COMBATING TERRORISM AND UPHOLDING HUMAN RIGHTS IN KENYA
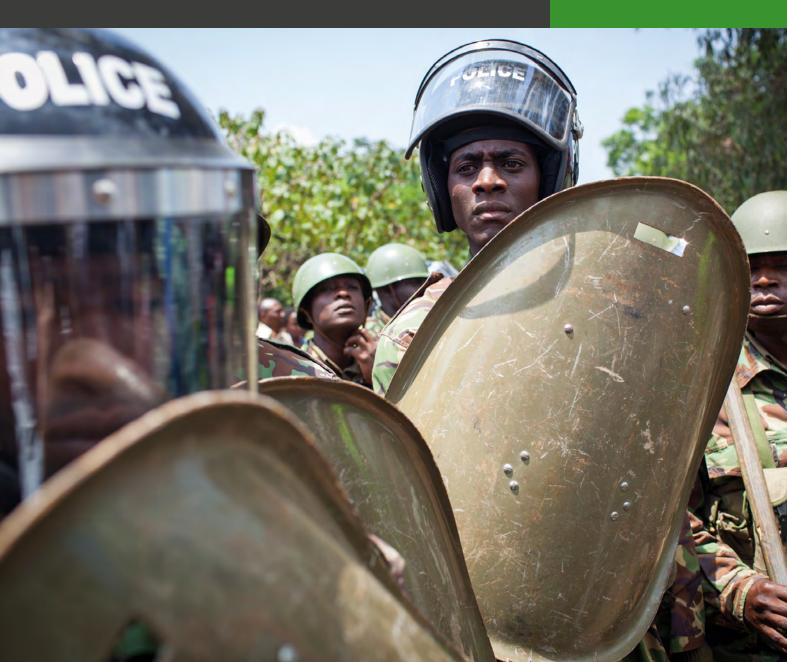
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1. INTRODUCTION

On the whole, Kenya has made a number of advances in the war against terrorism. These efforts have ultimately been aimed at ensuring the protection of the lives and property of all in Kenya. Apart from operational activities, the efforts have included institutional reform of the National Police Service, as well as the formation of an Anti-Terrorism Police Unit, a National Counter-Terrorism Centre, and a National Security Advisory Committee. All of these play a role in combating terrorism and violent crime in the country. However, despite this, acts of terrorism have continued, often with blame being assigned in part to law enforcement agencies for their failure to prevent such incidents.[1] Moreover, the attacks in Mpeketoni, Lamu County, on 15 June 2014 exposed the disjointed approach of the National Police Service, which had no full-time command post or operations centre to coordinate responses by law enforcement agencies during the operation concerned.[2]

That said, it cannot solely be the responsibility of policing agencies to respond to terrorism, at the very least because terrorism is itself a complex phenomenon that has numerous drivers and enablers. For instance, the 2011 World Development Report indicated that military action in Somalia, external support for domestic rebels, cross-border conflict spillovers, international terrorism and criminal networks, price shocks, and the impact of climate change had all contributed to the upsurge in terrorism in the country, and that this had been further driven by 'internal stresses' such as low income levels, youth unemployment, corruption, and human rights abuses.[3] In Kenya, specifically, ineffective leadership at all levels of society, weak citizen-centred governance institutions – including institutions that structure policing – and poor public-participation strategies are also contributory factors. Coupled with these, limited efforts have been made to improve the welfare of society generally, and, in particular, the operational and strategic capacities of law enforcement agencies to counter terrorism. This has consequently affected the operational preparedness of the law enforcement agencies, resulting in constrained rights-centred policing on the part of law enforcement officers and with regard to the victims of terror.

With the above in mind, this Research Paper seeks to understand how various structural, institutional and organisational factors have impeded the ability of the National Police Service in Kenya to respond more effectively to acts of terrorism within, and in close proximity to, the country. The realisation of such objective is based on a historical examination of policing in Kenya, supplemented by a qualitative analysis of the policing of terrorism as informed by interviews and interactions with law enforcement personnel, and particularly members of the National Police Service. Where required, examples are also drawn from the international and national print media.

2. TERRORISM AS A CONCEPT

Although a global phenomenon, terrorism remains difficult to define. Nevertheless, over two decades ago, the United Nations General Assembly, in Resolution 49/60 (adopted on 9 December 1994) on measures to eliminate international terrorism, declared as follows:

> *Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them.*[4]

In Kenya, specifically, section 2 of the Prevention of Terrorism Act 30 of 2012 broadly defines a terrorist act as an act or threat of action which, among other things, includes the following:

- the use of violence against a person;
- endangerment of the life of a person, other than the person committing the action;
- a serious risk to the health or safety of the public or a section of the public; and
- serious damage to property.

While these definitions are very broad and are not without significant problems, the present Research Paper draws primarily on the Kenyan definition in the aforementioned Act, as it is the one that informs most operational measures undertaken by the police in the country.

Conceptually, research has also focused more generally on understanding and explaining why some societies are more exposed than others to the threat of terrorism, or experience it to a greater extent. Such theoretical framings have touched on individual, group and broader societal concerns.[5] However, the fact that external influences on the individual and the group appear to be of greater significance makes it more relevant to search for the causes of terrorism beyond the individual and group, that is, to examine what happens in the broader society and the environment in which terrorism emerges. Societal tensions arising from the perception of deprivation remain a precondition for participation in any acts of collective civil hostility; hence relative deprivation theories find more practical application in this Research Paper. These, combined with social-distance theory, are largely drawn on in this Research Paper to determine why rights and the policing of terrorism in Kenya remain a costly endeavour.

3. BACKGROUND TO POLICING IN KENYA

Historically, policing in Kenya emerged out of a context in which the role of the police was always critical to governance itself. Such role included assisting citizens by preventing or investigating crimes against persons and property, arresting the perpetrators of crimes, assisting the public in resolving interpersonal conflicts, and protecting the elite against potential insurrection or other violent threats directed against its political authority.[6] Protecting the elite may seem to be in conflict with the other aims, but, in the Kenyan context, was a derivative of colonialism. Structurally, the Kenyan police force was originally organised along military lines, being described as 'a punitive citizen containment squad'[7] as a result of the manner in which violence was used between 1887 and 1902 mainly to protect the elite as indicated. During this time, the force was significantly associated with brutality and misconduct, as well as with the protection of the business interests of the Imperial British East Africa Company, with the members protecting such interests being termed 'Askaris'.[8] In these early years, police officers' duties were negligible and there was little accountability by, or oversight of, individuals.

However, on the attainment of independence by Kenya, the Kenyan police force had to rapidly form new units. Such units included the Anti-Stock Theft Unit, Anti-Motor Vehicle Theft Unit, Tourist Police Unit, Anti-Corruption Police Unit, Police Traffic Department, Railway Police Unit, Presidential Escort Unit,

Maritime Police Unit, Airports Police Unit, General Service Unit, Diplomatic Police Unit, Police Dog Unit, Police Air Wing, Police College and Police Staff Training College. The Directorate of Criminal Investigations remains part of the National Police Service and is charged with collecting all criminal intelligence information for the Service, investigating serious crimes – including homicide, narcotics crimes, money laundering and economic crimes – maintaining all criminal records, coordinating activities relating to Interpol, and carrying out investigations concerning matters that may be referred to it by the Independent Policing Oversight Authority. Of particular relevance in the present context is the Anti-Terrorism Police Unit, which is under the control of the Directorate of Criminal Investigations and is charged with policing terrorism while working closely with all other law enforcement agencies. Numerous complaints have, however, been levelled against the Unit's mode of operation.[9]

With regard to the Administration Police Service, a Rapid Deployment Unit was formed in terms of the Administration Police Act for the defence of Kenya in the case of war or other emergency. The Unit was also charged with dealing with the poaching wars of the 1970s and 1980s, as well as with other warlike activities in the North Rift from the 1980s onwards.[10] A Rural Border Patrol Unit was formed in 2008 to provide security through the prevention of terrorism activities, small-arms control, and the reduction of cross-border crimes within and along Kenyan ports of entry. The Security of Government Buildings Unit was established in 1977 primarily to provide security at government buildings mostly within Nairobi City. Later, such security activities were extended to include government buildings in the emerging cities of Mombasa and Kisumu, among other main towns.

4.   POLICING OF TERRORISM IN KENYA

Since independence, Kenya has experienced a number of significant terror-related acts.[11] As far back as 1 March 1975, 30 people died in what came to be known as the Nairobi bombing. Since then, there have been a further eight terror incidents of note.[12] Between 1980 and 1990, Kenya saw increased resistance to the government of the day and the two branches of the National Police Service escalated their enforcement activities against both individuals and groups responsible for such resistance, but with no independent investigators or prosecutors from the Service. These branches seemingly operated without accountability, undertaking numerous activities that human rights activists highlighted as being extremely problematic. While such criticism ultimately led to the cessation of operations, it also did not bring into focus the necessary reforms that were needed *within* the Service itself. The resulting stalemate between operational activities and resistance to policing prevented significant policing activities until 1998. Then, on 7 August of that year, suicide bombers simultaneously detonated trucks laden with explosives parked outside the United States embassies in Nairobi and Dar es Salaam. In Nairobi, 213 people were killed in the blast, while 11 individuals died in the bombing in Dar es Salaam, with the two attacks allegedly carried out by members of al-Qaeda.[13] On 16 October 2011, following the supposed kidnapping of several aid workers and foreign tourists in Kenya by an al-Shabaab group of insurgents, Operation Linda Nchi was launched, with the Kenyan military entering southern Somalia in pursuit of the insurgents. Subsequently, the Westgate Mall attacks occurred in 2013, the Mpeketoni attacks were perpetrated in 2014, and, in 2015, there were the attacks at the Garissa University College. From June 2010 to December 2015, 19 lesser attacks[14] were reported.

The promulgation of the new Constitution in August 2010 brought with it the anticipation of a paradigm shift in policing, with Chapter 14 providing for national security and its organs, including the National Police Service. Article 243(2) of the Constitution established the Kenya Police Service and the Administration Police Service, services that were retained as two branches of the Service, with two Deputy Inspectors General commanding these non-unified services. Structurally and administratively, this has given rise to problems, as both services ought to operate as one National Police Service, with the Inspector General being the overall commander in order to ensure the realisation of the provisions of the aforementioned Article. Field engagements have shown that the division into two branches has had a negative impact in terms of effective communication, coordination, control and intervention with regard to crime-related

activities. This demonstrates that the political reforms which led to constitutional changes were not matched by 'radical reorganisation of the police force' and that the political transition did not yield the far-reaching police reforms[15] desired. Meaningful change in structure, organisation, performance, strategic approaches, culture and attitude did not follow, and these have remained stumbling blocks to real police reforms. Despite this, considerable efforts have been made to ensure that reforms continue.

However, such reforms are being implemented in a challenging operational environment in which terrorist organisations frequently change tactics and modes of operation so as to stay ahead of policing efforts. Landmines are now often used together with improvised explosive devices, especially on roads and along the Kenyan–Somali border. Furthermore, explosive devices are being used in buildings. In responding strategically, the police services often do not effectively engage with the concerns that are raised. As a result, the vast majority of Kenya's people do not consider the police to be effective. In addition, it is alleged that law enforcement officers are compromised owing to corruption.[16] What is worth noting is that 90% of respondents in a 2011 survey by Transparency International in Kenya considered the security services to be either corrupt or extremely corrupt.[17]

In terms of performance through knowledge and skills management, there has been a limited focus on existing law enforcement principles and values as set out in the Constitution and in policing documents such as the Code of Conduct and Service Standing Orders. The lethargy that has been witnessed in embracing the reform agenda in the Service has been a drawback in the fight against terror in Kenya, and this has gradually diminished rights-based policing at large. For instance, the police rarely adhere to the regulations on the use of force as laid down in the Sixth Schedule to the National Police Service Act of 2011. These regulations provide for a gradual escalation in the use of force and state at the outset that 'a police officer shall always attempt to use non-violent means first and force may only be employed when non-violent means are ineffective or without any promise of achieving the intended result'.[18] However, interactions with community groups as well as with human rights defenders mostly in informal settlements reveal that the police rarely comply with these legal provisions, even when carrying out their daily policing duties. 'Police officers in these areas respond with live firearms, with no alternatives [being employed or] proclamations [as to] any intended action', lamented a human rights defender living in Eastlands, Nairobi County. It was further affirmed that the challenge of adherence to de facto procedures has always been the primary means by which the Service operates.

As a result of the historically embedded police culture, police officers have shown that they have little awareness of the rights of an arrested person as provided for in Article 49 of the Constitution. This hinders rights-based policing and the officers' ability to perform their duties. The constitutional provisions – in terms of arrest, for instance – are in line with international standards, and yet such provisions have not improved the performance of law enforcement officers. This is the reason for the increasing number of complaints lodged with policing oversight institutions such as the Independent Policing Oversight Authority,[19] although it must be said that there have been very few complaints related to matters concerning terrorism.[20]

Poor policing attitudes and disjointed mindsets among law enforcement agencies in particular also diminish the chances of effectively combating terrorism. Professionalism in policing – as exhibited through culture, attitudes, mindsets, and the psychological behaviour of law enforcement officers – is always downplayed in the Service. The extent to which acquired knowledge and skills in policing are applied, with a concern for ethical service delivery, is very often not prioritised. Furthermore, policing qualities such as timeliness and speed of response, efficiency, effectiveness, and attention to detail are not appreciated. Self-confidence and pride in policing work are not criteria for recognition in the Service. Interactions with many of the complainants concerning policing issues show that the golden policing rule that officers must treat others in the same way that they themselves want others to treat them, is often not adhered to. The end result is that the public does not assist the police in security-related matters by providing information that will allow for the prevention, detection and management of terrorism. Consequently, the police force's legitimacy is often called into question. This gradually gives rise to suspicion between individuals, communities and the police and culminates in political mobilisation.

Such apparent divisions have thus far not been extensively exploited by terrorist organisations. For instance, during the Westgate Mall attack on 21 September 2013, four gunmen made patchy efforts to separate Muslims and non-Muslims, which ended in the killing of many from both sides.[21] However, the Director of the National Counter Terrorism Centre, Ambassador Martin Kimani, has commented that 'blind allegiance to tribe, clan, ethnicity and religion [makes] Kenya vulnerable to terrorism because these divisions are exploited to achieve ideological aims'.[22] The National Intelligence Service has also singled out terrorism as the biggest threat to Kenya's national security and development, especially in the border counties of Mandera, Wajir, Garissa and Lamu, as the attackers target churches, malls, schools and other public places.[23]

The Mpeketoni attacks[24] on 15 and 16 June 2014 also indicate how glaring gaps and limited information on laws regarding policing, coupled with poor policing culture, attitudes and mindsets, inhibit law enforcement officers in countering terrorism. In the attacks, 49 people were killed, 44 vehicles were torched and about 26 buildings were burnt. It was observed that, during the attacks, there was no full-time operations centre to coordinate interventions by police officers. Also, intelligence that was available to the officers was not acted upon, despite having been shared with them since July 2013.[25] A further inhibiting factor is that many of the officers lack effective communication equipment with which to perform their duties. It is alleged that they rely on static and unreliable high-frequency radios, thus compelling them to resort to using their mobile phones for formal communication duties. This gives rise to numerous operational and tactical risks.

As regards the firearms used by the police in Kenya, many police officers express reservations concerning the performance of such firearms in comparison with those of terrorist organisations. What is puzzling is that police officers are largely issued with G3 rifles that are ineffective in situations that require rapid fire and other tactics in order to combat the actions of terrorist groups primarily using AK47s. A further compounding factor is that the law enforcement agencies are issued with inadequate personal protective equipment. In many cases, officers do not have bulletproof vests or pouches for additional ammunition, which leaves them vulnerable and fearing that they will be unable to match the adversary. This contributes to the reluctance of police officers to venture out or respond immediately to any terrorist attack.[26] Similar attacks to those at Mpeketoni occurred on 2 December 2014 when gunmen attacked and killed numerous sleeping quarry workers in Mandera County. All these incidents point to critical gaps and limited information on laws regarding policing, thus leading to poor performance on the part of members of the Service.

5. CHALLENGES AND DILEMMAS IN POLICING TERRORISM

Corruption remains one of the major obstacles in the fight against terrorism in Kenya. Within the policing arena, the principal forms of corruption are interlinked with the interactions police officers have with the public. Corruption in the course of these interactions takes the form of extortion (arrests of persons in the absence of the commission of any crime, followed by demands for payment in order to secure their release) or bribes (arrests of individuals for the commission of crimes, followed by payment so as to secure their release or to obtain services that ought to be free), or occurs where officers use information or decision-making power flowing from their positions to steal from the public.[27] Flawed management systems and weak citizen-centred governance institutions have created this situation and lead to various forms of crime such as money laundering, drug trafficking and terror-related activities. The Bureau of International Narcotics and Law Enforcement Affairs, in its 2016 International Narcotics Control Strategy Report, noted the following:

> Stemming this flow of illicit drugs is a challenge for Kenyan authorities. Drug trafficking organisations take advantage of corruption within the Kenyan government and business community, and proceeds from drug trafficking contribute to the corruption of Kenyan institutions. High-level prosecutions or large seizures remain infrequent.[28]

The Bureau further noted that corruption had led to the disbandment in 2014 of a police unit mandated to combat the consumption of, and trafficking in, narcotic drugs at the coast.[29] Corruption therefore appears to flourish on an unusually destructive scale, with widespread petty or more serious acts – for instance, kickbacks for anything, including fake tenders – serving to lubricate it. In such situations, corrupt individuals mostly seek more protection from law enforcement officials in order to reap greater benefits from their allegedly corrupt regimes. This is fertile ground for terror attacks, as such officials are themselves compromised.

The geopolitics around the war against terrorism also presents serious challenges in respect of policing, as human activities and relations shape and influence the parameters in which policing activities occur. An analysis of the aftermath of terrorist attacks in Kenya, be they in Mandera, Garissa, Lamu, Nairobi or elsewhere, paints a mixed picture in which the police themselves are not always blameless. For instance, the manner in which terrorist organisations are seen and understood by the public affects the way in which such organisations can be responded to, with those who view them negatively demanding further sanctions and those who believe them to be a positive force demanding that they be safeguarded. These dichotomies lead to 'us/them' or 'our victims/their victims' stances, including the growing narrative of 'the civilised world/Islamic State'. Locally, this results in what Lind, Mutahi and Oosterom (2017) call counterproductive outcomes of Kenya's state security responses to al-Shabaab attacks, which outcomes the authors liken to 'killing a mosquito with a hammer'.[30]

These dualities are effectively exploited as a result of a 'country's long-standing internal tensions, marginalisation, and use of state violence'[31] against those perceived as sympathisers with regard to terror groups. Such a narrow binary prevents deepening the analysis concerning the root causes of violence, thus culminating in an abstract representation that masks the complexity of modern society. Consequently, terrorism becomes cyclical – as do the responses to it – thus creating systemic conflict levels.[32]

Interactions with police officers in far-flung areas of Kenya showed that such officers were not remotely concerned with understanding people's interrelations with others, their emotional connections, and their lifestyles and behavioural aspects, including antisocial traits or acts. This lack of embedded policing skills may itself provide avenues for terror-related activities and serious violent crimes. The data that has been made public in this regard reveals that there were 71 832 reported cases of crime in 2013, 69 372 in 2014, 72 490 in 2015 and 76 986 in 2016, with many of these cases being related to drugs and illicit alcohol production.[33] There was, however, a decline in robberies from 3 551 in 2013 to 2 667 in 2016, and in motor vehicle theft from 1 631 in 2013 to 1 355 in 2016.[34] In considering these crime statistics, it is important to note that unemployment among the youth in Kenya has remained consistently high. About 80% of Kenya's unemployed are between the ages of 15 and 34 years, and the unemployment rate for persons aged 15 to 24 is 25%, or nearly double the overall unemployment rate.[35] With the unemployment rate continuing to increase, terrorist organisations have found it easy to persuade some among the population of young people to join their ranks. Moreover, the radicalisation of the youth has led to frequent unrest in institutions of learning and to the willingness of the youth to join al-Shabaab as combatants.[36]

An important reason for the high unemployment rate is the lack of relevant skills, especially in sectors with high potential for value-addition. The Global Talent Competitiveness Index for 2017 ranked Kenya 97 out of 118 economies globally as regards talent competitiveness, indicating that the country may be failing in terms of the competitiveness of its labour market force.[37] Linked to this, in areas prone to terrorism, along the Kenyan–Somali border and in the pastoralist-driven zones, total employment outside small-scale farming and pastoralist activities stood at 16 million in 2016, up from 15.2 million recorded in 2015, according to the 2017 Kenya Economic Survey. Wage-based employment in the public sector remains one of the key hopes among Kenyans as a means of overcoming poverty, yet such employment only registered 2.6% growth in 2016 compared with the 2.5% growth recorded in 2015.[38] The small-scale expansion in such wage-based employment has been attributed by several researchers to the freezing of employment by the government, with recruitment being limited to essential services such as health, education and security functions.[39] In this scenario, understanding human behaviour relating to crime

should be a key element of policing approaches, yet this has not been effectively attempted, nor has it been considered how antisocial behaviour of individuals and groups can lead to terror-related activities and serious violent crimes.

Interactions with various segments of Kenyan society further indicate that too much attention has been devoted to reactive policing rather than to preventive approaches. This has influenced the state's focus as well, with emphasis often being placed on responses to terror instead of on preventive mechanisms. Attention has furthermore been paid to equipment, vehicles, and the recruitment of police constables incrementally at a rate of approximately 10 000 a year since 2013, among other responses.[40] Though these interventions are necessary, they are not sufficient in preventing crime, especially in areas prone to terrorism. With preventive policing, in contrast, the range of strategies implemented by individuals, communities, businesses, non-government organisations and all levels of government target various social, economic and environmental issues in order to reduce crime. With the increasing use of improvised explosive devices against law enforcement officials and public-service vehicles, a change in strategy to preventive policing has not been given the requisite attention. Indeed, quite often the result is the deployment of reactive strategies that lead to bloody responses which serve little wider purpose. The lack of social structures, including factors that facilitate crime prevention – such as improved social cohesion, effective community policing, problem-solving strategies related to policing, access to adequate housing (including adequate housing for law enforcement officers), quality education, the development of policing skills, and standard health-care services – all escalate the drivers of organised crime and terrorism. The call for the development of effective preventive approaches involving communities was noted by the Australian Institute of Criminology as an effective crime-prevention intervention. The Institute further noted that the environmental approach to crime prevention has to be understood, as well as changes to specific characteristics of the environment that cause criminal events to occur, such as terror-related activities.

Field engagements with law enforcement officers in their areas of deployment, including officers in far-flung areas of the country, frequently indicated that their rights and welfare were not being attended to. Concerns regarding travel, accommodation and transfer allowances were also neglected and many officers often used their own financial resources to get from one place to another, thereby greatly inhibiting their performance. In such operational areas, the officers stated, they were supposed to be paid operational allowances once they had been deployed, yet these were not being received.

The promotion of human rights in a way that does not reflect realities on the ground also contributes to the challenges around policing terrorism. Although there has been robust engagement concerning human rights and policing in Kenya and around the globe,[41] broad and divergent views have also emerged on rights-based policing. The proponents of human rights firmly defend their proposition that any policing activity must be carried out so as to respect human rights values and principles, whereas others continuously argue that observance of human rights has interfered with effective action by law enforcement officials, thereby hampering rapid responses to terrorist attacks. Among other things, the latter argue: 'If our human rights laws stop us from doing it, we will change the laws so we can do it.'[42] Police officers, in turn, state that the increasing number of armed and violent crimes and conflicts, especially in operational regions where cattle rustling and raids are the norm in Kenya, and where Operation Dumisha Amani is still ongoing,[43] requires no discussion of human rights. In addition, such officers point to the increase in ethnic violence and killings, especially among the dominant ethnic groups where each local community fights for its survival without respect for the law. Further, they claim that the judiciary has not been of much assistance, as cases drag on in courts for years with incessant motions and limited hearings, leading to increased costs, especially when the officer involved has subsequently been transferred far from where the criminal case was opened.

Ordinary Kenyans also do not help in such situations, as mob justice has been fairly rampant in the country, mostly among feuding communities or those engaged in petty crimes.[44;45] This has posed a challenge, since the public frequently fail to report such actions. Moreover, it complicates issues. Although every suspect is innocent until proven otherwise, without proper awareness, profiling on

the basis of characteristics such as ethnicity, skin colour, economic status and political inclination becomes the easiest route to identification of any terror suspect, criminal or the unwanted. This allows law enforcers to profile suspects with ease without conducting a deeper analysis of the underlying and root causes of crime. In the end, this closes the public debate on policing, leaving more room for terror groups or criminals to organise, plan their next mission and flourish, resulting in a trail of distress in society. On the other hand, such an approach also enables rogue officers to kill suspected criminals in broad daylight, and in the presence of hundreds of witnesses. However, these witnesses are not prepared to give evidence in any criminal prosecution for fear of reprisals. This has been an oft-noted challenge by policing oversight agencies.

Linked to the rampant mob justice is also the challenge of lodging complaints with policing oversight agencies in particular, as well as the independent investigation of terror-related crimes by such agencies. Quite often, terror-related deaths and disappearances have been reported in Kenya, especially by human rights organisations.[46] Some of these cases are independently investigated. However, when requests are made for preliminary evidence that can lead to robust investigations, such information is not forthcoming in order to inform and strengthen the course of justice. Further, rarely are complaints lodged before the reports on investigations are finalised. This ignores the preventive aspects of policing terrorism, for, when the complaints are in fact lodged, it is too late for independent investigations to be carried out due to time lapses and interference with crime scenes, records, registers and any other trail of evidence that can inform the investigations. All in all, this has caused considerable frustration for the victims of injustices as well as for organisations advocating the rule of law, justice, and accountability on the part of law enforcement officials. The end result is allegations that the independent institutions do not take any measures to ensure justice with regard to the cases presented, despite the fact that such institutions can take up any matter for investigation of their own volition.[47]

There is also limited data and information on terror-related activities. This is compounded by poor policing approaches, with field information revealing that, in many of the areas where law enforcement operations are under way with regard to the war against terrorism, booking of those arrested is rarely done. Further, in some facilities, the necessary formal registers and records are either lacking or are inadequate, leading to 'creative inventions'. Importantly, if no recording is done at police stations, which are the recognised policing facilities for detaining persons, no quality data can be used to inform the interventions required. In some instances, even when arrests are made, it is alleged that calls from higher authority influence the release of those arrested, leading to frustration on the part of the law enforcement officers in charge of detention facilities. Owing to a lack of coherent data on the war against terrorism in Kenya, some media houses have come up with their own means of tracking terrorism. For instance, they recorded that, from October 2011, at least 370 people were killed and over 1 075 injured in terrorist attacks when Kenya took the war against terrorism to the al-Qaeda-linked al-Shabaab terror group in Somalia,[48] but such information and data do not form part of that of the mainstream policing agencies. Linked to a lack of data and information is the limited use of technology for policing terrorism, with many police facilities lacking effective surveillance and communication equipment.

6. LEGAL AND INSTITUTIONAL EFFORTS IN POLICING TERRORISM IN KENYA

The United Nations (UN) Security Council by way of Resolution 1373 of 2001[49] rightly resolved that all states must 'prevent and suppress the financing of terrorist acts' and 'find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks'. The Resolution also noted 'with concern the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering [and] illegal arms-trafficking'[50] and provided for a turnaround strategy in the fight against terrorism. The Resolution called for the establishment of a Committee of the Security Council, in accordance with Rule 28 of its provisional rules of procedure,[51] to monitor implementation of the resolution and called on all states to report to the Committee on the steps taken to implement the Resolution.

Accordingly, the UN Counter-Terrorism Committee was established to delineate tasks, submit a work programme and consider any support required, with technical assistance from the Counter-Terrorism Committee Executive Directorate. Recently, in its Resolution 2354 of 24 May 2017,[52] informed by the UN Charter, the Security Council stressed the principles of sovereignty, territorial integrity and political independence of all states in the fight against terrorism, placing the primary responsibility for countering acts of terrorism and violent extremism in the hands of member states, with such states working in cooperation with the Counter-Terrorism Committee, the Counter-Terrorism Committee Executive Directorate of the Security Council, and the Counter-Terrorism Implementation Task Force of the UN General Assembly.

In the African context, documented efforts designed to prevent and combat terrorism date back to 1992 when the Organisation of African Unity at its 28th Ordinary Session held in Dakar, Senegal, adopted a Resolution on the Strengthening of Cooperation and Coordination among African States[53] in the fight against extremism and terrorism. In September 2002, the African Union adopted the African Union Plan of Action on the Prevention and Combating of Terrorism. These efforts even saw the establishment of the African Centre for the Study and Research on Terrorism in 2004 to serve as a structure for centralising information, studies and analyses on terrorism and terrorist groups and to develop counter-terrorism capacity-building programmes.[54] The Centre collaborates closely with regional and international partners.

Anchored on these international and regional frameworks, Kenya enacted two closely related laws, the Prevention of Organised Crimes Act in 2010[55] and the Prevention of Terrorism Act in 2012.[56] Both Acts have broad definitions of organised criminal groups and terrorism. In the wake of increased terror-related attacks, the Security Laws (Amendment) Act of 2014 was enacted. It amended various laws and provided for more room in which to fight terrorism, including closer attention being paid to the dissemination of alarming publications, to offences by public officers, and to the extension of the period for holding suspects in custody through a written application to a court of law, an extension which should not exceed 90 days. The Prevention of Terrorism Act of 2012 also established the National Counter-Terrorism Centre, which is an inter-agency body consisting of a director appointed by the National Security Council,[57] the National Intelligence Service, the Kenya Defence Forces, the Attorney General, the Directorate of Immigration and Registration, the National Police Service, and any other such national agency as may be determined by the National Security Council.

The Centre is responsible for the coordination of national counter-terrorism efforts designed to detect, deter or disrupt acts of terrorism through the establishment and maintenance of a database to assist law enforcement agencies, for developing counter-terrorism and de-radicalisation strategies, for facilitating capacity-building with regard to counter-terrorism stakeholders, for coordination involving other government agencies, and for conducting public-awareness campaigns related to terrorism. Interactions with police officers have always pointed to the fact that raising public awareness has not been effective due to limited resources, yet awareness-raising should be one of the key strategies for ensuring rights-based policing in an era of terror, insurgency and serious violent crime. In addition to establishment of the Centre, there has also been alignment of policing operations and deployments through the granting of specific mandates to units such as the Anti-Terror Police Unit, which plays a critical role in detecting, deterring and disrupting terror activities, while also working closely with other police units and the National Security Advisory Committee. In terms of sections 96 to 100 of the National Police Service Act of 2011, the Service should establish community-policing forums and committees in order to achieve the objectives of Article 244 of the Constitution, especially as far as compliance with constitutional standards of human rights and fundamental freedoms is concerned. Through these community-policing initiatives, the Service should establish and maintain partnerships with the community while also promoting communication between the Service and the community. This would then promote cooperation between the Service and the community, increase transparency and accountability of the Service in its dealings with the community, and promote problem identification and problem solving by the Service and the community. However, such community-policing objectives have yet to be realised, sometimes due to conflicting policy positions,[58] thereby inhibiting coherent responses to terror-related attacks within communities.

Further, Kenya has seen increased deployment of the military in the interior. The role of the police in this shifting state security landscape has become blurred, and the relationship with the military has always presented a challenge in ensuring accountability. In any response to acts of terrorism, Kenya has seen the implementation of multi-agency operations,[59] mostly comprising the Kenya Defence Forces, the Regular Police, the Administration Police, the General Service Unit, the Rapid Deployment Unit, the Rural Border Patrol Unit, the Kenya Wildlife Service and the Kenya Forest Service. The deployment of the Kenya Defence Forces as part of policing operations has been done in terms of section 33 of the Kenya Defence Forces Act of 2012 and Article 241(3)(c) of the Constitution. Of note is the fact that, whenever the Defence Forces are deployed pursuant to section 33(1) of the Kenya Defence Forces Act, the Inspector General of the National Police Service should be responsible for the control and overall supervision of the operation. However, this has always proved a nightmare, with allegations being made against the Defence Forces,[61] with the Defence Forces being deployed without adherence to the law,[61] and with the Inspector General having no power to 'administer and command'[62] the Defence Forces once deployed.

Despite these efforts, terrorism still remains a threat in the country. On 24 May 2017, after the suicide-bomb attack in Manchester, United Kingdom, the Inspector General of Police stated: 'Terrorism is real and we are stepping up measures to tame any planned attack, given what happened in Manchester.'[63] He emphasised that the threat of al-Shabaab militants was still real and ordered thorough screening of motorists and pedestrians by police officers, the collection of intelligence, intensified security patrols and the reporting of anything suspicious by the public. These efforts have been supplemented by the purchase of an unmanned aerial vehicle (drone) to monitor terror-related activities.[64] The challenge, however, has always been the application of these various strategies by forces (the military, the police, and any other law enforcement agency) deployed in the affected areas against the backdrop of rights-based policing. Also, many a time, such operations are seen as discriminatory as a result of profiling of some ethnic communities largely of Somali origin.[65]

Even with these legal and institutional strides made by Kenya, a critical treaty designed to enhance the fight against terrorism, namely the Arms Trade Treaty adopted during the 67th Session of the UN General Assembly by way of Resolution 67/234B on 2 April 2013, remains unratified. The Treaty underlines the need to prevent and eradicate the illicit trade in conventional arms and to prevent their diversion to the illicit market or for unauthorised end use and end users, including the commission of terrorist acts. Article 1 of the Arms Trade Treaty establishes the highest possible common international standards for regulating, or improving the regulation of, the international trade in conventional arms. In 2007, government officials in Kenya estimated that there were 100 000 firearms in circulation in the country, with this number increasing to 500 000 in 2014 and to approximately 700 000 in 2017,[66] most of them smuggled in from Somalia, Ethiopia, Uganda and Sudan.[67] This is why there is an urgent need for ratification of the Treaty so as to augment all efforts made by Kenya in the war against terrorism.

7. CONCLUSION

In this Research Paper, rights and the policing of terrorism in Kenya have been discussed, and it has been shown that the fight against terror remains a mighty contest between evil and good, not only in Kenya, but also globally. Despite the efforts being made across the world to put an end to terrorism, underlying socio-economic conditions and structures, weak citizen-centred governance institutions and indifferent leadership at all levels of society drive this dreadful crime. This calls for leadership in all societal spheres, but mostly the political arena, for robust institutions able to abide by the rule of law as per their mandates, and for a compassionate populace – including law enforcement officials – with changed attitudes, cultures and mindsets.

With leaders, institutions and the people fulfilling their roles effectively and efficiently, service delivery needs to be managed. Consequently, there must be proper programming and the sequencing of rights and welfare issues, not only with regard to law enforcement officials, but also all victims of divisions and injustices in society. The relative deprivations and social distances created by injustice, unemployment,

inequalities, marginalisation, ethnicity, the poor distribution of resources, and the divisions around religions and regions fuel acts of terror. This is why the fight against terrorism, like any other crime, should shift from a focus on the act to behaviour which is influenced largely by socio-economic conditions in any community.

Such a shift would require training of law enforcement officials in countering terrorism through the use of intelligence and proper investigations, accompanied by respect for human rights. Further, it would demand broad stakeholder engagement in order to address the new realities, complemented by meaningful community partnerships. For this to happen, centres for advanced training are required, with skilled teams, simulation-based training, new training guides on rights-based policing, and new practice-oriented approaches supported by information technology systems.

ENDNOTES

1   Kenya National Commission on Human Rights (KNCHR) (September 2015) The Error of Fighting Terror with Terror, Preliminary Report of KNCHR Investigations on Human Rights Abuses in the Ongoing Crackdown against Terrorism, p. 6. Available at: http://www.knchr.org/Portals/0/CivilAndPoliticalReports/Final%20Disappearances%20report%20pdf.pdf [accessed on 21 March 2017].

2   IPOA, Report following the Mpeketoni Attacks, 15 and 16 June 2014, redacted version, p. 11. Available at: https://www.scribd.com/document/245815333/IPOA-Mpeketoni-Attack-Monitoring-Report [accessed on 21 March 2017].

3   World Bank (2011) World Development Report 2011: Conflict, Security, and Development, Washington DC: International Bank for Reconstruction and Development/The World Bank, p. 7.

4   UN Declaration 1994, Declaration 3. Available at: http://www.un.org/documents/ga/res/49/a49r060.htm [accessed on 4 May 2017].

5   O Lizardo (2008) Defining and Theorizing Terrorism: A Global Actor-Centered Approach, *Journal of World-Systems Research*, XIV(2), pp. 91–118.

6   JC Andrig & T Barasa (2011) Cops and Crime in Kenya – a Research Report, NUPI Working Paper 794, Norwegian Institute of International Affairs.

7   P Ransley (2009) Report of the National Task Force on Police Reforms, Nairobi, Kenya, p. 14.

8   Kenya Police Service. Available at: http://www.kenyapolice.go.ke/pages/search/71-background.html [accessed on 21 March 2017].

9   D Howden (19 November 2013) Kenyan Rights Group Accuses Anti-Terror Police of Unlawful Killings, *The Guardian*. Available at: https://www.theguardian.com/world/2013/nov/19/kenya-human-rights-anti-terror-police-killings [accessed on 2 October 2017].

10   Administration Police Service. Available at: http://www.administrationpolice.go.ke/2015-05-05-09-24-00/rapid-deployment-unit-rdu.html [accessed on 2 October 2017].

11   S Aronson (1 November 2013) Kenya and the Global War on Terror, *African Journal of Criminology and Justice Studies*.

12   Wikipedia. Available at: https://en.wikipedia.org/wiki/Terrorism_in_Kenya [accessed on 16 May 2017].

13   United States Department of Justice (Federal Bureau of Investigation) (18 November 1988), Bombings of the Embassies of the United States of America in Nairobi, Kenya, and Dar es Salaam, Tanzania. Available at: https://www.pbs.org/wgbh/pages/frontline/shows/binladen/bombings/summary.html [accessed on 2 October 2017].

14   Wikipedia. Available at: https://en.wikipedia.org/wiki/Terrorism_in_Kenya [accessed on 2 October 2017].

15   EM Ayiera (2014) Local Policing Accountability in Kenya: Challenges and Opportunities for Action, CHRIPS & APCOF. Available at: http://apcof.org/wp-content/uploads/2016/12/Local-Policing-Accountability-in-Kenya-Final-Report.pdf [accessed on 22 June 2017].

16   K Kelley (6 November 2016) UN: KDF Makes Money on Illicit Charcoal Exports from Somalia, *Daily Nation*. Available at: http://www.nation.co.ke/news/KDF-makes-money-on-illicit-charcoal-exports-from-Somalia/1056-3442062-dhar8ez/index.html [accessed on 3 October 2017].

17   National Police Service Act, 2011, section 24.

18   National Police Service Act, 2011, Sixth Schedule.

19   IPOA Performance Reports. Available at: http://www.ipoa.go.ke/other-documents/ [accessed on 4 October 2017].

20   Concluding Observations Adopted by the Human Rights Committee at its 105th Session, 9–27 July 2012, in terms of Article 40 of the International Covenant on Civil and Political Rights (ICCPR).

21   Ibid.

22   P Vidija (22 June 2017) Terrorists Exploit Tribe, Ethnicity, Clan – Expert, *The Star Newspaper*. Available at: https://www.the-star.co.ke/news/2017/06/22/terrorists-exploit-tribe-ethnicity-clan-expert_ c1584038 [accessed on 2 October 2017].

23   D Mwere (20 September 2017) Terror Groups Pose Biggest Threat to Kenya's Security – NIS, *Daily Nation*. Available at: http://www.nation.co.ke/news/NIS-terrorism-security-threat/1056-4103606-b06cccz/index.html [accessed on 2 October 2017].

24   IPOA (n 3 above).

25   IPOA (n 3 above), pp. 15 & 16.

26   IPOA (n 3 above), p. 18.

27   JC Andrig & T Barasa (n 7 above).

28   The International Narcotics Control Strategy Report (March 2016), Volume I: Drug and Chemical Control, p. 204.

29   W Oketch & M Mohamed (10 November 2014) Inspector General David Kimaiyo Disbands Anti-Narcotics Unit at the Coast, Shuts Offices, *Standard Digital*. Available at: https://www.standardmedia.co.ke/article/2000140923/inspector-general-david-kimaiyo-disbands-anti-narcotics-unit-at-the-coast-shuts-offices [accessed on 26 June 2017].

30   J Lind, P Mutahi & M Oosterom (2017) Killing a Mosquito with a Hammer: Al-Shabaab Violence and State Security Responses in Kenya, Peacebuilding, 5(2), pp. 118–135.

31   Ibid.

32   Defining and Theorizing Terrorism (n 6 above), pp. 91–118.

33   The Presidency (16 January 2017) Speech by His Excellency Hon. Uhuru Kenyatta, CGH, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces. Available at: http://www.president.go.ke/2017/01/16/speech-by-his-excellency-hon-uhuru-kenyatta-c-g-h-president-of-the-republic-of-kenya-and-commander-in-chief-of-the-defence-forces-during-the-official-commissioning-of-500-leased-motor-vehicles-for/ [accessed on 5 May 2017].

34   Ibid.

35   J Chokerah, W Odero & W Reeves, African Economic Outlook, Kenya, p. 11. Available at: http://www.africaneconomicoutlook.org/en/country-notes/kenya [accessed on 5 June 2017].

36   M Nyamori (15 April 2016) al-Shabaab Now Recruiting in Rift Valley, Nyanza and Western Kenya, *Standard Digital*. Available at: https://www.standardmedia.co.ke/article/2000198278/al-shabaab-now-recruiting-in-rift-valley-nyanza-and-western-kenya [accessed on 3 October 2017].

37   B Lanvin & P Evans, The Global Talent Competitiveness Index 2017, p. 31.

38   Ibid.

39   Ibid.

40   The Presidency (16 January 2017) (n 34 above).

41   T Ross & R Hutton (7 June 2017) U.K.'s May Says She'd Rip Up Human Rights Law to Beat Terrorists, *Bloomberg*. Available at: https://www.bloomberg.com/news/articles/2017-06-06/u-k-s-may-says-she-d-rip-up-human-rights-law-to-beat-terrorists?cmpid=socialflow-twitter-business&utm_content=business&utm_campaign=socialflow-organic&utm_source=twitter&utm_medium=social [accessed on 7 June 2017].

42   Ibid.

43   F Koech (5 March 2017) Leader [in] Spotlight over Claims of Jeopardising Security Operation, *Daily Nation*. Available at: http://www.nation.co.ke/counties/west-pokot/Residents-accuse-Senator-of-impeding-police-work/3444836-3836810-5losh4/ [accessed on 25 May 2017].

44 The Slum in Nairobi, Kenya: Where Mob Justice Muzzles State Justice (2017) [Online documentary]. Available at: http://africauncensored.net/documentaries/murderous-mobs-in-mathare/#. WSaciMYlGM8 [accessed on 25 May 2017].

45 Mob Justice in Kenya (2017) [Online video]. Available at: https://www.youtube.com/watch?v=MjAK-dvs8A8 [accessed on 25 May 2017].

46 KNCHR (n 2 above).

47 Independent Policing Oversight Authority Act, 2011, section 6(a).

48 P Wafula (18 August 2014) Kenya Has Experienced 100 Terror Related Attacks in Three Years, *Standard Digital*. https://www.standardmedia.co.ke/article/2000131848/kenya-has-experienced-100-terror-related-attacks-in-three-years [accessed on 4 October 2017].

49 UN Security Council, Resolution 1373 (2001), 4 385th Meeting, 28 September 2001. Available at: http://www.un.org/en/sc/ctc/specialmeetings/2012/docs/United%20Nations%20Security%20 Council%20Resolution%201373%20(2001).pdf [accessed on 6 June 2017].

50 Ibid.

51 UN Security Council (1982) Provisional Rules of Procedure (S/96/Rev.7). Available at: http://www. un.org/en/sc/about/rules/ [accessed on 6 June 2017].

52 UN Security Council (24 May 2017) Unanimously Adopting Resolution 2354 (2017), Security Council Urges Member States To Follow New Guidelines on Countering Terrorist Narratives. Available at: https://www.un.org/press/en/2017/sc12839.doc.htm [accessed on 6 June 2017].

53 African Union (23 November 2015) Resolution on the Strengthening of Cooperation and Coordination, The African Union Counter-Terrorism Framework. Available at: http://www.peaceau.org/en/page/64-counter-terrorism-ct [accessed on 7 June 2017].

54 Ibid.

55 Prevention of Organised Crimes Act, 2010, section 3. Available at: http://www.kenyalaw.org/lex// actview.xql?actid=No.%206%20of%202010 [accessed on 7 June 2017].

56 Prevention of Terrorism Act, 2012, section 2. Available at: http://www.kenyalaw.org/lex//actview. xql?actid=No.%2030%20of%202012 [accessed on 7 June 2017].

57 Constitution of Kenya, 2010, Article 240.

58 F Mukinda (13 April 2016) Nyumba Kumi Has Little To Show As Crime Rate Continues To Soar, *Daily Nation*. Available at: http://www.nation.co.ke/news/Nyumba-Kumi-has-little-to-show-/1056-3158236-vn8wy5/index.html [accessed on 7 May 2017].

59 This happened during Operation Linda Boni in Lamu County, Operation Dumisha Amani in Baringo and Laikipia counties, and in almost all counties in the former North Eastern Province.

60 Human Rights Watch (4 May 2012) Criminal Reprisals: Kenyan Police and Military Abuses against Ethnic Somalis. Available at: https://www.hrw.org/report/2012/05/04/criminal-reprisals/kenyan-police-and-military-abuses-against-ethnic-somalis [accessed on 7 June 2017].

61 J Gitau (2016) Civil–Military Relations in an Era of Violent Extremism: Policy Options for the Kenya Defence Forces, pp. 13–17.

62 Kenya Defence Forces (Amendment) Act, 2016, section 15.

63 Reuters (23 May 2017) Suicide Bomber Kills 22 at Ariana Grande Concert in Britain, *Standard Digital*. Available at: https://www.standardmedia.co.ke/article/2001240846/suicide-bomber-kills-22-at-ariana-grande-concert-in-britain [accessed on 7 June 2017].

64 N Otuki (25 February 2016) Kenya Buys $9.86m Pilotless Aircraft in War on al-Shabaab, The East African. http://www.theeastafrican.co.ke/news/Kenya-buys-pilotless-aircraft-in-war-on-Al-Shabaab/2558-3092192-x7gs0m/index.html [accessed on 16 October 2017].

65 IPOA (14 July 2014) Monitoring Report on Operation Sanitization of Eastleigh, Publically Known as Usalama Watch, p. 13.

66 C Ombati (19 March 2015) 700 000 Illegal Guns in Hands of Civilians – Joseph Nkaissery, *Standard Digital*. https://www.standardmedia.co.ke/article/2000155299/700-000-illegal-guns-in-hands-of-civilians-joseph-nkaissery [accessed on 3 October 2017].

67 Ibid.

REFERENCES

Administration Police Service: http://www.administrationpolice.go.ke/2015-02-16-09-14-42/history.html [accessed on 21 March 2017].

Administration Police Service: http://www.administrationpolice.go.ke/2015-05-05-09-24-00/rapid-deployment-unit-rdu.html [accessed on 2 October 2017].

African Union. (23 November 2015). Resolution on the Strengthening of Cooperation and Coordination, The African Union Counter-Terrorism Framework. Available at: http://www.peaceau.org/en/page/64-counter-terrorism-ct [accessed on 7 June 2017].

Andrig, JC & Barasa, T. (2011). Cops and Crime in Kenya – a research Report. NUPI Working Paper 794. Norwegian Institute of International Affairs.

Ayiera, EM. (2014). Local Policing Accountability in Kenya: Challenges and Opportunities for Action. CHRIPS & APCOF. Available at: http://apcof.org/wp-content/uploads/2016/12/Local-Policing-Accountability-in-Kenya-Final-Report.pdf [accessed on 22 June 2017].

Chokerah, J, Odero, W & Reeves, W. African Economic Outlook, Kenya, p. 11. Available at: http://www.africaneconomicoutlook.org/en/country-notes/kenya [accessed on 5 June 2017].

Constitution of Kenya, 2010, Article 240.

Gitau, J. (2016). Civil–Military Relations in an Era of Violent Extremism: Policy Options for the Kenya Defence Forces, pp. 13–17.

Howden, D. (19 November 2013). Kenyan Rights Group Accuses Anti-Terror Police of Unlawful Killings, *The Guardian*. Available at: https://www.theguardian.com/world/2013/nov/19/kenya-human-rights-anti-terror-police-killings [accessed on 2 October 2017].

Human Rights Watch. (4 May 2012). Criminal Reprisals: Kenyan Police and Military Abuses against Ethnic Somalis. Available at: https://www.hrw.org/report/2012/05/04/criminal-reprisals/kenyan-police-and-military-abuses-against-ethnic-somalis [accessed on 7 June 2017].

Independent Policing Oversight Authority Act, 2011, section 6(a).

Independent Policing Oversight Authority. (14 July 2014). Monitoring Report on Operation Sanitization of Eastleigh, Publically Known as Usalama Watch, p. 13.

Independent Policing Oversight Authority: Performance Reports. Available at: http://www.ipoa.go.ke/other-documents/ [accessed on 4 October 2017].

Independent Policing Oversight Authority. Report Following the Mpeketoni Attacks, 15 and 16 June 2014, redacted version, p. 11. Available at: https://www.scribd.com/document/245815333/IPOA-Mpeketoni-Attack-Monitoring-Report [accessed on 21 March 2017].

Kelley, K. (6 November 2016). UN: KDF Makes Money on Illicit Charcoal Exports from Somalia, *Daily Nation*. Available at: http://www.nation.co.ke/news/KDF-makes-money-on-illicit-charcoal-exports-from-Somalia/1056-3442062-dhar8ez/index.html [accessed on 3 October 2017].

Kenya Defence Forces (Amendment) Act, 2016, section 15.

Kenya National Commission on Human Rights. (September 2015). The Error of Fighting Terror with Terror, Preliminary Report of KNCHR Investigations on Human Rights Abuses in the Ongoing Crackdown against Terrorism, p. 6. Available at: http://www.knchr.org/Portals/0/CivilAndPoliticalReports/Final%20Disappearances%20report%20pdf.pdf [accessed on 21 March 2017].

Kenya Police Service: http://www.kenyapolice.go.ke/pages/search/71-background.html [accessed on 21 March 2017].

Koech, F. (5 March 2017). Leader [in] Spotlight over Claims of Jeopardising Security Operation, *Daily Nation*. Available at: http://www.nation.co.ke/counties/west-pokot/Residents-accuse-Senator-of-impeding-police-work/3444836-3836810-5losh4/ [accessed on 25 May 2017].

Lanvin, B & Evans, P. The Global Talent Competitiveness Index 2017, p. 31.

Lind, J, Mutahi, P & Oosterom, M. (2017). Killing a Mosquito with a Hammer: al-Shabaab Violence and State Security Responses in Kenya, *Peacebuilding*, 5(2),118–135.

Lizardo. O. (2008). Defining and Theorizing Terrorism: A Global Actor-Centered Approach, *Journal of World-Systems Research*, XIV(2), pp. 91–118.

Mob Justice in Kenya. (2017). [Online video]. Available at: https://www.youtube.com/watch?v=MjAK-dvs8A8 [accessed on 25 May 2017].

Morris, H. (2014). Despite Insurgent Attacks, Good Prospects for Development in Kenya. Available at: http://www.coffey.com/en/ingenuity-coffey/insurgency-in-kenya-is-it-a-major-threat-to-development-projects/ [accessed on 21 March 2017].

Mukinda, F. (13 April 2016). Nyumba Kumi Has Little To Show As Crime Rate Continues To Soar, *Daily Nation*. Available at: http://www.nation.co.ke/news/Nyumba-Kumi-has-little-to-show-/1056-3158236-vn8wy5/index.html [accessed on 7 May 2017].

Mutuma, R & Pommerolle, ME. (2003). Democratizing Policing or Decentralizing Despotism? The Ambiguities of Community Policing in Kenya, *African Affairs*, 102, pp. 587–604.

Mwere, D. (20 September 2017). Terror Groups Pose Biggest Threat to Kenya's Security – NIS, *Daily Nation*. Available at: http://www.nation.co.ke/news/NIS-terrorism-security-threat/1056-4103606-b06ccc/index.html [accessed on 2 October 2017].

National Police Service Act, 2011, section 24.

National Police Service Act, 2011, Sixth Schedule.

News Agencies. (27 June 2017). Deadly Blast Targets Police near Kenya–Somalia Border, *Aljazeera*. Available at: http://www.aljazeera.com/news/2017/06/deadly-blast-targets-police-kenya-somalia-border-170627170647558.html [accessed on 2 October 2017].

Nyamori, M. (15 April 2016). al-Shabaab Now Recruiting in Rift Valley, Nyanza and Western Kenya, *Standard Digital*. Available at: https://www.standardmedia.co.ke/article/2000198278/al-shabaab-now-recruiting-in-rift-valley-nyanza-and-western-kenya [accessed on 3 October 2017].

Oketch, W & Mohamed, M. (10 November 2014). Inspector General David Kimaiyo Disbands Anti-Narcotics Unit at the Coast, Shuts Offices, *Standard Digital*. Available at: https://www.standardmedia.co.ke/article/2000140923/inspector-general-david-kimaiyo-disbands-anti-narcotics-unit-at-the-coast-shuts-offices [accessed on 26 June 2017].

Ombati, C. (19 March 2015). 700 000 Illegal guns in Hands of Civilians – Joseph Nkaissery, *Standard Digital*. Available at: https://www.standardmedia.co.ke/article/2000155299/700-000-illegal-guns-in-hands-of-civilians-joseph-nkaissery [accessed on 3 October 2017].

Otuki, N. (25 February 2016). Kenya Buys $9.86m Pilotless Aircraft in War on al- Shabaab, *The East African*. Available at: http://www.theeastafrican.co.ke/news/Kenya-buys-pilotless-aircraft-in-war-on-Al-Shabaab/2558-3092192-x7gs0m/index.html [accessed on 16 October 2017].

Ransley, P. (2009). Report of the National Task Force on Police Reforms. Nairobi: Kenya, p. 14.

Prevention of Organised Crimes Act, 2010, section 3. Available at: http://www.kenyalaw.org/lex//actview.xql?actid=No.%206%20of%202010 [accessed on 7 June 2017].

Prevention of Terrorism Act, 2012, section 2. Available at: http://www.kenyalaw.org/lex//actview.xql?actid=No.%2030%20of%202012 [accessed on 7 June 2017].

Reuters. (23 May 2017). Suicide Bomber Kills 22 at Ariana Grande Concert in Britain, *Standard Digital*. Available at: https://www.standardmedia.co.ke/article/2001240846/suicide-bomber-kills-22-at-ariana-grande-concert-in-britain [accessed on 7 June 2017].

Ross, T & Hutton, R. (7 June 2017). U.K.'s May Says She'd Rip Up Human Rights Law to Beat Terrorists, *Bloomberg*. Available at: https://www.bloomberg.com/news/articles/2017-06-06/u-k-s-may-says-she-d-rip-up-human-rights-law-to-beat-terrorists?cmpid=socialflow-twitter-business&utm_content=business&utm_campaign=socialflow-organic&utm_source=twitter&utm_medium=social [accessed on 7 June 2017].

Rotberg, R. (2003). The Failure and Collapse of Nation-States: Breakdown, Prevention, and Repair. Available at: http://press.princeton.edu/titles/7666.html [accessed on 21 March 2017].

Samuel, A. (1 November 2013). Kenya and the Global War on Terror, *African Journal of Criminology and Justice Studies*.

Security Laws (Amendment) Act, 2014, section 40A.

The Economist. (2 December 2014). Somalia's Troubles Come South. Available at: http://www.economist.com/news/middle-east-and-africa/21635376-kenya-battling-ever-more-sophisticated-islamist-foe-trouble-north [accessed on 24 May 2017].

The International Narcotics Control Strategy Report. (March 2016). Volume I: Drug and Chemical Control, p. 204.

The Presidency. (16 January 2017). Speech by His Excellency Hon. Uhuru Kenyatta, CGH, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces. Available at: http://www.president.go.ke/2017/01/16/speech-by-his-excellency-hon-uhuru-kenyatta-c-g-h-president-of-the-republic-of-kenya-and-commander-in-chief-of-the-defence-forces-during-the-official-commissioning-of-500-leased-motor-vehicles-for/ [accessed on 5 May 2017].

The Slum in Nairobi, Kenya: Where Mob Justice Muzzles State Justice. (2017). [Online documentary]. Available at: http://africauncensored.net/documentaries/murderous-mobs-in-mathare/#.WSaciMYlGM8 [accessed on 25 May 2017].

UN Declaration. (1994). Declaration 3. Available at: http://www.un.org/documents/ga/res/49/a49r060.
htm [accessed on 4 May 2017].

UN Security Council. (1982). Provisional Rules of Procedure (S/96/Rev.7). Available at: http://www.
un.org/en/sc/about/rules/ [accessed on 6 June 2017].

UN Security Council. (28 September 2001). Resolution 1373 (2001), 4 385th Meeting. Available at: http://
www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1373(2001) [accessed on 6 June 2017].

UN Security Council. (24 May 2017). Unanimously Adopting Resolution 2354 (2017), Security Council
Urges Member States To Follow New Guidelines on Countering Terrorist Narratives. Available at:
https://www.un.org/press/en/2017/sc12839.doc.htm [accessed on 6 June 2017 & 2 October 2017].

US Department of Justice (Federal Bureau of Investigation). (18 November 1998). Bombings of the
Embassies of the United States of America in Nairobi, Kenya, and Dar Es Salaam, Tanzania, August 7,
1998. Washington DC. Available at: https://www.pbs.org/wgbh/pages/frontline/shows/binladen/
bombings/summary.html [accessed on 2 October 2017].

Vidija, P. (22 June 2017). Terrorists Exploit Tribe, Ethnicity, Clan – Expert, *The Star*. Available at: https://
www.the-star.co.ke/news/2017/06/22/terrorists-exploit-tribe-ethnicity-clan-expert_c1584038
[accessed on 2 October 2017].

Wafula, P. (18 August 2014). Kenya Has Experienced 100 Terror-Related Attacks in Three Years, *Standard
Digital*. Available at: https://www.standardmedia.co.ke/article/2000131848/kenya-has-experienced-
100-terror-related-attacks-in-three-years [accessed on 4 October 2017].

Wikipedia: https://en.wikipedia.org/wiki/Terrorism_in_Kenya [accessed on 16 May 2017].

World Bank. (2011). World Development Report 2011: Conflict, Security, and Development. Washington
DC: International Bank for Reconstruction and Development/World Bank, p. 7.

Zadock, A. (31 December 2016). Interior Cabinet Secretary Outlaws 89 Criminal Gangs, *Daily Nation*.
Available at: http://www.nation.co.ke/news/Government-bans-89-criminal-gangs/1056-3502650-
t8jv2iz/index.html [accessed on 2 October 2017].

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