centre to the region. Additional legislation, which included, the *Special Districts (Administration) Ordinance of 1934* and the *Stock Theft and Produce Ordinance of 1933* gave colonial administrators extensive powers of arrest, restraint, detention, and seizure of property of 'hostile tribes' (KHRC nd: 80). At the beginning of the Lancaster House talks on Kenya's independence Constitution, a delegation of Somali leaders stated their desire to have NFD secede to Somalia to join the Greater Somalia, which would encompass all those areas in which people of Somali origin were found. Greater Somalia would therefore span Somalia, Somaliland, Ogaden in Ethiopia, North Eastern Kenya and Djibouti (Castagno 1964; Turton 1972). The contestations that emerged in the immediate post-independence era between the Kenyatta regime and Somalis who bought into the irredentist project led by the Northern Province Peoples Progressive Party must be understood against this background (Wanambisi 1984; Mburu 1999: 99). However, the post-independence regime's response was brutal through a continuation of draconian colonial laws in addition to new legislation that gave Jomo Kenyatta power to rule the region by decree and enlarged emergency powers. The government imposed emergency rule in the region, which was only lifted in 1992 (KHRC nd: 22).

Emergency rule led to decades of state harassment, which included Somali leaders being routinely placed in extended 'preventive detention', the creation of protected villages and continued restriction of entry and exit into the region (TJRC 2013: 12-13). The impact of historical juridical and applied segregation of North Eastern Kenya has had specific ramifications for the relationship between extremist insurgency, exclusion and border control. One of the most central complaints from residents in North Eastern Kenya relates to the difficulties associated

with getting national identity cards, which demands extra vetting of residents of the region. While specific data is hard to come by, anecdotal evidence suggests that those with Islamic names generally requiring additional rigorous vetting in order to acquire identity cards than those with Kenyan or European names (KHRC nd: 34-35). The insistence on vetting border communities as a security measure has created room for corruption since government authorities rely on local elders to determine the authenticity of the claimants, a process that has become open to manipulation. The net effect of vetting is the blanket perception that all Somalis are illegal immigrants or refugees and not that they are legitimate Kenyan citizens have a right to access effective and efficient services from the State (See TJRC, 2013).

In addition, Kenya's North Eastern province is largely pastoral and until recently rural with a rapid urbanisation trend in the last decade. These factors have increased communal competition over scarce resources resulting in pastoral and clan related conflicts. Clan related conflicts in the area are heightened by reinforcements from actors in other countries — Ethiopia, and Somalia — who come with better armament, aided by weak border management and complicated by shared communal ties. The pariah status conferred on the region by successive regimes has, however, resulted in an increase in cross-border commerce from Somalia to Kenya as well as robust local and informal conflict management and security systems. Local communities have relied on informal systems of protection that involve a combination of clan systems and militias. Weak border management has created an environment of lawlessness and fluidity of movement driven by the need to access resources on the Kenyan side. Aided by corruption, this lawlessness has heightened the blanket branding of Somalis in the recent past as a major source of insecurity (See USAID nd).

The coastal end of the country on the other hand has been the site of historical land dispossession, which can be traced to three inter-related processes. The first was the acquisition of land for the creation of a protectorate, the second was the imposition of English property law with titling and private property rights, which provided a juridical context for land appropriation and the third was the land reform process in the immediate post-independence period (Kanyinga 2009: 325). All of these factors put together have had an impact on efforts to address land tenure questions in Kenya generally. For the Coast in particular, economic and political exigencies guided the establishment of settlement

schemes in the Coast by creating a distinction between land for agricultural production and land for settlement. Politically, settlement efforts were driven by the need to manage violent conflict arising from landlessness. However, land expropriation in the Coast, instead of resolving indigenous communities' land thirst, led to the acquisition of land for and by non-locals at the expense of historically dispossessed communities — the Mjikenda (See Kanyinga 2009; CRA, 2012).

The institutionalisation of political patronage as a means for accessing land rights has been a factor in the re-distribution, acquisition and settlement of local landless communities. The discrimination has been evident in the provision of land titles to non-indigenous communities while locals who have occupied and used land are unable to claim ownership through juridical means, which supersedes occupation. It is noted that in one settlement scheme — Mpeketoni — 95 per cent of the occupants are Kikuyu who were resettled in the late 1960s and early 1970s by President Jomo Kenyatta upon expulsion from Tanzania after the collapse of the first East Africa Community (EAC). The settlers were issued with title deeds during the Moi era while in neighbouring Mkunumbi, indigenous communities have no legal land titles (See CRA 2012: 19). Mpeketoni was the site of a brutal overnight attack between 15 June and 17 June 2014. More than 60 people were killed in attacks in and near the area. *Al Shabaab* claimed responsibility but President Kenyatta insisted that these were attacks organised by local politicians with ties to a network of gangs. Over the years, counter-patronage strategies, which include resisting forced evictions, have been adopted by local communities to ascertain ownership rights and enforce re-distribution of land, but these have not resolved the tensions that land dispossession has created in this region.

The combination of the dynamics discussed above contributed to the formation of radical political parties such as the Islamic Party of Kenya, which emerged during the re-introduction of multi-party politics in Kenya in 1992 and more recently in cessation ambitions through the Mombasa Republican Council. However, the link made between Islam as a religion and extremism has contributed in great measure to these groups being proscribed in Kenya, leading to greater disgruntlement rather than reducing it. The fact that citizens in these forgotten regions have developed resilience and survival mechanisms despite the state reinforces distrust of state machinery when and if they intervene. In fact, in most cases, reliance and trust in neighbouring states is en-

hanced by shared cultural factors. In the last five years, Northern Kenya and the Coast have assumed greater value due to the combination of the discovery of hydrocarbons and infrastructure development. Both northern Kenya and eastern Somaliland are sites of some of the most promising hydrocarbon exploration in East Africa. Northern Kenya is the site of four hydrocarbon basins — Lokichar, Anza, Mandera, and Lamu. (See IEA 2014). In addition, Northern Kenya is set to benefit from Lamu Port and Lamu Southern Sudan Ethiopia Transport (LAPSSET) project which is intended as a new road network, rail line, oil pipeline, oil re- finery at Lamu; a new free port at Lamu; a resort city in Isiolo; and inter- national airports at Isiolo and Lamu. This major transportation and in- vestment corridor running through northern Kenya is also designed to move oil from South Sudan to the Lamu refinery, increase cross-border trade with South Sudan and Ethiopia (Kenya Vision 2030)

　　　The examples above point to both the limitations and complex relationship between the various arms of the security sector charged with homeland, state security, the justice sector and weak state capabilit- ies. State capabilities here refers to a legitimate monopoly of the means of violence; effective administrative control; management of public finances; investment in human capital; delineation of citizenship rights and duties; provision of infrastructure; formation of the market; manage- ment of the state's assets (including the environment, natural re- sources, and cultural assets); international relations and the means to enforce the rule of law (Migdal 1988).

5.　　Elite consensus *versus* national sentiment

The complex historical and contemporary dynamics that have shaped socio-economic exclusion and provided a basis for linkages to global narratives on terror, also find reinforcement in competing state interests. These political elite interests are evident in the measures taken to re- solve extremist insurgency, general insecurity and manage a compact with citizens. These interests have emerged in a number of ways. The first way is through the extent of extremist attacks in Kenya, which have offered political elites an opportunity to de-legitimise and de-politicise the claims and grievances of opposition groups by branding them as allied to terrorists. This approach by the state was most pronounced after the Mpeketoni attack in 2014 and highlights the potential of polit- ical and strategic motivations for labeling. (See ICG 2014; Okari 2014;

Wambua-Soi 2014). More importantly, questions have been raised around the role of natural resources and greater resource extraction opportunities as noted above as a driver of conflict by powerful actors within and without Kenya. The support of terror networks directly and indirectly by enabling corruption and weak state capabilities therefore services corporate interests that thrive on lawlessness[1] (See Menkaus 2014).

Second, counter-terrorism work has provided a strategic motivation to re-calibrate security sector reform. This has occurred in two ways. First, in June 2014 in the aftermath of the Mpeketoni attack, the President placed security personnel and equipment of the Kenya Wildlife Service, the Kenya Forest Services, the Kenya Prisons Service and the National Youth Service under the command of the Inspector General of Police in order to improve coordination and response to security emergencies (PSCU 2014). The tendency to increase operational capacity as a critical part of security sector reform efforts, particularly during moments of crisis, often occurs at the expense of accountability and effectiveness. In addition, increasing operational capacity is not always diagnostically aligned with the operational needs of the force in question, which includes the capabilities of the forces, the nature of the security problem at hand and the security needs of citizens. It is often triggered by a show of might — "boots on the ground" mentality. For instance, one of the assertions that have been made with regard to police reform has been the need to increase the ratio of police to citizens, which stood at 1:1 000 in 2010 (See Kenyatta 2015; Omeje & Githigaro 2012). Yet a response to terror is not necessarily about the number of security personnel as the attacks in Kenya have demonstrated but a combination of intelligence gathering, winning hearts and minds, and effective and efficient responses to situations and through capabilities and skill (Njagih 2015).

Second, increasing operational capacity has also been accompanied by heightened involvement of the Kenyan Defence Forces (KDF) in internal security. Although there is no legal breach, the oversight responsibility over KDF lies with the Joint Parliamentary Committee on Administration and National Security and Defence and Foreign Relations as well as with the National Security Council. However, an examination of the oversight function of these committees reveals extensive limitations. Two examples are illustrative. In October 2011, an intelligence Bill cascaded through parliament without much debate. A

citizen-led watchdog platform pointed out the process flaws and therefore operational loopholes inherent in what is now an Act. Unlike other Bills the *National Intelligence Service Bill 2011* did not go through a process of Cabinet approval. The Bill originated from the National Security Intelligence Service (NSIS) and went straight to the Constitution Implementation Commission (CIC) bypassing the Cabinet. "The Assistant Internal Security Minister Orwa Ojode recently stated that his Ministry, the Ministry of Internal Security, had not even received the bill. He stated that Cabinet could not interfere with matters of defence and security" (Majiwa 2011)

The reforms initiated under the constitutional review process in 2010, led to the National Intelligence Service (NIS) transforming into a disciplined civilian service with no prosecutorial power. There were efforts to give the NIS greater investigative power with a raft of amendments to security related legislation under the *Security Laws Amendment Act 2014*. The amendments to the NIS Act among others Acts were withheld in a court ruling. However, if passed the laws would have granted NIS the power to conduct "covert operations" on any security threats identified. These wide ranging changes were a direct response to the Mpeketoni attack, which was deemed to be locally instigated yet responsibility was claimed by *Al Shabaab.*

In September 2013, the joint parliamentary oversight committee investigating weaknesses in the management of Westgate attack emerged with a report that cited all other actors within the security sector except those that were actually involved in the actual management of the crisis — the police and military. The parliamentary report was subsequently rejected due to its recommendations that were broad and unwieldy in nature including the arbitrary closure of the Dadaab refugee camp, which is perceived as a terrorist hub, the construction of a perimeter fence with Somalia and retaliatory attacks on *Al Shabaab* strongholds in Somalia (See Olick 2014). Security analysts have noted the opportunities for wide-scale corruption within defence contracting such as the 1999 arms deal scandal in South Africa (See Todor 2014). In addition, limited oversight over defence contracting has the potential to result in inappropriate equipment as well as budgetary and operational inefficiency. The policy "on a need to know basis" continues to serve as a veil for massive loopholes in the democratic governance of the defence forces.

Further, the 2012 *Prevention of Terrorism Act* which was passed

after massive debate and restructuring due to fears of religious and ethnic profiling was re-opened for review in the national assembly in the wake of the Westgate siege. More recently a raft of amendments under the contentious *Security Amendment Act 2014*, furthered the coercive nature of the state by increasing state surveillance and prosecutorial powers (*Security Amendment Act 2014*). A number of the contentious provisions such as those limiting the freedom of speech and expression especially as pertains to the media, those related to the Refugee Act and criminal procedures connected to evidence collection were suspended after a legal petition (Mzalendo 2015).

Cumulatively, these efforts have contributed to increasing exclusion rather than enhancing inclusion. The measures, which are intended strengthen the State's legitimate monopoly of violence have instead shored up a securitisation approach and de-emphasised a focus on the drivers of youth radicalisation in Africa, which include socio-economic and political exclusion (See Gow *et al* 2013; Botha 2013). Efforts such as *Nyumba Kumi* and *Usalama Watch* are illustrative. *Nyumba Kumi* (literal translation from Kiswahili — ten houses) was developed by the Ministry of Interior as a national security awareness mechanism after the Westgate terror attack to operate through clustering households based on security needs in their localities. It is roughly based on the notion of community policing but extends this through legislative requirements that demand greater policing of tenants and neighbours by household owners, associations and neighbours. *Usalama Watch* on the other hand was a police operation intended to weed out *Al Shabaab* sympathisers across Kenya after a bomb exploded in Eastleigh in March 2014 — a neighbourhood predominantly occupied by Somalis. The operation ended up focusing on Somalis and on Eastleigh with major complaints about police conduct and human rights abuses (Amnesty 2014; IPOA, nd). Instead of bridging the gap between the security providers and the citizens they have instead widened the gap due to the allegations of unethical conduct of police officers as well as religious and ethnic profiling of the Somali community and Muslims.

6.   Conclusion

The reflections from Kenya above, point to the need to re-visit assumptions inherent in the application of human security, which in praxis has

been pursued as separate to, rather than a complimentary and critical part of national security. The rise of extremist insurgency and counter-terrorism efforts affirm the centrality of human security approaches yet complicates it. The complication arises from the concomitant commit-ment of massive resources required to resolve socio-economic and political exclusion which are often long-term in nature, and short-term yet heavy investments needed in security personnel and infrastructure.

   Kenya can either deal robustly with the dual question of terrorism and internal security or run the risk of alienating a populace that considers both the security architecture and its leadership lacking in credibility. The current dual approach by government to confront in-ternal security challenges unrelated to terrorism and respond to terror-ism is fraught with missteps in light of existing precedence in Africa and globally. These challenges are visible in three main ways. The first is in the elevation of counter-terrorism measures as a key component of internal security, which raises the stakes for the police in particular around security provisioning, accountability and the rule of law. Through this elevation, there is a conflation between responses to daily and opportunistic forms of insecurity, historical armed security challenges and terror related to groups such as *Al Shabaab*. In this conflation, the very groups that have fallen outside security provisioning are further alienated, through a retreat to profiling while measures to increase accountability are eroded. This occurs whilst increasing efficiency of a force that is institutionally weak. Current responses to counter terror have pointed to what was missing from the reforms debate —— the democratic governance of the security forces as a whole — demon-strating an ultimate focus on human security. Debates around border control and immigration management have to a large extent occurred in isolation. The transnational nature of the Westgate siege and the need for the military intervention lifted the veil on the role of the KDF in internal security, the state of the intelligence service and what consti-tutes Kenya's national security strategy.

   Second, a state security strategy framed by counter-terrorism as its centerpiece has the potential to mask larger human security ques-tions that have plagued the country. Some of these human security questions include emboldened criminal networks that have evidence of the state's weak intelligence, action and deployment responses thereby taking advantage of these loopholes. They also encourage the creation of new response centres to respond to emerging threats such as the

counter-terrorism police unit, and the KDF's entry into the civilian arena to support the police force with limited civilian and parliamentary oversight over these forces. Resources and methods deployed towards fighting insurgent groups are deployed in the same way as dealing with admittedly violent criminals thereby threatening the justice chain, which include evidence gathering and management, core efforts towards security sector reform.

Finally, there is need for national consensus and a legitimisation of the state's approach to national security as part of an accepted social contract. Legitimacy implies upholding the collective will of the people by operating within the confines of legal systems put in place, in this instance a constitution that worked hard to manage previous excesses of the executive in particular and its interference with the other arms — the legislature and judiciary. Ineffective communication by the state about who and what is the source of the problem has suggested that it oscillates between local opposition actors who aid and abet terror through dissent and the Somali community who alongside Muslim residents in the Coast are singled out as targets. Building national consensus should logically lead to the willingness of citizens to cede certain freedoms in order for the state to effectively exercise the use of force. Ceding these rights requires that citizens trust the state to use force to the extent that is necessary to secure the country whilst ascertaining rights and freedoms of citizens.

Endnotes

1.   For instance the Kenya Defence Forces have since their occupation of Southern Somalia been implicated as actors in the lucrative charcoal trade, which it is argued *Al Shabaab* relied on to fund their activities (See Ward 2014)

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