



# from **Monopoly to Oligopoly of Violence**

*Exploration of a Four-Point  
Hypothesis Regarding Organised  
and Organic Militia in Kenya*

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## DEDICATION;

Dedicated to the memory of  
Prof. George Saitoti former minister for  
Internal Security under whose  
watch this study was commissioned.

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## Preface

~**Nardos Bekele-Thomas**~

*The UN Resident Coordinator and UNDP Resident Representative*

The scholarly need to understand the role of armed violence, nascent militia and criminal gangs in Kenya's political, security, economic, social and legal dimensions, in view of the youth-orientated armed violence that has beset the country since post-election violence, is of critical importance. Over the years, the United Nations Development Programme Kenya (UNDP Kenya), in collaboration with the Bureau for Crisis Prevention and Recovery (BCPR), has supported the Government of Kenya through the National Steering Committee on Peace Building and Conflict Management (NSC), to strengthen and deepen national capacities to understand and respond appropriately to violent conflict situations. UNDP as an innovative knowledge-based institution and a partner of the NSC has in 2012 had the pleasure to facilitate the commissioning of this report on organized and organic militia in Kenya. This report, prepared for the by notable Kenyan peace practitioners and renowned academics in consultation with diverse stakeholders, offers useful insights for all those working to build a sustainable peace in Kenya.

Using an imaginative modelling, grounded by a rigorously developed hypothesis specific for the study as well as prevailing theories of crime, the report marshals together quantitative and qualitative data to describe the complex aspects of militarization of the Kenyan society through the emergence of gangs, militias and vigilantes. The report provides a historical sweep through the challenges to the Kenyan state by various armed groups and the ebb and tide of militia formations in post-colonial Kenya. Using its own primary research to analyse the collected data on the various criminal gangs in Kenya, the report generates a useful typology of militia groups in the country, and examines their legality, legitimacy within the community, as well as the pull and push factors in gang formation, recruitment, membership

and leadership. Additionally, the report examines the nexus between the orchestration of violence, key political figures and entrepreneurs, armed ethnic militias and gangs in both urban and rural environments. It reflects upon the potential damage occasioned by the availability of small arms and light weapons, and the negative effects of the emerging bandit economy operated by the various criminal gangs in critical social and economic spaces. Further, the report provides a rich understanding of the underlying structural conditions and conflict dynamics that precipitate the emergence and contribute to the proliferation and growth of such gangs, their relationship with the political and security structures and communities, in some cases. Notably, the report warns that the nascent insurgencies, criminalities, and violence could feed on each other and, if not well managed, undermine national security. Further, it urges that the state needs to readapt to the reality of fighting increasing organized but asymmetrical forms of war and violence, and realize the limitations of force as the main effort to modify criminal behaviour and proactively deal with violent tendencies propagated by the mushrooming militias. Informed by the regional contexts and experiences and available resources, and an appreciation of what needs to be done at different levels based on comparative experiences globally, the report recommends the re-alignment and re-organization of civil institutions to ensure that citizen security is well protected and safeguarded

Insightfully, the report maintains that to contain militarization and gangs, by inference the main thrust of the Security Sector Reform, a look at the links between institutional challenges and the demand and supply variables that generate insecurities needs to be established. It is recommended that action is required before the armed groups entrench themselves as a parasitic force enforcing deeper obedience from citizens especially in informal settlements and other marginal counties. The report powerfully calls for a paradigm shift where security is seen as a duty of each and every Kenyan. It suggests innovative changes in police recruitment methods to allow wider socialization of the society to support the police's efforts to maintain law and order and effectively deal with contemporary security challenges – which is intricately intertwined with regional and global security complexes. Moreover, the report emphatically recommends a restructuring of the internal and external security architecture and the roles of citizens in state securitization and peacebuilding, to enhance citizens' capacity to provide intelligence and identify certain threats and to help shrink and dry up the spaces that feed and nourish these negative militia forces.



At UNDP, we believe this report, with its bold analysis and in-depth treatment of a sensitive topic which is rarely discussed thoroughly, is a ground-breaking piece of scholarly and practical work which will go a long way in enabling the Kenyan government establish, re-orientate and build security sectors' institutional capacities to comprehensively deal with the issue of youths and militias in order to nurture durable peace and security. As discussion continues on the security sector transformations in Kenya, we hope that many will take the time to read this report and reflect on the positive messages contained on how to turn Kenya's youth bulge into a peace loving and law abiding profitable asset. We strongly commend the Kenyan leadership for providing the much-needed political will and support and for taking encouraging proactive steps in the conceptualization, execution and implementation of the study. As the UN family, we are confident that if the recommendations advanced herein are implemented to address the thorny issue of the high youth unemployment, proliferation of militias and arms among others in the country, the nation's chances of realizing key results envisioned under Medium Term Plan II and Vision 2030 and other developmental plans, will be greatly enhanced.

# Chapter 1

## A Conceptual Note

### **1.1 The Four-Point Hypothesis:** *Study Assumptions*

#### **1.1.1 Of Distance Decay and Gang Logic**

Literature on militia offers four explanations regarding their proliferation and sustenance. The first is related to space. And its central thesis is that re-organised spaces, like slums, create opportunities that naturally attract crime. In the new spaces, there is a crisis of rule imposition and control. Combined with opportunity, this 'state-of-flux' produces a flora of criminal gangs. But re-organised spaces also result in some form of decay. The further the new spaces are from the centre, the greater their distance decay in terms of control and interaction.

The concept of distance decay borrows from The First Principle in Geography that states: “...*everything is related to everything else; but near things are more related than distant things*” (Tobler, W 1970). That is, although everything is related, things that are proximate are more related than those that are distant. This is why non-administered spaces in which the state is virtually absent, are breeding grounds for private violence. But distance decay is not only a function of geography. It refers to decay in relationships; to economic inclusion/exclusion and the 'distance between the poor and the law'. For instance, the bandit economy is a function of economic decay. In fact, organic crime<sup>1</sup> is rationalised by economic exclusion as we shall demonstrate. Of equal note is that regulatory 'decay' has produced a regime of 'bandit law' to regulate the predatory sphere<sup>2</sup>. But direct insecurity is bred by governance

1 We define organic crime in our discussion of the symbiosis hypothesis in this paper

2 We discuss this sphere in detail in the section on Space Map.

decay. Our hypothesis here thus is that both organic and organised militia are a function of distance decay.

### **1.1.2 The Gap Hypothesis: *State Absence or Abstinence?***

The second explanation to militia proliferation focuses on the governance of geographical spaces. Its central thrust is that new 'spaces' tend to skew the space to force ratio. They result in far too many spaces being policed by 'too small' a force. Because of this imbalance, the distant spaces 'close' themselves out, limiting the influence of the centre on their activities. This phenomenon of 'closed spaces' invites militia to police them and increases their de facto legitimacy in communities. In fact, a symbiosis between the 'supply' of criminal activities and its 'demand' by community begins to emerge<sup>3</sup>. The further away the state is from the closed spaces, the higher the legitimacy of gangs as the 'alternative state'. And this is how organic militia and gangs emerge. They are organic because community demands for them and legitimises their activities.

But security gaps are not occasioned by state absence alone. We argue that this can be occasioned by state abstinence as well. This is a situation where the state agencies are either overpowered by the militia or are partakers of illicit activities with the militia. Security gaps that are traced to state abstinence can be traced to the rolling back of the (President Daniel arap) Moi state in the 1990s. There were two results. One was the state shrinkage through aid conditionality that saw an increase in 'patronage inflation'<sup>4</sup>. That is, the price of 'buying' and maintaining a political client went up as adjustment conditionality kicked in. But there was a bigger complication to the Moi patronage networks. In the past, Kenya had only one political party- (the Kenya African National Union) KANU. As the grip on power by patronage of the Moi regime tightened so did intolerance to criticism increased. The upshot of this intolerance was expulsion and, with it, the burial of careers of politicians who failed to toe the KANU line. With conditionality, however, the political space opened up allowing for a multi-party system of government. If the one party system had made it easy to maintain a tight patronage network under KANU, political liberalisation increased the options available to the Moi clients. An inverse relationship between liberalised political space on the one hand and 'de-liberalised' state resources ensued. As the political space expanded, state resources to maintain the patron-client networks shrunk. The result was 'patronage inflation'. And the solution to the new dynamic was

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3 Desperate for protection, 'unpoliced' spaces from 'below' look for alternative policing. The criminal gangs gleefully fill the gaps.

4 Mutahi Ngunyi The Soft and Hard Conditionality See-saw: An Analysis of Political Socialisation of Donors in Kenya (University of Leeds/SAREAT Working Paper No. 012, September 1998).

the phenomenon of state abstinence. But how did this work?

To arrest the 'inflation', new 'markets' had to be invented. And this is how cattle rustling and corruption became the 'fifth factors' of production<sup>5</sup>. Later in the twilight years of the Moi regime, organised crime was adopted as a way of maintaining political networks of patronage. Carjacking, narcotics, and bank robberies were used to underwrite political projects<sup>6</sup>. Even then, it was not easy to keep the gangs busy with such sophisticated crime. Hence, opportunities had to be created for them to extract from community as well. This was done through the creation of artificial security gaps for them to fill or take advantage of. This is how the cosy relationship between the police and gang formations was incubated. At first, the creation of these gaps was regulated. With time, however, the predation acquired a life of its own and unregulated relationships between the police and the gangs solidified. The unregulated gaps emerged not because of police absence; but because of police abstinence.

While the first gap was occasioned by absence, the second was motivated by abstinence. Political liberation saw the collapse of KANU youth wing and the predatory infrastructure of the provincial administration. This left a security vacuum that attracted organised 'militia'. The gap was both in the bourgeoisie spaces and those occupied by urban lumpens and rural peasants. While the 'bourgeoisie gaps' were filled by formal security firms, most of them foreign, such as KK Security and G4S; the 'lumpen' and 'peasant' gaps were occupied by vigilantes who later translated themselves into militia. Mungiki and Taliban gangs emerged to fill in the gaps that were left by the de facto police unit in the transport industry, otherwise known as the Kanu Youth Wingers.

But this dichotomy between bourgeoisie and lumpen spaces should be nuanced a bit through history. In Kenya, policing was a bi-faceted affair. There was a police force created to protect settler capital, and one to police the ethnic spaces<sup>7</sup>. The settler spaces were categorised as the productive sector; while the native villages were the suppliers of labour. This structure was inherited by the independence state without changing its logic. It only adopted to the new production realities of the day. Today, the productive sector and the 'middle class' are policed by the regular police. In fact, they have 'privatised' and colonised police operations using market incentives<sup>8</sup>. The new 'native

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5 C.F 'Liberalising the Bandit Economy in Kenya' (East African Alternatives, July 1999)

6 Ibid.

7 The regular police service and the tribal police. The tribal police later became the Administration Police.

8 For instance the hiring of police men to ride in every private security patrol vehicles.

villages' based in the slums<sup>9</sup> have also incentivised the 'zero market'<sup>10</sup>. They have attracted militia groups and gangs to police their unprotected spaces. This, as we shall argue later, is a 'market slippage' that accounts in part for the shift to oligopoly of violence.

There is another noteworthy nuance: although the political class is located in the productive sector, it derives its political legitimacy from the 'labour camps' in slums. In fact, its politics is organised around the dynamics of these 'camps'. And if the militia are central to 'camp life' they become engraved in the political legitimacy of the ruling class. The result is *reverse capture*: the political class mortgages its civic morality to the gangs. And this is how the shift from monopoly to oligopoly of violence happens. It is a middle-class response to a 'political capture' by gang formations.

From the above, our hypothesis is that the security gaps arising from police absence and abstinence created security seams. These in turn facilitated the supply and demand of small arms and light weapons. The result is drugs; a weak 'Force to Space' Ratio; and the twin logic that draws members of the force towards corruption at one level and the youth towards the militia logic at another. The outcome is the rise of organic and organised crime.

### **1.1.3 Symbiosis and Parasitism: *Rationale for Organic Crime***

The third explanation borrows heavily from the classical school of criminology. We call it the 'hedonistic theory' and the central plank of its argument is that human behaviour is motivated by hedonistic rationality. That is, human actions are weighted on their potential pleasure vis-à-vis their associative pain. Crime, in this theory, is not motivated by moral decay. It is committed out of a rationalised calculation of value derived. We therefore discern the literature to indicate a duality of militia identity. One is marketised violence rationalised through a *quid pro quo* logic; the other is a militarised identity, rationalised using a cause. The two identities are not necessarily exclusive. Some militia formations seem to exhibit both, with one bearing a more pronounced presence. The bottom-line, however, is that there is a symbiosis between militia activities and community desperation for their security products.

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9 The camps are native and ethnic in their demographics. Kawangware for instance is a labour camp for the Luhya, Korogocho for Kikuyus, Kibera for the Luos, Kangemi for the Kamba. But it must be emphasised here that the ethnic differentiation has some logic in colonial history and the creation of native detention camps.

10 Also known as the Kadogo Economy in the slum areas. Translated, this means the 'economy of small quantities'. In the slum, the sale of milk is measured using a spoon, while people line up for a blob of tooth paste every morning as they wait in turn to take showers in community washrooms.

Testimonies from militia-infested areas reveal a demand for their services in areas of dispute resolution, debt collection, security and protection. This relationship is 'socially incestuous.' The returns accruing to the militia are ploughed back to the same society they exploit through the 'economy of affection'<sup>11</sup>. As a result, there is a tendency for identities to shift: One moment a member of the militia is a provider, next moment he is a plunderer.

The symbiosis is not only with society; it exists also with the state and its actors. Our hypothesis here is this: That the degree of violence and level of fire power deployed by these militia is a function of value derived. In other words, to the extent that the value is highly priced, the cost of acquisition increases and by inference violence. The assumption is that there are underwriters of militia violence. That there is value derived in these actions. And that the nexus between the militia and underwriters is symbiotic, determined by time and the dynamics in space. While militia earn a living and prestige, the underwriters earn access to political power and the state as a 'lootable' resource. Militia in this sense facilitate resource access or denial.

Our hypothesis is that the relationship between militia services and citizen demands is symbiotic. The existence of one depends on the survival of the other. As such, it is not possible to clear one, without affecting the other. And that this symbiosis is a function of state retreat and fragility. We further hypothesize that the greater the distance decay, the deeper the symbiosis. That is, the further away from the centre, geographically and economically, the more desirable private violence becomes.

#### 1.1.4 From Monopoly to Oligopoly: *The Violence Shift*

**Monopoly of Violence.** Violence is a 'commodity' available in the political market place. And this 'commodity' is provided and consumed within a spectrum<sup>12</sup>. In this spectrum, the formal custodians of violence have no substitute. In fact, the monolithic state enforces a patent over the supply of violence through legal instruments. It erects barriers to 'market' entry. As a result, violence becomes a highly inelastic 'commodity'. Of equal importance is that it is not a private commodity. It is a public commodity<sup>13</sup>;

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11 This is how the young men support their mothers for instance. In Kiambiyu Slum of Nairobi for instance, one mother complained to the researchers that her son had just gotten a job as a criminal. However, they killed him before he had "...helped his mother!". The idea here is that crime was meant to assist the family.

12 The continuum constitutes of two things. On the one extreme, we have the supply of protection; and the demand for security. On the other extreme of the continuum, we have the supply and consumption of violence. Violence exists both as the potential and actual use of force. On its part, force as a deterrent is stronger than force made physically manifest.

13 A public good is what the state provides as part of its obligations at no or minimal cost (health, education, security etc). Private goods are availed in the market at a consideration that is determined by forces of supply and demand.

non-rivalrous and non-excludable<sup>14</sup>. It is provided at no cost as part of state security. Similarly, its citizens have equal access to the 'commodity' and its consumption does not reduce supply. But this is the ideal situation.

**Oligopoly of Violence.** Under oligopoly, violence is both a public and a private commodity. Similarly, its suppliers increase from one (the state) to several. This way, the provision of violence as a private commodity presupposes profit motivation. By extension, therefore, the *elasticity of violence* increases, as consumers get substitutes for 'state violence' at a cost. This cost, to the consumer, varies in degrees of involuntary payment. The state of insecurity compels some consumers to purchase violence, while some consumers are subjected to economic violence with more overt consequences in the event of non-payment. The stronger brands of violence are offered at a greater cost than the more explicit forms of violence. That means, for instance, that it would cost more to have alarm systems and security guards, than to pay off a militia group scare or eliminate a threat.

State sub-optimal response to the militia is a function of its embedded interest in the violence enterprise through rogue elements. And this interest is not located at one place; a monopoly. Our assumption is that, at some undefined moment, the state degenerated into a 'chaotic aggregate'. It became a collection of actors without a lowest common denominator beyond power sharing<sup>15</sup>. But to augment their position within the state structure, they each had to acquire an 'ability to brandish force'. As a result, state actors migrated to the predatory sphere to activate their militia and returned to the civic sphere to collect the results of militia pressure. Overwhelmed by the other militia the formal state has had to degenerate to the predatory sphere to battle them. The result of this 'chaotic aggregate' is a shift from a state monopoly of violence, to an oligopoly of violence.

**Faces of Oligopoly.** Oligopoly, in this sense, is likely to manifest itself in three ways. One, the corroded ability of the state to provide violence as a public good and its continued attempts to control violence may oblige the state to produce violence covertly as a private good. This results in a mosaic of state violence originated from both the private and public. Two, players may act in concert as a cartel to set an aggregate 'price' of violence<sup>16</sup>, or approach it competitively by maximizing profits while factoring in their competitors prices. They can also have a market leader to set the price of violence, a

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14 Public goods are non-rivalrous in the sense that the consumption of violence by one consumer does not reduce its availability to be consumed by others, and non-excludable because other consumers cannot be excluded from consumption.

15 This refers broadly to the pre-election power sharing deals including those within party coalitions.

16 For instance the collaboration of militia groups during the post-election violence. This happened mainly in the Rift Valley, where the groups had taken over security provisioning.

role which in this case, may fall on the state. When the state acts covertly as a market leader, the members of the oligopoly adopt a similar price as that of violence set by the state. What it means for instance, is that the amount you will pay a corrupt policeman to come to your aid during a burglary will be equal to that you could pay to a Mungiki member, or to a private security firm. Three, profit maximization in oligopolies may persuade the players to increase the demand of violence through creating or allowing a degradation of security or an active violation of consumers. The guarantors of security may therefore be the very same providers of violence to the very same consumers. A case in point is a militia group that coerces its subjects to pay for security or face the insecure environment that they will deliberately create. It becomes easy therefore to perceive the failure of the state manifests where violence becomes a necessary environment for the provision of security as a private good.

In architectural reference, the monopolistic state is 'shaped from a single stone.' Although it has internal contestations, it remains singular in form. To the contrary, the oligopolistic state is spurious, divided and 'irregularly shaped.' Unlike the singular state, it suffers from a Multiple Personality Disorder. On the surface, it resembles a 'chaotic aggregate'; underneath it is a *divided*, but an *efficient* machine. In its singular form, the monolithic state has an indisputable enjoyment of a monopoly of legitimate use of violence<sup>17</sup>. To the contrary, the 'oligopolistic' state has its violence supplied by a cartel of power barons located within state spaces<sup>18</sup>. The effect of *power oligopoly*, therefore, is that it breeds multiple forms of 'private indirect governments'<sup>19</sup>. New ways of organising power and regulating individual conduct are also bred within its ranks. And these forms are largely determined by the extent to which violence is privatised. But the '**Oligopoly State**' also breeds the Bandit Economy<sup>20</sup>.

This comprises of a cobweb of underground markets, linked together by crime. It is a network of illegal activities that incorporates inter alia, arms trafficking, drug peddling, money laundering, cattle rustling and human trafficking. The ease with which "dirty" money is morphed into legitimate assets makes the 'Bandit Economy' more virtual than physical. This market mutation is a function of *power oligopoly*. In fact, there is a symbiotic relationship between the growth of the 'bandit economy' and the consolidation of *power oligopoly*.

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17 Max Weber (1919) Politics as a Vocation (Politik als Beruf)

18 We expect to test this hypothesis in the study.

19 See Achelle Mbembe, On Private Indirect Government (Darkar; Codesria, 2002) . Also discussed by Martin Gainborough in "Privatisation as State Advance: Private Indirect Government in Vietnam", *New Political Economy* 1469-9923, vol 14, Issue 2, 2009, p.257-274

20 Concept first cited in Mutahi Ngunyi's article, "Liberalising the Bandit Economy", *East African Alternatives* (SAREAT) July 1999



And the realm in which the two operate is 'amoral.' Here, the meaning of 'the illicit' shifts from that which is illegal to that which is permissible. With an increased permeation of private militias into the society both de facto and de jure, along with an element of the privatisation of the means of coercion this new 'amoral economy' is cemented by the symptoms of a fragile state manifested in weak institutions, a crippled and unreliable judiciary in conjunction with a corruptible government and civil service. In other words, this situation allows criminals and perpetrators of mega economic crime to circumvent the law and escape punishment through the law by the compromised court system. Therefore what holds the bandit economy together is the privatisation of the means of coercion.

Violence, as we have argued above, has become liberalised. And this liberalisation is most significant in the relationship between the formal security organs and the emerging 'bandit state.' Today, this manifests itself in the politicization, and de-professionalization of the security architecture. Other manifestations include; the crisis of command, control and communication within the security forces; crisis of recruitment, training and deployment; crisis of resource mobilization and use and the crisis of morale. Also worth of note is the trafficking of state security materials; involvement of security agents in illicit activities; misuse of state violence and a clandestine relationship between the formal forces and the militia groups. Combined with the diminishing state capacity to manage uncontrolled spaces, the result of this is security *disequilibrium*. This is one of the 'push factors' for the privatisation of violence: The Shift from Monopoly to Oligopoly of Violence.

## 1.2 A Conceptual Map

### 1.2.1 The Space 'Theory of Crime'

Ruggiero Vincenzo (2006) locates urban violence in the logic of fast migration patterns. Groups excluded from the mainstream society, he contends, tend to stick together for protection<sup>21</sup>. And that these groups stick together along familiar lines, mainly ethnic. This explains the ethnocentric nature of urban violence. To Robert E. Park et al (1928), cities are continuously subjected to cycles of shifts in which groups invade and take over spaces occupied by others before being displaced in turn<sup>22</sup>. Fast expansion sees cities become areas of social disorganization. The process is spawned by unplanned urban growth without regulatory mechanisms that can contain both the drift towards and actual criminal activities.

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21 Ruggiero Vincenzo: Understanding Political Violence. Criminological Analysis. Open University Press New York. 2006 p69-86

22 Robert E. Park, Ernest Burgess and Roderick D. Mackenzie "The City" The University of Chicago Press 1928

Michel Foucault discusses this in the context of what he calls the “conduct of conducts”. According to him, geographical spaces must generate calculated ways of shaping conduct, and securing rule. And they must do so using a multiplicity of authorities in and outside the state. This can be expressed through pastoral, disciplinary or bio power. The intention is to collectivise forces that engender rule compliance and acceptable securitisation. But in a situation where there is ‘misconduct’ of conducts, the result is disorganisation. And this becomes a breeding ground for collective crime

Expounding on the impact of space dynamics to crime, Clifford R Shaw refutes the existence of differences between delinquents and non delinquents in terms of personality traits<sup>23</sup>. Crime here is attributed to the levels of social disorganization, not personality disorder. Where controls are absent, the inclination towards crime is higher. And on its part, control is not about regulation of innate appetites; it refers to how the social infrastructure is organised. This ‘organisation’ is in turn expressed through community, family and state presence. Social disorganisation, according to his thinking, engenders criminality.

According to Max Weber (1946), the state must have a monopoly of the use of physical force in order to win a given territory. The essence of stateness in effect is about the ability to demonstrate and enforce compliance to law. The failure to do so, not only undermine the state’s legitimacy but also increases its distancing from society. Here, the state drifts to the realm of being out administered by non state actors. The net effect is the increased distance between the state and society and the resultant tensions within the latter. This unease accounts in part for insecurity.

J.O Wilson and G Kolling’s *broken window*<sup>24</sup> thesis affirms the foregoing. According to them, crime and disorder are rooted in decaying neighbourhood. Their position is that the situation of societal neglect feeds crime. In other words, emergence of armed groups is much the consequence of societal neglect. Disorder, they note, has to be contained before it spreads out<sup>25</sup>. Yet the type of crime, especially the emergence of armed groups, cannot be captured merely by concentrating on their spaces of retreat. More so because they have multiple centres of gravity which have to be identified, located, isolated and destroyed. Of equal importance is that these spaces could be located amongst the political class, in areas with unbroken windows. This implies that location is not an end in itself.

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23 Clifford R. Shaw “Delinquency Areas” Chicago, the University of Chicago Press 1929

24 See J.O Wilson and Kolling G. Broken Windows: The Police and Neighborhood safety. The Atlantic Monthly ( March 1982)

25 See Wilson James and Kelling George 1982, Broken Windows Atlantic March

Other literature point to the acceptance of the functional role of crime in society: That crime has an apparent value to society. Talcott Parsons' refers to this as disfunctionalism. If different parts of a system have a contributive role to it, crime is seen to provide its functional utility as well. The question in this case is that of whose functionality it serves. In understanding violence and other related crimes, the functionalist approach demands that we locate the value derived and the beneficiaries. Indeed the functionalist approach should enable us locate the centre of gravity of criminal actors.

### 1.2.2 The Gap 'Theory of Crime'

**Drawdown Fiasco.** Peter Lock draws a nexus between, military down-sizing and the growth of the security industry<sup>26</sup>. A high presence of demobilised personnel gets recruited into private security firms or joins illegal market security groups as a result of the drawdown. But the '**Africa Drawdown Project**' of 1990 also led to an over-supply of arms resulting from downsized militaries. In polarised societies, mishandled draw downs can misfire. In fact, they result in the West transferring its security contradictions to Africa.

Alex Vines provides a better appreciation of this in his analysis of the Gurkha's and private security business in Africa. They supply body guards, security of installations, while drawing up threat analyses. They also provide V.I.P protection, supply of security equipment, unexploded ordinance (UXO) and landmines. They essentially offer a wide portfolio of security products. The net effect of this is a systematized undermining of state institutional capacity, including resource asphyxiation, in favour of "private sector solutions".

But Vines fails to capture emerging dynamics of individual phantom suppliers and contractors and their impact on state security. These tie up treasury, senior security staff, and shadow entities in "supplying over-valued and unnecessary security related equipment. This in turn spawns corruption, and erodes the operational capacity of the security forces while engendering fights over leadership. Security tendering, therefore, creates spaces of accumulation. And to be sustained, unfit officers have to be retained at the expense of competent ones.<sup>27</sup> Through supply of capital, the ability to buy violence is enhanced and so is the politicization of security institutions. But if the foregoing deals with the formal private sector, there are interactions that develop at the operational and tactical levels. These interactions link security actors with informal private sector. The ability of groups such as Mungiki to maximize on this may explain their operational capacity on the ground

26 Lock Peter: "The African Military Downsizing and the Growth of Security Industry" P11-3

27 Op cit Katumanga M: "Militarized Spaces and the Post 2007 Electoral Violence" in Kanyinga and Okello (ed) Tensions and reversals in Democratic Transitions; The Kenya 2007 General elections SID/IDS 2010 p533-64

and inability to contain them. They are in a position to access operational intelligence and enforce obedience from citizens who have nowhere to turn. It is this phenomenon that we refer to as the transition into parasitism.

Examining the phenomenon of state collapse Zartman et al, point to the foregoing as the drift towards state collapse. There are three critical tasks whose non performance qualifies the state to collapse status; State as guarantor of security: sovereign authority and as an institution. To Zartman failure to perform effectively either of these roles eventually drags the rest to collapse. Of essence is the state's role as guarantor of security acquired from the state of nature. The assumption here is that if security cannot be assured by the state or is taken up despite the state, then its functionality is automatically questioned. For African states, this phenomenon is likely to emerge to the extent that the logic of voluntarism takes root. Instead of demand pressure for security provisioning, this task is taken up by non state actors. It essentially becomes part of cumulative externalization of state functions consequent to external pressures and activities of NGOs <sup>28</sup>.

To Cornwall Richard, state power has been eroded by globalization through the emergence of transnational economic and financial actors with the flexibility of shifting capital without accountability to the state. The crisis of security here lies in the fact that the neo-liberal system has engendered a weak state although a neo-liberal economy demands a strong state with institutional and organizational reach as manifested by its law and order structures, legal systems and social welfare networks. The net effect of this tension is that the weak state gets undermined by elite factions seeking to escape its control. The underclass in turn takes its cue from the political class. It evolves its own mechanisms of escape from the state, facilitated by its limited reach and low provisioning capacity. As a result, security provisioning becomes a shared affair by the state, militia, private security firms and individual initiatives. Underlying this is the systematized weakening of the state

To Herbst H., states are slowly being merged into a web of informal business associations instituted by rulers who have little interest in carrying out traditional functions of the state and who do not recognize or respect boundaries while enriching themselves through trade<sup>29</sup>. Of interest is security implication of this deformatization of state functions. The result is that economic networks stretch into global spheres with criminal orientation that has transformed parts of the continent into an important hub of global

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28 See Clapham C. *Africa and the International system: The Politics of State Survival*, Cambridge University Press, Cambridge, 1996 p186.

29 Herbst H.; "Responding to State Failure in Africa", *International Security*, 21(3), Winter 1996/97, p124.

drug trade<sup>30</sup>. This description mirrors Kenya's situation which has evolved into an international hub of drug trafficking, money laundering and fraud. This growth coincided with extreme levels of corruption. To the extent that security institutions cannot be exempt implies that the ability to provide security is constrained thus creating a gap phenomenon.

Given the foregoing, the definition of a criminal is dependent on what Howard S Becker<sup>31</sup> 1963 calls labelling. What is defined here as deviance, is constructed so by conventional morality. It is all about who controls, power structures. Defiance is defined by the wealthy for the poor. Where Pastoralist raids are largely a ritual demanded by tradition, others see them as criminal cattle rustling. The same can be said of certain activities of *Mungiki*, or *Mulungunipa*. Many Mungiki Youth see their activities as forms of employment where there is nothing else to do. In any case, the ability to plough resources in other activities such as stock, transport, boutiques and small kiosks at one level and provision of loans at another creates jobs and with their legitimacy amongst adherents. With these, they are able to counter bad publicity incurred from other criminal activities<sup>32</sup>. In sum, then, there is an inherent militia personality disorder. The question the disorder begs therefore is this: is it possible to label cattle rustling or Mungiki activities as criminal where the state has failed to stem intra and external predation on the former and indeed where the activities of the latter reward political elite with the variable of political power?<sup>33</sup> What is the net effect of such half hearted labelling? By implicitly encouraging armament of non state actors and given the apparent rewards from violence, the state is inclining itself closer to the old order where capability and right to deploy force existed at many levels in the society (feudal barons, cities, freelance mercenaries, governors and other local elements.(Buzan et al p51)<sup>34</sup>.

### 1.2.3 The 'Political Economy' Theory of Crime

Police, as Midgelay R and Woods G argue, is colonial in origin. It was operated as a quasi military outfit<sup>35</sup>. What they do not state is the *raison d'être* for this. In Kenya, two police structures evolved, driven by the rationalities of the colonial regime. There was the regular police, deployed along the rail lines to protect

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30 Observatoire Geopolitique des Droques. Atlas Mondial des Drogue, Presses Universitaire de France. Paris, 1996 p205

31 Howard S Becker 1963: Outsiders; Studies in Sociology of Deviance . New York Macmillan.

32 See Katumanga .M Re-thinking a Citizen-centric Security Provisioning Framework ; Un Published paper Presented at a SID Session on the New constitutional dispensation . Hotel Intercontinental. 2010

33 The conclusion of the Kriegler report was that there was hardly any election held. In other words what we have are individuals whose hold on to power is illegitimate.

34 Framework for Analysis.

35 See R. Midgelay and G Wood: community Policing in Transition Attitudes and Perceptions From South Africa's Eastern Cape Province, Low intensity Conflict and low enforcement . 5(2), autumn 1991 pp 165-181

property. Then there was the 'tribal police' set up to sustain extraction from the natives under the control of chiefs, and above them ex-military officers. While it was not set up to facilitate economic production of Africans, it had the advantage of both penetration and violence, which deterred criminal activities raising the question as to whether part of the current gap crisis and distance decay is not a function of nationalization of the 'tribal police'?

It is notable that the police were paid by the (Imperial British East Africa) IBEA before they were appropriated by the colonial government. Currently, a large part of the force numbers are either directed at elite protection or capital, a phenomenon reminiscent of C19th, when large business owned their own police force. There is therefore an inclination of the state to favour external investors, or entities. This has seen the formation of units such as the Diplomatic police Unit; Tourism Police Unit and such. The net effect has been two fold; the first is a negative impact on the operationalization of the Principle of Mass and Economy of force. The second is a skewed Force to Space Ratio. We explain.

With respect to the Principle of Mass and Economy of Force, large numbers of the force are deployed in areas where they are least needed. The situation is worsened by the peace time deployments that have seen many companies of General Service Unit, Rapid Deployment Unit, retained in reserve in urban areas to anticipate and contain riots. The numbers that remain are not motivated, enabled with infrastructure to dominate space. Secondly, given the limited coordination and lack of Centralized Command, security gaps exist even where numbers may be present. Thirdly, cohesion in the force is undermined by patronage tendencies that emerge with respect to deployment in the "lucrative fields". The resultant culture of accumulation in turn spawns that of entrepreneurship. Some of those that are left out then become innovative to engage with bandit groups sub-letting arms, and ammunitions, selling intelligence, and withdrawing from sites of deployment. Given the resultant space of insecurity the "[natives opt to 'sort themselves out with either an undermanned, demoralized ethnicized force or hire vigilantes]. An examination of a World Bank funded state affirms this position with 56.6 % of those interviewed having trust in vigilantes compared with 14.4% and 4.9% with Administration and Regular Police respectively<sup>36</sup>.

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36 Crime and Violence in Poor Urban Communities in Nairobi p15

## The Hedonistic 'Theory' of Crime

This is anchored in the classical theory of crime, a variant of the classical school of criminology. Proposed by Cesare Beccaria<sup>37</sup>, not only does this school reject the religious mythical view of the world which it considers as illusionary and fraud but that it also rejects the arguments of divine ordinance and determinism. It is emphasis is on reason noting that people exercise their free will and are thus responsible for their actions. The main argument here is that human behaviour is motivated by hedonistic rationality. Actions are weighted on the potential pleasure derived vis-a-vis the associative pain. Crime is committed out of rationalized calculation of value derived. It is not sin and the work of the devil but a rational calculation of value of expected returns. In other words, groups that commit acts deemed criminal are driven by a calculated expected value return. The inclination is bound to increase to the extent that the variable of capture and punishment is lesser or not costly compared to non action. Beccaria alludes to this when he points to the nexus between law and crime. He sees the latter as a function of a crisis in the former. This functionality option is at the core of any securitization efforts to the extent that it enables us to identify what objects need security, from what and how the same should be provided.

Functionality thesis of crime is validated by KEPSA et al. who point to organized cartels that control transport valves and entry points. They include; *Kamjesh* who restrict other operators from routes and illegal gangs that collect protection fees. These have engendered loss of lives, revenue, increased medical bills, restricted operations, fears to investors, psychological trauma in effect costing business. According to their estimates of 2004 and at an average of 15,000 out of the estimated 30,000 (Passenger Service Vehicles) PSV in Nairobi, illegal gangs collected an average Ksh 200 (Ksh. 3million per day or Ksh. 1.1 billion per year. Enforcers and cartels collected the same bringing their share to (Ksh. 6 million per day) or Ksh. 2.2 billion shillings per year. *Kamjesh*, Squads, *Kamagira* collected Ksh.100 (or Ksh.1.5 million per day) or Ksh. 0.5 billion per year. Local Askaries and pilferage accounted for ksh.250 (Ksh. 3.7million per day) or Ksh. 2.8 billion per year.

In other words through the Bandit Economy, the transport sector was losing an average 7.6 billion shillings per year<sup>38</sup>. If KEPSA's figures are anything to go by, they point to the functionality of organized crime. Assuming that this extortion is wide spread to other informal and SME activities such as building, petty trading and farming, then the entire sector is under the control

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37 Cesare Beccaria (1764): An Essay on Crime and Punishment ( Dei Delitti e dello Pene). Translated with Introduction by H Paolucci. Indianapolis. In Bobbs- Merrills 1975.

38 KEPSA: Effects of Organized Crime On Business.



of organized gangs, militias and vigilantes who find rationale in the rewards of their accumulations. The argument here is that absence of state presence in these informal activities and their expansion will continue anchoring these groups which as parasites find nourishment within these activities. It is not surprising that, by March 2010, there were 64 gangs, militias and vigilante groups in Kenya. By November 2010 they had reached more than 80, always mutating through cannibalization and capture. Their location mirrors the class bifurcation of the society; the formal society is protected by organized security mediated by Regular and Administration police, while the informal society (where majority are situated is controlled by gangs, vigilante and militias. Our argument here is that the formal state seems to be en-cycled from the periphery and is getting asphyxiated over time in space.

### **Violence as a Function of Institutional Failure**

Akinyele R.T's paper on ethnic militancy and its impact on national stability, provides a good entry point into how threats portended by militia groups should be grasped. Rooted in citizen initiative to provision security for themselves, vigilante groups emerged to fill gaps in Nigeria's security sector. Underlying this, is the question of centre –periphery relationship, corruption, instability and the whole notion of identity. Equally critical is the crisis of resource distribution and allocation. Fights over these at the local levels have seen militant organizations drafted in to act as a vanguard of ethnic/ sectarian identity. For instance market riots in Ketu between Yoruba and Hausa saw the death of 115 people. Groups include the likes of Bakasi Boys, Onitsha Market Amalgamated Traders Association (OMATA)<sup>39</sup>.

Failure by the under-funded, corrupt, ill-equipped, understaffed police force to respond to insecurity has seen citizens opt to turn to vigilante and ethnic militias. Bakasi Boys success saw pressure exerted on the Governor of Anambra state to invite them. Indeed a chapter was started. This can only point to several things; that such an invitation seemed to allow expansion and legitimization of non state actors in a critical role of state – security provisioning in the process eroding the same for the state. The murder of a local police divisional commander by OPC saw (President Olusegun) Obasanjo outlaw vigilantes.

Prof C.S Momoh does not see a security threat in these groups. His contention is; that Militant leaders are not warlords in the real sense of the word; that these groups do not have a physical control of territory where federal state entry is challenged; that they hardly control strategic minerals that could animate

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39 See R.T Akinyele. African Affairs(2001). "Ethnic Militancy and National stability in Nigeria. A Case Study of OODUA People's Congress". Royal African Society 2001, 100, 623-640.



external intervention; that minority control of the military makes option of secession difficult. The issue here is conceptual and lack of appreciation of security threats using intensity of threat model. Threats tend to mutate over time in space. What may appear to be less threatening to state security may evolve to be as such to the extent that it mutates. Buzan is right on this issue when he locates national security threats in the Triage of state institutions, ideas and physical base. It is also interesting to appreciate the fact that territory is about use. This has an element of flexibility. It is not static. The very presence of alternative organization outside state control undermines the state. There remains a constant threat of undermining state institutional and operational probity if the Kenyan post election violence is anything to go by. Akinyele's paper facilitates our appreciation of whether ethnic militia is compatible with democracy. Does the formation of an ethnic vanguard advance the cause of democracy or animates identity crisis? How far should frustrations that engender militia logic be allowed to simmer? To what extent is the implicit acceptance of vigilante groups itself a scale down of the social contract? How does a state recapture the initiative to dominate instruments of violence? Akinyele's proposals in dealing with these groups include the need to facilitate direct engagement through their registration and facilitation in forming broad associational and cultural centers. While these may deal with current ones it does little to prevent supply side of new ones. Yet the critical focus here should be the over-role security sector reform. How should the center and periphery engage in matters of security? What should be the role of the individual in security provision?

Mutuma Rutere and Pommelle M.E attribute police failure to contain crime to corruption, complicity and extra-judicial killing<sup>40</sup>. They attempt an exploration of community policing (CP) while equally sounding out its undemocratic tendencies. They locate CP in the generalized disenchantment with traditional policing. They posit that CP is anchored in problem oriented policing that seeks to attend to the root causes of criminality and the broken windows model that point to degradation as an underlying factor of crime. CP is seen as a means of building trust between police and community. What is ignored about policing is the fact that the nature and form a police force takes is in fact a function of what power wielders want it to be.

A police force is structured around the organizational philosophy of the ruling elite. If they demand security in broader terms of enhancing their citizens' socio-economic reproduction, the force would not only shift but centre itself on citizens thus impacting on force peace time deployment and employment

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40 Mutuma Rutere and M.E Pommerolle. " Democratizing Security or Decentralizing Repression? The Ambiguities of Community;policing in Kenya " Royal African Society 2003, 102, 587-604

of violence in this sense. There is therefore no need of building trust between police and community because the police itself is not only sourced from the community but is part of it. Projects that seek to improve relations avoid the need to deal with and locate the problem with the felt sense of alienation built in the logic of centrism and regime consolidation. In this sense security crisis and the emergence of militia led security provisioning should be seen in terms of societal withdrawal of support to the force. Mutuma *et al* fault the conception of community police and correctly so. For a start community police cannot be a substitute of the force. It cannot act out of the official framework of security provisioning. The drive of NGO's should be CP but the localization of policing, control and accountability should be tasked to the local level. If communities have to engage, it must be under well structured and led frameworks that emphasize linkages, training, command and control. The tendency to opt for what is called zero tolerance and community as eyes and ears favoured by police, business and the wealthy merely spreads alienation.

Mutuma *et al* are right on the tendency of CP to spawn privatization of public security assets by business and the rich especially the tendency to provide assets to police while drawing them into their spaces. This widens the crisis force to space ratios and patronage in the police force. An equally dangerous drift is the mushrooming of security industry, gated tendencies and by inference vigilantism as spaces without police presence take up their own security needs. There is also the element of a crisis at the level of mass security and economy of force that the society has to reckon with. As more police are captured by business, rich, diplomats, tourists and politicians, the wider society is left unoccupied. The growth of vigilantism should be located in this gap. It is not a surprise that attempts to provide booths for police in the Central Business District has failed. Several reasons underlay this failure. Core in this is the lack of appreciation of the objects of securitization. To the extent that this is not resolved the crisis of policing will manifest in numbers. Resolving the objects of securitization should help redefine the reconfiguration of security provisioning at the local levels.

The whole discussion on militarization of society through the emergence of vigilantes and militias points to the need to anchor the debate on the wider security sector reform. Mutuma makes this attempt by pointing to the apparent gap in the ongoing reform debate on matters of police reform. Without a debate on security sector reforms, we are unlikely to capture the phenomenon of security. A large part of the problem lies in the inability to capture the centrality of security in national development and stability. How security assets are captured and used for regime consolidation and not individual security contributes to both conflicts and the mushrooming of

violent spaces. Police is essentially seen as a less threatening regime driven instrument of coercion. It has lacked autonomy to act independently. It is poorly paid to the extent that it opts to fend for itself through society alienating predation on patrols and resource diverting road blocks. Mutuma makes an attempt to praise the Administration Police role of security provisioning in the rural spaces without understanding the archaeological elements of this. In reality, these are isolated cases. The reality is that many rural spaces are unpoliced. Indeed what tends to happen is time structured and predictable entry cycles and exits that surrenders these spaces to vigilantes. Security provisioning imply innovative penetration at economic, political and social levels that reduces distance decay and instead creates the ideology in the mind of both the citizen at objective and subjective level of the dis-utility of opting for illegalities.

The debate on the efficiency of the AP /regular police in security provisioning is a false one since it fails to identify what the objects of securitization are and the supplementary question on how best to provide security. Underlying the deployment of Tribal police and later the AP before its nationalization was the need to integrate the native in the colonial extractive economy, maximizing on the archival knowledge retained by elements from the native community. Indeed that form of organization, despite its perverted form, affirms the phenomenon of policing as a local issue. To prevent the misuse of police by national elite, the need to localize it becomes necessary. The extend of police capture in the case of Kenya is exemplified by the Mamluki saga that saw two Armenian brothers acquire leadership in the CID through mysterious circumstances.

The agenda for Security Sector Reform must seek transform security institutions from their traditional role of facilitating vertical extraction and regime consolidation. It has to respond to the crisis of deployment while maximizing on ethnic diversity. It calls for a new thinking over deployment of units through negation of centralism. Little attempt was made to reconfigure internal security structures to conform to the realities of state building especially its peace time locations, deployment and relationships. Secondly, we assume that this situation was compounded by the crisis of the nation state,<sup>41</sup> governance and external pressures to down-size security forces<sup>42</sup>. Currently, the crisis manifests itself in corruption, politicization, de-professionalization. It is manifested in the use of violence as an instrument of controlling power, ethnicization of security institutions, the crisis of legitimacy, the emergence of relations between armed militia groups

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41 This manifested itself at five levels: Institutional penetration in the society, resource distribution and allocation, crisis of identity, crisis of conflict management and resolution and the crisis of participation.

42 See Fukuyama F: "State Building Governance and World order in the 21st century". Profile Books Uk 2004

and security forces. It is reflected in the crisis of command, control and communication, crisis of recruitment, training and deployment as well as the crisis of resource mobilization and use and the crisis of morale. These combine with the diminishing state capacity to create uncontrolled spaces. Manifestation of these crisis include rivalries and clashes within and between various formations, trafficking of state security materials, involvement of some security agents in illicit activities and misuse of state violence. To contain militias and gangs, and by inference the task of Security Sector Reform (SSR), the link between institutional weaknesses and the demand and supply variables that generate insecurities must be established and captured. SSR program stems from the assumption that there is a political will and commitment for its realization<sup>43</sup>.

Security sector reform programs must appreciate force to space ratios, innovative methods of demobilization and integration of ex-servicemen, ex-militia and other armed groups that contribute to the militarization of societies. Here, the supply side of vulnerable youth (for instance those engaged in cattle rustling, urban violence) and the pressure these exert on security structures must be addressed. Other aspects include the need to develop oversight infrastructure on security forces, the relationship between Security Forces (those dealing with internal and external security threats) and the general populace, especially Civil Defence Units for Disaster Management, Youth brigades for infrastructure construction and reservists. In this cluster therefore, we anticipate program activities that seek to address development and move towards oversight structures that address command and control, training, coordination, at the regional level, and the development of new innovative methods of enhancing societal securitization through enhanced state security and citizen cooperation. Militarization is a function of the retreating state<sup>44</sup>. Not only is the state informalized but its ability to dominate instruments of violence is diminished, creating the demand side of small arms and light weapons. The supply side emerges from the numbers of dislocated youth. The net effect is both state and non state actor result in violence. Appreciated in a wider scope, the issue here is about the agenda of state building. It has to consider desirable programs critical to reforming state security structures, while responding to the supply and demand side of violence.

The failure of the state building agenda parallel to the decision to down size security infrastructure have negative impacts too. The issue to address is how Security Sector Reform and capacity will tackle the questions of the

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43 See Katumanga M. IGAD Security Sector Reform. Project Proposal . IGAD April 2010.

44 This refers to the shrinking roles of the state as its economic capacity is undermined and sometimes pressure from external actors such as the IMF and the World Bank

requisite sizes of security forces, the control of the downsized forces, and the creation of well managed reserve forces. Direction and support to the technical teams is critical. The assumption here is that the core beneficiaries are the security agents, the communities, states and the entire region. The aim here is to enhance professionalism, operational effectiveness, legitimacy, public support, international acceptability, security cooperation, additional resources equipment operational efficiency and improved force to space ratios, innovative methods of demobilization and integrating ex-servicemen, and how to address the militarization of societies<sup>45</sup>. It is imperative that SSR and capacity takes into consideration a regional perspective. This is necessary for tackling security issues with regional implications such as cross- border inter-community raids and small arms circulation.

## The Space Map

**The Three Spheres.** The militia operate in three spaces from which they manufacture, sustain and reproduce conflict. The state and other actors have 'nested interests' in all the three. As a result, action against the militia tends to be sub-optimal. In our analysis, let us delineate the spaces<sup>46</sup>. Regarding these spaces, Mamdani (1996) and Steve Ndegwa (1998) discussed the traditional and civic spheres in relation to conflict in the Great Lakes region. In this study, we add an extra sphere which we call the predatory sphere. It straddles the two spaces and is also the space where oligopoly of violence connects with crime. Another difference between our delineation and that of Mamdani and Ndegwa is that we view the traditional sphere as part of the normative relationships.

**Normative-Traditional Sphere.** This sphere is regulated through customary or traditional law which is in turn revised depending on impending interests. This sphere is also regulated by a normative dialogue or a pattern of social exchange, which comprises of norms that are independent of formal law and based on goodwill. Pastoralist militia and ethno-regional gangs tend to operate within this sphere. The post-election mayhem was partly inspired by, and rationalised through, this sphere. In times of crisis, the civic sphere tends to become paralysed and actors gravitate towards the traditional sphere. Oligopoly of violence draws its logic from the way this sphere is organised.

**Civic Sphere.** This is the formal sphere of authority governed by 'civil law'<sup>47</sup>. Activities in the civic sphere are regulated through formal institutions

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45 See Katumanga M: Notes on National Security Question. NDC 2009. NDC Karen.

46 The three spaces in relation to conflict were first discussed in Mutahi Ngunyi (2001) Transition without Transformation: Civil Society and the Transition Cycles in Kenya (IDS, Sussex, Global Civil Society Study)

47 Defined loosely as the law regulating the activities of the civic citizen.

of government charged with the responsibility of rule application and adjudication. Only the 'market militia' from foreign countries operate in this sphere as corporate entities. And even then, in the event of state collapse, they are likely to moderate their engagements through the 'predatory sphere.' Also noteworthy is the fact that as militia groups graduate their assets from the 'Bandit Economy' to the formal markets, they also migrate, their operations from the predatory sphere to the civic sphere.

**Predatory Sphere.** This sphere is regulated by 'bandit law' and has a selective application of civic and traditional law. The 'bandit economy' is the bedrock of this space. Unlike the conventional conflict where there are two opposing sides and a defined disagreement, predatory conflict is different. Its context derives from a mutation of historical and cultural practices<sup>48</sup>. The sphere is about a predator, a prey and a parallel market system. Carjacking, SALW-related urban conflicts, and 'marketised' cattle rustling are some types of predatory conflicts. The militarised and politicised militia operate in this space

## 1.3 Militia Definition

### 1.3.1 The Operational Definitions

**Militia Definition.** In this study, we define a militia as an armed civil formation, mobilized along homogenous lines, and sharing a unified aggression against a common target<sup>49</sup>. The state may choose to support or proscribe militia groups hence influencing their legal status. However, the identity of militia groups can mutate when they extend their activities from the conventional scope and take up the use of violence for commercial and political purposes. Militia groups tend to be dormant and can be quickly animated in times of crisis through traditional mobilization mechanisms and chains of command such as the age group and traditional leaders.

**Illegally Armed Group:** A group that is armed in contravention of state. Whilst this definition also applies to militia groups not sanctioned by the state, it mainly targets groups that are mobilized to dispense violence for commercial and political interests. Consequently these groups can be heterogeneous in nature recruiting across ethnic, tribal and clan divides. Criminal Gangs and Political Party Militia groups fall in this category.

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48 For instance, traditional cattle rustling for bridal price.

49 UNDP/TCH From Monopoly to Oligopoly of Violence: An Exploration of Organised and Organic Militia in Kenya (September 2011)

## The Empirical Survey

In carrying out our study, we covered a total of 8 counties in which two methodologies were used. The first is the empirical aspect of the study where 6000 respondents were interviewed using a structured questionnaire. Of these, 5000 were households in the informal settlements and agricultural schemes. We assumed that most of the gang formations are incubated, operated and gained resonance in these settlements.

The other 1000 were micro businesses located in urban and peri-urban areas of the sampled counties. We employed a workforce of 54 enumerators drawn from *Muungano Wa Wanavijiji*, part of the Slum Dwellers International Network. Our enumerators comprised of 30% reformed/ reforming gang members. The idea was to use them to locate the activities of the gangs and militia with ease. After data collection, a group of 15 slum dwellers were hired to enter the data into an SPSS data base and run the frequencies<sup>50</sup>. We did the data analysis at the TCH offices. The respondents were drawn from Nairobi, Kisumu, Mombasa, Murang'a, Eldoret, Nakuru, Naivasha, Kakamega, Bungoma, and Mwea. The primary consideration in selecting these sites was the (Post Election Violence) PEV hotspots, and areas our literature review had indicated a high militia presence. The sampling at this level was therefore, non-probability.

## GIS Mapping of Militia

The second methodology is being used for the first time in a social science study of this nature. We collaborated with the School of Architecture and Geo-Spatial Engineering of the University of Nairobi. They availed 10 of their graduate students, who we then tasked to collect GPS co-ordinates of a number of things in the areas we studied. The first was a GPS mapping of security organs and their presence in the study sites. These included the police posts, provincial administration, (Kenya Wildlife Service) KWS and (Kenya Forest Service) KFS presence amongst others. The second was the presence of what is referred to as the social 'base'. These are the spaces where gangs interact for different reasons; including strategising on collaboration between gangs and recruitment of up-coming and 'promising' criminals. The 'base' was an important pointer in locating the preponderance of gangs and the character they take. Three, the dominant business enterprises in the areas of study. These were categorised into different sectors. Our idea was to establish what types of gangs were attracted to each sector. The fourth were the gangs, criminal groups and militia. The GPS maps of the four layers were

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The idea was for them to flag out inconsistencies in data based on the slum narratives they are familiar with.



then mounted on Google Maps and the apparent relationship between the four actors drawn. These electronic maps are currently being translated into actual maps for print. The total number of settlements and areas mapped in the 8 Counties was 30 (means we have 30 maps for analysis).

Using the maps, the (Justice Phillip) Waki Report and the (Kenya National Human Rights Commission) KNHRC Report, we then located the PEV hotspots in the areas studied. What we sought to establish was whether the gangs operating locally, were the same groups hired to cause mayhem as indicated by the reports. This analysis is still on-going. But initial impressions indicate that the hotspots were located in spaces where the gangs were dominant.

## **Reference Groups and Data Validation**

Before going to the field, we held at least four enumeration trainings and Focus Group Discussions (FGDs). The first was at Olive Green Gardens, Hurlingham, Nairobi. This was more of a Reference Group made up of 'reforming' and reformed gang members and a group of slum dwellers. They critiqued our methodology and tools. The second series of meetings were at the University of Nairobi, School of Architecture. These were meant to interrogate the use of GPS as a social science investigation tool. We also trained the 10 students in the use of the mobile mappers in collecting social data. Then we paired them up with a 'minder' who was either a slum dweller or a 'reformed' gang member. The 'minder' was tasked to take them to the actual locations where the criminal gang activities are located, including their bases. We did not experience any difficulties. The third set of meetings happened after the collection of data by the 54 enumerators and the 10 student mappers. These were de-briefing sessions where we teased out experiences and narratives they collected during field work and which could not be captured by our questionnaire or the mobile mappers. These meetings happened both in Nairobi, and in Nakuru. Then there was the Mombasa Workshop that brought together the entire security machinery in Kenya, including chairs of the Provincial Security Committees, (PSC) in the persons of the PCs, including their representatives (where necessary). This meeting served as our final validation point. The security apparatus present in this meeting provided us with a critique of our findings, establishing whether our findings were valid or not.

Similarly, a series of KIIs and IDIs were held with senior government Officers drawn from the (National Security Intelligence Service) NSIS, Office of the President, the Regular Police, the Administration Police and the Provincial



Administration. Some of the information derived from these interviews was sensitive and discretion in terms of respondent disclosure was requested. A total of 54 such interviews were conducted.

## Chapter 2

# Militia Patterns in Regime Cycles

### 2.1 The Regime Transition See-Saw

The regime types in Kenya have gone through numerous transition cycles. And in each of these cycles, militia presence is manifested differently. In fact, we discern a see-saw in this presence. During certain cycles, militia proliferation becomes an obvious feature of national politics; in others, they become moot. This see-saw is also linked to the regime's 'degrees of monopoly'. When monopoly of instruments of force is buoyant, militia foreboding decreases. When the reverse is true, or the regime exhibits a form of oligopoly, militia proliferation goes up. While this see-saw may seem obvious, we argue that it is not accidental. That is, an oligopoly that allows militia proliferation is created during certain moments of the regime cycle. And these are moments of contestation within the state. To increase their negotiation power, the under-dog elements in the state tend to migrate to the predatory sphere to create or hire a militia group and use it to negotiate certain entitlements. Once a new equilibrium is arrived at, these elements migrate back to the civic sphere, and the state regains its monopoly of force. This see-saw is repeated each time there is negotiated entitlement. And moments of regime succession are probably the most vulnerable to the see-saw as historical evidence below suggests.

Each succession has witnessed a challenge to monopoly. In the immediate post-independence period, it was challenged by Somali *Shiftas* and *Mwambao* irredentists. The two were subdued by brutal force. They were buried alive as it were and have since revived in the guise of MRC in the Mwambao irredentism and Al Shabaab representing a marketised (perverted) form of the Somali Separatists. Although the agendas are different, the historical roots for both draw from the colonial succession. During the

Kenyatta succession, the challengers to monopoly were *The Ngoroko*. Unlike the previous situation where the challengers were external to the state, *Ngoroko* was a rogue force within the police force. It was constituted as an anti-stock theft unit, but politicized to serve regime interests<sup>51</sup>. In fact, the rise of *Ngoroko* marked the beginning of the shift from monopoly to oligopoly. This shift was finally actuated in the Moi 'ghost succession'. It happened in the 1992 election when the Original FORD was set to succeed Moi. The resultant contest saw a proliferation of militia formations ranging from criminal soft core gangs like '*Jeshi La Mzee*' to organized forces like Mungiki. But these groups did not buoy until the 2008 post-election crisis following an aborted succession. During this crisis, it became clear that the de facto suppliers of violence had increased from one to several.

If the militia groups buoyed during succession moments, they receded after the new regimes established hegemony. However, in their recession, they either marketised their activities or switched identities. Bottom-line: They did not dissipate. They only re-grouped. The logic for their existence and animation remained intact. What changed were their forms of organisation and expression. In this chapter we explore the notion of militia foreboding through different regime transition cycles. We divide each regime into short historical 'epochs' with defining political moments.

## **2.2 Militia Trends in the Kenyatta Regime**

### **2.2.1 The Regime Forming Cycle: *Balancing Martial and Civic Competence***

The regime-forming cycle ran between 1963 and 1965. During this period, the dominant martial culture in the struggle for independence had to be replaced by a civic culture. Similarly, a balance had to be created between the enduring martial competence and the emerging civic competence. And in this attempt, two significant challenges to the new civic order materialised. The first was the Mwambao Separatist movement, contesting the allocation of the Ten-Mile Strip to Kenya by the colonial administration. The second was the Somali secessionist movement called *Shifita* situated along the northern frontier of Kenya. The two were residual movements that sought secession from Kenya after independence and were represented at the Lancaster House constitutional talks of 1962. While the Mwambao United Front conceded to the demands for a unitary state with Kenya, the Somali irredentists rejected it and decided to wage war through the *shifita* militia. The *Shifita* War and its

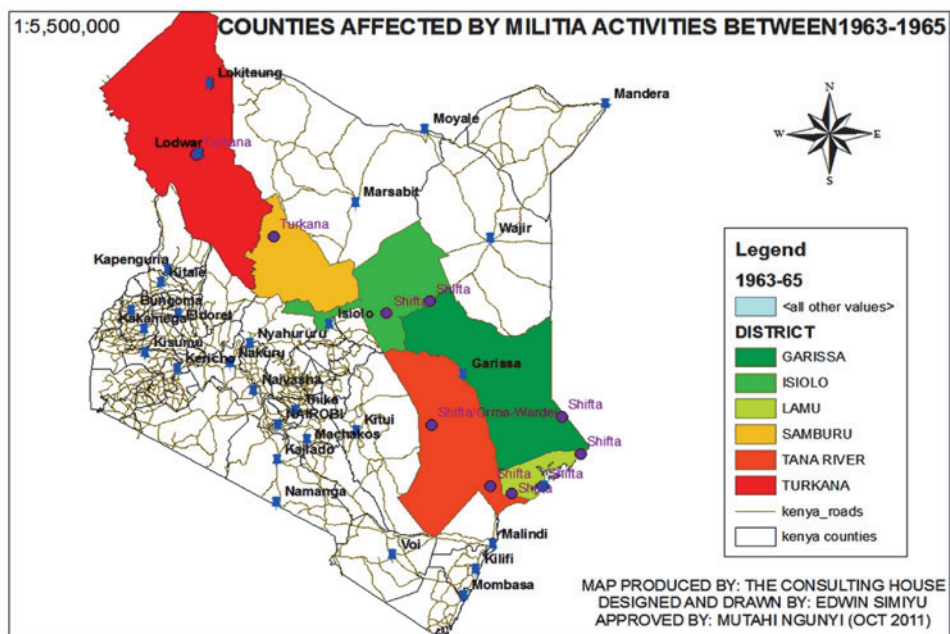
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51 In 1978, This formation was meant to assassinate certain politicians to allow the so called Family (Kenyatta's kitchen cabinet) to take over after his death. C. F. P. Ochieng et al., *The Kenyatta Succession* (Nairobi: Longman, 1979)

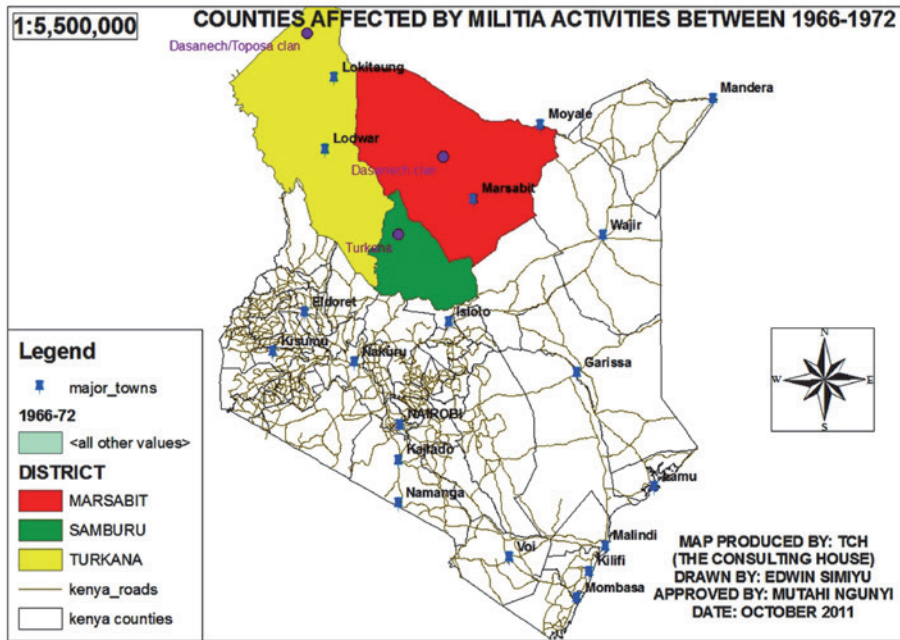
residual incursions lasted well into the early 1990s. And as already argued, while the Shifita militia inspired Kenya's variant of Al Shabaab, the Mwambao United Front inspired present day MRC ideologically.

Apart from the two separatist movements, traditional militia groups formed part of the challenge to civic order during this cycle. Significant among these were the Turkana and Samburu formations. The Turkana had a history of military aggression against the British using Ethiopian and Arab acquired weapons. In fact, in the 1920s, they were drafted and armed as Northern Frontier scouts in the King's African Rifles to contain their militarism within a civic space. At independence, both the Turkana and the Samburu had to be de-militarized. The challenge here however, was that their neighbours in Uganda, Ethiopia and South Sudan continued to arm themselves. The Kenyan state's inability to police these distant spaces led to the arming of Turkanas and Samburus as a Home-guard force. The intention was to forestall the aggression of the neighbouring communities, but it resulted in re-militarization of the region.

The rasterised map below depicts the areas affected by militia activities during the first cycle of the Kenyatta regime. Although the militia spread is in North Western areas spreading to Garissa, it must be noted that in Eastern, amongst the Akamba, there was a short-lived militia known as Kyama kya Nyumba. This group was active immediately after independence in 1963/1964 but soon died.



## 2.2.2 Regime Consolidation Cycle: *From Liberation to Repression*



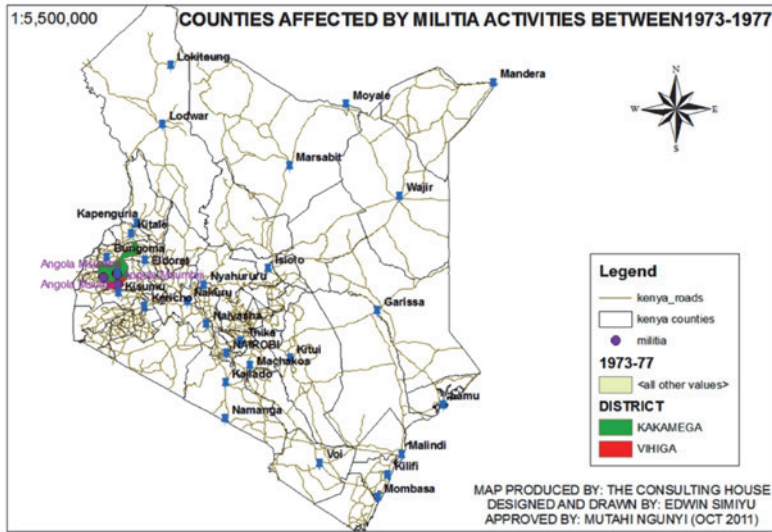
This cycle runs between 1966 and 1972. The regime consolidation ‘project’ in this cycle increased in crescendo from liberation to repression. It started with the deconstruction of the independence constitution under the workmanship of Charles Njonjo, the then Attorney General and TJ Mboya, Minister for Constitutional Affairs. Once this was completed, the regime embarked on finalisation of the de facto one-party project. This was bagged in 1966 after the ‘Little General Election’<sup>52</sup>. As consolidation gained root, political repression became the organising principle of politics. In 1965, for instance, the stand-off between Jomo Kenyatta and his vice president, Oginga Odinga saw the massacre of 11 people during a Kisumu function. This was followed by the assassination of TJ Mboya later that year. As the map below shows, this cycle had a significant reduction in militia activities. These were only confined to three districts, Turkana, Samburu and Marsabit.

But if the emerging civic culture disallowed militia formation in this cycle, the entrenched culture of repression invited the first experience of militarisation of politics in Kenya. It came in the form of an attempted military coup in 1971. This was staged in opposition to the emerging hegemony of the ‘Family’<sup>53</sup>. And those implicated involved the then Army Commander and the Chief Justice.

52 This election was triggered by the defection of Jaramogi Oginga Odinga and his KPU brigade from Kanu.

53 This is used to refer to the ethno-political class that had ‘colonised’ the presidency and largely drawn from the Kikuyu community in Kiambu. The outer circle of the Family was also referred to as the Kiambu Mafia.

### 2.2.3 Regime Norming Cycle: *The Kenyatta Succession Saga*



This cycle falls between 1973 and 1977. Informalisation of state power and the emergence of ‘illicit power’ was first cited in this period. In the past, militia formations were associated with the non-state actors. During this cycle, the first post-independence militia associated with the state was hatched in the name of Ngoroko. The Ngoroko militia was a rogue unit within the police force. It was constituted to effect a political transition from Kenyatta to the ‘Family’<sup>54</sup>. The shift from monopoly to oligopoly of violence, where the state becomes a militia owner as well, was inspired by this ‘original sin’. But while Ngoroko was situated within a state organ, state actors were known to inspire militia activities within community. The period associated with the Change the Constitution Movement (CCM) of 1977 saw a marked increase in the exercise of ‘illicit power’ through youth formations. CCM was meant to transfer power from Kenyatta to the ‘Family’ in the event of his death. This movement failed. And its failure, in the view of this report, accounts for the early militia-lisation of politics by the state through the Ngoroko<sup>55</sup>. State arming of Mungiki and other militia during critical political moments draws its reference from this ‘original sin’.

Apart from the Ngoroko, this period had limited militia activity with the Angola Msumbiji group active in Kakamega and Vihiga districts in Western Kenya. Similarly, the disarmament of the pastoralist militia in the northern part of

54 C.F.P. Ochieng et al, *The Kenyatta Succession* (Nairobi: 1978)

55 Mutahi Ngunyi, *Interpreting Political Liberations in Kenya* (Scandinavian Institute of African Studies, Uppsala 1989)

the country continued apace as the Kenya Police Reserve was simultaneously strengthened. The map below depicts this reality. And as we shall show in the other two transition cycles, the period of 'regime norming' tends to attract the lowest number of militia groups. The map below reveals presence in Kakamega and Vihiga only. To the contrary, the 'regime consolidation' years, in particular the election periods, attract a sizable number of militia. This is the period when a temporal state of oligopoly emerges as the members of the ancient regime are weaned from positions of influence. Before the incoming regime can establish hegemony, the monopoly over instruments of force is in abeyance.

## 2.3 Militia Trends in the Moi Regime

### 2.3.1 Regime Forming under Moi: *From Passing Cloud to coup d'etat*

The regime-forming cycle under President Daniel arap Moi runs between 1978 when Moi came to power to 1982, the year of the second military coup attempt. Two things define militia trends in this cycle. One, the ancien regime viewed Moi as a passing cloud. He had to disband it and dismember its corresponding militia, the *Ngoroko*. It must be noted that this militia was not just a rogue unit in the police force. During the twilight years of the Kenyatta regime, *Ngorokonisation* had become a police culture. In dismembering it, therefore, Moi targeted *Ngoroko* as a unit, but appropriated the culture of *Ngorokonism* for use when challenged. And this is how Mungiki was later co-opted into some of the formal security organs during the 2002 election. The use of Kanu Youth Wing, the de facto community police before 1992, was also built using the *Ngoroko* logic. In subsequent years, this logic informed the emergence of a state-indulged criminal wing of the police force. State abstinence, as a result of police partaking of crime, is one enduring outcome of this.

Two, in May 1982, Kenya moved from a de-facto to a de-jure one-party state. In August of the same year, there was an attempted coup by the Kenya Air Force (KAF). Following the aborted coup, KAF was disbanded and hundreds of its soldiers retired prematurely. This action flooded community with bitter soldiers, forbidden by government to engage in any meaningful economic activity. Effectively, they were 'demobilised, but not demilitarised'. This uneven action has been blamed for the rapid *militia-lisation* of politics in the years that followed. The disgruntled soldiers became the trainers and the leaders of some of the militia. Evidence summoned by the Amani Forum Parliamentary Fact Finding Mission on the post-election violence in 2008 indicates that most of the militia involved in this process were trained by



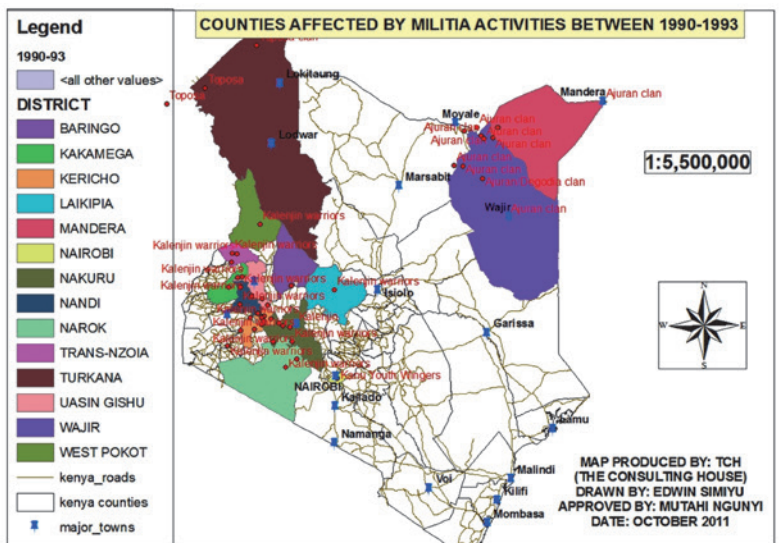
former military people. Mulgunipa and MRC have a highly qualified cadre of retired service men as well, as our research showed. And this connection between ex-soldiers and militia groups was incubated after the coup.

### 2.3.2 Regime Consolidation Cycle: *Establishing the Moi Hegemony*

This regime cycle runs from 1983 to 1989. Salient features of this cycle include the September 1983 snap elections, the gagging of civil society institutions and the phenomenon of detention without trial. But probably the most dramatic of the historical events in this cycle happened with the introduction of the queue voting system, also known as the *mlolongo* system in 1988. In response to this repressive trend, a number of overt and covert armed movements against the regime-in-place emerged. Groups like the December 12<sup>th</sup> Revolutionary Movement, *Mwakenya* and *Pambana* were inspired by the repressive nature of the new regime during this cycle. However, historical evidence suggests that these underground movements were more ideological than militarised. They did not have a militia wing.

### 2.3.3 Regime Transformation Cycle: *The Era of Militia Boom*

This cycle lasted from 1990 to 1993. The cycle began with the Muoroto Riots of May 1990, following the demolition of the *Muoroto* slum on Landhies Road, in Nairobi. The riots lasted for three days and to quell them, the Kanu government had to conscript young people into state-indulge militia. Once the riots were contained, the militia groups were retained covertly. The situation was not



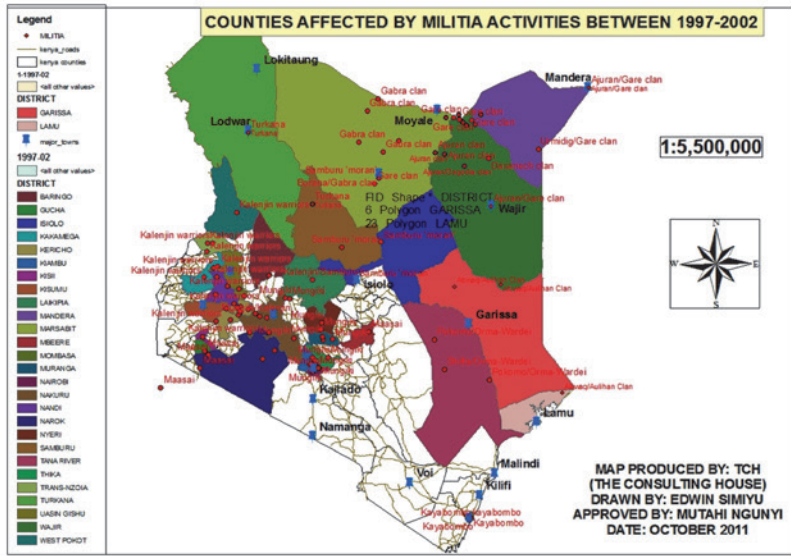


helped by tension that were still high following the assassination of (the then Kenyan Foreign Minister) Dr Robert Ouko in February of 1990. In the ensuing Saba Saba riots of July 1991, these militia groups had consolidated into the formidable Kanu Youth Wing (KYW). After Ngoroko, the KYW is recorded as the only state-indulged militia outside of the conflict zones of Karamoja and Somali clusters. KYW was used to contain civil disobedience rallies and to intimidate the opposition leaders during this time. What is noteworthy about this cycle is that, as the citizens shifted from the underground movements of Mwakenya and Pambana, choosing instead to go for the civic platforms of expression, the state did the reverse. Instead of engaging through the civic spaces, it went underground and constituted militia groups to fight the emerging civic expression.

Between 1991 and 1993, the country witnessed a burgeoning of two dominant types of militia – the state indulged militia, and organic militia. Mungiki for instance, was incubated during this period as a response to the aggression of the Kalenjin Warriors during the 1991 clashes. It was an organic militia created to forestall the aggression of the Kalenjin Warriors by Kikuyu youth. Similarly, a number of militia groups were created by political parties to defend their turf against the Kanu Youth Wing. As the map below shows, all the traditional conflict hotspots had militia activities in this period. But a notable difference is the rise of militia in the spaces that were hitherto conflict free. And this is because in this period, there was a conscious attempt by the regime to arm its supporters against proponents of multiparty politics. Regime response to the transformation of political theatres and a change in the rules-of-play was to result to intimidation. Gangsterism became the mode of political expression for the regime in this cycle. Because of this logic, this period recorded the most protracted state-indulged ethnic clashes in Kenya's history.

According to the Parliamentary Select Committee Report of September 1992, the death toll from these clashes stood at 778, while injuries were recorded at 654 and 62,000 people displaced. Human Rights Watch estimates were higher. They recorded at least 1500 dead and 300,000 displaced by November 1993. This pattern of militia instigated violence repeated itself during the 2008 post-election violence. In fact, it can be argued that the pattern of ethnic clashes of 1962 repeated itself in 1992 and 2008. And at the centre of this repeat as we show later, is an oligopoly of power and violence.

### 2.3.4 Regime Norming: *The Moi Succession and the Embedded Militia Culture*



The fourth cycle under the Moi regime had two sub-cycles. The first one ran between 1994 and 1996. This was a time of political lull except in the Karamoja and Somali conflict clusters. The second sub-cycle ran between 1997 and 2002. This was also the last term of the Moi regime. As the map below shows, the period saw the entire country 'littered' with militia activities. Indeed the 1997-2002 period recorded the highest militia presence in Kenyan history. The most notable militia emergence was the rise of the *Jeshi type* militia groups led by *Jeshi La Mzee*. This Jeshi was a militia created in the same mode as the Kanu Youth Wing and meant to protect the interests of Mzee – the president. But Jeshi-type militias, supplying violence on behalf of contesting political interests also emerged. And some of these were 'owned' by elements within the state, while others were created to counter the aggression of the regime. In fact, as the *Jeshi La Mzee* unleashed violence on pro-democracy demonstrators, a counter-force emerged to contain them. For instance, *Jeshi La Mama*, evolved to defend one of the opposition politicians in this period as a counter force. But the Jeshi types are not the only feature of this cycle.

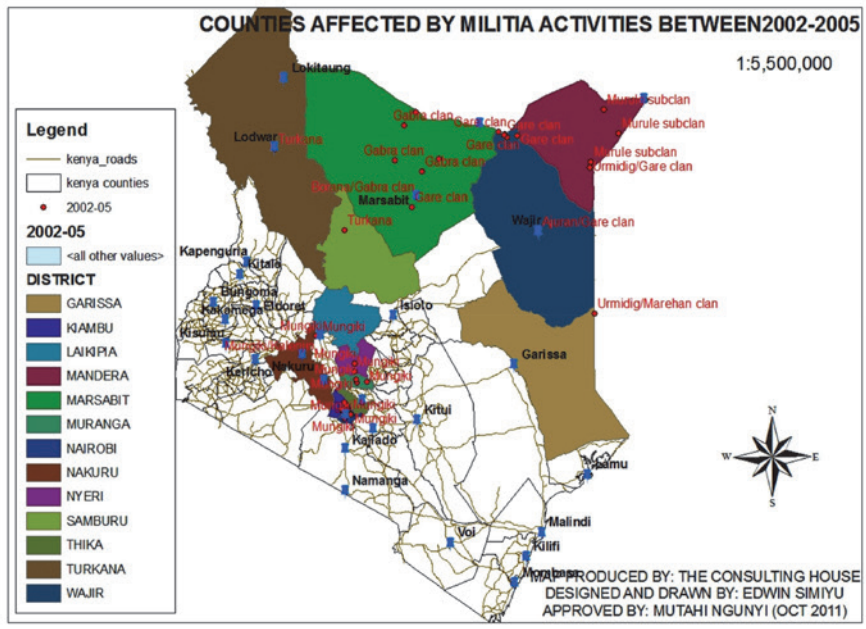
In Nairobi, 2002 saw the consolidation of Mungiki, Kamjesh and Taliban militia in national politics. At the coast land clashes in Likoni and south coast instigated by the Kaya Bombo raiders brought to the fore the militia. The Kaya Bombo became highly militarized after Aug-Sept 1997 when they successfully attacked police installations in Likoni and raided their armouries for firearms and ammunition. 6 police officers were killed and 43 G3 rifles, 1500 rounds of

ammunition and a police radio were stolen along with an assortment of other firearms in this incident<sup>56</sup>. These weapons were then used to propagate a war against upcountry immigrant to the coastal region. This militia has an alleged association with MRC and Mulungunipa.

## 2.4 Militia Patterns in the Kibaki Regime

### 2.4.1 Regime Forming: *The Ancien Regime and the NARC Ghost Coalition*

The first regime cycle under President Kibaki ran between 2002 and 2005.



It covers the period between the formation of the NARC coalition and the time of its collapse after the 2005 referendum. Two things happened in this period. One, the NARC coalition collapsed. And two, the re-ethnicisation of national politics began in earnest. Ethnic polarity had been overwhelmed by the NARC euphoria and it was hoped that a state of ethnic equilibrium would be maintained after the election. The period before the referendum, however, saw the re-Kikuyunization of public service and the perceived victimisation of other communities. This became the ground on which re-ethnicisation was to germinate during the referendum. And as ethnic polarity increased, militia formations to protect the 'tribe' grew. As the map below indicates, this cycle saw the resuscitation of the militia group created to support the Moi

56 Lisa Misol, Joost R. Hiltermann, Ernst Jan Hogendoorn, 'Playing with Fire: Weapons Proliferation, Political Violence, and Human Rights in Kenya' (Human Rights Watch, 2002) pg. 37

operatives, but suppressed immediately after the NARC victory. But the cycle also witnessed the creation of new militia groups at the behest of the emerging opposition within NARC.

During this cycle, elements and 'sleeper' cells of Al-Shabaab and Al-Qaeda emerged. The two were recorded in the coastal region and the lower parts of North Eastern Province. But this infiltration had more to do with regional dynamics than local politics.

#### **2.4.2 Regime Norming: *Post-Referendum Politics and ODM Festering***

The second regime cycle under Kibaki ran between 2005 and 2007. This is also the period with the most militia activities in the history of Kenya only compared to the 1992-97 period as the map below shows. During this cycle, Labour Democratic Party (LDP) led by Raila Odinga was expelled from the cabinet. Its members moved to the opposition under the name Orange Democratic Movement (ODM). And like in the referendum, the object of political aggression became the Kikuyu Nation, represented by the regime-in-place and its exclusionist tendencies. This anti-kikuyu ideology was to later rationalise the 2007 post-election violence.

#### **2.4.3 The Post-Election Violence: *Activating the Moribund Militia***

The third cycle under Kibaki is also known as the pre-NARA<sup>57</sup> cycle. It ran between October 2007 to February 2008. The contested election of December 2007 saw the activation of moribund militia, formation of new ones and the re-commissioning of existing ones. Ethnic militia of Kalenjin extraction clashed with the *Mungiki* who were mobilized to protect the Kikuyu, as well as the *Sungu Sungu* and *Chinkororo* who were mobilized to defend the Kisii. There were also clashes with Luhya militia in the rift valley whilst in Central Kenya and Nairobi retaliatory attacks would be launched against non-Kikuyus resident in the area. The Taliban would step up to defend the Luo community in Mathare North from *Mungiki* attacks. The violence lasted until February 2008 when mediation efforts between the two opposing factions yielded a de-escalation of violence and a negotiated settlement that delivered a coalition government comprising of both ODM and (Party of National Unity) PNU that brought Kibaki back to power. By the time the curtain closed on the post election violence, official figures put the death toll at 1220, a further 3600 were injured and at least 350,000 citizens forcibly displaced from their homes. Unofficial estimates put the number of displaced persons at closer to 600,000.

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NARA stands for the National Accord and Reconciliation Act of March 2008. NARA was the legislation that resulted from the Peace Accord of 28<sup>th</sup> February 2008.

## from Monopoly to Oligopoly of Violence

It is worthy of note that during this period, as the map above shows, the intense militia activities moved from the traditional conflict areas in the north to the Rift Valley, and Central Kenya.

## Chapter 3

# A Militia Map of Kenya

### 3.1 Introduction

#### 3.1.1 A General Typology of Militia

##### *3.1.1.1 Organised Militia*

In this study, we distinguish between organised and organic militia. Organised militia are formations that convene around a charismatic leader or a group of leaders. What makes them organised is that they are ‘supply-driven’ as opposed to organic militia which are ‘demand-driven’. That is, they are not created by a civic demand, but by the need to supply violence for political or market-related reasons. As such, their roots in community are not deep, although they are known to instrumentalise ethnicity for their group gains. This disconnect with community is what makes them predisposed to predate on the community.

The activities and modes of operation by these groups differ. Militia in central Kenya, for instance, have a lower propensity for violence compared to the armed groups in northern Kenya. Similarly, groups in the more urbanized spaces and agricultural lands closer to the capital rely more on intimidation than the actual use of violence to achieve their objectives. Of equal note is that organised groups in the south of the country are mobilized along shifting political and commercial interests rather than the static ethnic and clan lines. As a result, the shelf-life of these groups is short as they are forced to ‘multiply’ identities.

### 3.1.1.2 Organic Militia

These militia are built around the ‘Law of Gang Polarity’. According to this ‘Law’, “...for every organised militia, there is an equal and opposite militia constituted by community to counter them”<sup>58</sup> For instance, Mungiki was constituted as a community vigilante in the 1990s to counter the ‘aggression’ of the Kalenjin Warriors on Kikuyu communities in the Rift Valley. It evolved organically, mobilised young people and received its primary funding from community. Later, Mungiki was to turn rogue and predate on the same community that created it. Similarly, The Hague, a militia situated in Kirinyaga was constituted as an organic vigilante group by the community to fight Mungiki. It conducted community trials and executions of Mungiki followers at a place they dubbed The Hague. Like Mungiki, it was initially supported by community, but later became a predatory gang.

According to the literature, every militia terrorising community attracts an equally vicious militia, which evolves organically from community to protect it. But the pattern also shows that the organic militia later turn rogue. That makes organic militia ‘demand-driven’ and the violence they meter is legitimised by the self-preservation logic of community. These militia are found in urban slum areas, unpoliced spaces in the rural areas, and predominantly in the resource-starved arid and semi arid lands (ASALs) of Northern Kenya.

### 3.1.1.3 The State-‘indulged’ Militia

These are groups that enjoy a level of state support, either directly through collaboration with the state security organs or implicitly through the patronage of powerful political figures holding public office. In the frontier areas of northern Kenya, the government armed, albeit with obsolete bolt-action rifles, a police reserve also known as a home guard to act as the first line of defence against low level incursions and cattle raiders. The reservists did not receive any police training nor did they draw a salary. Most of these reservists later morphed into militia formations largely involved in the business of cattle-rustling. This was rampant during the 1990s as the country moved from the one-party hegemony to the multi-party era. Cattle-rustling through ‘indulged militia’ was used to finance political patronage in the new dispensation<sup>59</sup>. This gave rise, in part, to the concept of The Bandit Economy<sup>60</sup>.

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58 This law is built around observations we have made on militia groups in Kenya since 1996 under the Constitution Making and the Crisis of the Nation-State Project in Kenya (IPAR)

59 See Norad/Royal Norwegian Embassy (Nairobi), Civil Society in the Post-Nara Period (2008)

60 See, Liberalising the Bandit Economy: Corruption as the Fourth Factor of Production (Mutahi Ngunyi, East African Alternatives September 1998)

### 3.2 The Militia Map: *Typology of Militia in Kenya*

**The Categories.** The militia groups can be categorised into three groups; the ‘hard-core’ militarised groups, the ‘soft-core’ politicised groups and the ‘no-core’ marketised groups. Of the three categories, the first two are de facto, while the last one is de jure. These are summarised in the table below.

Typology	Sub-Types	No. Groups	Locations	Activities
Hard core Militarized Violence	Overtly Armed	11	Mt. Elgon The Coast	Ethnic Violence & Forced evictions Attacks on state security apparatus
	Pseudo Militarized	2	Central Kenya Kisii	Racketeering Political Violence (intra-ethnic)
	Ethno-Regional	6	Kisii Central & North Rift North Eastern	Ethnic Violence & Forced evictions
Soft core Politicized Violence	Jeshi Types	9	Nairobi Coast Eastern	Political Violence Racketeering
	Counter weights	57	All provinces	Racketeering Vigilante Activities
	Predatory Militia	2	North Eastern	Terrorism Kidnapping
No core Marketised Violence	PMC's	1		
	PSC's	>2000	All provinces	Cash-in-transit Guard services for residential & commercial properties

**Source:** The Consulting House, 2011

#### 3.2.1 The De facto Formations

##### 3.2.1.1 The ‘hard-core’ militia: *Militarization of Violence*

**The Overtly Armed Militia.** Within the ‘hard-core’ group, there are three sub-categories. The first is the overtly armed groups. Their motive is based on historical injustices. At the core, their grievances are land-based. At inception, they were formed as ‘green movements’<sup>61</sup> and their demands were expressed through rights-based activism. In fact, some of them were partly inspired by

61 Meaning land-related formations, not environment-based.



the rights movement. But as the state increasingly became exclusionist, they radicalised their approach. They moved from the 'voice' to the 'exit' option<sup>62</sup>.

The review of gray literature threw up eleven groups that fit this profile with (Sabaot Land Defence Force) SLDF, the *Mulungunipa* and its political wing, the Mombasa Republican Council and the Kaya Bombo Raiders as the most prominent. The Coast Housing Land Network, the Makande army, Congo-by-force and the Japo Group are less well known with the Coast Housing Land Network<sup>63</sup> more renown for land rights lobbying than armed activity. The SLDF, Moorland Defence Force, the Political Revenge Movement/Orange support group, 'Janjaweed' Militia and the Progressive Defence Force are found in the Mt. Elgon area whilst the remainder are situated in the coastal region. The coast has had a long history of conflict over land pitting 'up-country' migrants (*Wabara*) and settlers of Arabian origin (*waswahili*) against indigenous coastal residents (Digo, Giriama and other Mijikenda groups).

The levels of animosity are particularly high toward the 'up-country' migrants because they, unlike the *waswahili* who have an over 1400 year history of intermarriage and co-existence with the Mijikenda, the 'wabara' are newly-arrived and worse still, insular in their interactions. The '*wabara*' ventured to the coast in large numbers during Kenya's 1960's and 70's post independence period to capitalise on the economic opportunities available, land administration and settlement schemes that were initiated under the new dispensation. The indigenous residents viewed the lands as ancestral and therefore did not adequately perceive the threat a failure in fitting into the new system posed<sup>64</sup>. This coupled with the generous land concessions the colonial and Kenyan republican governments granted to the Sultanate of Zanzibar<sup>65</sup> effectively and legally dispossessed indigenous coastal residents of their ancestral lands leading to the rise of squatter communities common to the area. The 'wabara' settled in Kikuyu, Luo, Kisii etcetera tribal enclaves in Likoni, Mtwapa, Taita-Taveta and other regions of the coastal strip. Meanwhile, the elite 'wabara' appropriated prime properties in the urban areas and beachfronts further alienating the indigenous residents<sup>66</sup>. This historical land dispute is the core 'grievance' that has driven the emergence of armed groups at the coast.

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62 This refers to the ability to 'voice' their grievances. Since the space to do so and the audience to 'listen' did not exist, they opted to 'exit' from the formal spheres of interaction.

63 An organization called Coast Land Rights Lobby Group has been formed but the police recently dispersed their opening sensitisation rally

64 See Karuti Kanyinga, Re-distribution from above: the politics of land rights and squatting in coastal Kenya (NAI Research Reports No 115, 2000) pp 11-12

65 Tsuma Charo 2004, Ms ActionAid Denmark Partner NEWS Vol. 7 no. 3, In 1886 the British and German governments ceded control over a 10 Mile wide coastal strip stretching from Vanga near the Tanzanian border to the furthest Island of Faza near Somaliato the Sultanate of Zanzibar as custodians of waswahili rights.

66 See Karuti Kanyinga, Re-distribution from above: The Politics of Land Rights and Squatting in Coastal Kenya (NAI Research Reports No 115, 2000) pp 15-16

The roots of the SLDF conflict in the Mt. Elgon region can be traced back to a land resettlement programme initiated by the Kenya government for squatters in the Chepyuk area of Mount Elgon District in 1969. From its inception, the programme was derailed by claims and counterclaims of state favouritism and corruption, leading to a cycle of allocations, annulments and evictions<sup>67</sup>. This engendered discontent and exacerbated intra-community tensions and conflicts between the Mosop (Ndorobo) and Soy. The tipping point was reached in 2006 with the formation of the SLDF and affiliate counteractive groups such as the Moorland Defence Force, the Political Revenge Movement/ Orange support group the 'Janjaweed' Militia and the Progressive Defence Force<sup>68</sup>. In the subsequent engagements between the groups, the SLDF was held responsible for the deaths of at least 600 civilians<sup>69</sup>. Government response to these groups was uncompromising launching a military operation dubbed 'Okoa Maisha' (save lives) to clear out the militia groups from the area.

**Crisis in the Armed Forces.** This radicalisation coincided with a crisis in the armed forces. Due to the so called (Chief of General Staff General Daudi) 'Tonje Rules'<sup>70</sup> in the forces, a huge number of soldiers were laid off over the years. Most of these were young, agile servicemen in need of employment as a means of earning a living. Evidence summoned reveals that they have increasingly becoming a part of the militia as trainers<sup>71</sup> and as the 'elite brigade' within them.

The north-western parts of Kenya have had a long history of armed conflict among the pastoral communities of the Pokot, Marakwet, Turkana, Karamojong, Toposa and Nyangatom resident to the area. The assault rifle has long since been de-mystified as the ensuing arms race among the rival groups made it the weapon of choice among combatants. The activities of the LRA in Uganda as well as the civil war in Southern Sudan led to the further proliferation of SALW's among these communities and intensification of conflict in the Mt. Elgon region. The Kaya Bombo raiders active in the late 90's at the coast were also particularly highly militarized, possessing the capacity to successfully attack police installations and raid their armouries for firearms

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67 See Robert Romborah Simiyu, Militianisation of resource conflicts: The case of land-based conflict in the Mount Elgon region of Western Kenya (ISS, 2008)

68 AFP, 19 March 2008, Kenya relieved after parliament backs power-sharing deal also Missionary International Service News Agency (MISNA), 12 Mar 2008, Mount Elgon - "People are afraid", says a Bungoma diocese source to MISNA

69 IRIN, 19 May 2008

70 Asia Africa Intelligence Wire, How former CGS Tonje changed Kenyan military. November 30, 2003

71 A group of 40 ex-service men were reported as having informed the Concerned Citizens for Peace (CCP) on their alleged activities after the PEV.

and ammunition<sup>72</sup>. The Mulgunipa forest group is tied to a dishonourably discharged captain of the armed forces and brother to a cabinet minister.<sup>73</sup>

**The Pseudo-Militarised.** The second sub-category is the pseudo-militarised formations. Most of these were started as 'green formations' with grievances that were 'space related'<sup>74</sup>. Their militarization is a direct response to market collapse. As we shall show in the 'gap hypothesis', this collapse created a gap they needed to fill. As a result, they effected a shift from political struggle to market extortion. On the balance, the market extortion seemed to outweigh the struggle. This straddling of spaces has resulted in their becoming a franchise.

The review of gray literature isolated Mungiki and Sungu Sungu as the two groups fitting this profile. These groups recruit exclusively from their respective ethnic communities; Kikuyu and Kisii and primarily employ the use of crude weapons such as machetes, clubs bows and arrows in their activities though firearm use has been linked to some of the criminal enterprises of the Mungiki<sup>75</sup>. According to a police report, the Mungiki run six armouries stocked with ammunition, AK 47 and G3 rifles. The main armoury is located in Laikipia with other armouries based in Dandora, Tigoni, Kayole, Njiru and Kitengela.

"Each armoury exists for a reason; the Tigoni one is a back-up for highway crime, while Kayole and Njiru exist so as to offer refuge to gangsters and those commanding the transport sector." "The Kitengela armoury is the main source of weapons and manpower to spread fear and panic, basically it is meant to organize and dispatch assignments."<sup>76</sup>

The sources of weapons for the organization have been directly linked to the beef and livestock business where guns are wrapped together with the meat as it makes its way from the North-Eastern parts of the country, other sources include the Oromo Liberation Front in Ethiopia and surplus weaponry from the end of the civil war in Northern Uganda.

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72 Lisa Misol, Joost R. Hiltermann, Ernst Jan Hogendoorn, 'Playing with fire: weapons proliferation, political violence, and human rights in Kenya' (Human Rights Watch , 2002) pg. 37

73 The Standard ,30 March 2005, Kwale Probe Continues As Minister's Remarks Are Condemned , Daily Nation, 6 April 2005, 'Mwakwere's Brother Held in Gang Probe'

74 Including land and 'trade routes.'

75 Daily Nation, 11 November 2009, Nine Mungiki suspects killed, Nine guns and 100 rounds of ammunition recovered

76 Africa News, 14 February 2008: Mungiki turning mafia [http://www.africanews.com/site/Kenya\\_Mungiki\\_turning\\_mafia/list\\_messages/15765](http://www.africanews.com/site/Kenya_Mungiki_turning_mafia/list_messages/15765) [accessed 18 November 2010]

The Mungiki is notorious not only for the brutality of its attacks<sup>77</sup> but also for its pervasiveness in all levels of society in central Kenya including Nairobi through the franchise expansion model. Mungiki dates back to the 1980s, and there are claims of the founder adherents being the offspring of disenfranchised members of the anti-colonial Mau-Mau movement<sup>78</sup>. While rooted in the Central Province, Mungiki has a strong presence in the slums of Nairobi, where it controls and charges for access to basic services such as electricity, water and sanitation as well as control of transport routes in and out of the city<sup>79</sup>. In central Kenya the group has gone further to occupy 'gaps' left by the government by taking over state security and judicial functions<sup>80</sup>. It is alleged to have close links to senior Kikuyu politicians<sup>81</sup>. The group, which had previously been decimated by a government crackdown, registered a strong resurgence during the PEV period in late 2007/early 2008 when it went on an aggressive recruitment drive of Kikuyu youth living in (Internally Displaced Persons) IDP camps and slum areas<sup>82</sup>. The group has been meeting resistance on three fronts; the state in all geographical spaces, a counter-militia known as the 'Taleban' in Kariobangi<sup>83</sup> and vigilantes in Kirinyaga district<sup>84</sup>.

The *Sungu Sungu* in Kisii is not to be confused with the similarly named *Sungu Sungu (aka Rugaruga)*, a Tanzanian justice organization established by the Sukuma and Nyamwezi ethnic groups in 1981 to protect cattle and other property<sup>85</sup>. The group was deputized by the Tanzanian government in 1989 and has since gone high-tech utilising the renown 'crowd sourcing' media platform 'ushahidi' to collect and collate data on incidents of insecurity<sup>86</sup>. The Kenyan version initially denoted a spontaneous mob justice formation in the Kisii community who pursue and punish suspected criminals. The group is said to have started in Bonchari constituency in Kisii central as a community policing outfit with blessings from the Kisii Central District Security Committee in the 1990s. It is a phenomenon that resulted from the security 'gap' that witnessed an unprecedented escalation of insecurity in

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- 77 ALCED data captures 88 recorded incidents of violence against civilians by the group between 2000 and 2010 <http://www.acleddata.com/>
- 78 Peter Mwangi Kagwanja *Facing Mount Kenya or Facing Mecca?* The Mungiki, ethnic violence and the politics of the Moi succession in Kenya, 1987-2002 (2003, African Affairs, Journal of the Royal African Society vol.102, no 406) pg 30
- 79 IRIN, 22 February 2008, *KENYA: Armed and dangerous* <http://www.irinnews.org/report.aspx?ReportId=76896> [Accessed 14 November 2010]
- 80 Daily Nation, Wednesday, February 24 2010 'Elders asked to help fight crime' also *KK weekly Security Update* 10 September 2010
- 81 International Crisis Group, 21 February 2008 '*Kenya in Crisis*' Africa Report N°137 pp 12 -15
- 82 *ibid*
- 83 Daily Nation, 13 March 2002. "*Kenya: The Force Behind Terror Gangs*." (Africa News/NEXIS)
- 84 Daily Nation, June 14 2009 '*Mungiki: Kenya's growing crisis*' also The Standard, November 4 2009, *Vigilantes. Mungiki brace for war*, Montreal Gazette Apr 21 2009 *Kenyan Villagers Attack Violent Gang*
- 85 Brian Paciotti, Ph.D, *Sungusungu: The Role of Pre-existing and Evolving Social Institutions among Tanzanian Vigilante Organizations* (University of California, Davis 2004) also by the same author, *Informal Social Control by Sungusungu in Southwestern Tanzania: Regional and International Comparisons*
- 86 [www.sungusungu.com](http://www.sungusungu.com) [Accessed 16 November 2010]

Gusii<sup>87</sup> perpetrated primarily by the Kebago (Kisii for ‘organized thugs’). The group has over time become a gang for hire by local politicians to intimidate their rivals<sup>88</sup>. Reports suggest that wealthy businessmen and politicians can hire the services of the gang for as little as Kshs.5,000 (\$63)<sup>89</sup>. Ironically both the *Sungu Sungu* in Kenya and the *Sungu Sungu* in Tanzania face similar allegations of mutation from a community policing outfit to a criminal gang exercising excessive force and displaying political partisanship.

**Ethno-Regional Militia.** The third sub-category is the ethno-regional militia. These are different from Mungiki or *Sungu Sungu* because their interest in markets is limited. But like the former, they are mutations of the traditional ethnic armies. Their predation, as a result, is more inward than external. The only time they engage in external aggression is when their ethnic formations are exposed. In the Pre-NARA, period, their ‘fire power’ was limited to rudimentary weapons like bows and arrows. In the Post-NARA era, they increasingly shifted from ‘machetes to machine guns’<sup>90</sup>. Significant amongst these are the *Chinkororo*, constituted originally to fight cattle rustlers in Kisii. The other is the Kalenjin Warriors. This formation has also franchised itself into two groups: G41 and the People’s Liberation Army. G41 connotes the group of 41 non-Kikuyu tribes, against the Kikuyu. It was formed pre-NARA and its activities are currently muted. In the event of a political crisis, it has potential to be activated.

The review of gray literature concretely identified groups of this nature amongst the Kisii and the Kalenjin communities. It is interesting to note that these communities on the surface appear to be more unitary than the other main ethnic groups in Kenya’s political sphere. The Kikuyu, Luhya, Kamba, and Luo appear to be more disaggregated hence the lack of a singular, identifiable community defense force. The causality of this phenomenon is something the study delved into as well as why the defense formations of the Pokot, Marakwet and Turkana did not evolve and mutate in a similar manner to the *Chinkororo* and Kalenjin Warriors. It has to be stated however, that the Mungiki, Taliban and other similar groups did make a short-term transition to this space in the PEV period defending their communities from aggression and carrying out retaliatory attacks themselves. *Chinkororo* refers to the traditional warriors of the Abagusii community much like the Morans of the Maasai community. They are to be found in Borabu and Gucha districts which border the Kipsigis and the Maasai with whom the Abagusii have, since time immemorial, had adversarial relations with<sup>91</sup>.

87 Onyinkwa Onyakundi, 18 May 2009 *Sungu Sungu, Chinkororo and Amachuma: get the facts right*

88 Daily Nation, August 10 2009 ‘[Officials deny Sungu Sungu still exists as gang unleashes terror](#)’

89 ibid

90 This observation is still exploratory based on the proliferation of SALWs in some parts of the country

91 Onyinkwa Onyakundi, 18 May 2009 *Sungu Sungu, Chinkororo and Amachuma : get the facts right*

Armed with machetes, spears, clubs, bows and arrows, *Chinkororo* engaged the Kalenjin Warriors in the PEV period in Sotik, Buret and Gucha/Transmara<sup>92</sup>. *Chinkororo's* political activities were first recorded in the 1992 politically-instigated clashes and the South Mugirango by-elections occasioned by the death of area MP Enock Magara<sup>93</sup>. Omingo Magara, brother to the deceased contested the seat in the ensuing by-election in 2007 where he was reportedly attacked by *Chinkororo* who were out to disrupt his campaign meeting<sup>94</sup>. The commercial activities of the *Chinkororo* are less well known and the content reviewed did not yield any incidences where the group was 'paid-to-play'. The Amachuma group on the other hand, is highly political in its activities deeply engaged with the political class in influencing the outcomes of political processes in the region<sup>95</sup>.

The *Kalenjin Warriors* are manifest in several different groupings sharing a common agenda of evicting all Non-KAMATUSA – Kalenjin, Maasai, Turkana and Samburu –<sup>96</sup> migrant communities from their strongholds in the Rift Valley. The activities of these groups spike in conjunction with the electoral seasons of 1992, 1997, 2002 and 2007<sup>97</sup>. The groupings in the rift valley have strong political roots with the first militia groupings linked to KANU stalwarts in the Rift Valley opposed to the multiparty system introduced in 1991<sup>98</sup>. The singularity of the objectives and tactics of all the five groups that constitute the 'Kalenjin Warriors' identified so far in this report (Balarget Land Defence Force, Kalenjin Land Defenders, Kalenjin Youth, Peoples Liberation Army and the Group of 41) puts the appearance of lack a single organising structure to the test. We attempted to determine if they share a common source of funding as they do with regard to ideology and motivation that substantively classify them as geographically distributed divisions of a single army.

### 3.2.1.2 The Soft-Core Militia: Politicisation of Violence

**The 'Jeshi Types.'** The soft-core militia are ad hoc in their operations and are a result of the youth crisis. Their engagements are short and intense, but lack in

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92 KNHCR (2008) *On the brink of the precipice: A Human Rights Account of Kenya's Post-2007 Election Violence* pp 54,99, 134

93 Daily Nation 13 March 2002

94 Daily Nation, September 12 2009: Magara engages in shadowboxing after city raid

95 Immigration and Refugee Board of Canada, Kenya: A group called Amachuma; its purpose, membership, activities, and relations with authorities , 5 December 2002, available at: <http://www.unhcr.org/refworld/docid/3f7d4dba7.html> [accessed 17 November 2010] also *Security Militias Turn Into Terrorists* [kisii.com](http://www.kisii.com) 19 July 2004, "The Amachuma culture reportedly started in 1992, being a creation of politicians, who would use the militias to disorganise their opponents" [Accessed 15 November 2010]

96 Acronym for Kalenjin, Maasai, Turkana, Samburu essentially it referred to all communities that are not plains Nilotes in origin but specifically targeted the Luo and Kikuyu nations

97 Adams Oloo, 2007 'Domestic terrorism in Kenya' *Domestic terrorism in Africa: Defining, addressing and understanding its impact on human security* (ISS, edited by Wafula Okumu and Anneli Botha)

98 Ibid



staying power. The underwriters of these militia are politicians who straddle the 'voice' and 'exit' options to maximise on gains. Majority of the militia fall under this category. But post-NARA, they have tended to abandon the patronage of politicians in favour of the 'bandit economy'.

The 'Jeshis' were essentially private armies allied to the politicians that mobilised, socialised and financed them. Their aim was purely to safeguard the interests of their patrons in the political and electoral arenas. The most prominent was *Jeshi la Mzee* which was a private army formed in 1997 by the KANU elite to disrupt and frustrate the push for constitutional reform by civil society and the opposition<sup>99</sup>. *Jeshi la Mzee* consisted of state security operatives, KANU youth-wingers and assorted supporters of the regime and was eventually associated with Member of Paliament for Westlands Constituency, Fred Gumo<sup>100</sup>. The erstwhile Member of Paliament for Embakasi Constituency, the late David Mwenje, formed *Jeshi la Embakasi* to counter *Jeshi la Mzee*<sup>101</sup>, whilst the Member of Paliament for Kilome constituency, John Harun Mwau, was linked to *Jeshi la King'ole*<sup>102</sup> in the early 2000's. The former Member of Paliament for Wundanyi constituency, the late Darius Mbela, was also linked to *Jeshi la Mbela*<sup>103</sup>. Runyenjes Football Club is an interesting case as it is linked to a former political detainee in the KANU regime and member for Runyenjes<sup>104</sup>. The review was unable to shed any further light on *Jeshi la Nazir* beyond a mere mention in the gray literature at this time.

Following the defeat of KANU by NARC in 2002, the largesse that fuelled the political gravy train that sustained the bulk of these private armies ceased and most of them begun to operate in the 'violence markets' of the 'Bandit Economy'<sup>105</sup>. Similarly, the groups stopped being directly affiliated and identified with a single politician and went as far as to drop the moniker, '*Jeshi*'. New slum-based formations such as the Baghdad Boys, Kosovo Boys (now 12 Disciples), and ODM Youths were the new outfits that tended to now

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99 'Daily Nation,' 15 June 1999: Rev Njoya's Assailant Arrested As Gumo Denies Involvement

100 Brigida Proto, (2004) *From Crime to Cities; Locating urban insecurity* (Master PVS Progetto urbano 2001-2002)

101 Adams Oloo, 2007 'Domestic terrorism in Kenya' *Domestic terrorism in Africa: Defining, addressing and understanding its impact on human security* (ISS, edited by Wafula Okumu and Anneli Botha) also BBC News, 30 July, 2003 Kenyan MP seeks forgiveness <http://news.bbc.co.uk/2/hi/africa/3108171.stm> [Accessed 14 November 2010]

102 Daily Nation 9 March 2002: Banned Groups Were Private Armies for Hire By Politicians and 25 July 2002 Probe Political Thuggery, Urge MPs

103 Godwin R. Murunga; Shadrack Wanjala Nasong'o (editor). *Kenya: The Struggle for Democracy*. Zed Books. 2007 pp 148

104 Daily Nation, 9 March 2002 Banned Groups Were Private Armies for Hire By Politicians

105 *Jeshi la Embakasi precipitated and violently settled land disputes in Nairobi with the most notable incident being an invasion of a 818-acre piece of land that lies between Umoja II, Kayole and Komarock estates in Nairobi*. M Katumanga and L Cliffe, *Nairobi - a city besieged: The impact of armed violence on poverty and development*, Bradford University: Centre for International Cooperation and Security, Department of Peace Studies, 2005

associate themselves with political factions rather than individuals applying and making their 'services' available to a pool of allied politicians. *Amachuma* is a grouping in Kisii which comes closest to fitting the description of 'political mercenaries.' Though they may not be engaged by non-Kisiis to mete out violence, they are available to local politicians and businessmen engaged in intra-community conflict<sup>106</sup>. During the political drawdown, the groups revert to racketeering, extortion and illegal taxation activities in service industries such as the transport, community security housing and construction.

**The Counterweight Brands.** These have been constituted as a counter force to the existing militia. They come in the form of vigilante groups. Their 'fire power' and methods of operation are therefore equal to those of the militarised groups. This means that their violation of rights is as macabre in nature, if not worse than, as that of the 'mungiki types.' The danger with these vigilantes therefore is this: they have potential to mutate into more dangerous militia in the name of community protection. That is how Mungiki was born.

The review of media content isolated fifty-nine groups in this category though strictly speaking not all of them fulfil the above criteria. The bulk of the groups identified are 'market-driven' formations which whilst they are not classic 'mercenary' formations are nevertheless virtually inspired purely by the profit motive. They do tend to act as an auxiliary force cluster to the larger groups clustered around similar ethnic or party affiliations in times of political conflict. They are active in extortion rackets in the transport, security, utilities, illicit brews, housing and construction sectors in their areas of operation. With the exception of Taliban, these groups are smaller in size than any of the preceding militia and vigilante formations and as a consequence they control smaller spaces both geographically and psychologically. Typically, these groups either control 'enclaves' within heterogeneous slum areas or entire settlements dominated by one community as those found in the provincial urban centres. This is manifest in the nomenclature of the various neighbourhoods within the settlements that the groups appropriate to identify themselves (Baghdad, Darfur, Kamukunji, Darajani, Nyamasaria, Karanja etc). However, the limitation of their spread horizontally means that vertically the penetration within the communities in which they operate is very intense. It also means that the low-profile that these groups maintain, their small size and relative ease with which they can mutate, evolve and reinvent themselves makes it difficult for state security apparatus to infiltrate them and keep them under constant surveillance. That explains the scantiness of information on them so far.

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106 Kisii.Com 9 July 2004, *Security Militias Turn Into Terrorists* <http://www.kisii.com/the-news/749-security-militias-turn-into-terrorists> [accessed 15 November 2010]



Given the nature and proliferation of these groups and the ostensible areas of overlap/conflict/competition with their larger cousins, we attempted to determine which of the groups listed are actually an extractive 'cell' or 'franchise outlet/inlet' of a larger group. This may be argued to result in a 'specialisation of roles' among the different cells where one cell specialises in extraction from the transport sector, another from utilities and public services, yet another from security etcetera. This presupposes the existence of a higher strategic planning organ that systematizes the various groups into their respective categories to maximise on their extractive capacities and puts 'caporegimes' or 'shop stewards' in charge a la mafia or trade union modes of organisation. For instance, during the 2008 clashes between the Mungiki and Taliban groups in Mathare, Taliban mobilised the Baghdad Boys, Sakina youth and the Dallas youth to fight alongside them<sup>107</sup>.

The two groups in this category that clearly fit the bill in countering the activities of existing militia are the Taliban and the 'Hague'. The Taliban was formed in 2001 as a counteractive force to the Mungiki in the slums of Eastlands, Nairobi. Their formation coincided ethnic undercurrents in the area with Taliban largely recruiting from the Luo community in these areas who felt harassed and exploited by the 'Kikuyu' Mungiki. In 2002, the two groups clashed violently over control of the transport sector in Mathare, a battle that Mungiki prevailed by use of sheer numbers and brutal tactics<sup>108</sup>. In the aftermath, 21 people were reported dead with scores of others injured and it resulted in a blanket ban on 18 armed groups among them both *Mungiki* and *Taliban*<sup>109</sup>. In 2007, the confrontation between the two groups assumed political overtones with Taliban allegedly allied to ODM and *Mungiki* affiliated to PNU<sup>110</sup>.

The 'Hague' is ironically not the name of a group but rather the name of a location in Kamuiru, a village between Baricho and Kagumo trading centres, Kirinyaga District where a vigilante kangaroo court to try and sentence Mungiki suspects is held by the residents of the area<sup>111</sup>. Similarly, the *Kebago*<sup>112</sup> is described as your run-of-the-mill organised criminal gang that

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107 AfricaNews, 20 February 2008 *Militias turn slums into no-go zones*, [http://www.africanews.com/site/Kenya\\_Militias\\_turn\\_slums\\_into\\_nogo\\_zones/list\\_messages/15897](http://www.africanews.com/site/Kenya_Militias_turn_slums_into_nogo_zones/list_messages/15897) [Accessed 18 November 2010]

108 Integrated Regional Information Networks (IRIN). 14 March 2002. "*Kenya: Police Target Illegal Gangs after Kariobangi*" (Africa News/NEXIS)

109 East African Standard (EAS). 22 August 2002. "*Kenya: A-G Orders Arrest of Mungiki Followers*." (Africa News/NEXIS) also Integrated Regional Information Networks (IRIN 9 March 2002. "*Kenya: Police Name Outlawed Groups*." (Africa News/NEXIS)

110 International Crisis Group (ICG) Crisis Group Africa Report N°137, 21 February 2008, *Kenya in Crisis* KNCHR, 2008: *On the brink of the precipice*: A Human Rights account of Kenya's post-2007 Election violence

111 Daily Nation; 14 June 2009 *Mungiki: Kenya's growing crisis* also DN, 24 June 2009 *Fresh Strikes By Mungiki Spread Fear in Kirinyaga*

112 Margrethe Silberschmidt, *Women forget that men are the masters*; gender antagonism and socio-economic change in Kisii District, Kenya (Nordic Africa Institute, 1999) pp 51

engages in burglary, armed robbery and similar felonies-for-profit in Kisii's Bonchari District<sup>113</sup>. To counter them, *Sungu Sungu* was formed by the local business community, mobilised and deployed with the approval of the local administration.

**The Predatory Militia.** Harakat al-Shabaab al-Mujahideen (*Mujahideen Youth Movement* or "*Movement of Striving Youth*"), more commonly known as al-Shabaab ("*The Youth*" or "*The Lads*") is an Islamist insurgency group and reputed militant wing of the Islamic Courts Union operating out of the collapsed Federal Republic of Somalia following the ejection from power of the Islamic Courts Union by Ethiopian Forces in 2006<sup>114</sup>. The group espouses fundamentalist Islamic doctrine and has imposed Sharia law on the central and southern parts of Somalia it currently controls. It is in conflict with the Transitional Federal Government (TFG) which has only a tenuous hold on the capital, Mogadishu. In 2010, al Shabaab acknowledged links with the international terrorist group, Al Qaeda<sup>115</sup>. The group estimated at over 3000 'hard core' militants' recruits internationally targeting vulnerable and radicalized youth from the Somali diaspora in Yemen, Pakistan, Afghanistan, the US, the UK, Sweden, Canada and Somali-dominated Refugee camps in Kenya and enclaves in Nairobi's suburbs of Eastleigh and South 'B' to train as fighters<sup>116</sup>.

The Kenyan connection to *al Shabab* is alleged to be associated with a Kenyan national and an Al Qaeda linked operative, Fazul Abdullah Mohammed who was reportedly linked to al Shabab as the military leader. Issa Osman Issa was said to be a recruitment agent and top military strategist for Al Qaeda and the man responsible for the 2002 Hotel bombing in Kilifi as well as an attempted downing of an aircraft in Mombasa the same year is linked to the group. The group reportedly declared a jihad on Kenya in February 2010 over troop concentrations along the border and allegations of Kenya training TFG

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113 Kisii.Com 9 July 2004, *Security Militias Turn Into Terrorists* <http://www.kisii.com/the-news/749-security-militias-turn-into-terrorists> [accessed 17 November 2010]

114 Stephanie Hanson, 28 June 2010, Al Shabaab Council on Foreign Relations <http://www.cfr.org/publication/18650/al-shabaab.html> [Accessed 18 November 2010]

115 BBC News 01 February 2010, *Somali Islamists al-Shabaab 'join al-Qaeda fight'* <http://news.bbc.co.uk/2/hi/africa/8491329.stm> [accessed 18 November 2010] also 17 January 2010, *Somalia and Yemen 'swapping militants'* <http://news.bbc.co.uk/2/hi/africa/8463946.stm> [accessed 18 November 2010]

116 BBC, 06 January 2010, *Jobless Kenyans admit fighting for al-Shabaab* <http://news.bbc.co.uk/2/hi/8441193.stm> [accessed 17 November 2010] also Raffaello Pantucci, *Understanding the al-Shabaab networks* (Policy Analysis No 49, Australian Strategic Policy Institute 13 October 2009) The New York Times, 11 November 2010, *Somalia's Wars Swell a Refugee Camp in Kenya* 6 June 2010, *Islamic Extremist Group Recruits Americans for Civil War, Not Jihad* [http://www.nytimes.com/2010/06/07/nyregion/07shabaab.html?\\_r=1](http://www.nytimes.com/2010/06/07/nyregion/07shabaab.html?_r=1) [accessed 17 November 2010] <http://www.nytimes.com/2010/11/12/world/africa/12dadaab.html?ref=al-shabab> [Accessed 18 November 2010] NPR 06 October 2010, *Somalia's Al-Shabaab Spreads Its Message In Kenya* <http://www.npr.org/templates/story/story.php?storyId=130353001> [accessed 17 October 2010]

troops<sup>117</sup>. However, there have been denials of these threats against Kenya by Al Shabab representatives hinting at fractures within the group possibly along clan lines<sup>118</sup>. The group has since been involved in operations near the Kenyan border town of Mandera where it clashed with and was repulsed by Somali government forces in October 2010<sup>119</sup>. The engagement claimed the lives of at least 30 combatants and a further 12 in casualties<sup>120</sup>. It has also been involved in skirmishes with Kenyan Security Forces countering insurgencies in the border areas<sup>121</sup>. Kenya has so far not officially responded to the Jihad and continues to face increased terrorist attacks from the Al Shabaab linked groups that have continued to launch grenade and gun attacks on Kenyan targets. Even as it has continued to confront the Al Shabaab terror attacks, Kenya has continued to engage in quiet diplomatic efforts to contain the volatile situation at the frontiers and ultimately bring the warring factions in Somalia back to the negotiating table<sup>122</sup>.

### 3.2.2 The *De Jure* Formations

#### 3.2.2.1 The 'No-Core' Militia: Marketisation of Latent Violence

Most formations in this category are foreign and their operations are subtle. At the fore, they operate in the market place but in the backyard, they are constituted as a fall-back in the event of state collapse. But this is not the case for all.

**The Private Military Companies (PMCs).** There's increased presence of Private Military and Security Companies in Eastern Africa (also referred to as defence contractors). Most, if not all, of these companies are US and/or UK based with the troops recruited from Africa especially South Africa and Uganda. The number is expected to rise. Two main factors are taunted to lead to this. One is the coming to an end of the US led war on Terrorism in Iraq and Afghanistan. A significant number of defence contractors are presently

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- 117 Garowe Online, 21 January 2010 [Al Shabaab Threaten to Attack Kenya Capital](http://allafrica.com/stories/201001210933.html) <http://allafrica.com/stories/201001210933.html> [Accessed 18 November 2010] also AllAfrica.com , 07 February 2010, [Al-Shabaab Declares Jihad on Kenya](http://allafrica.com/stories/201002080323.html) <http://allafrica.com/stories/201002080323.html> [Accessed 18 November 2010] and Reuters, 06 June 2010 [Kenya says ready to defend against al Shabaab rebels](http://www.reuters.com/article/idUSTRE6551G420100606) <http://www.reuters.com/article/idUSTRE6551G420100606> [Accessed 18 November 2010]
- 118 VOA, 22 January 2010, [Al-Shabab Denies Threatening Attack against Kenya](http://www.voanews.com/english/news/africa/east/Al-Shabab-Denies-Threatening-Attack-against-Kenya-82390497.html), <http://www.voanews.com/english/news/africa/east/Al-Shabab-Denies-Threatening-Attack-against-Kenya-82390497.html> [accessed 17 November 2010]
- 119 Reuters, 18 Aug 2010 [Somalia's al Shabaab increases Kenya border raids](http://www.alertnet.org/thenews/newsdesk/LDE67E035.htm) <http://www.alertnet.org/thenews/newsdesk/LDE67E035.htm> [Accessed 18 November 2010]
- 120 Daily Nation, 22 Oct 2010, [30 dead as militias clash near Kenya border](http://www.dailynation.co.ke/2010/10/22/30-dead-as-militias-clash-near-kenya-border). Also AP, 22 Oct 2010 insurgent Attempt Fails to Recapture District Near Kenya
- 121 Al Jazeera, 21 July 2010, [Al-Shabab attacks Kenyan patrol](http://english.aljazeera.net/news/africa/2010/07/201072135637169812.html) <http://english.aljazeera.net/news/africa/2010/07/201072135637169812.html> [accessed 18 November 2010]
- 122 Daniela Krosiak, ICG 1 Jul 2009, [Kenya Shouldn't Fight Al-Shabaab](http://www.crisisgroup.org/en/regions/africa/horn-of-africa/kenya/kenya-shouldnt-fight-al-shabaab.aspx) <http://www.crisisgroup.org/en/regions/africa/horn-of-africa/kenya/kenya-shouldnt-fight-al-shabaab.aspx> [accessed 18 November 2010]

operating in these two countries. With the end of these operations these contractors are seeking to sell their products and expertise elsewhere. The developing countries in Africa then make a ready market and especially those experiencing conflict such as Somalia.

Kenya has an increasing presence of PMCs. Noted presence of Grey Stone, and variations of Executive Outcomes, are cases in point. Others are present through AFRICAP, which is a contractor for the U.S. Department of State's Bureau of African Affairs. These PMCs are deployed as contractors to provide military training, strategic advisory services, equipment procurement, logistical support services and construction services. Behind this, however, is a tacit military presence. Unlike the security firms with nuanced 'militia' existence, these are obvious military formations, not owned by those who monopolise violence, but consist in a sophisticated 'privatisation' of violence. This study will, in part, examine the relationship between the PMCs and the militia. In most conflict afflicted countries, the militia proliferation precedes the involvement of PMCs in active politics. Guinea Bissau is a case in point.

**Security Firms.** Most significant amongst these are the foreign Security Firms. It is the hypothesis of this book that these firms have a nuanced 'militia' character. Beyond the watchmen in uniform, there is a rear guard constituted as an 'elite brigade' from the retired stock of ex-service men<sup>123</sup>. In the event of state collapse, these brigades can be activated to restore order. Similarly, and fundamentally, they seem to have captured the police force through privatisation of state security. Every patrol car by these firms has a group of armed policemen. And this tends to tilt the ratio of police men to the population in favour of the upper class. In turn, this gives credence to the existence of militia that protect spaces from below.

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123      Mainly from the Kenya Army and Kenya Police.



# Chapter 4

## Militia State-of-Play

### 4.1 The Big Six

This survey on militia-state-of-play took place over a period of time. The first round of interviews was done during August 2009, while the last round was finalised in August 2012. The idea was to establish militia presence and changes over time. From the time-series study, we were able to establish the dominance of four militia groups. The first is Mungiki, which, is probably the most dominant group amongst these. Mungiki has variations like Thaaai, and others<sup>124</sup>, which execute its 'soft insecurity' tasks. Although prominent in Kikuyu areas, it has presence in all significant towns in Kenya, especially towns with an elaborate matatu infrastructure. But as already mentioned, Mungiki and all dominant militia tend to attract counter-hegemonic groups. And this is why Taliban is the second dominant militia in Kenya. It is a counter-force to Mungiki. Wherever Mungiki is, Taliban is most likely to emerge. The third most significant militia is Mombasa Republican Guard (MRG). This is the militarised wing of MRC at the coast. But like Mungiki, MRG has attracted a counter-force as well. Sungu Sungu is the fourth significant militia country-wide. It is constituted to counter MRG by the coastal 'foreigners'. The four groups were cited as most dominant in the country in the same order during August 2009. The same was confirmed in the August 2012 repeat survey. But this was not true of two of the militia groups cited in August 2009.

During the 2009 research cycle, Bagdad Boys was recorded as the fifth most dominant group in the country. Although based in Kisumu, we also recorded variations of the same in Eldoret. While the Bagdad Boys in Langas, Eldoret, were a franchise outlet of the Kisumu group, those based in

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124 For instance, the small variations like Top in Mukuru or Maninja in Nairobi.

Huruma, Eldoret were a 'counterfeit' constituted by the Kikuyu community to protect themselves during the 2008 PEV. After PEV, the many variations of Bagdad Boys had faded away by August 2012. This accounts in part for their disappearance from our dominant 'map of six'. The sixth dominant group in August 2009 was Kamjesh. We were unable to establish an empirical reason why this group had faded in dominance by August 2012.

In their stead, the second cycle of our study revealed that another two groups had emerged. The groups currently occupying the fifth and the sixth most dominant positions are not militia groups per se. The fifth category for instance is what we call the No-Core Militia. These are the gangs-in-information, or gangs that act as a rearguard to the big six militia groups. The sixth type is the vigilante groups constituted primarily as agencies of rogue elements in government as we shall show later<sup>125</sup>. This category was not obvious in the 2009 survey. Their buoyancy in the 2012 survey is a probable indication that the rogue elements (to be weeded out of government with the new constitution) are re-grouping.

## **4.2 Some Facts about Militia in Kenya**

### **4.2.1 Militia Spread**

In the August 2009 survey, only 14% of the respondents said they had militia presence in their area. In the August 2012 survey, this shot to 24%. This means that in every 4 square kilometres, 1 is infested by militia. Put differently, one is likely to encounter a militia group every four kilometres whichever direction you go country-wide.

### **4.2.2 Police-Militia Ratio**

Majority of the militia groups have over 100 members. But for every 100 militia members, there are only 20 policemen. This means that the ratio of police to militia members is 1:5 in favour of militia nationally.

The Figure below shows that Kisumu and Kakamega militia are outnumbered by the police. In Kisumu for instance, for every 1 militia member, there are 4 policemen. But the case of Kakamega is more dramatic. Every 1 militia member is checked by 18 policemen. The reverse is however true for Nairobi, Nakuru and Trans Nzoia. In Nairobi, for instance, 6 militia members are policed by 1 policeman while the ratio for Nakuru is 4:1 and that of Trans Nzoia is 5:1.

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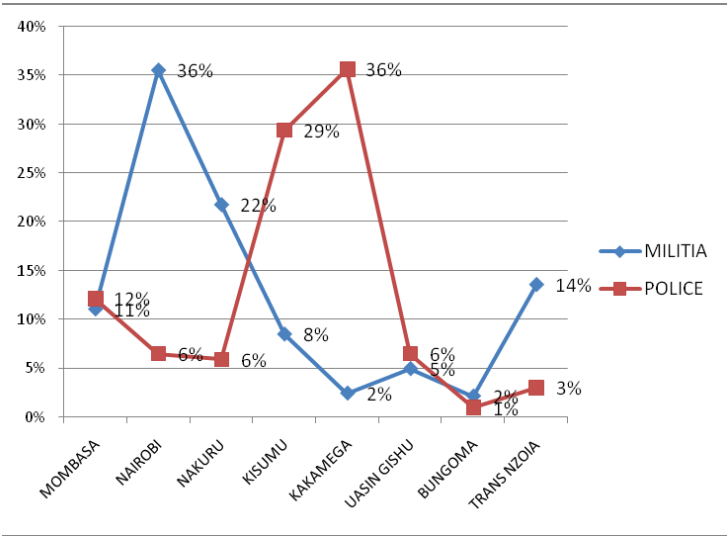
<sup>125</sup> This category is new and was not as pronounced as it was in 2010. And maybe this is part of a government innovation to fight crime, or a function of state agencies gone rogue.

4.2.3 Militia and Gun Permeation

In the August 2009 survey, the level of gun permeation was at 19%, and the dominant weapon of choice for militia groups was the crude weapons. In 2012, 30% of the respondents recorded the presence of illegal guns in their areas. Put differently, wherever there is a militia group numbering around 100 members, there is a 30% gun permeation. This means that out of every 100 militia members, there is a chance that 30 are armed with guns. If we assume that out of every 100 members, there are 20 policemen; we can also insinuate that out of every 20 armed policemen, there are 30 armed militia members. This calculates to a gun ratio of 2:3 in favour of militia members. But this national ratio does not apply uniformly across the counties. Figure 3 on Militia and Gun Permeation gives the narrative here. It juxtaposes militia presence and levels of gun permeation per county.

This figure shows that there are more militia members than number of guns available in Mombasa, Nakuru, Uasin Gishu and Bungoma. And this is probably because in Mombasa and Nakuru for instance, militia and gangs prefer bows and arrows or crude weapons as per the statistical evidence we

Figure 1: Police – Militia Ratio Per County



have. The reverse is true for Kisumu, Kakamega and Trans Nzoia as the Figure indicates. There are more guns than militia in these counties. And as we shall show later, militia presence in these counties is also distorted. Kisumu and Kakamega have more vigilante groups sanctioned by government, than militia. In its case, Trans Nzoia has an incredibly high loading for police reservists.



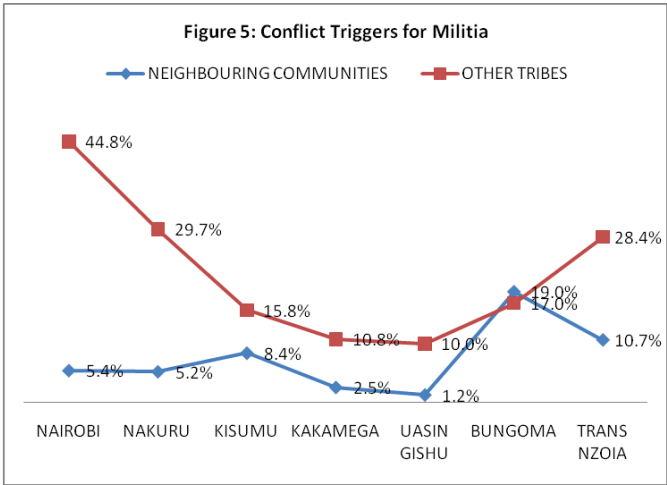
In the view of this report, therefore, the disproportionate presence of guns compared to militia can be explained in three ways. One, there are guns in the hands of civilians in the three areas. This is particularly true of Trans Nzoia. Two, the extra illegal guns are in the hands of state-indulged vigilante groups. But we must nuance further the case of Kisumu where the existence of the gun is ‘over-stated’. And as observed by this study in 2010, the gun in Kisumu is more visible than dominant. That is, because the Kisumu militia are ‘colourful’, soft core and interested in social hegemony more than extraction, the gun is just a symbol of power. Even where it does not exist, it is said to be there. This is what explains the high loading on guns in Figure 2 above. Three, in the case of Kisumu and Kakamega, the two areas have been cited by the National Focal Point on Small Arms and Light Weapons as traffic route for guns. This could explain the high gun presence.

#### 4.2.4 Militia Peak-Seasons

The statistical evidence indicates that militia groups are at their peak during two occasions: During election time (22.4%) and during conflict with people from other tribes (22.2%). This could also suggest that militia groups are highly ethnicized.

Figure 5 above suggests that militia peak-time is highest when there is conflict with other tribes. In the case of electoral violence, this means that as one drive from Nairobi towards Trans Nzoia, one is likely to meet ethnic violence in Nairobi, Nakuru and Kisumu. But as one heads for Kakamega and Uasin Gishu, ethnic violence is likely to reduce. But this has potential to pick as you drive towards Bungoma and Trans Nzoia. This was an important plotting of potential violence hotspots as the country headed for the 2013 election in the event it resulted in conflict.

Figure 5: Conflict Triggers for Militia

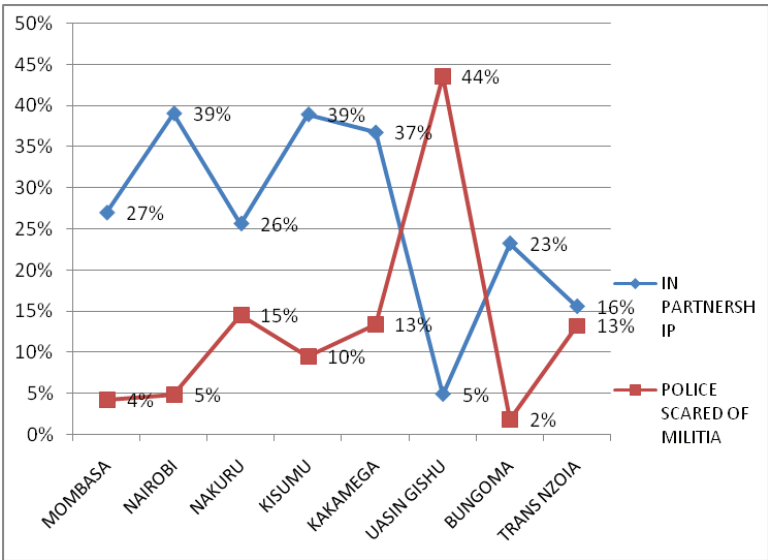


4.2.5 Militia – Police Symbiosis

In our study, 23.4 % of the sample size said that the police and militia groups are in cahoots. Loosely, this can be interpreted to mean that 1 out of every 4 policemen in militia infested areas, work in cahoots with the militia. But this should be nuanced further. Police symbiosis with militia can also be interpreted as police absence or abstinence. And abstinence happens when the police are partakers of the militia enterprise or are overwhelmed by militia. Figure 6 below demonstrates this relationship at county level.

This graph depicts patterns of police abstinence from Mombasa to Trans Nzoia. Where the police abstain from law enforcement like in Uasin Gishu, it is because they are afraid of militia groups. But as the figure below shows, there is an inverse relationship between abstinence when the police are overwhelmed and when they are in partnership with the militia. If they are in partnership, they are not afraid; and if they are afraid, it is because they are overwhelmed or cannot forge a partnership in crime.

Figure 6: Police Militia Relationship at County Level



4.2.6 Militia – Politician Relationship

The general belief is that militia groups are held hostage by politicians. Our statistical evidence reveals the reverse. That actually, the bigger the militia, the higher the likelihood that politicians will be held hostage by it. A further examination of the statistics reveals that politicians may patronise militia leaders, but this does not translate into total control of militia groups. The

bottomline, however, is this: the relationship between militia groups and politicians is largely symbiotic. The existence of one depends on the survival of the other. In our statistics, this scored at 25.2%. A further finding here is that, 40% of those who said that this relationship is symbiotic added that militia are activated during conflict with other tribes<sup>126</sup>. This figure stood at 36.7% for those who said that militia are active during elections. But what does this mean? In the view of this report, this relationship suggests that politicians are involved in mobilising militia groups during tribal conflicts or contested elections. When we did a statistical significance test on this relationship, it was high.

### 4.3 Militia State-of-Play in Selected Counties

In this section, we explore the militia state of play in 11 counties of Kenya. The first survey was done one year after the post-election violence and we wanted to find out whether the PEV had militia spill-overs. We call this period post-NARA<sup>127</sup>. The second survey was conducted in 2012 as a follow-up, with the intention of establishing if anything had changed in the militia-state-of-play before the 2013 election. More fundamentally, we wanted to establish whether the enactment of the new constitution had created anxiety in some of the communities leading to their need to militia-lise. The results presented in this section are therefore a comparative analysis of the two periods; the pre-NARA and the post-Katiba<sup>128</sup> periods.

#### 4.3.1 The Mombasa Militia Formations

##### 4.3.1.1 *The Pre-NARA Militia*

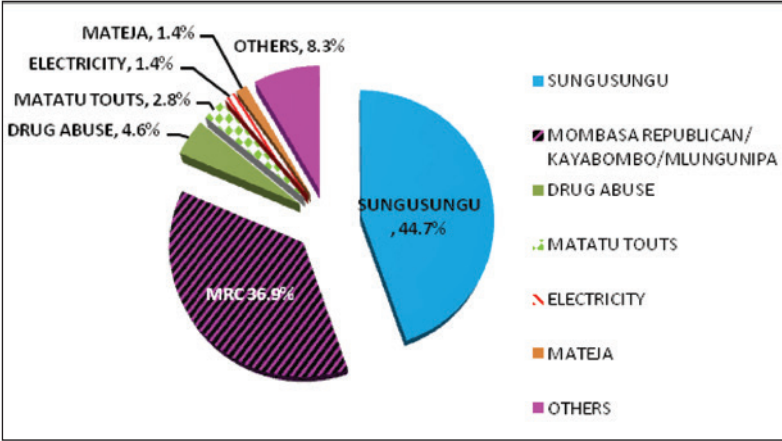
Pre-NARA, Mombasa Republican Guard (MRG), a wing of MRC, was the dominant militia in Mombasa. It was identified by 39.3% of the respondents. The next significant group was Sungu Sungu at 31.1% and a group calling itself Matatu Touts at 16%. Our impression was that MRC is probably much larger than this, given the narratives we received from the field. But the respondents were not willing to identify them. And this is because of the organic nature of its cause. MRC is increasingly becoming a movement, with the goal of liberating the coastal people from the dominance of 'upcountry' migrants. On its part, Sungu Sungu in Mombasa is more of a counter-force to MRC. It exists to protect the 'upcountry' people from the aggression of the locals. Unlike Nairobi and other towns, 70% of Mombasa is dominated by the two militia. And their proliferation was instigated by the 2008 PEV.

126 Arrived at through cross-tabular analysis. The statistical significance of this stood at .000, which is high.

127 The passing of this Act signified the end of PEV and the start of a new dawn.

128 Katiba is the Swahili word for constitution.

Figure 4.1: Percentage Representation of Militia Presence in Mombasa



Also noteworthy in Mombasa is the existence of Mungiki. Although they were identified by only 1.6% of the respondents, their infiltration begs some questions. Up to 16% of the respondents identified a large ‘gang’ known only as Matatu Touts. In the view of this report, this is probably not a gang-in-place. It could be a gang-in-information and its activities have been identified by community as criminal in nature. Similarly, we cannot rule out the possibility that this ‘gang’ of touts is Mungiki. And given the presence of MRC, they do not want to reveal their real Mungiki identity.

4.3.1.1 (a) Militia Legitimacy - Illegality Post-NARA

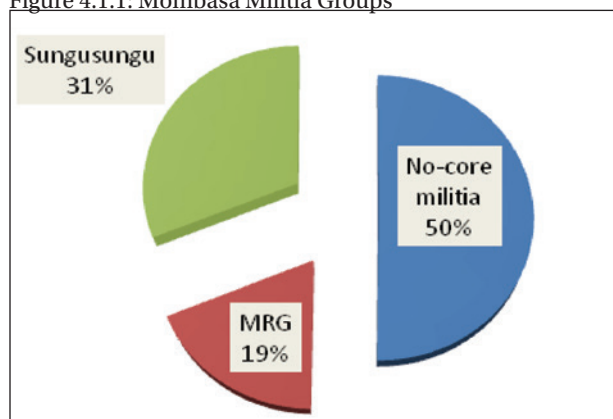
When we asked the question about acceptance of these militia in Mombasa, the responses changed significantly with regard to Sungu Sungu and Matatu Touts. Initially, 31.1% of the respondents had said that Sungu Sungu is considered illegal by government. However, 44.7% later said that. Although the gang is considered illegal by government, community does not see it as illegal. This means that levels of Sungu Sungu ‘legitimacy’ in community are pretty high and its ‘organic’ existence acceptable. The reverse, however, obtains for Matatu Touts. 16% of the respondents identified them as an illegal group and only 2.8% said that although the group is illegal it exists. And this is why we are persuaded that this group is Mungiki. As the statistics show, responses for MRC did not change significantly. Community legitimacy of MRC was obviously high.

#### 4.3.1.2 Post-Katiba Militia in Mombasa

Figure 4.1.1 below depicts the percentage sizes of the militia formations in Mombasa. Although MRG, the militant wing of MRC, is cited as the dominant militia in discourse, we need to explain the presence of the other two. Sungu Sungu is the counter-force to MRC/MRG as the case was in the post-NARA period. It is constituted to forestall the aggression of MRC on the foreigners in the coast as already observed.

We should also note that in the post-NARA survey, the Sungu Sungu count in Mombasa was not this high. Its growth is directly proportional to the perceived MRC threat to the 'wabara'. Similarly, the decline in MRC 'dominance' to a paltry 19% from 36.9% as depicted in the figure below is a function of its growing legitimacy. If the coastal people saw it as a 'militia' during our 2010 study, this perception has since changed. It is increasingly seen as a liberation movement, hence the dropping of the 'militia' tag.

Figure 4.1.1: Mombasa Militia Groups



#### 4.3.1.2 (a) Militia Legitimacy – Illegality Post-Katiba

But what explains the presence of such a high score for the no-core militia. These are either gangs-in-information, government-indulged groups constituted to keep MRC in check or police reservists gone rogue. And this is best explained using Table 4.1 below on levels of Militia Legitimacy and Illegality in Mombasa. To measure community legitimacy for militia, we asked the question whether "...there are groups community considers good, but the government views as criminals". To this question, Sungu Sungu scored the highest at 61% followed by MRC at 29% and the no-core militia at 10%. The Sungu Sungu high score is an indication that some people are worried about MRC and are likely supporting a counter-force to protect themselves.

Table 4.1: Militia Legitimacy and Illegality in Mombasa

Militia	Community Legitimacy	Community Illegality
No-Core Militia	10%	90%
MRC	29%	8%
Sungu Sungu	61%	2%

When we asked if there are “groups the government considers good, but community considers illegal and criminal”, the figures reversed. The no-core militia scored the highest at 90%, MRC 8% and Sungu Sungu 2%. And it is this high score on ‘community illegality’ for the no-core militia that led us to the assertion that they were state-indulged. The no-core militia could also be gangs-in-information working in cahoots with the police. But in the eyes of community, such groups are ‘state-indulged’.

Three things should be noted about the militia profile at the Coast. One, MRC is shifting its identity from an illegal entity to one with a modicum of acceptance from state actors<sup>129</sup>. To community, therefore, MRC and its militant organ, MRG are increasingly gaining legitimacy. As a result, the ‘militia’ label is quickly being dropped from MRC. This could explain the low scores we got as indicated in the pie chart. Two, and related to one, as MRC gains acceptance, Sungu Sungu is evolving as the leading organic militia for the Wabara. If there were to be confrontation between MRC and the Wabara during the 2013 election, therefore, Sungu Sungu would have played the counter-force to MRC. Its levels of arms acquisition should therefore be watched. Three, the growing numbers of ‘state-indulged’ militia and ‘gangs-in-information’ in Mombasa is worrisome. In a situation of violent conflict, these groups can mobilise quickly and ‘spirit away’ fast after they have caused mayhem.

### 4.3.2 The Nairobi Militia Formations

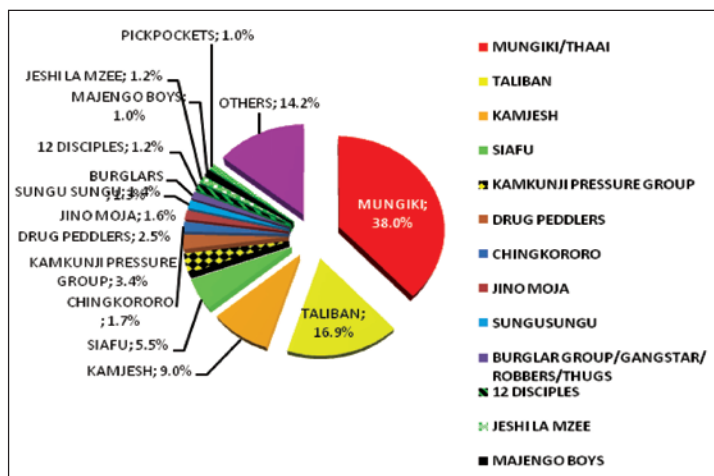
#### 4.3.2.1 The Pre-NARA Militia

In the Pre-NARA, our study focused on 8 informal settlements of Kibera, Mathare, Githurai, Korogocho, Kawangware, Mukuru, and Kiambu. In Nairobi, these were also the slums most hit by the 2008 PEV. As figure 4.2 below shows, Mungiki was the most present group in Nairobi at 38%, followed by Taliban at 16.9% and then Kamjesh at 9.0%. Siafu and Kamukunji Pressure Group are also significant players at 5.5% and 3.4%.

<sup>129</sup> For instance, the Prime Minister has invited them for negotiations regarding their ‘secessionist project’. Similarly, a ruling by the High Court de-banning them gave them some legitimacy as well.

#### 4.3.2.1 (a) Militia Legitimacy – Illegality Post-NARA

Figure 4.2: Pre-NARA Militia in Nairobi



For the above statistics, we had asked the respondents to name the groups the government considers illegal in their area. But we also wanted to establish whether some of these groups have a resonance in community and amongst business people. This is the question we asked them: “Are there groups in your area the government considers illegal, but community considers useful to them?” According to the responses, the most ‘legitimate’ group in Nairobi was the Taliban at 22.7%. While 16.9% of the respondents considered them illegal, 22.7% considered them legitimate. The reverse was true for Mungiki. 38% considered them illegal, but only 15% considered them legitimate. This is probably because of the predatory nature of Mungiki. Taliban was seen to provide security and other needed services and hence existing organically in Nairobi. And the same is true of Siafu. While only 5.5% said they were illegal, 16.3% of the community thought of them as a legitimate youth group. The other group whose legitimacy dipped was Kamjesh. While 9% of the respondents had viewed them as illegal, only 4.4% viewed them as useful to community.

#### 4.3.2.2 Post-Katiba Militia in Nairobi

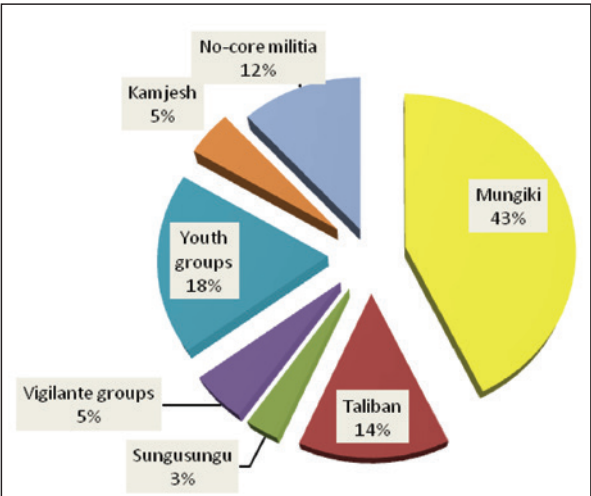
In the post-Katiba period, Mungiki is still the dominant militia in Nairobi standing at 43% of the ‘crime share’ as Figure 4.2.1 below shows. This went up from 38% in the post-NARA period. And like MRC and Sungu Sungu, the Mungiki counter-force is Taliban, standing at 14%. One group in the figure below needs nuancing. This is the militia labelled as youth groups in the figure below. But why are youth groups considered militia? Do recall that the

number of respondents who said that militia are formed to create jobs for the youth was significant.

Similarly, the evidence we summoned reveals that most of the groups in Nairobi are involved in economic activities like water vending, garbage collection, and unclogging of sewers in the slums. This is why our respondents identified ‘job creation’ for the youth as a motivation for constituting militia. But how do these groups morph into militia? Evidence further reveals that some of the youth economic empowerment groups act as the ‘militia rare guard’ and backup to criminal groups. In fact, they are also the recruitment grounds for militia. And this is why our respondents identified youth groups as militia.

4.3.2.3 (a) *Post-Katiba Militia Legitimacy and Illegality in Nairobi*

Table 4.3 speaks to the question of community affinity towards militia. It is based on the two questions mentioned earlier on whether there are groups the community considers good, but government considers illegal and vice versa.





**Table 4.3: Militia Legitimacy and Illegality in Nairobi<sup>130</sup>**

Militia	Community Legitimacy	Community Illegality
Mungiki	40%	43%
Taliban	11%	16%
Sungu Sungu	3%	3%
Vigilante	3%	7%
Youth Group	30%	6%
Kamjesh	2%	6%
No-Core Militia	8%	15%

From this table, Mungiki has 40% community legitimacy in Nairobi, but is considered illegal by 43% of the community. This means that for every 1 person who thinks Mungiki is illegal, there is 1 person who does not mind the militia group. The group is used for purposes of providing security, collecting rent from slum houses and debt collection. Two more groups are worth mention from the figure above. The first is the no-core militia. Like in the case of Mombasa, their levels of illegality in community surpass their legitimacy and usefulness. In other words, the community considers them ‘bad’ but the government considers them ‘good’. Put differently, for every 1 person who thinks that these groups are good, 2 people consider them illegal. And if these groups morph into criminal gangs or militia, they will fall in the ‘organised’ type mentioned earlier. To the contrary, the group identified above as ‘youth group’ is likely to morph into ‘organic’ as opposed to organised militia. And this is the second category of groups worth mention. The table above shows high community legitimacy for the ‘youth groups’ standing at 30% compared to its level of illegality at 6%. These groups are also the providers of ‘organic’ services like illegal water, electricity and DSTV connections. When faced with insecurity, community is able to quickly mobilise this group for protection.

Two observations can be made about Nairobi. One, the county seems to have a militia ‘balance-of-forces’. That is, an equilibrium between the contesting groups has been established, meaning that Taliban is able to check the excesses of Mungiki. The youth groups can effectively counter the no-core militia. This means that a violent conflict in Nairobi is unlikely. And should it erupt, the fighting forces will ultimately balance each other. Two, there seems to be a balance between militia legitimacy and militia illegality in Nairobi. Like in the militia ‘balance-of-forces’, the illegal is balanced by the legitimate. This balance makes violent conflict in the city unlikely, in our view.

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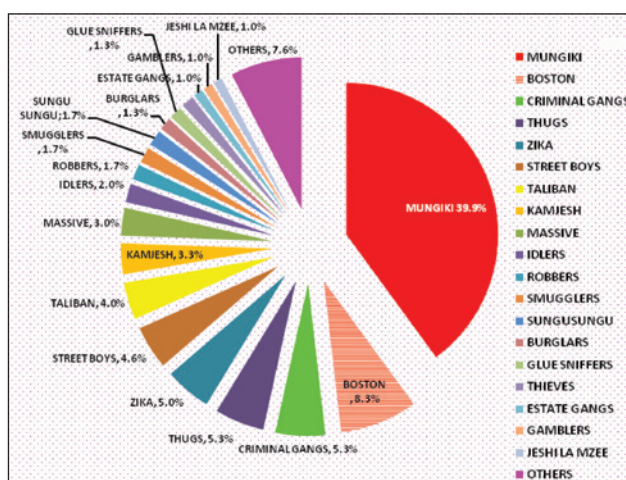
130 Figures in this table, like all the others, do not necessarily add up to 100% because they are rounded up.

### 4.3.3 The Nakuru Militia Formations

#### 4.3.3.1 The Post-NARA Militia in Nakuru

Figure 4.3 below indicates that in the post-NARA period, Mungiki was the dominant gang in Nakuru standing at 39.9%, followed by Boston at 8.3%. Four other 'gang brands' were sighted in Nakuru, including Zika (5%), Taliban (4.0%), Kamjesh (3.3%), Sungu Sungu (1.7%) and Jeshi La Mzee (1%). In-between, however, were unbranded criminal groups, identified through their crimes (criminal gangs, 5.3% and thugs 5.3%). These groups totalled about 10.6%. If Mungiki attracts Taliban, could it be that these are unbranded Taliban cells? Or are they undercover Mungiki groups? This study could not effectively interrogate the probabilities.

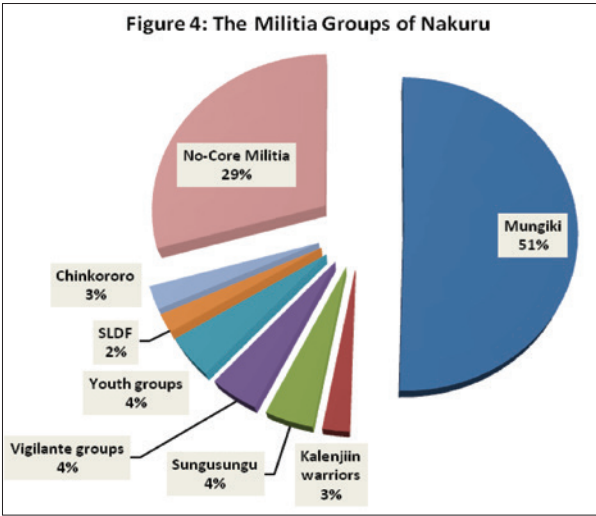
Figure 4.3: Post-NARA Militia Formations in Nakuru



#### 4.3.3.2 The Post-Katiba Militia in Nakuru

Like Nairobi, Mungiki is the dominant militia in Nakuru standing at 51% according to figure 4. Interestingly, all the other militia groups signify the multi-ethnic nature of the county.

Each of them represents a community other than the Kikuyu who are represented by Mungiki. SLDF represents Luhya presence in Nakuru; Chinkororo represents the Kisii, Kalenjin Warriors represents the Kalenjin, while Sungu Sungu could be a contra-band militia. The presence of no-core militia standing at 29% needs unpacking. And table 4.4 on Militia Legality and Legitimacy in Nakuru should lend us some explanations.



4.3.3.2 (a) Militia Legality and Legitimacy in Nakuru

Table 4.4 presents an unusual picture. 85% of the respondents noted that Mungiki is deemed illegal by government, but as legitimate by community. This high level of approval for a militia is testimony to state absence or abstinence in the County. This argument is further supported by the ‘legitimacy-illegality’ ratings of other militia groups as table 4.4 below shows.

Table 4.4: Militia Legitimacy and Illegality in Nakuru

Militia	Community Legitimacy	Community Illegality
Mungiki	85%	18%
Sungu sungu	0%	9%
Vigilante	0%	9%
Youth Group	0%	9%
Chinkororo	4%	0%
SLDF	2%	0%
Kalenjin Warriors	2%	0%
No-Core Militia	5%	55%

The table above confirms that Chinkororo, SLDF and Kalenjin warriors have some modicum of community legitimacy, although low. And as mentioned above, they could be ethnic backup forces constituted to forestall Mungiki onslaught on the non-Kikuyu communities. But the significant aspects of this table are located in the statistics regarding Sungu Sungu, Vigilante groups, Youth Groups and the No-Core Militia. The four were identified as the groups community considers ‘bad’, but government considers ‘good’ in Nakuru. This means that they are the state indulged militia. But the No-Core Militia are

probably the most significant in this category. Like the case in Mombasa, these are constituted to counter-balance Mungiki. They could also be constituted to further the interests of rogue elements within the state.

The analysis above lends itself to two observations. One, if violence occurs in Nakuru, the lead militia agency will be Mungiki. And it will have 85% support from community. Two, if Mungiki is mobilised in the event of violence in Nakuru, it will be to securitize Kikuyu interests. However, the no-core militia are likely to take advantage of such a situation for economic gain like they did in the 2008 violence. And if they do so, they will have a 55% indulgence from rogue elements within the state. The militia to watch in Nakuru therefore is not Mungiki, but the no-core militia supported by 55% of rogue elements within the state.

#### **4.3.4 The Militia Groups of Kisumu**

##### *4.3.4.1 The Post-NARA Militia Groups of Kisumu*

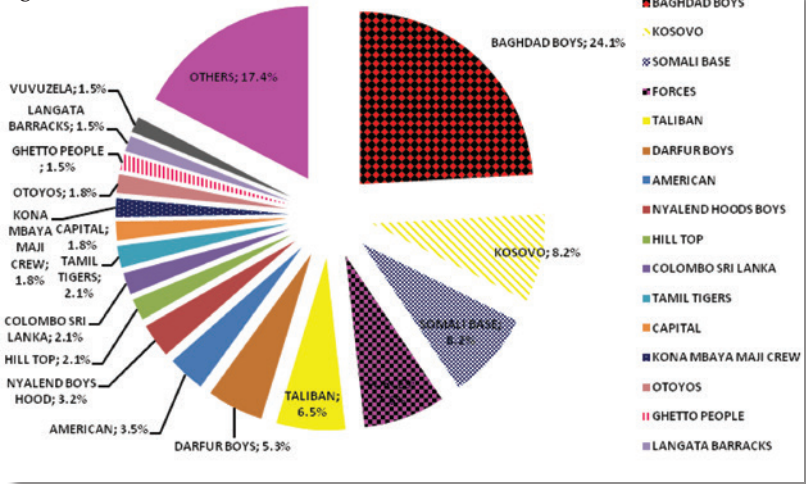
Unlike Mombasa and Nairobi, Kisumu gangs post-NARA were numerous, flamboyant and soft core. Even the names of the gangs were colourful (e.g: Bagdad Boys, Kosovo, Tamil Tigers, Langata Barracks, Vuvuzela etc). And this is largely because, in Kisumu, 'gang affair' is not an economic matter. As we shall argue later, youth in Kisumu join gangs for prestige and social power. In the other counties we surveyed, the youth join gangs for predominantly economic reasons. Economic motivation accounted for only 30% of the motivation to join a gang in Kisumu, compared to over 60% in both Nairobi and Mombasa.

The dominant gang in Kisumu was Bagdad Boys, as cited by 24.1%% of the respondents. The next dominant group is Somali Base (8.2%) and Kosovo (8.2%). Other significant groups were Forces (7.6%), Taliban (6.5%), and Darfur Boys (5.3%). Most of the others fall in the category of the small, inconsequential and sporadic gangs. But what is interesting is that the gangs in Kisumu are closely linked to those in Kibera operationally<sup>131</sup>. Even some of the gang labels, like Langata Barracks, are replicated in both. Also noteworthy is the fact that none of the gangs in Kisumu was considered significantly legitimate by community. While Sungu Sungu in Mombasa, and Taliban in Nairobi, were seen as counter-forces to the big militia, this kind of relationship did not exist in Kisumu.

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131 Point made by the former PPO, Nyanza in an interview with the researchers.

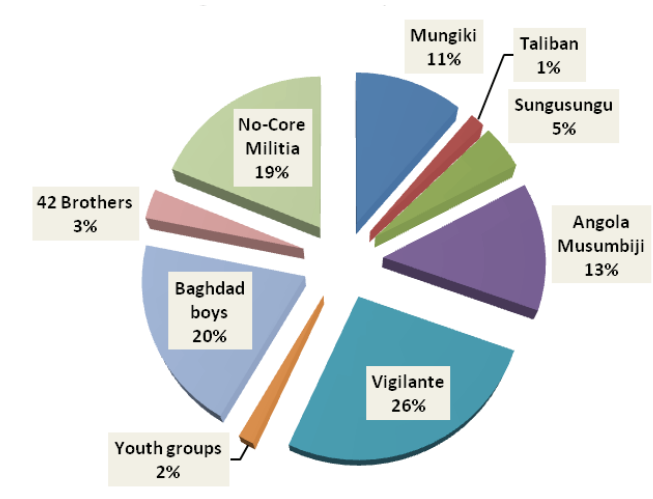
Figure 4.4 : Post-NARA Militia Formations in Kisumu



Of equal importance is the fact that Kisumu did not have a significant absence of the organic militia. And this is probably because the predatory organised gangs were not as dominant. Those present were only involved in political mobilisation and activities of ‘primitive accumulation’ in the slums. These, in our view, did not warrant a response in the form of organic militia.

#### 4.3.4.2 The Post-Katiba Militia in Kisumu

During this period, the militia groups of Kisumu changed. Although the dominant militia group in Kisumu was still the Baghdad Boys with a score of 20%, new entrants were recorded. Two of these were Angola Musumbiji standing at 13%; and Mungiki at 11% according to Figure 4.4 below. The category on No-Core Militia is also significant at 19%. We note in this report



that this category, unlike in the other counties, has a high level of community legitimacy. And this is the category that is also linked to community affinity towards a particular political course. If Bagdad Boys, Angola Musumbiji and Mungiki are involved in organised crime, the no-core militia are organic in Kisumu. This is unlike the case in the post-NARA period where we did not record any significant organic militia.

Ironically the organic militia of Kisumu are involved in preserving the political interests of the county as opposed to the other organic militia involved in providing illegal services and securitising community. We elaborate on this below.

#### *4.3.4.2 (a) Militia Legality and Legitimacy in Kisumu*

The only militia category with overwhelming community legitimacy according to table 4 below is the No-Core Militia. They score a significant 37% legitimacy and a 0% community illegality. The reverse is true for Angola Musumbiji which scores a 0% community legitimacy and 26% for illegality. Both Bagdad Boys and Mungiki have a fair score for legitimacy and illegality, although the score is tilted more towards illegality than legitimacy according to Table 4.5.

Table 4.5: Militia Legitimacy and Illegality in Kisumu Post-Katiba

<b>Militia</b>	<b>Community Legitimacy</b>	<b>Community Illegality</b>
Mungiki	9%	13%
Taliban	3%	0%
Sungu sungu	9%	0%
Angola Musumbiji	0%	26%
Vigilante	17%	35%
Youth Group	0%	3%
Bagdad Boys	17%	22%
42 Brothers	6%	0%
No-Core Militia	37%	0%

The other notable militia in table 4.5 is the category known as vigilantes. From Mombasa to Nairobi to Nakuru, the vigilante groups are not significant players. But between Kisumu, Kakamega, Uasin Gishu and Trans Nzoia, the importance of this militia category begins to emerge. And as this importance emerges, that of the no-core militia as agents of rogue elements in the state diminishes. In our analysis of Mombasa, Nairobi and Nakuru, for instance, we note a high 'illegality' of the No-Core Militia. But in Kisumu, this category has an unusually high level of legitimacy in community. To the contrary, and as table 5 above shows, the vigilante groups take over as the illegitimate militia in community. Their level of illegality is recorded as the highest at 35%. This trend is repeated as one moves from Kisumu towards Kakamega.



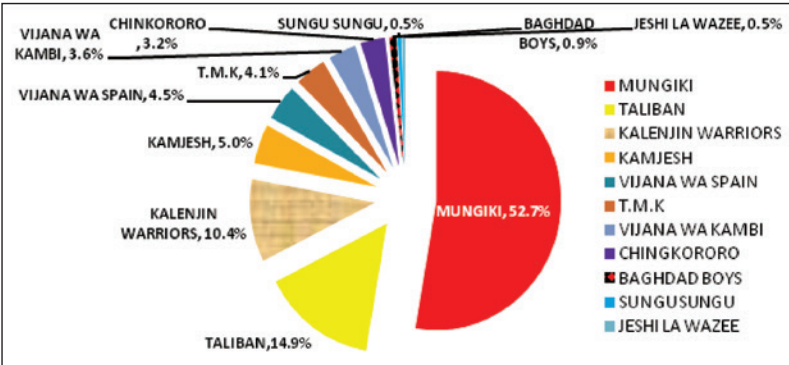
To determine militia ‘illegality’ in community, we asked the question: Are there groups in your county the community considers ‘illegal’ but government considers ‘good’. Between Mombasa and Nakuru, the statistical loadings focused on the No-Core Militia. But from Kisumu to Trans Nzoia, there was a shift from the No-core to the vigilante groups. This statistical evidence must be interpreted in two ways. One, it could mean that the rogue elements within the state are using different militia to achieve their objectives. In fact, they seem to ‘switch’ identities as you move away from the capital. If they hide behind the No-Core Militia between Mombasa and Nakuru, between Kisumu and Trans Nzoia, they hide behind vigilante groups. And this is because; vigilantes seem to have a resonance in community. Two, if indeed the rogue elements in the state have a tendency to ‘switch identities’ and hide behind different categories of militia groups, then the group to worry about is not the militia formations. Rather, the group to watch is the rogue state. In the event of violence, this group is likely to hide behind militia to achieve market gains.

### 4.3.5 The Militia Groups of Eldoret

#### 4.3.5.1 The Post-NARA Militia Formations of Eldoret

If Kisumu militia were flamboyant in the post-NARA period, the Eldoret ones were staccato. That is, whereas 58% of the militia in Kisumu were categorised as ‘others’ because of their vagueness and numbers, in Eldoret, militia dominance is not vague. In fact, unlike the other study sites, Eldoret did not have a militia category for ‘others’. 52.7% of the militia space was occupied by Mungiki, 14.9% by Taliban, 10.4% by Kalenjin Warriors, and 5% by Kamjesh. The others were Vijana wa Spain (4.5%), T.M.K (4.1%), *Vijana wa Kambi* (3.6%), and Chinkororo (3.2%). Baghdad Boys, Sungu Sungu and *Jeshi La Wazee* were also present. Figure 4.5 below provides the percentages.

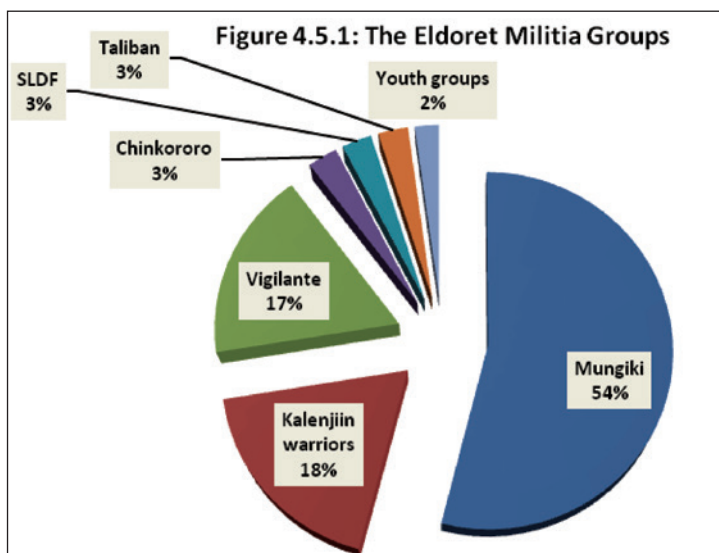
Figure 4.5: Post-NARA Militia of Eldoret





#### 4.3.5.2 The Post-Katiba Militia Formations of Eldoret

As Figure 4.5.1 below shows, the significant militia group in Eldoret during the post-Katiba period remains the Mungiki standing at 54%. In the post-NARA period, this was cited at 52.7% by our study. Next to this are the Kalenjin Warriors at 18%, but were previously at 10.4%. The other groups tend to mirror the ethnic composition of the county, but with insignificant presence. An important militia group here is the SLDF, which is probably a sleeper cell of the one based in Mount Elgon. Also worth of note is the vigilante groups. But as we shall show below on table 4.5, the vigilante groups in Eldoret are not as significant as those in Kisumu and Kakamega in terms of state penetration. Also significant is the absence of the no-core militia in Eldoret. Eldoret and Bungoma are the only counties that failed to record this category of militia.



Mungiki dominance in Eldoret needs to be nuanced. This is probably as a result of the 2008 post election violence. The GEMA (Gikuyu, Embu and Meru Association) – in this case the predominantly Kikuyu – community in the county must have felt a need to arm itself in order to forestall a Kalenjin backlash like the one experienced in the PEV. But another explanation to Mungiki growth in Eldoret is the probability that the state has captured some of its elements. That is, in the absence of the no-core militia and a significant vigilante brigade in the county, it may be the rogue elements within the state are piggy-backing on Mungiki. But the only way to determine this possibility is to examine the militia's levels of legitimacy and illegality

#### 4.3.5.2(a) *The Militia Legality and Legitimacy in Uasin Gishu.*

Table 4.6 below brings to the fore two groups: Mungiki and Kalenjin Warriors. The two also represent the communities with competing interests in the county: the Kikuyu and the Kalenjin.

<b>Militia</b>	<b>Community Legitimacy</b>	<b>Community Illegality</b>
Mungiki	50%	50%
Kalenjin Warriors	29%	5%
Vigilante	17%	15%
Chinkororo	0%	5%
SLDF	0%	5%
Taliban	0%	5%
	4%	0%

The Mungiki figures in this table must be read concurrently with those of the Kalenjin Warriors. Obviously, the Kalenjin Warriors have a higher community legitimacy compared to Mungiki. Their level of legitimacy stands at 29% while their illegality is at 5% only. That is, only 5% of this militia group is considered good by the government, but illegal by community. The reverse is true for Mungiki. Although 50% of the respondents consider them legitimate in community, their levels of illegality are also 50%. This is ten times the illegality of Kalenjin Warriors. And this is probably because of Mungiki penetration by rogue elements within the state. Obviously, the Kikuyu community in Eldoret needed Mungiki for the 2013 election. But this need appears to have unwittingly invited state elements to piggy-back on it. If this analysis is right, the rogue groups within the state will have switched identity again. In Mombasa, Nairobi and Nakuru, they hid behind the no-core militia. In Kisumu and Kakamega, they switched from the no-core militia to the vigilante groups. In Eldoret, the switch changes from vigilante groups to the actual militia: Mungiki.

Eldoret was home to some of the worst post-election violence in 2008. In fact, it was singled out by ICC as one of the areas requiring investigation. The potential for conflict in this county is not vague. Clearly, it is likely to be between the Kikuyu and the Kalenjin if the militia growth is anything to go by. But this conflict will not be about national politics. It will most likely be about county politics. Government should therefore monitor county dynamics in Eldoret to determine whether or not violent confrontation between the two communities would be triggered by county elections. In the event it did not,

there would be need to monitor violence in Nakuru, Kisumu and Kakamega. This, in our view, is likely to ‘percolate’ to Eldoret if it is related to national politics. This is what happened in the 2008 violence. And should it happen, the ‘state rogues’ within Mungiki will become market opportunists. This is a trend to watch.

4.3.4.6 *The Militia Groups of Kakamega Post-Katiba*

As figure 4.6 below shows, Angola Musumbiji has been revived in Kakamega. This recorded a score of 35% of all militia formations in the county. The other significant group as noted regarding Kisumu is the vigilantes at 47%, followed by Bagdad Boys at 12%. Another notable fact about the militia groups in Kakamega is the way they mirror the Kisumu groups. Significantly the groups considered illegal in Kisumu are actually legitimate in Kakamega as the table below will show.

Figure 4.6: Militia Groups of Kakamega

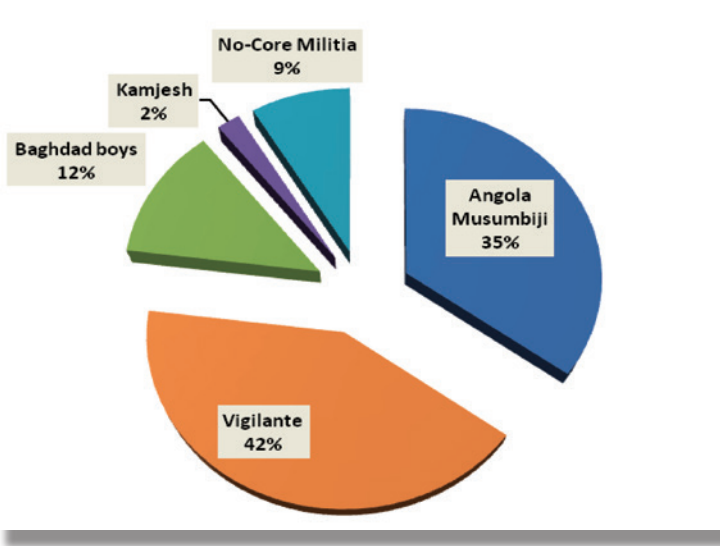
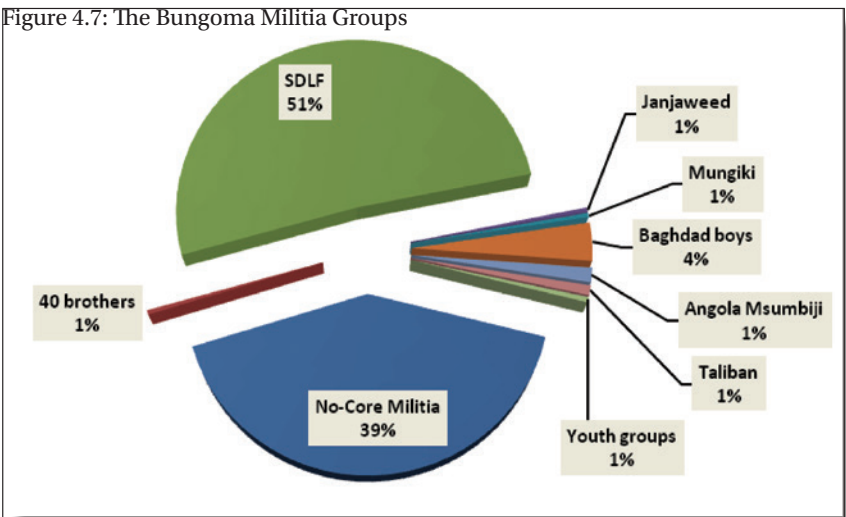


Table 4.7 on militia legitimacy and illegality below shows community legitimacy for Angola Musumbiji as standing at 52%, compared to its ‘illegality’ at 18%. The legitimacy of vigilante groups is reversed in comparison to that of Angola Musumbiji. This stands at 12%, while their illegality stands at a significant 71%. Put differently, 71% of the vigilante groups in Kakamega are state indulged. These are the groups community considers ‘bad’ but the government considers ‘good’. And maybe the rise of Angola Musumbiji as an organic group in Kakamega is a direct response to the emergence of rogue elements within the state.

Table 4.7: The Kakamega Militia Groups

Militia	Community Legitimacy	Community Illegality
Angola Musumbiji	52%	18%
Vigilante	13%	71%
Bagdad Boys	13%	12%
Kamjesh	4%	0%
No-Core Militia	17%	0%

The return of Angola Musumbiji, a militia originally constituted in the 1970s should be observed keenly. More so because it revived after the 2008 PEV. This, however, does not make it a group capable of executing significant acts of violence, especially because of its organic nature. What government should worry about are the vigilante groups and the fact that they are perceived as being state-indulged. Like in the case of Kisumu, in the event of violence, these groups can be easily mobilised by the rogue policemen for market extraction. Such an enterprise would not spare the NGO and humanitarian groups. Yet in the post-violence period, they would be difficult to trace because of the suggested police connection.



#### 4.3.7 The Militia Groups of Bungoma

Unlike the other areas in this study, we did an in-depth sampling of Bungoma<sup>132</sup>. And this is because the county has the only militia that has attracted military action in recent history in the name of the SLDF in Mt. Elgon area. Despite *Operation Okoa Maisha* by the Kenya Army in 2008,

132 We sampled six areas instead of 4 like in the other Enumerator Areas.

SLDF regrouped in the Mt Elgon area. As the pie chart below shows, SLDF is the dominant militia in this county at 51% followed by the no-core militia at 39%. The other militia groups are ‘percolations’ from Kisumu and Kakamega. And this refers specifically to Angola Musumbiji, and Bagdad Boys. Groups like Mungiki and Taliban are still forming in this county.

*4.3.7.1 Militia Legitimacy and Legitimacy in Bungoma.*

If SLDF has revived in Bungoma, what are its levels of legitimacy in community? The Table 4.8 below provides us with statistics regarding this question. And once again the figures to focus on are those for SLDF and the no-core militia.

Table 4.8: Militia Legitimacy and Illegality in Bungoma

<b>Militia</b>	<b>Community Legitimacy</b>	<b>Community Illegality</b>
No-Core Militia	44%	39%
40 Brothers	0.8%	0%
SLDF	46.6%	56.2%
Janja Weed	0.8%	0%
Mungiki	0.8%	0%
Bagdad Boys	4.2%	2.9%
	1.7%	1%

According to the table above, SLDF has a high community legitimacy standing at 46.6%. However, its levels of community illegality are higher by 10% standing at 56.2%. This could mean that although the militia is reviving, community buy-in is still in contestation. It could also mean that 56.2% of SLDF is a creation of the state marketeers. The reverse is true of the no-core militia. Its community legitimacy stands at 44% compared to its ‘illegality’ at 39%. But both statistics could also indicate a high state involvement in the use of contra-band militia for economic gain. That is, of the total number of people who identified SLDF as a Bungoma militia, 56.2% also said that the militia is tolerated by state agencies on the ground. The figure for no-core militia was 39%. This could mean that after the military operation in the area, demobilised groups continue to operate as SLDF. Not for the same cause as the original militia, but for market extraction as the statistical evidence indicated. If this is true, it must be noted that this is yet another identify switch from the state agents.

The Bungoma data reveals that the further away you move from Nairobi, the more complex the relationship between the police and militia gets. If

this is true, conflict in Bungoma is unlikely to get violent. However, should it assume the 2008 proportions, then the marketised militia organised by rogue elements in the state will kick in to take advantage.

## Chapter 5

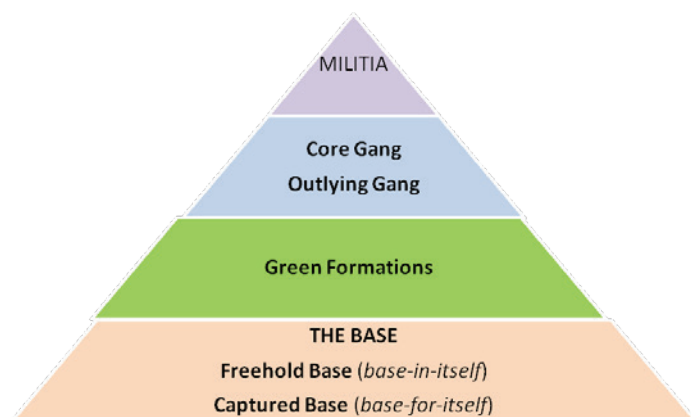
### The Four-Point Hypothesis

#### 5.1 The Original Sin: *Unveiling the 'Base'*

Our findings indicate that the relationship between the militia and community is threefold. One, it is **parasitic**. The gangs depend on community to survive; the politicians depend on the gangs to maintain hegemony. Two, it is **symbiotic**. There is an obvious mutual dependence between community and the gangs. This is pronounced in the areas of security provisioning and the supply of illegal services like tapped electricity, water and DSTV channels. This is what we have called 'organic crime' in the previous chapter. Three, it is **opportunistic**. This is not a programmed relationship. It is sporadic and for the most part, urgent. But before we interrogate the empirical evidence, we need to understand why the gang is embedded in community. And we wish to do so by examining the nexus point between the two: The Base. It is important to understand this nexus because all our policy and administrative recommendations are informed by the workings of The Base as the **irreducible minimum** for gang formation, sustenance and reproduction.

**The Base:** *Is this the Original Sin?* All gangs are incubated at The Base. They emanate from The Base and return to The Base. What is more: the police too are members of a base somewhere. The dominant 'base mode' for the police is the local pub. This is where they collect their 'taxes' on crime. But what is The Base? We came across The Base as we did the GIS mapping of gangs in 18 settlements across the country. And the more we interacted with it, the more we realised that the base is the 'foci' for crime. This is a gathering of young people in a specific space, usually around an economic activity like a barber shop, a pub, pool table spot or a car wash joint. This gathering is not sporadic. It has a specific membership, a code of conduct and a mentoring





programme. Almost always, it has an underwriter or a patron. The patron is predominantly an actor from provincial administration or the police<sup>133</sup>, although we identified some bases with patronage from politicians.

The base is the conduit through which crime happens; it is the incubator through which crime is hatched. Gang communication and intelligence gathering happen here. It is a reference point for incubation of ideas, networking, selecting, balancing and coordinating different forms of specialties. Criminal contracts are also awarded at the base. And in executing them, the base may have different nodes of cells. When a particular job presents itself; a cell is constituted to do the job. The pro-type of operations may be crude, but can resemble military operations.

The Base is not always a place for negative innovations. It can also be a place for collective social consciousness amongst the youth. And the collective consciousness is expressed through peer-to-peer mentoring, imitation, admiration, grooming and sharing of experiences. To the youngsters under 14 years, it is a trustworthy source of income. They watch their elder brothers go to the base and come home with cash. This is how they get recruited when they become of age. It is also noteworthy that the base is predominantly male. The female members are seen as 'camp followers.'<sup>134</sup>

**Types of Bases.** We identified two types of bases. The first one is what we called the '**captured base**'; while the second one we labelled the '**freehold base**'. The captured base is ethnic and homogenous in its interests. If the base is not ethnic its character is determined by '**criminal specialization**'. The freehold base is heterogeneous in its interests and multiethnic in character. The captured base produces hard-core gangs; while the freehold

133 Sometimes they use it for intelligence gathering or to be enjoined in predatory activities. This was the position taken by almost all the bases we interviewed.

134 Interview with chairman of Muungano wa Wanavijiji, February 2011.

base produces soft-core gangs. The captured base is a 'base-for-itself'; while a freehold base is a 'base-in-itself'<sup>135</sup>. That is, while the capture base has a stream of consciousness, either informed by ethnicity, history or religion, the freehold base has no ideological underpinnings. But a 'freehold base' can evolve into a captured base. And when this happens, hegemony in the base is maintained through ethnicity, religion or history. In the view of this report, militia formations like Mungiki and MRC operate using the 'captured base'. Similarly, security organs extract most of their 'rents' from these bases. Extraction from the freehold base can only be described as 'primitive accumulation.'

**Recruitment and Membership.** Two modes of recruitment are used at the base. Active recruitment is used by the 'captured base'; while passive recruitment is the preferred mode of the freehold base. Interaction between the two modes is what makes the idea of multiple memberships to different bases possible. One person can be a member of several bases, although membership to two 'captured bases' is unlikely. In this case therefore, most of the youth will be members to one captured base, and several freehold bases. But in both situations, expulsion from the base is possible. This happens when a member betrays the social code of the base and is labelled 'mtiaji'. In the case of the freehold base, such a member is expunged and ostracized. But for the 'mtiaji' in the captured base, expulsion could result in death.

**Leadership of the Base.** The leadership of the freehold base is collective, shared and rotational. The collective consciousness of the base is stronger than the individual leadership of one member. The situation is however, different for the captured base. The leadership here is defined and there is a clear-cut chain of command. While a leader in the captured base is transferable; the social capital acquired by a leader in the freehold base is not transferable. If one was a leader in a freehold base in Mukuru for instance, that capital cannot be transferred to another slum.

**Inter-Base Collaborations.** Some of the most sophisticated crimes are performed by a concert of bases. In such collaboration, they get the best criminals in a specific 'art' from each base and constitute a 'battery' of specialised criminals for a job. From one base, they will get the best sharp-shooter; from the next the most connected with the local police. But such collaborations are driven by the complexity of a crime. One driver of such collaborations was cited as the late Odour Osama, leader of the Bin-Laden gang in Korogocho<sup>136</sup>.

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135 Borrowed from Marxism concepts of 'class-in-itself' and 'class-for-itself'.

136 FGD with slum dwellers and the study enumerators for Nairobi, February 2011.

The existence and sustenance of the base is a function of the extent of distancing from community and the ability of state to capture and integrate the individual. The high proliferation of bases is an overt expression of the distance decay between the state and the society. The result is Mass wastage. And this wastage is of the most productive segment of society – the youth between 18 and 25 years as we shall demonstrate shortly.

## 5.2 The Gap Hypothesis: *From the Base to a Militia*

There are four steps in the trajectory of a gang to a militia as depicted in the figure below. We noted in the study that each step is occasioned by a gap. The gap is created by state absence or abstinence. It is also as a result of what we called ‘distance decay’. That is, the state is present, but not proximate. But of the two sets of explanations, state abstinence is the most probable cause of militia plethora in our view. And this is most obvious in our analysis of the militia trajectory from the base to ‘hard’ insecurity groups. We noted four progressions in this trajectory.

The first, of course is the base. This is also the most rudimentary form of a gang. The base is a solution-seeking forum. And this is why it is organic with respect to the security of community. But the base is also an opportunity-seeking gathering as well. Both the solution and opportunity seeking are a function of state exit, (absence or abstinence). The demand for a replacement to the void is therefore created at The Base. And the gang becomes the most natural replacement.

Base members who show talent and innovation are most likely to come together to constitute what we have labelled the ‘**green formation**’ as the second stage of gang-formation. We have used this concept in other analyses of crime<sup>137</sup>, but we use it in this study to connote a ‘raw’ and forming gang. At this level, the gang and its members are organised through ‘inchoate consciousness’. The ‘green formations’ are also the users of crude weapons analysed in the previous section. But this should also lead us to the conclusion that majority of the colourful gangs in Kisumu are just ‘green formations’. And this is probably by historical design.

For the most part, green formations are a response to a security gap. In all the study sites we visited, these formations were ‘graduated’ from the base to a pseudo-militia to protect the interests of community. And the reason this happened was because the state was unable to provide the requisite security to the poor. The green formations, therefore, are a ‘poverty response to security

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137 See for instance, Mutahi Ngunyi (2001) *Transition without Transformation*, (IDS, Sussex)

gaps.' At this level, the militia is still inchoate and organic. Its intentions are good and directed towards securing and securitising the community.

Increased opportunity and organisation can see a 'green formation' evolve into an **Actualised Organised Gang**, which is the third stage. At this stage, the gang is organised, connected and has a specific sphere of extortion. This is also the group with the proximate relationship with the police and provincial administration as we shall show later. The actualised gang is the user of the machete for 'symbolic power' and the gun for actual power. From our previous analysis on weapons of choice, we can argue that this category is dominant in Nairobi where 17.6% of the Nairobi gangs use machetes and 10.6% use guns or large calibre weapons. But it must also be noted that this group has grown because of an 'advanced' gap. While the gap the green formations fill is about securitising community, this type of gangs take advantage of state absence to exploit un-policed spaces. Instead of being security 'missionaries' like the green formations within community, the actualised gangs are opportunistic in community.

**Political Economy of Gang Exit.** At this stage, we need to make two observations. One, the fields of extortion in urban areas are transient, expanding and various. They provide the gangs with many accumulation possibilities and therefore options for exit into the formal markets. This is not true for the rural areas. The 'fields of extortion' in these areas are stationary, static and shrinking. As a result, gang options in terms of exit from the bandit economy and entry into the formal markets are limited. Frustrated by this, their likelihood to 'generate' a cause and constitute a militia movement is higher. And this is how Mungiki started. If the militia had not moved to the urban areas in search of greener fields of extortion, it would have developed into a fully blown militia by now. This brings us to the second observation.

If the actualised gang is able to accumulate enough and invest in the formal market, it has a greater chance of exiting from crime. This is how mungiki transformed its economic wing into SACCOs. Having accumulated enough through crime, it invested in matatus and the construction industry. Where members were unable to buy matatus, because their accumulation was insufficient, they got into the motorcycle business. Connections with banking innovations also seem to have assisted. Hypothetically, therefore, we can argue that their economic grievances were addressed through crime. And as a result, the need to pursue their engagements at the fourth stage of the gang trajectory, **a militia**, was frozen temporarily.

On its part, MRC evolved into a militia because its ideological underpinning does not allow for sufficient criminal accumulation<sup>138</sup>. And this is why the Mombasa criminals are also the poorest as we shall demonstrate in our discussion on the expanding 'bandit economy'. Unlike mungiki who used crime to resolve their economic grievances, MRC cannot resolve their issues through predation. The question therefore is this: Are they spoiling for an armed struggle? More so in the context of the devolved government.

### 5.3 The Symbiosis Hypothesis: *Gang Relationship with Community*

#### 5.3.1 Romancing the Community: *Of Gang Entry*

We discerned four stages of gang entry and embeddedness in community. One, the gang moves in to secure a community. At this level, gang legitimacy is high and the demand for its presence obvious. For the most part, the first stage happens as a response to the 'terror' of an already existing gang. The formation of Taliban to counter Mungiki and Sungu Sungu to counter MRC should be seen in this light. The counter-forces were formed to secure certain segments of community from the predation or aggression of the militia.

Once secured, the second stage for the gang is to **securitize** the secured space. Securitisation gives the gang undisputed legitimacy and popularity in community. They are seen as the 'good boys' coming to expel the 'bad boys'. Fundamentally, though, they are seen as the alternative security to the state. And this is why community members are willing to pay for their services. But this is not the core intention of the gangs. That is why security provisioning ranks lowest as a source of income for most gangs in both the urban and rural areas.

But once securitised, the gangs **crowd-out** any opposition from the community, including state security as a third stage. This is why in some places in Kibera, the police are unable to patrol. In fact, the 12 Disciples are said to provide 'security' for the provincial administration in certain spaces of Kibera. In such instances, the provincial administration has been crowded out. With this, the stage for predation and extortion is set. The fourth stage in engaging with community, therefore, is that of **extraction**. With the state agencies either absent or abstaining<sup>139</sup>, the gangs engage in the process of illegal 'taxation'. This is why in all the settlements we surveyed, crime and extortion were ranked the first or second source of income for gangs. Security

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138 This is a subjective assumption to be interrogated by the meeting.

139 We differentiate between the two in a bit.

was ranked, in almost all instances, as last or second last. Yet the original intention in community turning to gangs was fundamentally securing and securitising community.

The above, notwithstanding, the relationship between community and the gangs can only be described as a ‘see-saw’. Because of state absence and abstinence, the community finds itself in need of gangs. But once embedded, the gangs develop an appetite for crime and extortion, leading to their predation on community. And from this, their relationship with community becomes either parasitic or symbiotic. Let us nuance this.

**The Gang Pull Factor.** As already mentioned, most young people join gangs for economic reasons. Table 1, below shows this in the cases of Mombasa cited at 62.1% and Nairobi at 62.6%. This is however different for Kisumu. Economic opportunities as a pull factor accounted for only 36.2%. Peer pressure for Nairobi and Kisumu is the next significant pull factor. 25.4% of respondents in Kisumu and 18.9% in Nairobi said the youth are attracted to gangs because of peer pressure. Power prestige is another pull factor, but this is more pronounced in areas with ‘green formations’ compared to the areas where actualised gangs are present.

Table 5.1: The Gang Pull Factors

Reason for joining Gang	Kisumu	Mombasa	Nairobi
Peer Pressure	25.4%	7.7%	18.9%
Prestige and Power	16.1%	3.2%	3.4%
Protection	12.7%	9.7%	4.2%
Economic opportunity	36.2%	62.1%	62.6%

**The Economic Pull.** Although 62.1% of the youth in Mombasa were attracted to gangs for economic reasons, the Mombasa criminals are also the poorest. In our tabulation, those who join gangs in Mombasa end up earning less than Ksh 1000 per month; while the Kisumu gang members earn between Ksh 1,000 and 3,000 per month. The Nairobi ‘thug’ is the best paid, averaging at between Ksh 3,000 and 5,000. In fact, out of every Ksh 1 earned by the Kisumu gang, the Nairobi gang earns Ksh 1.5, while the Mombasa gang earns Ksh 0.3. The case of Mombasa is probably explained by the fact that the ‘bandit economy’ has its owners and is controlled by drug barons. As such, the sector of this economy that is controlled by the gangs is starved of cash. The other explanation is that the dominance of MRC in Mombasa denotes a calling beyond economic tokens. That the economic desire of youths when they join MRC is for economic liberation, not the tokenist rent-seeking and predation.

**Gangs and Community.** To measure this relationship, we asked the question: Between community/business/politicians and gangs, who depends on whom? If the returns showed a situation of mutual dependence, then we concluded that that relationship is symbiotic. If the returns showed a situation where one group depended on the other more, then there was an element of parasitism.

Community perception of gangs is dependent on age. The younger the respondent and the older the respondent, the more the relationship between gangs and community was viewed as mutual and symbiotic. This was maybe because the younger people have a romantic perception of society and the older ones have become disillusioned by the formal system. But in-between (18-24), this is the age comprising of the ‘extractionists’ and this age group confirmed that gangs depend on community at 63.6%. The ages between 25-30 are being weaned from gangs and are moving to the civic sphere thus the perception begins to change. However, their view was also that gang relationship with community is parasitic.

Overall, gangs were cited as being parasitic in community at 57.9%. The more hardcore the gang, the more parasitic it became. To determine the sources of parasitism and symbiosis, we asked the question: what are the primary sources of revenue for the gangs in your area? The results are contained in Table 5.2 below.

Table 5.2: Gang Sources of Income in Community

<b>Gang Source of Revenue</b>	<b>Percentage</b>	<b>Rank</b>
Extortion	64%	1
Crime	53%	2
Political Projects	41.5%	3
Investments in community	40.4%	4
Levies on illegal services	31.8%	5
Security provisioning	28.3%	6

Of the six sources of revenue, the respondents noted that the first three were parasitic, while the last three were symbiotic. That is, the community depended on gangs for illegal services such as water connections and electricity. And because of police absence, they also depend on gangs for security. These are business opportunities for the gangs resulting from a community demand. Hence, the two were seen as depending on each other with regards to security, provision of illegal services and community investments. However, for the others, which are also rated highest, the gangs were seen simply as predating on community.



Relating this with the discussion before, we concluded that the relationship between community, the base and the green formations is largely symbiotic. And this is because the base and the green formations are also the providers of the illegal services indicated on Table 2. But as the green formations graduate into actualised gangs, the relationship with community becomes parasitic. To survive, and accumulate, these gangs have to extort, engage in crime and act as political brokers.

**Gangs and Business**<sup>140</sup>. According to our respondents, this relationship is more parasitic than symbiotic. 58.5% of the respondents noted that gangs depend on businesses to survive. Another 26% said that the relationship is mutual and hence symbiotic. But when we nuanced this statistic further to establish which groups thought the relationship as symbiotic, a significant percentage was drawn from the transport sector, while the other was from the building and construction sector.

We further noted that these are the two areas in which the gangs have invested the most. No wonder the respondents from these sectors categorised the relationship as symbiotic. The majority who said the relationship was parasitic (58.5%) were drawn from sectors where gang interest is low.

**Gangs and Politicians.** While in the first two cases, the gang was cited as the parasitic element, in the relationship with the politicians, the reverse happened. 40.5% of the respondents noted that the politicians depended more on gangs than gangs on politicians. In this case, then, they are the parasites. But the statistics further revealed that 35.8% of the respondents thought the relationship was one of mutual dependence and symbiosis. When we interrogated this further, it emerged that the symbiosis is between the politicians and gang leaders as opposed to the entire gang. And this finding was actually corroborated by our FGD discussions with the slum dwellers. They noted that the politicians were more dependent on the gang leaders than on the gangs per se.

In terms of regions, the Nairobi and Kisumu politicians were more parasitic on the gang than the Mombasa ones. In fact, the level of symbiosis between the gangs in Mombasa and the politicians was alarmingly high. This could point to a possible collaboration between MRC and the politicians in the coastal area.

**Feminisation of Crime.** A curious finding of the study regarded women and their tolerance for criminal groups. In almost all the sites we sampled,

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140 We explore this relationship in detail in the next chapter of this note.

women viewed the criminal groups more favourably than men. In Kisumu, in particular, out of every 2 men who viewed the 'green formations' as illegal gangs, there was only 1 woman. The trend was repeated in both rural and urban areas. When we nuanced this finding further, we wanted to find out which type of women 'liked' gangs. For all the study sites, the woman attracted most to gang activities was from a nuclear female headed house-hold; not a single female headed house-hold. This is the woman who has a husband at home, but the man is moribund. The other category of women who 'liked'<sup>141</sup> gangs were the single ones for whom associating with a gang member in the slum was a form of security and a source of social power. For both women categories, the fact that crime pays the bills more regularly made it attractive. But we could not rule out female attraction to the 'Bad Boy' syndrome as well, particularly the younger woman. This sociological trajectory, was however, not pursued by the study.

In urban areas where the gang is more active, the woman was more accommodative of its activities too. And this is probably because the gangs provided jobs for their husbands and sons. This is why when we asked them which projects they preferred between 'Kazi Kwa Vijana' and 'Kazi Ya Vigilante', most favoured the former over the later. They told us that 'Kazi Kwa Vijana' is only known to burn the energies of youth. It is like a rocking chair: keeps them busy, takes them nowhere. The youth who have made it out of the slums have done it because of 'Kazi ya Vigilante'<sup>142</sup> But another finding worth of note is that Kazi Kwa Vijana in Central Kenya has been taken over by old women, something that makes it unattractive to the youth<sup>143</sup>.

#### 5.4 Distance Decay Hypothesis: *Gang Relationship with the State*

**Police Absence.** As our GIS mapping showed, the state is overpowered on the ground by the gangs. The force-to-space ratio for the state security is by far out-played by that of the gangs. That is, for every armed policeman, regular or provincial, there are 8 armed gang members. What is worse: the police are 'barracked' in a camp somewhere, a fact that makes their mobility difficult<sup>144</sup>. The result is absence from 'sites of action', a fact that creates demand for alternatives. 62.3% of the respondents told us that the regular police was absent in their localities and this is why they needed the 'symbiotic' relationship with gangs. The APs were more present, but they were viewed as incapacitated.

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141 Word used casually. Will be reviewed for final report

142 Also defined as work and opportunities supplied by crime.

143 Submission by the PC for Central Kenya, during the Mombasa Organised Crime Meeting to review the findings of this report.

144 This was confirmed by the former PPO, Kisumu. During the post-election violence, she noted that they were completely besieged in their 'barracks' by the rioting mobs. What is worse is that their armoury was situated much further than where the police lived. They could not enforce law and order for hours. (Interview with researchers, February 2011)

For instance, if they made an arrest, they have to take the suspect to a police station since they have no powers to detain. Barracking the police and APs, as opposed to embedding them in community is a policy design mishap. And this is why we are critical of the Ramsley Reforms that recommended an expansion of police barracks. Innovative policing, in our view, is what will bridge the absence of police and the proliferation of gangs. We return to this thought in our recommendations.

Regarding police presence, the closer you move to the urban areas the more present they are. But the more you move towards the rural areas, the more present the provincial administration. 60% of the respondents in urban areas told us that there was no relationship between the regular police and community in their areas. They further noted that the police have been captured by the 'bourgeois' spaces through private security companies<sup>145</sup>. To the contrary, there is a greater appreciation of the provincial administration compared to the regular police. In rural areas, 1 out of every 2 respondents noted that the relationship between the provincial administration and the community was strong. In urban areas, the ratio was 2 out of every 5. The other 3 respondents noted that the relation was either weak or very weak. Unlike in the case of the regular police, there was no indication that this relationship was absent.

**Police Abstinence.** Both the regular and administration police were viewed as abstaining from rule enforcement because they were beholden to the gangs. When we asked whether there was a relationship between the police and the gangs, 77.3% said 'yes' for regular police; while 55.2% said 'yes' for administration police. Asked to rate the relationship, those who said yes for regular police (77.3%), 32.2% said it was strong/very strong and 47.3% said it was weak. In the case of administrative police (55.2%), 23.1% said it was strong/very strong, while 32.2% said it was weak. The obvious conclusion here is that the regular police have been captured by gangs and are more beholden to them than the administration police. This conclusion, although requiring some further nuancing, should influence the police reforms. It should also have a bearing on the reconstituted police architecture under the new constitution. We will attempt a recommendation on this later.

**The Criminal Justice System.** If the police force, concierge of the criminal justice system, has been captured by gangs, what is left of the other criminal justice elements? We set out to measure the 'distance decay' between the justice system and the commoner affected by crime. And to do so, we asked the question: When faced by an injustice, whom do you go to for arbitration? 48% of the respondents said they report to the police or provincial administration.

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145 Every security van patrolling a bourgeois area has two armed police men for instance

This statistic was inconsistent with the earlier assertion that confidence level in the police service was low. And so we interrogated further by asking why? Majority of the respondents in FGDs told us that they go to the police not for arbitration, but to report. Once the matter is on record, they go ahead to administer justice their own way<sup>146</sup>. And the most efficient administrator here was cited as the gang. In Mombasa, however, the religious leaders attracted more of the arbitration cases than the gangs.

Surprisingly, and in almost all the study sites, confidence in the judiciary was low. 78% of the respondents said they are unlikely to get justice from the courts. This is why they prefer 'gang justice'. It is prompt and assured.

From the analysis above, community confidence in governmental institutions is low or non-existence. In such a situation, the distance between the law and the poor widens. Similarly, the distance between the agents of rule enforcement and the aggrieved grows. The result is exit. If the poor can find recourse in bandit formations, with speed, they will opt for them instead of the state agencies. And it is this distance decay that accounts for the proliferation of militia as the alternative 'agencies of the state'.

### **5.5 Oligopoly of Violence Hypothesis: *Why the Bandit Economy?***

At the core of organised militia is economic profit. And this is located at what we call The Bandit Economy. In a previous study (1997), we estimated that this economy generated as much as 20% of the formal economy. This has grown with time. In our estimation, The Bandit Economy is the site in which the criminal groups converge. And within it, the interests of both the organic and organised militia are moderated. Players within the state migrate to this space to dodge formal law more so in a situation where a political deal could be botched by formal institutions is anticipated. But, as per our findings, the political class has also migrated into this arena in search of speedy accumulation. To facilitate this, the gangs get involved as the executioners. But since their acts are violent, the political class cannot exert monopoly from the state side to stop them. This is how oligopoly happens. Many manufacturers of violence emerge, some located in the state, others outside of it. But their ultimate convergence point is the Bandit Economy.

**Taxation by the Bandit Economy.** Gang taxation depends on whether you are located in the 'static' or the 'shifting' sectors of the bandit economy. The static sector is largely in the rural areas. It is built around a shrinking

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<sup>146</sup> In other instances, they noted that in a situation where they intend to commit a felony, they first report to the police before carrying it out. This way, they are covered.

resource<sup>147</sup>, like land. The ‘shifting’ sector is in urban areas. It is dynamic, expanding and multiplying. A good example here is the transport sector. The closer you get to the urban areas, the higher the likelihood of petty taxation. Our survey showed that 53.3% of those in urban areas are subjected to petty taxation compared to 49.9% in peri-urban areas and 27.3% in rural areas. But there is a nuanced difference between urban and rural taxation. In urban areas, the ‘tax base’ is wider and frequency of taxation higher. In the rural areas, the ‘tax base’ is narrow, given the shrinking resource base. This means that petty taxation, although infrequent, is higher in value. Our statistics show that the organised rural gang is likely to earn 1.5 more than the urban gang. In both the urban and rural areas, petty taxation takes the form of security and protection.

**Difference between Security and Protection.** Protection tax is originated by a criminal gang. It is supply driven. This is a situation where a threat is issued, and to avert its execution, a tax is paid either daily, monthly or occasionally. If protection is supply driven, security tax is demand driven. The threat requiring protection is known and methods of execution clearly spelt out, but the threat that attracts security tax is unknown. In the bandit economy, the two forms of taxation are applied differently to the ‘static’ and ‘shifting’ sectors. Table 3.1 below shows some trends from our field results.

Table 5.3: Protection Taxation by Trade

Trade	Daily Taxation	Occasional Taxation	Monthly Taxation
Hawker	11.7%	19.5%	9.1%
Small scale trader	13%	15.4%	11.8%
Hustler	14.1%	13.5%	10%
Matatu Tout / Driver	19.3%	16.5%	8.9%
Subsistence Farmer	15.4%	11.5%	34.6%

The above statistics tell a number of stories. The daily and occasional taxation could imply that the area of business operation is transient. The taxation is therefore sporadic, urgent and opportunistic as a variety of known threats emerge. To the contrary, monthly taxation is indicative of a stable, systematic and consistent predation. This could also mean that the areas of business operation are ‘static’. By extension therefore, we can conclude that where ‘fields of extortion’ are not permanent, the illegal taxation is sporadic, opportunistic and regular. Where the ‘fields’ are permanent, the extraction is more organised. And this is what explains the fact that 34.6% of the subsistence

147 Shrinking in the context of a growing population.

farmers said they pay protection fee. But this must be contrasted with the case of security tax. Table 3.2 below gives the impression that protection tax and security tax are inversely related.

Table 5.4: Security Taxation by Trade

Trade	Daily Taxation	Occasional Taxation	Monthly Taxation
Hawker	6.5%	11.7%	18.2%
Small scale trader	11.4%	13%	5.3%
Hustler	8.6%	10.2%	11.8%
Matatu Tout/Driver	10.1%	10.1%	13.9%
Subsistence Farmer	30.8%	0%	19.2%

The table above and the one before it confirm our earlier assertion that the agricultural sector is the most affected by petty taxation. Not in terms of volumes of taxation, but the intensity of it. But the table tells another story. While on protection tax, the farmer made a monthly payment, on security, the payment is daily. The reverse obtains for the hawker. She/he paid a higher premium for protection on a daily basis. However, the tax for security is higher on a monthly basis. This begs an obvious observation, therefore: the static spaces of business attract 'daily' insecurities (unknown threats) than the shifting spaces. Let us explain.

The reason why the protection tax for the hawker is a daily affair is because the threat is not singular. There are many threats presenting themselves on a daily basis as she/he hawks from one place to another. Security, however, is a more permanent affair for the hawker and hence the monthly payment. And this is probably because they are secured by a known gang, or security agency with whom they have developed a symbiosis. For the farmer, on the other hand, the protection tax is paid on a monthly basis because his threat is singular in form and is known. Protection tax, therefore, is paid in a structured way at the end of every month. But the farmer, unlike the hawker, faces more security threats on a daily basis. This is why 30.8% of the farmers said they pay a daily tax for security. The above situation points to a probable difference between the urban and rural gangs. But these being preliminary findings, we have not nuanced this difference yet.

**The Cost of Crime.** The survey interviewed 1000 micro to small enterprises in four provinces. The interview schedule divided them into different sectors. The critical sectors being transport, construction, real estate and finance. The intention was to find out what the cost of embedding crime was and to

consequently compare this with the cost of inaction<sup>148</sup>. Of the total number of respondents, 62.6% confirmed that gang activities had affected their businesses adversely. We ventured to ask how. To this, 61.7% said that criminal gangs had affected their profitability, 55.8% their suppliers, and 54.4% said they had affected their location of business. From here we asked how much they spend a year securing their businesses. Table 3.3 below, has the statistics.

Table 5.5: The Cost of Securing a Business: 2009 and 2010 figures

Cost in Kenya Shilling	Percentage For 2009	Percentage For 2010	Average capital layout
5000 – 10,000	37.8%	40.7%	50,000 – 100,000
10,000 – 100,000	31.0%	31.5%	100,000 – 1000,000

**Cost of Securitising.** The above table shows that business enterprises pay up to 10% of their capital layout to securitize their operations. The figure also suggests that the smaller the business, in terms of its capital layout, the higher the price of securing its operations. For the SMEs, the cost of security is highest in the transport, followed by the real estate sectors. From our statistics, 32.2% in the transport sector paid between Ksh 100,000 and 1 million on security, while 24% of those in the real estate sector paid a similar amount in 2010. But the case of transport sector remained curious. What was paid on an annual basis for security is equivalent in many respects to what they said their capital layout was. This was not true for the 24% in the real estate business. As we were grappling with this ‘anomaly’, we also noticed another curious statistic.

**Fake Profitability and Rogue capital.** We noticed that those businesses with the lowest capital layout had the highest annual profits. When we nuanced this statistic, we were told that criminal gangs use the small business enterprises to launder their money. That a gang can operate a hardware shop which makes six times its capital layout in a year. And that this trend started with the emergence of innovative banking products like agency banking. With banks extracting deposits from the lowest level of community through a mobile phone, owners of ‘hardware’ shops can morph ‘criminal money’ through the banks without a trace. This finding begs a policy recommendation.

**Revenue lost to Crime.** Like the cost of securing business, a significant number of businesses noted that they lost close to 10% of their revenue to illegal taxation and crime. Curiously though, and in reference to rogue capital above, 26.7% of the respondents who made less than Ksh 500,000 also paid over Ksh 100,000 to crime. Most of this was in the construction and transport

148 To be done at the analysis level in the final report



industry<sup>149</sup>. Table 3.4 below shows the levels of revenue loss to crime. It does not tell us much, and the figures not included do not either. But one obvious conclusion from this is that for every Ksh 10 invested in the surveyed sectors, Ksh 1 will be lost to crime. Combined with the cost of securing a business, this accounts to close to 20% loss to both crime and security costs for the micro and small businesses. The implication to the economy is significant.

Table 5.7: Revenue Loss to Crime: 2009 and 2010 figures

Cost in Kenya Shilling	Percentage For 2009	Percentage For 2010	Average capital layout
5000 – 10,000	37.4%	41.2%	50,000 – 100,000
10,000 – 100,000	33.1.0%	32.4%	100,000 – 1000,000

**Hypothetical Impact of Crime on Business.** As the analysis above shows, on average, the capital layout of the micro to small businesses is hogged by crime at 10% per year. Another 10% is hogged by the cost of security per year. In total, 20% of the capital layout is lost to crime-related costs. This means that in 5 years, the entire capital layout of these businesses will be hogged up by crime. Regardless of levels of profitability, especially for the genuine businesses, they are bound to collapse after the 5 years. It is no wonder that a recent study by the IDS, University of Nairobi noted that these businesses survive for only 3 years on average. But what is the implication of this to the economy, and the innovative banks in particular?

**Collapsing Financial Institutions.** This study has noted that the lifespan of most Micro-finance institutions mirrors that of the small scale businesses. And that indeed, as these enterprises collapse from predation, the MFIs are faced with a high level of defaulters. At first they limp, then they collapse. But the MFIs are not the worry here. The area that cries for attention is innovative banking.

Through the Agency Banking Model, banks have ventured downwards, where the state is ‘absent’, abstaining, or overwhelmed. Their innovations seek to extract deposits from the smallest business and to provide financing to their investments. As noted earlier, this group of clientele is increasingly becoming the bedrock of innovative banking in Kenya. And in our estimation, the attraction is caused, unwittingly, by the high levels of criminal money needing some laundering. But as the banks launder the money (unknowingly), the small businesses that borrow from the same banks and are predated upon by the gangs face collapse. The question to pose here is this: Will the

149 We have not unpackaged this yet.



innovative banks survive the fate the MFIs have faced? We will make a policy recommendation on this as well.

**Government Youth Projects.** If the Youth Fund is meant to support small enterprises, will it have a future, in the context of criminal extraction? The government spends about Ksh 1 billion on this fund per year, supporting the youth enterprises. If they pay 20% of their returns to crime per year, we can assume that the Ksh 1 billion for the Youth Fund parts with Ksh 200 million per year to criminal gangs.

But where does this money go to? As mentioned earlier, some of it is invested in the transport sector, construction, and real estate. However, our hypothesis is that another portion is siphoned out of the country through external cartels with powerful connections internally<sup>150</sup>.

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150 Hypothesis given to us by a current Assistant Commissioner of Police and a former senior officer at the AP.



## Chapter 6

# The Regulatory Double Bind

### 6.1 The Legal Bind

#### 6.1.1 The White, Blue and No-collar Crimes

**White collar crime.** These are the crimes committed in the civic sphere as proceeds from the Bandit Economy enter into the formal economy. White collar crime incorporates *inter alia*, arms trafficking, drug peddling and money laundering. The sanitization of the rogue capital from the bandit economy is through innovative formal and recognized banking products and mobile transfer solutions. The *hawala* system also allows for the transfer of money outside of the formal banking system. Money in the mobile transfer system is money disconnected from the rest of the economy and thus can be used as a conduit for money laundering. The Proceeds of Crime and Anti-Money Laundering Act<sup>151</sup> is the main buffer against the misuse of Kenya's financial system for money laundering purposes. Despite the enactment of the Anti-money Laundering Act in 2010, \$2.1 billion inexplicably found its way into Kenya's economy.<sup>152</sup> The Bandit Economy may be so entrenched that any attempt to bring it to an abrupt end may result in a decline in the growth of the Kenyan economy.

**Blue collar crime.** These are the highly visible crimes committed by the gangs, from violent crimes to theft where the victim of the crime is the society. Unemployed youth are at the highest risk of committing blue collar crimes. The perpetrators of these crimes believe that they have nothing to lose and everything to gain by the success or failure of the crime, and the crime is

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151 Act 9 of 2009

152 Jaindi Kiseru, "Mystery of Sh164bn Smuggled into Kenya," Daily Nation, May 21, 2010, available at <http://allafrica.com/stories/201005200888.html>

committed due to environmental pressures. The threat of eviction or death during Post Election Violence (PEV); peer pressure or a feeling that there are no other options are some of the pressures. The Penal Code (Cap 63) is the principal legislation that holds the criminal law of Kenya. The Penal Code defines crimes and establishes the parameters of penalties while the Criminal Procedure Code regulates the enforcement of criminal law. There are three categories of blue collar crime perpetrated by gangs. One, economic blue collar crime. Two, physical blue collar crime. Three, political blue collar crime.

**Economic blue collar crime.** It comprises of *inter alia*, extortion, illegal taxation, illicit brew, cattle rustling, possession of firearms (can be economic or physical depending on the purpose of the person in possession of the firearm).

**Physical blue collar crime.** It comprises of *inter alia*, theft, civilian atrocities: crimes against humanity, grievous bodily harm (cutting off women's breasts), murder, killing police officers, kidnapping, oathing, arson.

**Political blue collar crime.** It comprises of mass murder/ targeted killings (for example during PEV), political violence/ election violence.

**No collar crime.** These are crimes where the victim is the state, not an individual. It is a crime committed to fill in gaps created by state absence. This absence produces opportunities for entrepreneurship. Gangs provide access to services which are within the mandate of the state to provide, such as water and electricity, regulating consumption and charging levies for use. However, in the absence of regulation the emergent groups operate outside the legal framework. In this study, we also called this kind of crime, organic crime.

### 6.1.2 Organized Crime.

Organized crime is multi-faceted. It manifests itself in different activities such as drug trafficking, trafficking in human beings, smuggling of immigrants, trafficking in firearms and money laundering. The Prevention of Organised Crime Act<sup>153</sup> is the principal legislation on organized crimes in Kenya. Internationally, the United Nations Convention against Transnational Organized Crime<sup>154</sup> is the main instrument in the fight against transnational organized crime. The Convention is supplemented by three Protocols, which target the specific areas and manifestations of organized crime: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women

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153 Act 6 of 2010

154 Adopted by General Assembly resolution 55/25 of 15 November 2000

and Children; the Protocol against the Smuggling of Migrants by Land, Sea and Air; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.

The term ‘organized crime’ is difficult to define<sup>155</sup>. However definitions of the offence commonly entail some element of ‘serious crimes’ and a certain level of organization and structure. The Prevention of Organized Crime Act defines an ‘organized criminal group’ as a “structured group of three or more persons, existing for a period of time and acting in concert with the aim of - (a) committing one or more serious crimes; or (b) committing one or more serious crimes in order to obtain, directly or indirectly, a financial or other material benefit or any other advantage for the organized criminal group or any of the members of organized criminal group”<sup>156</sup>. The interpretation section<sup>157</sup> of the Act also includes definitions of ‘serious crime’ and ‘structured group’. The problem with this definition is that it relies on ‘indicator criminality’, those who engage in some of the listed acts are not guaranteed to be participating in what could be termed ‘organized crime’<sup>158</sup>. This also makes statistics about crime in Kenya largely unhelpful in identifying levels of organized crime in Kenya. The statistics simply list crimes, such as robberies, assaults, murders. The problem not only relates to the difficulty of defining the term but also the definition in the Act that fits closely with the approach that has been taken by many other countries. A clear definition of organized criminality is important as definitions determine who can and cannot be legally pursued for their participation in a crime. A conviction for engagement in “organized criminal activity” carries with it a “fine not exceeding five million shillings or to imprisonment for a term not exceeding fifteen years, or both”<sup>159</sup>. The Act also sentences those who participate in oath-taking<sup>160</sup> and those who are involved in acts of organized criminality that result in the death of another person<sup>161</sup> (or people), to life imprisonment upon conviction. In light of the transnational nature of organized crime, the Act provides that the Attorney General or any official designated by him can initiate mutual legal assistance and information sharing when such is deemed necessary<sup>162</sup>.

**The Police Force.** The Penal Code states that the “Police Force” shall include both the Kenyan Police and the Administration Police<sup>163</sup>. Currently all the forces are put under the command of the Inspector General of Police unlike

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155 Hauck, Pierre and Sven Peterke. 2010. “Organized crime and gang violence in national and international law,” *International Review of the Red Cross*, Vol. 92, No. 879, pp. 407-436

156 Section 2, Prevention of Organized Crime Act

157 Ibid

158 Supra note 4

159 Section 4 (1), Prevention of Organized Crime Act

160 Section 5, Prevention of Organized Crime Act

161 Section 4 (2), Prevention of Organized Crime Act

162 Section 21, Prevention of Organized Crime Act

163 Section 2, Penal Code

previously when the Administration police was administered to the Office of the President. Under the new constitution, the police force changed its name to the Police Service.

**Kenya Police.** The functions of the Kenya Police Force (now the Kenya Police Service) are outlined by the Police Act of 1961 (Chapter 84), in conjunction with the Police Regulations of 1961 (which were incorporated into the 1988 revised edition of the Police Act)<sup>164</sup> and the Standing Orders, which were most recently revised in 2001 and reviewed and changed to the Kenya Police Service Act 2011<sup>165</sup>. The Standing Orders provide general instructions for behavior and are issued by the Commissioner of Police now the Inspector General (IG). Section 14 of the Police Act (1988) lists the functions of the police, which include the maintenance of law and order, preservation of the peace, protection of life and property, prevention and detection of crime, apprehension of offenders, and the enforcement of all laws and regulations with which the Force is charged. The police are also mandated to regulate traffic<sup>166</sup> and to maintain public order<sup>167</sup>. However, it is interesting to note that the police force is legally allowed to be privately hired.<sup>168</sup>

**Administration Police.** The Administration Police was established by the Administration Police Act of 1958 during colonial rule, and is subject to its own Standing Orders.<sup>169</sup> Originally a tool of “control” over indigenous people, the Administration Police force was moved to the Office of the Prime Minister, and later the President, at Kenya’s independence.<sup>170</sup> The responsibilities of the Administration Police include: executing orders and warrants, preserving the public peace, assisting Government officers in the exercise of their lawful duties, preventing the commission of offences and apprehending offenders.<sup>171</sup> Like the Kenyan Police, the Administration Police can be privately hired.<sup>172</sup> Numerous groups, especially human rights groups, question the existence and utility of the Administration Police. Not only does their role appear to be unclear, but there are also numerous reports of human rights abuses committed by members of the forces.<sup>173</sup> According to one evaluation of Kenya’s police forces, at a conference in 2003, the Deputy Permanent Secretary in the Office of the President gave two conflicting descriptions of the function of

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164 Section 5, Police Act

165 Section 4, Police Act

166 Section 26, 27, Police Act

167 Section 16 (1), Police Act

168 Sec 45 of the Police Act, Part V of Regulations

169 Van der Spuy, Elrena and Ricky Röntsch. 2008, p. 10, 12

170 Van der Spuy, Elrena and Ricky Röntsch. 2008, p. 12; See <http://www.administrationpolice.go.ke> [last accessed 10 Nov 2010]

171 Ibid

172 Ibid

173 Alston, 2009 (A/HRC/11/2/Add.6).

the Administration Police, and claimed they were now receiving specialized training for combat situations.<sup>174</sup>

Perhaps one way in which securitizing conflict areas could be achieved would be to assess where militia groups thrive. Regarding both the Administration Police and Kenya Police, central government has to set out a thorough framework in law to bridge the gap created by the lack of effective and present policing by State security. This revolves around restructuring of internal and external security architecture. The agenda would be to reduce the distance decay between the state and militia groups- to reduce insecurity and make the space unfavourable for bandit elements. This would need a conscious initiative of policy and institutional re-engineering. Securitization is about resolving threats in particular communities. The issues surrounding security have to be addressed by collapsing them into 5 sectors: political, economic, military, environmental and societal.

The force to space ratio between the citizen and elements of the state has to be narrowed so that higher police presence can be felt, this aims at rectifying the outdated logic of deployment of the police force which still operates under a colonial logic. One of the main obstacles to progress remains the colonial rationale/ logic under which both these forces operate.

### 6.1.3 Proliferation of Small and Light Weapons

**Small Arms and Light Weapons.** The proliferation of firearms is a threat to security. Illegal firearms trafficking and use constitute a major component of domestic and transnational organized crime. Similarly, constant political instability and internal power tussles in many countries precipitate arms trafficking. The connections between availability of Small Arms and Light Weapons (SALW) and armed violence are many and strong; with numerous reports linking the intensification of inter-community violence, the militarization of cattle-rustling practices, and the rise in organized crime and general insecurity in Kenya to the increased availability of SALW.<sup>175</sup> While it is evident that there is an important link between availability of SALW, government policies dealing with SALW, and participation in armed violence, no direct link has yet been established between militia formation and SALW availability or policies.<sup>176</sup> This lack of a formally-studied connection does not mean that the linkages do not exist. It is possibly an indication of the difficulty in finding information on illegal arms and activities, which are understandably secretive in nature.

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174 Van der Spuy, Elrena and Ricky Röntsch. 2008, p. 12-13.

175 Bevan, 2008; Mkutu, 2006; NAP, 2006: 3; Njoroge, 2007

176 Interview with SAFERWORLD representative, Nairobi, November 9 2010.



One way in which these linkages may exist is by the lack of effectiveness by the regional and international frameworks. They have not been able to effectively deal with the proliferation of small and light weapons within certain regions and borderline regions. Unpatrolled and unsecured zones such as those in the Northern Kenya region, with porous borders, where the nomadic communities reside have acquired weapons over time with relative ease and have resorted to self protection. They have also become a source of easy and cheap supply of illegal firearms in major urban areas in the country, particularly Nairobi and Mombasa. The international and regional frameworks, though well intended have failed at the enforcement level.

Regionally, Kenya has been recognized as a leader in its efforts to control the proliferation of SALW. However, the past ten decades have marked a significant increase in militia grouping and formations. Some of these militias have been known to arm themselves using small and light weapons, creating a lucrative market for weapons suppliers. Having deciphered militia typology, more emphasis should be placed through the regulatory laws and enforcement on curtailing the proliferation of small arms as well as securitizing porous borders.

**Regional and International Regulation of Firearms.** Kenya is a signatory to a number of regional and international initiatives to control small arms. At the global level, Kenya has signed the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in all its Aspects (UNPoA), as well as the United Nations Firearms Protocol<sup>177</sup>, which is a legally-binding agreement on specific aspects of small arms control. Kenya is also a signatory to a number of major regional initiatives such as the Nairobi Declaration (2000),<sup>178</sup> the Bamako Declaration (2001), and the legally-binding Nairobi Protocol that was signed in 2004 and came into force in 2006.<sup>179</sup> Kenya also hosts the Regional Center on Small Arms (RECSA), which is the coordinating body for small-arms activities in the Horn of Africa and Great Lakes Region.<sup>180</sup> Despite this regulatory framework, it is of note that most of the current regulations do not sufficiently address the issue of brokering firearms. Although arms brokering is not an illegal activity per se, “unregulated and poorly regulated arms brokering activities may result in small arms and light weapons transactions that increase the risk that arms are diverted to conflict-prone areas and embargoed entities. It also adds to the risk

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177 The Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunitions, supplementing the UNCTOC, came into force on 3 July 2005.

178 Nairobi Declaration on the Problem of the Proliferation of Illicit Small Arms and Light Weapons in the Great Lakes Region and Horn of Africa (signed March 2000).

179 Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa (signed April 2004, came into force May 2006).

180 See RECSA website: <http://www.recsasec.org/kenya.htm> [last accessed 5 Nov 2010]

of fires supply to organized criminal and terrorist groups.”<sup>181</sup> Arms brokering controls require clear legal standards and practical monitoring of SALW transactions. The UN Group of Governmental Experts established to consider further steps to enhance international cooperation in preventing, combating and eradicating illicit brokering in SALW recommend the following national measures in their report<sup>182</sup>; the formulation of a national needs assessment; integration of this into a National Action Plan; inclusion of national needs in Plan of Action (POA) reporting, with a contact point, and dedication of a specific section in the POA report to brokering. In June 2004, Kenya’s National Action Plan for Arms Control and Management (NAP) was approved by the Permanent Secretary for Provincial Administration and Internal Security. This move replaced the Firearms Act as the single most significant domestic framework for dealing with SALW proliferation. The Kenya National Focal Point on Small Arms and Light Weapons (KNFP) led the process that created the NAP, which included a comprehensive national assessment of the scope and nature of Kenya’s SALW problem.<sup>183</sup> The NAP was officially launched in 2006, although its implementation had already begun with the drafting of a national SALW policy—which is still in consideration.<sup>184</sup> Additionally, over 200 civil society organizations (CSOs) from across the country had been trained to take action.<sup>185</sup>

**National Regulation of Firearms.** The Fire Arms Act<sup>186</sup> regulates licensing, certification, and acquisition of firearms. The sale, transfer, purchase, acquisition and possession of semi-automatic or automatic assault weapons is restricted to persons in the service of the Government acting in their capacity as such and authorized in writing by the Minister or a person of a class authorized in that behalf by the Minister by notice in the Kenya Gazette<sup>187</sup> while private possession of a handgun is only permitted under license. It is difficult to obtain a license to own a gun in Kenya. Before an applicant is granted a license he/she is to satisfy the licensing officer that he/she has a good reason for purchasing, acquiring or possessing a firearm or ammunition<sup>188</sup>. Private sale, transfer, repair or test of firearms and ammunition is prohibited except by an auctioneer if he has obtained from a licensing officer a permit for

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181 Report of the Group of Governmental Experts established pursuant to General Assembly resolution 60/81 to consider further steps to enhance international cooperation in preventing, combating and eradicating illicit brokering in small arms and light weapons, UN document A/62/163, 30 August 2007, paragraph 1

182 Ibid

183 Government of Kenya, Office of the President, Kenya National Focus Point on Small Arms and Light Weapons (KNFP). 2006.

184 Ibid

185 Njoroge, Mbugua. 2007. “Small Arms and Light Weapons in Kenya,” Africa Files, at eZine, February. Available: <http://www.africafiles.org/atissueezine.asp?issue=issue5#art2>[last accessed 10 Nov 2010]: 5

186 Chapter 114 of the Laws of Kenya

187 Section 26, Firearms Act

188 Section 5, Firearms Act

that purpose<sup>189</sup>. All firearms dealers are to be registered by the Chief Licensing Officer. The unlawful possession of a gun is a serious offence punishable by imprisonment for life<sup>190</sup>.

**The national regulation on firearms** in Kenya has three shortcomings. One, there is no evidence of a provision in law limiting the number of firearms or the quantity of ammunition that a licensed firearm owner can possess. Two, the determination of whether an applicant for registration as an arms dealer will be a danger to public safety and to the peace rests solely on the Chief Licensing Officer<sup>191</sup>. Three, there is no evidence of a provision in law requiring applicants for a firearm license to undergo a theoretical and/or practical training course and test on firearm safety and the law. These provisions expose civilians to the risk of death at the hands of inexperienced firearm license owners and corrupt arms dealers.

The illegal access to SALW is rather telling since the proliferation of weapons through the country's porous borders has been on the rise. Although the law may serve as a severe deterrent in acquiring an illegal firearm, the ease with which a weapon can be acquired illegally and disposed of sheds light in the disconnect between the law and its enforcement. Perhaps the law should be more focused on the circumstances surrounding the ease with which militia's can access SALW. The threat could be said to lie with the illegal arms dealers and holders, not the groups and individuals with legal access to them.

#### 6.1.4 Challenges to the Regulation of Crime

**Conviction:** Kenyan law requires that for a conviction to result the prosecution must prove beyond reasonable doubt the case against an accused person. That means that if evidence is not provided or the burden of proof is not met then the court will acquit an accused person. The investigation of criminal cases is undertaken by the Kenya Police. The Director of Public Prosecution can direct the Inspector-General of the National Police Service to investigate any information or allegation of criminal conduct and the Inspector-General is obligated to comply with such direction<sup>192</sup>. The police to population ratios in Kenya are much higher than the internationally recommended ratio. This reduces the capacity of the Police to effectively investigate crimes in general and organized crimes specifically as the evidence required to prove common intention to commit crime is higher.

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189 Section 12, Firearms Act

190 Section 4A (1), Firearms Act (Cap 114)

191 Section 13 (1) (ii) Firearms Act

192 Article 157 (4), Constitution of Kenya

In the case of **R Vv Stephen Kiprotich Letting & 3 Others**, four people, Emanuel Kiptoo Lamai, Clement Kipkemei Lamai, Stephen Kiprotich Leting and Julius Nyongio Rono, were jointly charged with 7 counts of murder. This case involved the Kiambaa fire incident that occurred on the 1<sup>st</sup> of January 2008 at Assemblies of God Church in Uasin Ngishu District within Rift Valley Province. They all pleaded not guilty and the prosecution, in its endeavour to establish the charges, called a total of 31 witnesses. The accused were acquitted of all charges due to lack of evidence. In his judgment, Justice Maraga highlighted several flaws in the Kenyan criminal justice system as follows: “Given the importance of this case and for the benefit of the public, I wish to state a truism in our criminal jurisprudence: out of 100 suspects, it is better to acquit 99 criminals than to convict one innocent person. Because of that, our law requires that for a conviction to result, the prosecution must prove beyond reasonable doubt the case against an accused person. That is why many suspects are released. Courts therefore decide cases on evidence as by law required. If they fail to do that the critics will be the first ones to lambaste them with allegations of incompetence. In this case, without placing any evidence on record, the prosecution wants me to find that the accused had a common intent with the murderers of the deceased and were part of that joint enterprise. That cannot be. Our security agencies have to do their work and do it properly otherwise our people will be despondent and will take the law into their hands as is already happening in some parts of the country. And the consequence of that is obvious: total anarchy. If there is any problem in the police force like not being adequately facilitated to combat crime, that issue should be urgently addressed otherwise we will continue crying foul and crime will continue soaring.”

**Prosecution:** The Constitution vests the power to conduct prosecutions in the Director of Public Prosecutions (DPP). The DPP is empowered to undertake three tasks before any court other than a court martial<sup>193</sup>. One, institute and undertake criminal proceedings against any person in respect of any offence alleged to have been committed. Two, take over and continue any criminal proceedings that have been instituted or undertaken by another person or authority, with the permission of the person or authority. Three, discontinue at any stage before judgment is delivered any criminal proceedings instituted or taken over by him/her. The powers of prosecution are exercisable by the DPP in person or by subordinate officers acting in accordance with general or special instructions. Thus the DPP has empowered state counsel in the superior courts and police in subordinate courts to exercise his power of prosecution.

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193 Article 157 (6), Constitution of Kenya

**State Prosecution:** The Department of Public Prosecutions now the Directorate of Public Prosecutions (DPP) undertakes criminal prosecution and represents the State in criminal prosecutions, appeals and revisions. State Counsels in this department are qualified advocates of the High Court who appear before the High Court on prosecutions and appeals.

**Police Prosecution:** Before the promulgation of the new Kenyan Constitution, the power to conduct prosecutions was vested in the Attorney General and in 1972, due to an increase in the volume of criminal cases, the Attorney General delegated the responsibility of prosecuting in subordinate courts to the police<sup>194</sup>. Police prosecutions have three short comings. One, although the exercising of the powers delegated by the Attorney General is supposed to occur under the supervision and direction of the Attorney General, in practice the Attorney General plays no role in the appointment, deployment or discipline of police prosecutors. The police prosecutors were ultimately answerable to the Commissioner of Police. This duality of roles resulted in divided loyalties thus undermining the proper conduct of prosecutions. Two, investigation of crimes, preferring of the charge and prosecution of the case was conducted by members of the same institution, creating opportunities for collusion and perceptions of a lack of impartiality and independence in the prosecution. Three, a majority of cases were thrown out by courts for lack of sufficient evidence. Police prosecutors were not legally trained on the rules of evidence and thus could not definitively identify what would constitute admissible evidence.

**Police Inefficiency:** Many Kenyans perceive the Kenya Police as an inefficient, brutal, anti-people institution that lacks transparency and accountability<sup>195</sup>. According to the Commission of Inquiry into the Post-election violence (CIPEV), most elements in the security sector threw away all pretenses at professionalism during the crisis. While some allowed themselves to be actively used for partisan political purposes, others rendered assistance to citizens' distress based on their political alignments and ethnic identity or affiliation. Still others became accomplices in criminal acts and committed murder, rape, arson, and theft<sup>196</sup>. The CIPEV Report further found that members of the Kenya Police used unnecessary and disproportionate force. Of the 1,133 people that were established to have died during the violence, 405 had died from gunshots, a significant number shot from the back. Of the 3,561 who were injured and treated, 557 had gunshot wounds<sup>197</sup>. Although the Kenyan police and security forces are widely mistrusted and have been accused of engagement in corruption and other criminal activities, they

194 Legal Notice No 234/1972

195 Kenya Bribery Index 2001-2010 published by Transparency International-Kenya

196 Commission of Inquiry into the Post-election Violence (CIPEV) Report pg 396-398

197 Ibid

face many challenges such as low salaries, poor living conditions, lack of equipment, and as a result, often suffer from lack of motivation.<sup>198</sup> As such, community involvement in policing is further advantageous in the sense that it can help relieve the strain that is put on overworked police.

Community policing presents an expedient and pragmatic approach to dealing with the shortage of the formal state security apparatus. However, it must be noted that the incorporation of community members may prove a risky strategy. The community police may turn predatory on the communities if disgruntled, particularly in the event that their needs are not incorporated into the formal state security apparatus.

The approach in legislative drafting and enforcement seems rather out of date, and without regard to the traditional cultures and attitudes of the communities. For instance, when one or more communities regard pastoralist raids as criminal, others regard them largely as ritual demanded by tradition. Pastoralist raids have led to the expansion of weapons proliferation. The politics of scarce resources has also led to the rise in weapons proliferation as communities realize that their only way of ensuring their survival and exert their political influence is through violence and acquisition and retention of these SALW. State retreat and fragility has provided the perfect conditions in which communities have taken to provide community protection in the form of vigilante groups/ militia's.

#### 6.1.5 Private Security: Regulating the *De Juré* Militia

**The Private Security Sector:** Private security provisioning is part of an uneven market. The private security industry has grown largely as a result of this widespread insecurity.<sup>199</sup> However, private security is not a universal option: while wealthy Kenyans and expatriates are able to afford private security, the poor more commonly resort to vigilantism in the effort to protect themselves.<sup>200</sup> There are two main private security industry associations in Kenya: the Kenya Security Industry Association (KSIA), and the Protective Security Industry Association (PSIA). These associations operate very differently from each other, and hold their members to extremely different standards.<sup>201</sup> The KSIA lists 23 members, requires background checks for employees, and requires member-companies to adhere to the industry minimum wage requirements that were established by Legal Notice 53.<sup>202</sup> KSIA is further often portrayed as

198 Muchai, 2002: 165

199 Abrahamsen and Williams, 2005: 5-7

200 Ibid

201 Ibid

202 See: Government of Kenya. 2003. Legal Notice No. 53: 'The Regulation of Wages. Protective Security Services, Amendment, Order, 2003'. Nairobi: Ministry for Labour and Human Resource Development, Kenya Subsidiary Legislation, Government Printer, May 2003.

representing “foreign” companies, largely as a result of G4S’s membership.<sup>203</sup> In contrast, PSIA openly flouts minimum wage-requirements, and is mainly comprised of smaller, locally-owned companies.<sup>204</sup> PSIA is a member of the Kenya Private Sector Alliance<sup>205</sup>.

**Regulation:** The private security sector is largely unregulated. Currently, no special licenses are required to register a security company, and many companies continue to operate without official registration.<sup>206</sup> As a result, the exact size and extent of the private security industry is unknown. The Ministry of Internal Security, under the Office of the President, is responsible for the oversight of PSCs. The absence of regulatory mechanisms has raised concerns about poor services and exploitation.<sup>207</sup> In 2004, the *Private Security Industry Bill* was drafted, along with a legally-binding Code of Conduct for the industry.<sup>208</sup> Despite continued efforts to push the Bill forward, it has still not yet passed.<sup>209</sup> In 2003, the government introduced a minimum-wage requirement for the sector—Legal Notice No. 53. However, the government’s tacit acceptance of PSIA and other companies’ refusal to adhere to minimum-wage requirements raises concerns about the seriousness of its commitments to regulating the industry.<sup>210</sup>

**Cooperation with the Police:** There is no clear and consistent policy framework determining the relationship between public and private security provision. Furthermore, there is little formalized cooperation between PSCs and the police.<sup>211</sup> The relationship between these two forces is in fact often suspicious, with both sides perceiving the other as involved in criminal activities.<sup>212</sup> However, because PSCs are unarmed, there are frequently private agreements between such companies and the police.<sup>213</sup> Working conditions and salaries of guards vary widely across the industry, and guards frequently report concerns about the dangerous nature of their work.<sup>214</sup> Nevertheless, there appears to be no nation- or industry-wide statistics monitoring the number of guards who are hurt or killed on duty.

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203 Abrahamsen and Williams, 2005: 14

204 Ibid

205 See Kenya Private Sector Alliance website: <http://www.kepsa.or.ke/?p=current-members&title=cmembers> [last accessed 5 Nov 2010].

206 Abrahamsen and Williams, 2005

207 Ibid

208 Kamau. 2004. *Govt to regulate security companies*. Sunday Standard. 29 August

209 Mbogo, Steve. 2010. Kenya: Security Firms Push for Law to Regulate Industry. Business Daily (Nairobi). February 26.

210 Abrahamsen, R. and Williams, M., 2005 pg 14-15

211 Ibid

212 Ibid

213 Ibid

214 Wairagu, J. Kamenju and M. Singo (2004) *Private Security in Kenya*, (Nairobi: Security Research and Information Centre [SRIC]) pg 93-4



## Chapter 7

### Conclusions and Policy

#### **Recommendations**

#### **7.1 Predicting Militia Behaviour: *Implications for Policy***

##### **7.1.0 The Predictability Model**

In order to develop concrete policy recommendations, we used a statistical model for predicting militia behaviour. The model is built around linear regression analysis in which the relationship between different variables was tested. This was done using SPSS. Variables with the strongest, but positive, relationship were isolated through a statistical process of backward elimination. Then their ability to predict militia behaviour in the future was determined. The dominant behaviour patterns for militia were then isolated and their predictors generated. The analysis is contained below.

##### **7.1.1. Militia Predictors in the Post-NARA Period**

###### *7.1.1.1 Predictors of Community Affinity towards Militia*

As we noted earlier, there is a brand of militia that emerges organically in community to serve a collective good. And as we have shown, organic militia tend to be more militarized than organized militia. Similarly, their acts of aggression on community are much more severe. The question we asked was this: how can communities have an affinity towards such militia? More fundamentally, we wanted to establish factors we can use to predict the proliferation of such groups. From our model, we isolated five (5) predictors of community affinity to militia. These are outlined in order of significance.

**Actions of the Local Leaders.** The highest predictor of community affinity towards militia is the actions of the local leaders<sup>215</sup>. Where local leaders do something to stop militia activities, the community has a lesser affinity towards militia formations. The question is what type of militia? The actions of local leaders can only predict community affinity towards organized militia. Actions against organic militia tend to produce the reverse result according to our regression analysis. And this is because organic militia stem from the community, with no or limited connection with the local leaders. Attempts to fight the organic militia, therefore, tend to attract repulsion from the community who give sanctuary to militia members.

The Policy Note: In the view of this report, policy should not target the organized spaces alone; it should target the organic spaces as well. There is a notable silence here. Of equal note, local leaders are a useful mobilizing force.

**State Absence:** The second predictor of community affinity towards militia is state absence in a given area as expressed by the absence of police or the army<sup>216</sup>. Specifically, the lesser the frequency of the police/army patrols in an area, the higher the affinity of community towards militia. When the respondents were asked how frequently patrols took place, 51.3 % of the total respondents stated that the patrols were rare. This was highest in Gucha with 72%, Cheptais 51.6 %, Likoni 50%, Tiwi 44.2%, Kipsiro 40.7% and West Pokot 38.4%. This is clearly a case of state absence.

**Two factors may be at play here.** One, due to the police-to-militia ratio favouring the latter, militia may have unchecked liberty to terrorize community members. The absence of the state then creates an environment for organized militia to 'fester'. Two, in response to the organized militia, organic groups emerge to fill in the security gaps left by state absence, and to act as a community buffer against the aggression of organized militia. If the security forces are not well resourced and present, militia activities are bound to continue.

The Policy Note: Given the inability of the state to permeate all spaces in community, the organic responses to insecurity should be de-militarized and civilianized through policy actions. An innovative application of community policing should be used here.

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215 SPSS retained this variable as the best predictor scoring the highest eigenvalue of 0.279. It was also significant at a level of 0.000 (p value of 0.05).It had a partial correlation value of 0.064 with the DV. This means that it has a positive relationship with the DV.

216 The SPSS eigenvalue for this predictor stood at 0.180. It was also significant at a level of 0.000 (p value of 0.05).It had a partial correlation value of -0.099 with the DV. This means that it has a negative relationship with the DV

**Size of Police Force:** The number of police officers at the local police station can be a mediating variable in the levels of community affinity towards militia<sup>217</sup>. Where a police post has few police officers, chances that the community will have an affinity towards militia are high<sup>218</sup>. This is directly linked to the issue of police resources. The respondents in Cheptais (43.2%), Likoni (38.2%), West Pokot (49.4%) and Gucha (57.3%) felt that the government should address the militia issue by increasing police personnel. Again, it can be argued that if the police force is not well resourced; militia activities are bound to continue.

The Policy Note: Given the second and third predictors of community affinity towards militia, it is doubtful that the fight against militia proliferation can happen without significant police reforms.

**Chief's Camp:** The fourth best predictor of community affinity to militia is the duration of time that a chief's camp is put in place in a particular area<sup>219</sup>. This means that, in areas where the chief's camp has been in existence for over a decade, there is bound to be less affinity towards militia. The areas with the oldest chief's camps (more than 20 years) were Cheptais, Kipsiro, Tiwi and West Pokot. In a situation where there is conflict with the neighboring communities, most of the respondents turn to the village elders, traditional courts and the chief for recourse. Village elders are known to sit at the chief's camp. Accordingly, we collapsed the traditional courts, chief and village elders columns into one and the following statistics were gleaned: Cheptais 44.8%, Kipsiro 55.7%, Likoni 57.1, Tiwi 97.2%, West Pokot 61.4%, Gucha 63.6%. In sum, chief's camps play an important role in the community and as such policy recommendations should be targeted at this level as this will have an effect in reducing the number of violent acts committed by the militia.

The Policy Note: The Chief continues to be an important arbiter of conflicts in Kenya. In the new dispensation, however, this structure will become extinct in 2015<sup>220</sup>. The policy concern therefore should be: who will replace it? Mentoring the devolved government to play this mediation role should be a conscious effort of government.

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217 This was the third predictor of community affinity towards militia, standing at 0.149 of the eigenvalue. It was also significant at a level of 0.000 (p value of 0.05). It had a partial correlation value of -0.164 with the DV. This means that it has a negative relationship with the DV.

218 There is a link between this predictor and the one above in that if there is a scarcity of police officers that will have a direct effect on the ability to effectively patrol a particular area.

219 On the eigenvalue scale, this predictor scored a total of 0.100. It was also significant at a level of 0.000 (p value of 0.05). It had a partial correlation value of 0.124 with the DV. This means that it has a positive relationship with the DV.

220 As per the 6th Schedule of the new constitution.

**Police Post:** The fifth predictor of community affinity to militia is the duration of the existence of the nearest police post in an area<sup>221</sup>. The longer a police post has been in a particular community, the more likely that the community will have a positive attitude towards the militia. This is very different from the presence of a Chief's Camp discussed above. Could it be that this is because the police seem to work in cahoots with militia, a phenomenon suggested by some of our previous studies?<sup>222</sup>

The Policy Note: As already mentioned, it is not possible to reform the 'militia sector' without first and foremost reforming the police force. Our findings in this study and previous ones suggest that this sector is a creation of a rogue police force.

#### *7.1.1.2 Militia Foreboding: Predictors of Militia Activities in the Future*

**Young Militia Members:** The best predictor of what level of militia activity will exist in an area in the next five years - what is herein referred to as militia foreboding - is the age of the youngest militia members<sup>223</sup>. According to our statistical evidence, in a community with a population of younger individuals under 35, chances are that militia activity in the next five years is likely to decrease. This might defeat conventional wisdom, but our interpretation of this eigen value is that the younger people will not be the drivers of militia proliferation in the next five years. The prime movers are most likely to be located elsewhere - maybe the security agencies. What this means is that, contrary to conventional wisdom, militia formation is not a function of the youth bulge. It is an extension of the 'exit state,' managed by the rogue elements in the security forces.

The Policy Note. Age is not the driver of militia proliferation and it should not be the prime determinant of security policy regarding militia. As most of the predictors suggest, the main culprit of militia instigation could be located within the Kenya security forces.

**Government Intervention:** This was the second predictor of militia foreboding<sup>224</sup>. What is interesting though, is that the more intense the government intervention, the more likely that militia festering will increase. And this is largely because the agents of government in these interventions are the security forces, who also seem to act as rogue militia. 41.2% of the

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221 On the eigenvalue score, this stood at 0.039. It was also significant at a level of 0.000 (p value of 0.05). It had a partial correlation value of -0.061 with the DV. This means that it has a positive relationship with the DV.

222 UNDP/TCH, op. cit

223 The eigenvalue for this stood at 0.397. It was also significant at a level of 0.000 (p value of 0.05). It had a partial correlation value of -0.082 with the DV. This means that it has a negative relationship with the DV

224 It was also significant at a level of 0.000 (p value of 0.05). It had a partial correlation value of 0.221 with the DV. This means that it has a positive relationship with the DV.

respondents indicated that the government should increase the number of police/security personnel in order to address the militia problem in a local area. As such, our regression analysis shows that if this is done, militia activity is bound to increase significantly in the next five years. This coheres with the concept of community affinity to militia that showed that the duration of the existence of the nearest police post in the area is likely to inform community affinity to militia. We saw that the longer a police post has been in a particular community the more likely that the community will have a positive attitude towards the militia. As such, if more security personnel are introduced into a particular area, deep seated antipathies towards security personnel may drive an increase in militia activity.

The Policy Note: Internal reform within the security structures is the only way in which government interventions can work. Engaging a force to decimate militia in a locality has the reverse effect of increasing affinity towards militia.

**Chief's Camp:** How far the closest chief's camp is in a given area happened to be the third predictor of militia foreboding<sup>225</sup>. 44.8% of the respondents indicated that the closest chief's camp was between 1-5kms away. The closer a chief's camp is to a particular community, the less militia activity that community will experience in the next 5 years. This factor is a replica of the earlier one we saw in the community affinity analysis. It is an indication that the Chief's Camp is a high-trust institution compared to the police post. In terms of policy, we must re-iterate that the role of the Chief's Camp is critical in curbing militia proliferation.

**Police - Militia Relationship:** This was the fourth predictor of militia foreboding<sup>226</sup>. It also suggests mistrust in the police force and its attempts to deal with the militia menace. Where the police are perceived to be doing everything in their power to get rid of the militia (51.8%), militia activity is bound to increase significantly in the next 5 years according to our regression analysis.

**Militia Size:** The number of members in a militia was the fifth predictor of militia foreboding<sup>227</sup>. 20.6% of the respondents stated that the militia size in their area is more than a 100 members and 20.6% also said that it comprised of at least 50 members. According to our regression analysis, the areas with militia equaling the mentioned 50 members' size are likely to experience an increase in militia activity during the next 5 years.

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225 This had an eigenvalue of 0.214. It was also significant at a level of 0.000 (p value of 0.05). It had a partial correlation value of -0.075 with the DV. This means that it has a negative relationship with the DV.

226 It had an eigenvalue of 0.161. It was also significant at a level of 0.000 (p value of 0.05). It had a partial correlation value of 0.158 with the DV. This means that it has a positive relationship with the DV

227 It was also significant at a level of 0.000 (p value of 0.05). It had a partial correlation value of 0.064 with the DV. This means that it has a positive relationship with the DV.

**Size of Police Force:** The size of the police force was the sixth predictor of militia foreboding<sup>228</sup>. Looking at the respondents sentiments in this regard, 31.7% stated that the police force in their area comprised of 50 personnel and 29.7% stated that it comprised of less than 20 personnel. This goes back to the issue highlighted previously with regard to the police: militia ratio. The point here is that the police might appear many, but their force-to-space ratio is limited. That is, they cover a very large geographical area that is also occupied by militia. The estimate of a previous study we did indicated that for every one armed police man, there are up to eight armed militia members<sup>229</sup>. By the same argument, where the police personnel size is diminished, it is bound to experience significant militia increase in the next five years. But this relationship is interesting to nuance further. When police presence increases in an area, there is a notable increase in organized militia; when it decreases, there is an increase in organic militia to fill in the security gaps. The policy note on this seesaw must be informed by our previous emphasis on police reforms.

#### *7.1.1.3 Predictors of Militia Formation: The Rationale*

**Violent Conflict with Neighboring Communities:** This was the best predictor of militia formation<sup>230</sup>. Up to 48.2% of the respondents felt that the militia groups were formed through tribal affiliations. And that they emerged where a community has had violent conflict with its neighbor. Given this reality, wherever there is violent conflict between communities, there is likely to be an enduring militia. These militia are most likely to be organic and ethno-centric.

The Policy Note: A shift from martial response to conflict to civic response should happen through policy interventions. The idea of District Peace Committees, described extensively in the National Peace Policy need to be rolled out as a way of civilianizing response to cross-border conflicts.

**Livelihood:** The second best predictor of militia formation is the perception amongst respondents as to whether the government has made it easier for individuals to earn a living. This scored an eigen value of 0.201<sup>231</sup>. 68% of the respondents said that the government had not made it easier for them to earn a living. This statistic suggests that, in communities which feel that

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228 It was also significant at a level of 0.000 (p value of 0.05). It had a partial correlation value of 0.104 with the DV. This means that it has a positive relationship with the DV.

229 TCH/UNDP op. cit

230 It stood at standing at 0.256 in the eigenvalue . It was also significant at a level of 0.000 (p value of 0.05). It had a partial correlation value of 0.102 with the DV. This means that it has a positive relationship with the DV.

231 It was also significant at a level of 0.000 (p value of 0.05). It had a partial correlation value of 0.078 with the DV. This means that it has a positive relationship with the DV.

the government has neglected them, there is bound to be a presence of marketised militia. Policy interventions on militia should therefore target both the security and the economic empowerment components of the menace.

**Judicial System:** The third best predictor of militia formation is the perception amongst respondents about the judicial system in the country with an eigenvalue of 0.14<sup>232</sup>. 51% of the community members said that the judicial system in this country is corrupt, and criminals get away with crime. Similarly, 78% of the respondents said they had no confidence in the system. The tendency, arising from this is the movement towards ‘martial justice’ where the militia become the rule adjudicators. This position was further reinforced by our Focus Group Discussions (FGD) where we came across the concept of ‘Mara Moja’ Justice. The respondents noted that justice metered by militia is faster, effective although expensive. But they prefer this to the judicial system.

The Policy Note: The move to make our judicial system ‘people-oriented’ portends hope for militia reduction. Although tedious, this process must not fail.

**Representation in Government:** The fourth predictor of militia formation was how respondents feel their area was represented in the past with an eigen value of 0.117<sup>233</sup>. 56.5% of the respondents felt that that they had not been adequately represented in government in the past. And most of them did not see a role in the civic sphere of authority where they can benefit from government interventions. This means that, where you have such sentiments, there is bound to be a significant presence of marketised and predatory militia.

#### *7.1.1.4 Predictors of Militia Longevity and Endurance*

**Government Interference:** The best predictor of Militia Longevity is the government interference with the social and cultural practices of a particular community. This scored an eigenvalue of 0.313234. Interference here must also be read as an attempt by government to include communities into mainstream economic activities by any means necessary. The most common example here is the pastoralists, whom the government has unwittingly tried to persuade to abandon pastoralism. The reaction to this has been the

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232 It was also significant at a level of 0.000 (p value of 0.05). It had a partial correlation value of 0.093 with the DV. This means that it has a positive relationship with the DV.

233 It was also significant at a level of 0.000 (p value of 0.05). It had a partial correlation value of -0.083 with the DV. This means that it has a negative relationship with the DV.

234 It was also significant at a level of 0.000 (p value of 0.05). It had a partial correlation value of 0.172 with the DV. This means that it has a positive relationship with the DV.



formation of ethno-regional militia to forestall government interference. And historically, and as we argued in the previous chapter, these organic militia are also known to have the longest 'shelf-life'.

**Police Response Time:** This is the second predictor of militia longevity. 53.3% of the respondents stated that the police response time is slow. And where such slowness has persisted over the years, a stand-by militia has been known to exist to fill in the ensuing gap.

**Violent Conflict with Neighboring Communities:** This is the third important predictor of militia longevity. Statistical evidence of this can be sustained by historical analysis. Whenever we have had a protracted violent conflict between neighbouring communities, the tendency is for each to have a militia to fight their battles. Hence, for every protracted conflict, there is bound to be an old-age militia formation approximating the age of the conflict.

### 7.1.2 The Post-Katiba Predictors of Militia Violence and State Response

**Logistical Regression:** To develop predictors in the post-Katiba period, we used a different regression model. Logistical regression is used to model the value of a dependent variable based on its linear relationship to one or more predictors. The model estimates the coefficients of the linear equation, involving one or more independent variables that best predict value of the dependent variable. The statistic employed in this analysis was the  $R^2$  which determines the strength of a predictor. But to determine the predictors, we also applied the stepwise regression. This approach adds and removes variables in steps until the optimum model is reached. The predictors we present in this chapter were arrived at using both the regression models.

#### 7.1.2.1 Predictors of Electoral Violence by Militia

If we already know the factors that will trigger ethnicisation at the county levels, how shall we know if violence will happen? What are the predictors of violence and who will the drivers be? Can we attempt a violence forecast through the Logistical Regression model we developed? We attempt to do so for the 8 counties below.

**Mombasa.** According to our regression model, violence in Mombasa will be determined by three statistically generated predictors.

- i) **Historical Injustices.** The perception of injustices against the coastal people is the first predictor. Where this perception is high, violence is most likely to erupt. This is especially if the election is mishandled.

Similarly, where similar injustices have caused a violent conflict like in 1992 and 1997, this is likely to recur.

- ii) **Government Response to Militia.** This is the second predictor of violence in Mombasa. If the government increases its security personnel to deal with likely violence, this will not hamper eruptions. It will instead facilitate violent reactions from the militia in Mombasa according to our model.
- iii) **Proximity to the Chief's Camp.** The closer a community is to the Chief's camp; the more likely it is to erupt in violent confrontation. And this predictor does not differ from the first two. Mombasa seems to have a violent reaction towards state control and presence.

**Nairobi.** Violence forecast for Nairobi brings out two related predictors; gun permeation and the proximity to the Chief's Camp.

- i) **Gun Permeation:** The higher the gun permeation, the more the likelihood of violent conflict in Nairobi. What the model seems to point out is that gun permeation has gone up. And that some of the guns have been recovered by the police or the chiefs. The question however is this: once recovered by the police, are these guns detained or are they circulated back to the crime market through the rogue networks of the police force? Our study suggests that they are circulated back into crime. And this is why wherever we have a Chief's Camp, ethnicisation and violent confrontation are most likely. But this has another historical explanation.
- ii) **Proximity to the Chief's Camp.** The closer a community is to this camp, the higher the likelihood of violence. This is not just because of the war-of-turf between the police and the Chief, but because militia groups have a historical 'tethering' in the Chief's camp after the collapse of the Kanu Youth Wing. We expound on this in the summary findings section of chapter 4.

**Nakuru:** The Nakuru forecast returned four predictors which are statistically significant. These predictors are about **militia weapons of choice** and their sheer sizes per sq kilometre.

- i) **Militia Weapons of Choice:** This is different from gun permeation, although the gun is also selected as one of the weapons here. The more violent the militia activities before the election, the higher the likelihood that this violence will be exported into electoral processes. And the measure of violence is not the use of the gun here. It is the use of crude weapons which are easily available and have a multiple-usage. For instance, the panga is used to till the land, while the axe is used to split firewood. But if these weapons are used to support crime, this practice

is likely to replicate itself should the election go bad.

- ii) **Militia Size:** This predictor is closely related to the one above. If a place is dominated by a militia group with a membership of more than 100 youths, the likelihood of violence is high. In the case of Nakuru, this speaks specifically of Mungiki which controls half the market share of Nakuru crime. If this control is executed using large numbers of youths, armed with crude weapons, the possibility of using the same youths for electoral violence is high. Regarding the two predictors above, the model power was 0.676, which means that we are 67.6% accurate in making these assertions.

**Kisumu:** The Kisumu violence forecast provides us with 9 predictors. Of these, only 3 are worth of mention. It must also be noted that the power of the model on this predictors stood at 0.757, which means that our prediction of violence in Kisumu is 75.7% accurate.

- i) **Reason for Forming Militia Groups.** This is the first predictor of violence. And what we should read from it is that militia groups in Kisumu were formed to protect tribe. And the more of such groups in Kisumu as we draw to the next election, the higher the likelihood that a violent confrontation that is ethnic is likely to result. Maybe the different tribes of Kisumu are preparing themselves for any eventuality in 2013 informed by their unpreparedness in 2008. This predictor scored a very high  $R^2$  value in our model, which means it is significant.
- ii) **Relationship Between Militia and Politicians.** Wherever this relationship is mutual across Kisumu, violence is likely to occur. And this will not be linked to the national elections only. Such violence could manifest itself in county elections as well. **Three, Relationship Between the Police and Militia.** We have noted in the previous chapter that this relationship has a high symbiosis in Kisumu and Kakamega. Where this symbiosis is high, violence is likely. And the confrontation is likely to be between the militia associated with politicians, and those linked to the police force. The motivation, like in 2008, will be over the 'spoils' accruing from violence.

**Kakamega:** In generating the forecast for Kakamega, the regression model power stood at 0.68. This means that the predictors are 68% accurate in terms of forecasting Kakamega violence during the 2014 election. Two of these are significant and worth of note.

- i) **Police-Militia Symbiosis.** Do recall that this symbiosis was noted as high in Chapter 2 of this report. And so long as the police are working in cahoots with militia groups through vigilantes, violence in Kakamega is likely. Like in Kisumu, this will not be political violence; it will be marketised

violence. That is, the confrontation will be more between groups seeking market opportunities in a situation of mayhem, and 'police marketeers' jostling for market share in the resultant opportunities.

- ii) **Gun Permeation.** As already noted, levels of gun permeation in Kakamega are high. In fact, there are 3 times more guns in Kakamega than there are militia members. This means that 1 militia member can have access to 3 guns at one go if he wanted to. This level of gun permeation is an indication of people arming themselves or a growing illicit force within the police. The phenomenon is a probable trigger for violence in the election.

**Eldoret:** The area returned two predictors of electoral violence. The model power for these predictors was 0.728, which represents 72.8% accuracy.

- i) **Militia-Politician Symbiosis.** The first one has been mentioned variously in Eldoret and recorded a high loading in our regression model. Where the relationship between militia groups and the politicians is high, violent confrontation will result. In fact, there is a likelihood of 72.8% that this will happen.
- ii) **Why Militia Groups Were Formed.** This is the second predictor of violence in Uasin Gishu. Where these groups were formed to protect tribe, the likelihood is that they will be used to execute violence in a contested election. And as noted before, this will not necessarily be violence between the tribes because of national contestations. This could result in an election gone bad at county level.

**Bungoma:** The model power for Bungoma was 0.872, which means that our violence predictors for Bungoma are 87.2% accurate. The violence forecast in Bungoma had 8 predictors, 2 of which we consider significant.

- i) **Size of Nearest Police Station.** Where the nearest police station in Bungoma comprises of less than 20 policemen, there is a high chance that violence in that area will occur. In fact, the  $R^2$  value here stands at 0.621. This means that the smaller the nearest police station to community, the higher the likelihood that violence will happen. The likelihood stands at 62.1%.
- ii) **How Government Deals with Militia.** This predictor was also identified in the case of county ethnicisation. Government use of excessive force in dealing with SLDF could have led to militarisation of community as part of its self-defence mechanism. If government increases police presence in Bungoma during the election, this is likely to attract a negative response from the militarised community. A violent confrontation could result.

### 7.1.2.2 *Predictors of Police Response to Militia Violence*

**Mombasa.** The model power for this predictor stood at 0.683, which means that the police response predictors are 68.3% accurate. Although we generated 4 predictors, 3 are worth of note.

- i) **The Quality of Police Service.** The quality of police service in Mombasa is low. Our descriptive statistics show this service as poor, standing at 57.6%. The first predictor of police response is therefore an indicator of low confidence in the police and its services. This is bound to hamper police response to violent skirmishes that may occur after the 2014 election in Mombasa.
- ii) **Size of Militia Groups.** The bigger the militia group, compared to the police force in a locality, the slower the police response. This can also be interpreted to mean that the police are either overpowered by militia or abstain from law enforcement because they are partakers of violent crime. Three State Response to MRC. If this response is violent during the 2013 election, then the MRC related militia will paralyse police operations in Mombasa. This predictor is also repeated in the violence forecast where state response to MRC could elicit violence

**Nairobi.** The Nairobi predictor of police response is only one. And even then it is weak at 0.303 of the model power. This means that this predictor is only 30.3% accurate. **Proximity to the Chief's Camp.** The closer a violent community is to a Chief's Camp, the harder it is for the police to respond. Not because the police and the Chief are working together. As noted before, this could be because the militia groups have a historical connection with the chief's camp and are actually tethered there. What we have then is a situation where the different agencies of the state are working against each other because their interests are embedded with different actors.

**Nakuru.** The Nakuru predictors of state response were 3. But the most statistically significant one was similar to that of Nairobi. The Nakuru assertion then is that, police response to situations of militia conflict is hampered by the presence of the Chief's Camp in a community. The closer this camp is to a violent site, the harder it is for the police to penetrate. This raises the question whether the impermeable spaces are because the chief is in cahoots with militia, or because of tuff wars between the two police forces? Either way, the fact of the matter does not change: the chief is a hindrance to police response.

**Kisumu.** The significant predictor of police response in Kisumu is also one. The reason why militia groups were formed in Kisumu tends to determine the speed with which the police respond. If they were formed for political reasons,

in particular, the model suggests that the response time will be significantly low. This points to a probable relationship between the politicians and the police. And that the police give passage to militia known to be affiliated with certain politicians or respond to them slowly.

**Kakamega.** Like Nairobi, the main predictor of police response in Kakamega is the Chief's Camp. But the chief is a facilitator of response in Kakamega. And this is probably because the militia groups are captured by the regular police, and not the chief like in Nairobi.

**Bungoma.** In Bungoma, the predictor of police response according to our model is the size of the police force nearest to a community. The smaller the size, the higher the likelihood it will be overpowered or will act sub-optimally. This is particularly true in the post-SLDF period. A brigade of organic militia seems to have emerged in this period to protect community from the excesses of government operations. Although inchoate, this brigade has an apparent ability to insulate community from police incursions, hence the slow response.

## 7.2 The Policy Recommendations

We conceive intensity of threats to be a function of distance decay at economic, political and social levels. This, we note, provides both space and time for non state actors to undermine the state. Generally, our argument is that distance decay spawns security gaps, which if sustained, allow bandit groups to create and consolidate favourable spaces or what Hanrahan calls Military Spaces (MS). These are favourable to the extent that they facilitate the nourishment and reproduction of bandit fields of accumulations. MS or favourable spaces (FS) is a function of  $MI^2 + OB + SAN - CT$ , where,  $MI^2$  refers to square mileage plus obstacles (OB) plus sanctuaries (SAN), minus penetrative communication (C) and transport networks (T).

Distance Decay is also appropriated to anchor organized crime such as money laundering, predation located in Small and medium enterprises and instrumentalized violence used to facilitate elite access to or consolidation of power. Organized crime (OK) is  $= f(\text{Primitive } K_p, PK_{t-1}, \text{Police capacity, Legal framework, Ethnicity, Infrastructure, Distance decay, Private formal capital})$ . In effect, organized crime is about forms of K and distance Decay ( $Ok = f(\text{forms of K, DD})$  or  $Ok = (DD = f(MI^2 + OB + SAN - ICT)) + fk^{235}$ .

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235 Key: K - Capital;  $PK_p$  - Primitive Capital;  $PK_{t-1}$  - Primitive Capital in the previous periods; DD - Distance Decay; MS - Military Space; OB - Obstacles; SAN - Sanctuaries; ICT - Communication and Transportation

The bandit actors are advantaged by their innovative ability to create relevance for security provision, predate on the society, and also create earnings for new members. The net result is that the groups are able to maximize on; space: time; force to space ratios and legitimacy. The absence of state penetration and infrastructure grants them space into which they can retreat to create more time useful for planning and organizing. They are also able to exploit the terrain to their advantage and to seize initiative on when to strike. Space allows them to plan and to consolidate the infrastructure. The security architectural design, indeed, the deployment framework eventually throws the strategic advantage at the tactical level to these groups. In this sense, their elements at the tactical level are able to assume a strategic preponderance over internal security elements engendering encyclement as the state is weakened by external pressure. Distance Decay increases expands the bandit space, economy and levels of insecurity and by inference, 'the bandit power.' Conversely put, if Distance Decay expansion mirrors the shrinking formal state, it engenders the converse expansion of the informal state. This in turn produces three types of spaces: contested spaces, where sovereignty is shared, spaces where state has abandoned its ability to demonstrate preponderance over power, and spaces where it retains some semblance of control.

Kenya's insecurity model which apparently combines elements of criminality, ethno-nationalism, banditism and nascent insurgency is a function of weak state. Distance decay and an economic, political and social environment that continues to spew out masses of unemployable youth connected to the outside world but delinked from their internal institutions explains this weakness. The more the militia are increasingly convinced that they can only influence the political and economic system by the use of violence, the more they will maximize on their numbers and distance decay. With focus turning to democratization with little emphasis on spaces and how they are secured, the more likely that these non state actors end up capturing a large part of these to challenge stability. In this sense the agenda of democratization has to be underpinned by security sector transformation. This has to revolve around restructuring of internal and external security architecture and roles of citizen in individual and state securitization as a patriotic duty<sup>236</sup>.

**Policy and Institutional Re-engineering:** Response to insecurity revolves around policy and institutional re-engineering that seeks to engender Reduction of Distance Decay (RDD). RDD aims at making space unfavourable for bandit elements. It is a function of square millage minus obstacles, minus sanctuaries plus information communication and Transport or  $RDD = F(MI^2 - OB - SAN + ICT)$ . The key dynamics here is to reduce the extent of distanciation

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236 See the broader appreciation of the Security in the New constitution.



at economic, political social and security from the state and its entities. Where RDD is achieved the time in space to reach the individual is gained to. This has an effect of eliminating obstacles and sanctuaries that enable embedding. More critical, the state's ability to compete and outplay criminal elements reducing their abilities to maximize on force multipliers transforms sanctuaries into either traps or prisons that constraints movements. This process of shunting bandits (draining their swamps) by starving them of oxygen(assets, capital) animates state regeneration through alternative activities while reducing value activities. It increases, state tax base, while reducing security and transaction costs. To achieve DDR, a combination of a wide range of measures is critical.

**Policy and Institutional Options:** There is need for a combination of policies rooted in a Grand National Security Policy. These include Internal Security Defence, Foreign and Economic policies. These have to be evolved and mobilized through instruments of national power to deal with these threats and vulnerabilities.

**National Security Policy (NSP):** Those arrays of aims and interests that a state sets out to pursue and defend underpin this process. Their acquisition in terms of methods and measures provides it and the citizens a felt sense of security at both subjective and objective levels. National Security Policy must therefore seek for an objective; the securitization of its referent objects in this sense the state and her citizens. In talking National Security Policy we in effect have to think of sets of patterns of commitments to and plans of action outlined by the state including the organizational infrastructure and actors critical for the delivery or realization of the plans. The aim of NSP is security; convergence of behaviour patterns whose overall objective is ensuring that the state is in a position to defend and sustain its access to values.

As a policy framework, National Security Policy presupposes a plan of action that organizes efforts to achieve objectives. It acts as a guide to intended actions aiming at assuring the defence of the state as defined by National Interests. Security policy is rooted in the process of choice. It has to be about the choosing of actions or making decisions to achieve national goals. It also supposes a series of other policies which when stitched together assure the state power to extract resources from outside its borders

National Security Policy has to outline sets of guidelines, strategies and instruments of power that the state has to organize to achieve a condition where there are limited threats to acquired values at a subjective level and the elimination of the fear that such values will be subject to attack. This is



only possible in the context of a paradigm shift in which state reconstruction engenders inclusion at economic, political and social levels through reduction of distance decay, enhancing legitimacy to the point at which defence of national security is deemed a patriotic duty of each citizen. Only this would assure the state security and defence in depth<sup>237</sup>.

**Internal Security Policy;** stands inverse to the External Security or Defence Policy. It is that art and science of coordinating the development, the deployment and employment of internal security instruments supported by other instruments of power to achieve internal security objectives. Internal security policy is functional to the extent that it receives support from economic, political and military instruments of power. Its central objective is the creation of an enabling environment of security that allows socio-economic and political functioning of the state as an entity. It seeks to provide and indeed enhance the subjective feeling of security among citizens by developing the requisite knowledge about a wide range of security issues and the different domains obtaining in the state. Internal security policy is on the overall about how the state develops technology, techniques and measures of control over its spaces.

It must have aspects of regulation of life, morals, health, supplies, securitization of road networks and factories, public safety, arts and trade. It has to set out guidelines that seek to enhance the capacity to provision security in the domestic domains. It must support the development and deployment of necessary units and capacities. It must determine unit employment subsequent to development. This is critical with respect to employment of force at internal level against citizens and in support of armed forces to fend off external aggression

**Internal Security Policy framework** must determine how components of police and paramilitary are used in support of the military and vice versa, how they should be sustained when deployed; how they can be complemented by civil defence components, whether they can be used defensively and offensively, who should command and control them at local, County and National levels. It should also determine size, strength, peacetime locations and aspect of their coordination and synchronization to achieve sustainability and required quantum force at any given point of use. This is very critical in the context where the state maintains different forms of security formations with different leaderships.

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237      Extended capacity to defend and securitize due to availability of organized resources that can be mobilized and which are spread across the length and depth of the State. The implications here are that the state can confront both external aggression while responding to internal threats such as disasters and security situations.

**Internal Security Policy:** must seek to increase the capacity of citizen response, recovery and adaptability while reducing the current sense of powerlessness through increased knowledge acquisition. It is imperative that parallel to enhancing resilience in State institutions and people, efforts are made in a psychological preparation of people and institutions to withstand terrorism, disasters and organized crime with a view to increasing the levels of alertness, citizen courage and civic competence.

**Enhanced Voluntary Intelligence Cooperation:** As part of the democratization of intelligence outfits their relationship with civilian infrastructures is imperative. Civic competence is critical for any attempt at building up intelligence extraction from society. It is also critical to enhancing citizen resistance to local criminals. The converse of this is the current phenomena referred to as security **infantilization**<sup>238</sup>. This is characterized by situations where citizens are afraid to let the government protect them and instead opt to depend on criminals creating a permanent state of anxiety and counter institutional and symbolic violence.

At operational level, internal security policy must involve a strategy whose components should include guidelines to actions necessary in the development of internal security force structure. There has to be a streamlined structure at the internal level, which acts as a backbone and on which various formations append themselves. Each of the structures must think through their planning, procuring of weapons systems, materials, recruitment, training and sustaining of personnel. This should be approached in consonant with defined internal security needs and in line with the pre set framework outlined by the internal security structure. The same should apply to the process of deployment during peacetime and during internal security operations.

Critical here are core issues such as, who makes the decisions and where; within what processes; who determined internal security interests and objectives at both broad and specific levels. Notably, the decision-making structures within which the policy processes are formulated and involved are very critical and indeed form part of the internal security structure. In Kenya, internal security structures at the Grand Strategic level include the National Security Council (NSC); it has to deliberate and direct action on national security interests. It needs to be supported by a secretariat, and a fusion point whose basic tasks have to include the design and preparation of national strategy and contingency plans, monitoring and the provision of early warnings on matters of national security.

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Produced by sustained intimidation of criminals and which enders a sense of hapless and surrender.

At a strategic level, there is need for the National Security Advisory Committee (NSAC) to be strengthened with a unit within it that brings together strategic actors such as relevant Permanent Secretaries, Deputy Director National Security Intelligence, DIGs and Service commanders. Its joint security intelligence secretariat is supposed to prepare both briefs and deliberations to National Security Council. It is this Committee in real sense that is supposed to think through the formulation and operationalization of Internal Security Strategy. It is at this strategic level that this Committee is supposed to liaise with other similar level agencies such as the military when it comes to the development of military strategy.

**County Intelligence Security Committees:** These would have, as an objective, the coordination of security and use of intelligence to assure security through mobilization of existing county assets to assure security. The State would need to conceive itself as a country writ large. Security will have to be conceived in all the five sectors and informed by the identification of the referent object and the question of who is best placed to deal with it. The appreciation of the Centre of Gravity at the county implies that the Governor has to be mobilized as a critical fulcrum. Below the county would be the District Security and Intelligence Committee. There is need to decentralize these structures to the lowest common point if security in depth has to be achieved. In addition, each of these levels needs to have a secretariat within which intelligence and various response options can be evolved taking into consideration a feedback process.

**Conception of Jointness:** To reduce insecurity, there is need for internal security and civil institution re-alignment and organization informed by the state's regional context. This has to begin with the grasping of the mission of the state, defining what the objects of security are and how they should be secured. The foregoing should determine the design and alignment of institutions with available resources to anchor decisive actions. The central government has to conceive a sense of jointness to administer population and economy with the ultimate objective being that of building a strong State. Securitization will have to be about resolving threats. Security has to be grasped by collapsing it in five sectors; the political, economic, military, environmental and societal. These sectors in turn play host not only to a variety of objects that must be secured, but also variegated security threats. In the broad conception, analysis and appreciation of intensity of threats over time in space have to be captured through the domestication of these five sectors at five levels; individual, institutional, state, regional and systemic. The question to answer is that of who is best placed to deal with what type of security and at what level. This in turn facilitates the appreciation of what

needs to be known at what level and by whom. This should produce a nexus between efforts from below and those at the top. For the state to provide a secure environment for human reproduction, it has to conceive.

**New Forms of Visibility:** These will be needed to facilitate a new understanding of how objects to be secured (human, property & infrastructure) are captured through the process of picturing and constituting them<sup>239</sup>. This may include processes such as data collection of individuals with respect to birth, residences, economic activities and their consolidation.

**The Techne of Government:** This is about the means, mechanisms, tactics and technologies of constituting authority and accomplishing rule. It is achieved by such triangulation that ensures that an individual is controlled through multiple points to impose civic socialization, i.e. having a license that is linked to all transactions and whose withdrawals inflicts costs a citizen is unwilling to absorb. The implication is that authority is felt and respected all through.

**The Episteme of Government;** this is about the generation of forms of thought, knowledge, expertise and calculations employed in government and the development of form that is given to what is governable.

**Forms of Identification;** this is about forming of subjects, agents, actors and production of governable subjects<sup>240</sup>. Individuals can be identified and formed at residential, social points, etc. What is important is the need to inter-sect points to facilitate easy tracing.

**The Strategic Imperatives;** It will be imperative that entities that threaten state and individual security are persuaded to realize that they will not prevail and that accruing costs on their part will be higher than their imagined value derived. These efforts have to be grasped in forms of sustained campaigns not single engagements. This should be achieved regardless of the cost such an act may prove to these groups given their economic, sociological and political underpinnings. It is imperative that the state re-establishes its dominance over instruments of violence. This will imply deploying a wide range of measures to achieve maximum quantum force. There is need to operationalize measures that engender Force-to-space ratios that will include initiation of transformation measures in security services. These should be followed by measures dealing with corruption, favouritism, ethnicity, crisis of professionalization, command and control. It will mean instituting merit based appointments while taking

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239 We are able to picture individuals by registering them from birth, to schools, retaining information when licensing their activities including aligning their banking information with Income tax, police and residence addresses. We constitute them by arranging them in such a manner that we can see them from various sites with less efforts and also by the fiat of their own rationalities.

240 Rose N; Powers of Freedom. London: Cambridge University Press 1999p21

into cognisance sociological dynamics and paucity of infrastructure. Due to extent of infrastructure penetration, Distance Reduction at security level will imply redesign of the police force to enable penetration and presence in the community as an organic entity to deny militia groups space and time to dominate terrain in terms of force-to space-ratios.

Force-to-space ratio is challenged by the logic of deployment and daily location of police. The policing doctrine informs the current insecurity and crisis of accommodation. Currently, the regular police have a shortfall of 30,000 housing units, compared to APs 18,500.<sup>241</sup> Underlying this is the format of barracking police along military lines. This runs counter to the whole logic of policing besides engendering public alienation while increasing costs of security. It enhances alienation and distancing of communities from police while compounding the crisis of logistics, intelligence gathering and response in strength and time. Instead, police should be embedded in the community with a large part being organic to the said community to engender a stakeholder mentality.

By the very nature of its referent objects, policing demands a capacity of security elements to embed themselves in the society. It is only in this manner that they can extract intelligence, occupy space and deter. Police by nature have to live within and blend with the society if they have to secure it. The reality in Kenya is characterized by the inclination of the citizen to flee from the Police, who are a stranger for all practical purposes. They have limited social access due to this social distance decay. To compensate for the resultant gap, they have to use force and extort - a factor that animates further alienation. Cantonment of both the Police and Military engenders dual distancing of the two Forces from the citizenry, while animating insecurity. It also limits the level of cooperation between them and citizens reducing the unification of intangible centers of gravity.

**Community Police Recruitments:** Police posting is currently centralized thus officers are rarely posted to their home areas. Police officers are thus outsiders in the communities they operate. Junior level police officers need to be recruited and based in the communities in which they grew up. They are known and trusted by that community and would feel the need to protect it. They can also leverage other forms of social pressure that an outsider would not. It will also imply reduction of decay at socio, economic and infrastructural levels. This will have an effect of removing obstacles that help embed criminals by providing sanctuaries.

Increasing unification of intangible Centres of Gravity calls for increased role of citizens in their securitization while discouraging the infantilization of the communities. The starting point should be to appreciate the extent of security threats and vulnerabilities in space over time, there after evolving a paradigm shift that will see security being a duty of each and all. This should anchor innovative options that should allow for a wider compulsory reserve from thousands of youth as a means of enhancing both discipline and containing the supply side of bandit groups. It should also strengthen ability to meet human and state security threats. This is critical to a wider socialization of society in informed support of the police. Part of the reservists' role should be the education of community on what kinds of support they can afford the police including provision of intelligence on criminal elements and basic security threats in a bid to enhance vigilance and resilience in the society.

Setting up a **National Police Reserve** should assist in maintenance of Law and order, preservation of peace, protection of life and property, prevention and detection of crime and apprehension of offenders, among others. They should have been outlined as part of the wider National reserve that can be used for civil and national defence or the immediate fill-up of gaps left once APS are called in to support the military. Part of these elements should be recruited exclusively and re-implanted in areas challenged by security to systematically re- conquer state territory and re-establish security. To reduce insecurities the state must seek to address internal vulnerabilities while tackling threats. The aim here is the creation of governable spaces and spatialization of government modalities to engender order and impose it on populated spaces before subsequently scaling it across the state at vertical and horizontal levels on land, factories and neighbourhoods.<sup>242</sup>

Effort has to be made to cultivate confidence building and legitimization of the Police in the society. This can only happen if among other things, Police integrate in the society. It will be recalled that the rationale of the setting up of Native/Tribal Police Force, the precursor of the APS was its integration in the community; the aim here being reduction of distance decay through mediation of forced economic penetration and extraction and the maximization of the social capital such as language, knowledge of terrain and subjects and the fact of residence in the community.

Force-to-space ratio crisis is exacerbated by conservation of colonial deployment rationalities that are regime and elite protection oriented. For instance, more elements are concentrated in urban areas and that notwithstanding, are unable to maximize on off-duty officers. In other

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242 Rose N ;Powers of Freedom. London: Cambridge University Press 1999p21

spaces, the AP, the KWS and Kenya Police find themselves cantoned in same localities. This factor creates security seams that bandits maximize on. It will be noted that the most insecure points are spaces next to military barracks and in spaces of intersection, that is, where two security institutions border each other<sup>243</sup>. Underlying this is the assumption that it is the duty of the distanced police to provide security outside the perimeter fence of other security installations whether it is GSU, or Military.

The application of the principle of force to space ratio is undermined by the logic of peacetime deployment. It is even more challenging for the application of the principle of mass and economy of force at an operational level. Poor alignment of Units such as Kenya Wildlife Service (KWS) and Kenya Forest Service (KFS), with the Police and the military peace time base location implies that they cannot effectively support each other to deal with either internal or external security threat. KWS is comparatively better equipped, sustained logistically by air, road and sea than both police services. Its large numbers in space notwithstanding are confined to National Park perimeters. Despite the absence of Police in such spaces, KWS will not step in to police neighbouring spaces. Even where they exist parallel to the Police they are hardly seen as support elements except during political emergencies. It is this fact that contributes to security institutional distance decay. This in turn provides criminal elements time and space to embed themselves. The same can be said of the Kenya Forest Service, which has been re-arming and essentially militarizing with enhanced support of re-enlisted and very capable officers from the Military.

These two services can contribute a great deal in reducing security distance decay if their functions are reconfigured to include policing spaces they occupy thus relieving pressure on regular Police Service. In responding to force-to-space ratios, KWS units would fill gaps existing in and around parks, the option here would be that of integrating them within the AP and assigned Parks. Their marine units could be merged with KPS and transferred to APS border control elements. Their Air Wing could be merged with police Air wing under the Inspector general to support all the internal security units.

There is also need to further rationalize and re-align KPS and Administration Police Service. Part III of the Police Service Act assigns Kenya Police Service the duty of maintaining law and order, preservation of peace, protection of life and property, investigation of crime, collection of criminal intelligence, prevention and detection of crime, apprehension of offenders, due enforcement of all laws, performance of any duties that may be prescribed

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243 Thika road areas of Kahawa garrison, Githurai, Alsops where GSU barracks enjoin the National Intelligence Academy and service head quarters are the best examples.



by the Inspector General. They are also assigned the responsibility of maintaining order on roads (regulate control of traffic). This assignment is in effect limited in purpose. It fails to appreciate actual real threats obtaining in the communication and transport infrastructure that actually need to be secured. These include the public, goods to and from the region, strategic junctions, bridges and roads.

The assignments seem to define operational areas of the Kenya Police Service in the urban areas. In reality, there are units of the KPS in marine spaces, border crossings, a factor that is likely to engender fights over tuffs with Administration Police. Under section 6 of the Act, APs are assigned the functions of Border Patrol, anti-stock theft prevention, protection of government property, vital installation, strategic points as directed by the IG. It also includes support of Government agencies administration functions, complement government agencies in conflict management and apprehension of offenders. An examination of these functions sets the AP as the main force. Its geographical operations can be discerned to include border areas and pastoralist areas. Even though their role in Maritime spaces is not spelt out, it has to be assumed, a factor that engenders duplication with KPS and KWS marine units. These functional allocations do not address security gaps, they in fact exacerbate them. The Act does not anticipate rationalization in line with force-to-space ratios, allowing those spaces needing more units from either force to have the same.

This fact calls for rationalization. This functional allocation does not seem to address the critical question of rationalizing capacity, and comparative advantage as mediated by laws of Mass and Economy of Force and force-to-space ratios. Going by this, and building on both historical rationalities and current dynamics, APs can operate in rural, border and pastoral areas. They are advantaged by para-military training and conflict management. This fact allows them to anticipate, engage and double up as counter insurgency units. In effect they can act as a bridge between internal security, civilian and military elements. Notably, its Government protection unit could be best transferred to the KPS's General Service Unit (GSU). GSU in general would be given the functions of protecting internal road networks, strategic points and VIP protection.

In addition to focus on the ratio of police to population it is necessary to think about information management and impact on the whole question of force to space ratios. There is therefore need for integration of different information sites and relevant authorities when seeking to corroborate information access nodes and the linkage of some of these on information grids that can be



differentiated. The City as well as local Councils need to develop centralized information and proper management systems. They should have details on the dynamics of housing including carrying capacity and their occupants, economic behaviour patterns of residents. The income tax department should extend PIN numbers right from birth in collaboration with hospitals and institutions of registration of persons of birth and death. These should be inter-linked with ID cards, road licenses, passports, education enrolment, demographic enumeration and voting processes. The connectivity of these should be made accessible to other institutions such as the CID, police and immigration. The first net effect of this would be value derived in terms of cutting down on cost and time for registration of people. Secondly value derived is in terms of savings and thirdly is the capacity to monitor behaviour patterns and location of people.

The flipside of the re-designation of Internal Security Architecture is the colonial logic of military deployment and defence posture. This structure was set up to secure internal security threats to “white settler economic interest”. Objects of security having been defined to include Settlers and their property, the Railway etc implied that military and police deployment followed this logic. Post colonial regimes have merely sought to reinforce this logic thus engendering security seams and security organs that cannot support each other effectively to counter both internal and external security threats. The military establishments are concentrated mainly around the Nanyuki, Nakuru and increasingly Nairobi effectively creating a triangle. The next presence is towards the Coast; Mariakani, Nyali Mtongwe and now Manda. The rest of the state except Isiolo is apparently under-covered. This has exacerbated Force to Space Ratios. Notably units of GSU, RDU have had to take up the roles of the Military sometimes having to fend off external aggression. Rationalization of deployment of Military in relation to National Security Interest and development of doctrines that can facilitate synchronized joint operations of internal (Civilian Civil defence units; Police, AP, KWS, KFS) and Military. This can be interfaced with a National guard to create a veritable security blanket for the state. Such design should engender resilience to contain disasters, threats, development and defence in depth. For operational effectiveness, internal structures have to fit into the rationalities of the military’s Eastern and Western Commands.

Integration of information architecture should help in anticipating future security threats and enabling the country to grapple with the question of how to intercept future security threats. The country should also be able to link today’s threats to tomorrow’s threats while building on the current competences. This should be followed by the ability of the state to integrate

other forms of security relevant information such as ownership and personal details of telephone subscribers. Critical to this is the reinventing of telephone directories in enhancing penetration. Management of security demands citizen support. Indeed dealing with security is about reducing distance decay. In African societies the lack of resources implies that the state has to develop strategies in its internal security policies that seek to maximize on the citizenry.

For a start however, national security responds to threats of insecurity experienced by a state in three realms that define its triage of Ideas; Physical Base of the state and the Institution of the state<sup>244</sup>.

**Reduction of supply and demand side of armed youth call** for the setting up of Reserve Units in both Military and Internal Security Organs. It requires Civil Defence Units to arrest the sustained process of unmitigated militarization of society engendered by the offloading ex-security staff in society without safety valves. To reduce the supply and demand side of armed youth and the militarization of society it will also imply 'capturing' all armed youth including Mungiki, cattle bandits et al and re-socializing them under the Civil Defence and Youth Service structures. The process should be done and under the Command and Control of the Reserve Units before redeploying them in society as part of either community policing, construction or civil defence Units.

**Neutralization of the Gun:** The absorption of pastoralist groups in civic construction works in internal and border construction activities should neutralize the gun by rendering it useless. This is the concept of neutralizing the gun. Under pinning this is the presence of engineer, medical and education corps engaged in state building social works together with organized ideal youth increases presence of state. This will encourage penetrative infrastructure, reducing the supply and demand side of youth for cattle rustling. As penetrative infrastructure reduces distance decay, it unleashes productive activities through activation of dead capital.

**Neutralizing of the Centre of Gravity:** To achieve a decisive effect, efforts have to be directed at neutralization of Centre of Gravity of these entities so that the fulcrum around which all else depends and from which the will to fight is derived and sustained and whose collapse will destroy all resistance. The key question here will have to be; the determination of this COG (what is the Centre of Gravity of these groups; how does it relate to the states' COG). The latter's has to be secured as the state goes on the offensive.

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244 Buzan B: People State and fear; Second edition, An Agenda For International Security Studies In the Post Cold War Era: Harvester WhiteShiaf. New York.

In Kenya's case, this COG could be; economic (located in certain sites of accumulation such as transport fields or tithes from political elite). Political realm or in the state security sector (co-optation) are all located in the state or society. As the state moves to neutralize this nexus, it will have to perceive this campaign as a long *durée* process that has to begin with a paradigm shift.

Security needs to be seen to be more than the control of territory. It is about the ability to administer and govern men in their relations, links and imbrications with wealth, resources, means of subsistence, territories with their specific qualities, climate, irrigation and fertility. It is also about governing men in their relations with things such as customs, habits, ways of acting and thinking in relation to accidents, misfortunes, famine, epidemics and death<sup>245</sup>. The main objective is to ensure self reproduction at economic, political, social and ecological levels. The question here is that of how to achieve this. What strategies, tactics are needed to ensure government action is felt.

Security will need to be seen in terms of how government action is organized to be felt on a territory, how spaces are ordered/organized for security to be felt. For instance, how is security organized to reduce distance, how are various security networks organized to support each across the state to operationalize the principle of Mass and Economy of Force? How do we ensure that road networks, parks, Marine spaces are secured and that the same security framework is flexible to support local and national police Units? It calls for new practices of State that shape human conduct. Such thoughts should take into consideration our desires, aspirations, interests and beliefs. It should embrace definite but shifting ends, institutions, trained actors and their organization. The object here is the use of our desires, aspirations, interests and beliefs as driving valves and as entry points at one level and the channelling of the same at another towards definite and shifting ends.

The state has to appreciate that it is fighting nascent insurgencies, criminalities and violence that is or will soon link up given the nexus that feeds and sustains them. The fact that the war is waged among the people without defined battlefronts qualifies it for what Koldo calls new forms of war. They are wars among the people. They are essentially asymmetrical demanding re-adaption of assets to their logic. They demand irregularization of Military assets and involving them in internal securitization with restructured assets of Police, Civil Defence and local Community Assets. If security is the end state, the means towards this is the Reduction of Distance Decay ( $RDD = f(MI^2 - OB - SAN + ICT)$ ) to shrink and dry swamps that nourish bandit groups with the

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245 Foucault: Power, The New Press 1978/2000p 208-9

objective of bringing them under its control. This process of closing spaces should aim at reversing the apparent and expanding felt sense of alienation by increasing provisioning capacity. As noted elsewhere in this discussion, the emergence of the bandit logic is a security expression of political, social economic and security/military problem. It is essentially an attempt by these groups to seize control of or modify the state to their liking.

**Calibration of the use of force is critical;** the state has to carefully set where to place the cursor i.e. at zero on the continuum of one to hundred if the objective is to surrender to these insecurity situations or at one hundred if it seeks to maximize on extreme repression to force these elements to surrender. It could also place it at the centre. The general argument is that in such asymmetrical encounters, force accounts for 20% of efforts. The key objective here is to use the little role attached to force to help modify the behaviour of criminal gangs to persuade them to become accommodative to what the state sets out as its mission. Appreciation that they could be part of the state has to be determined by the states timelines. Engagements of the communities have to be done with the objective of liberating the society from capture by these groups. This 20% is critical if 80% deployed towards reducing distance decay has to work.

**Breaking the Encyclement;** Internal Security Policy has to focus itself on the phenomenon of reducing the distance decay prevailing in a society to the point at which state is able to penetrate and reach individuals at economic, political and social levels to entrench state in all national domains. Enhanced levels of insecurity correlate directly to distance decay. The higher the intensity of distance decays at economic, political and social level, the higher the capacity for criminal elements to embed themselves in society. It will include the process of closing of spaces and breaking out of encirclements imposed by criminal elements. Innovative deployment of created Reserve, Civil Defence, or National Guard units together with rationalized redeployment of Police units in spaces of insecurity is imperative. Indeed the felt sense of encirclement and distance decay explains the expanding bandit territory across the republic. This can be conceived in terms of the felt sense of “imposed exile” many Kenyans feel as rural insecurity prevents their frequency into their native spaces. The same can be expressed through the rush out of urban public spaces back to domestic spaces in a bid to run away from crime or the constant fears expressed by Kenyans on transport nodes as a result of mugging.

**Micro Economic Measures;** that focus on the demand and supply side of insecurity are core. These must seek to drive out of circulation millions of socio-

economically displaced youth, organize and discipline them at bio political and anatomo-political levels to enhance state bio-power useful for state construction activities such as socio economic and security infrastructural developments. The massing of these youth should result into the recapturing of the physical base of the state in addressing negative ethnicization to render them useful to the society. They will be useful in the development of civil defence frameworks for disaster management and infrastructural penetration in the society apart from generating demand through knowledge acquisition.

The second intervention has to do with architectural re organization at a societal level. The key question here is that of seeking to ask ourselves how we securitize the rural, urban, local, regional spaces and their connecting nodes. From what are we seeking to securitize them? The third question is that of what objects we seek to securitize and fourthly, what is the inherent value. A quick response to the first question is in trying to develop and implement new forms of knowledge. This should be built around the need to respond to basic social needs such as provision of schools, water, housing and rural/urban access roads. Equally imperative are assets such as market sites, recreational centres and transport networks. Key to this is how they are operated and controlled and how information is generated, managed and used in respect to this from the local to the national levels.

At this level we must securitize community assets at both individual and state levels from threats by organized gangs, drug peddlers, human traffickers and disasters. At the state level, the linkage between the state institutions and the society are critical. How state institutions cooperate with community infrastructure including religious and traditional is important. Security must be perceived to include not just sites but the shifting locations mediated by human activities. Critical to this is how national institutions and security organs fit in with local structures. The said policy must anticipate the extension of this connectivity into the regional security setting. The aim here should be the creation of a security blanket taking advantage of regional cooperation at state and regional localized spaces. In this context, several components of security assets need to be factored in. They include infrastructural modes such as roads, rails, air and maritime domains.

Linked to infrastructure are the types of networks we seek to securitize at what levels and by whom. For starters there is need to identify what networks are regional and what forms of collaboration at state, regional and community levels will be necessary for securitization and by whom. There is also the question of the institutional agencies responsible for that process of securitization. These range from the regular police, a restructured coast, river

and border guards. It also includes game and forest reservists and rangers, Ministry of Public Works, Roads and Transport, Defence, Revenue, airports, customs authorities, local municipalities and community.

Social Distance Decay is a great disadvantage to the state. The state cannot deal with challenges of human trafficking and terrorism and drug traffic without the support of the community. Accordingly, the state needs to invest in the inverse ideological constructions to counter those carried out by criminals and non-state actors. It needs to undermine ethnic, religious, physical, legal support these groups and individuals get from society or in converse give to the society. For a start it needs to enhance societal capacity in security matters. It needs to enhance societal capacity in being able to cope with disasters. It needs to build up on existing community policing by enhancing partnerships with communities and enhancing their capacity to provide intelligence and identify certain threats whenever they exist. It will also need to build on local security network structures that include municipal Askaris, meter inspectors (both electricity and water) local chief, watchmen in estates, school, and security Askaris.

Creation of citizen volunteer corps is critical for enhancing security management and economic re-generation activities, social state reconstruction activities and disaster management. Among citizen related organization structures that have to be in place include community border security management structures for cross border communities, urban security management structures for urban communities in residential and commercial areas and regional security management structures. These assets are critical to enhancing intelligence extraction for intelligence based policing. It will be imperative that all the information generated is also fed to central processing centre or a national crime information centre. This will act as fusion centre connected to other strategic centres such as national counter terrorism centre, CBS, immigration, Central Bank, municipalities and city authorities, area law enforcement computer networks. Such connectivity should be able to facilitate crime analysis, collection of data and mapping and the development of intelligence led policing. It should also help in facilitating a flexible force to space ratios. It will enhance value extraction, local accountability, community regeneration and crime management. There will also be an extended and concerted effort in countering organized crime, terrorism, maritime security threats through reduced distance decay and opening up of spaces. It will reactivate crucial community assets and integrate them in security architecture that is currently dead capital. These include maids, watchmen, individuals, and traders, transporters, bar attendants, mobile phones and fused information networks besides reducing local tensions.

Securing the individual and the state implies re-conquering SME, peripheral spaces to exercise sovereignty. This will involve using Military, Youth Service and communities to absorb and align large supply of Youth to societal infrastructure demands (Internal and Frontier Social and, economic infrastructures such as schools, markets houses, roads). This has to begin by increased levels of instrumental socialization, seeking to discipline and inculcate values of national pride, patriotism, nationalism and purpose. It will mean rehabilitation, census, training and information acquisition (psychometric evaluations) as part of reconstituting individuals. Numbers resulting from these would allow state to dominate space and enhance legitimacy while conversely draining the swamps that sustain bandit economies. Without failing the state and securing ungovernable spaces, criminality and violence are orphaned. The nexus that feeds criminality, arms, bandit leadership and penetration of state structures become asphyxiated. Key factors towards this orientation are the questions; how do we grasp the phenomenon of security; what is the purpose of National Security? What are our referent objects that we seek to securitize? How are they affected at individual, institutional, state, regional and global levels of security?



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