

**Trends in Police Militarization, A Case Study of Kenya  
(2005-2015)**

**Presented By**

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of Arts in International Conflict Studies at the Institute of Diplomacy and International  
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**DECLARATION**

I, Eva Wangari Kimani declare that this is my original work and has not been presented to any institution or University other than the University of Nairobi for examination.

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## **DEDICATION**

This research project is gratefully and lovingly dedicated to my family who have supported me in every way they could; my Dad, Kimani Bow, my Mum; Elizabeth W. Kimani, my sisters; Kanyi and Shiku and my brother; Bow Kimani.

To my support system while doing this research project; Njeri Gatheca, Joy Njunie and Lydia Mugo; thank you for pushing me even when I had no energy left!

Thank you!

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First, all glory and honor to God for good health, resources and time to finish this project. I would also like to thank the University of Nairobi for giving me a chance to pursue and complete this course. My parents, for encouraging me every step of the way, my supervisor Martin Nguru for being patient with me, and my place of work, MDF-ESA for allowing me time off to self-develop.

This research and project would not have been possible without the constant encouragement and sometimes hand holding of Lydia Mugo whose criticism and guidance gave me confidence to continue working on this research, and to Njeri and Joy thank you for constantly reminding me to give it my best.

## **ABSTRACT**

Since independence, the country has seen an increase in the use of force and brutality by the police in dealing with civil unrest and issues of crime and violence within communities. The police are the primary security providers; they are ideally bound by a code of conduct on how to administer the powers they have. While this is true, the Kenya police are continuously accused of being the biggest perpetrators of extra judicial execution and human rights abuses. This paper will try to establish if this increased use of force is a form of police militarization and the trends and impact seen across each regime with brief mention on post-independence era but with special and critical focus on the multi-party era and new constitutional dispensation. (2005-2015)

Of interest in this paper was to establish if there really is an inclination towards militarization. Literature pertaining to this study was reviewed although being fairly scarce material hence relying on secondary sources of data and also limited experts and resource people. In conclusion, it is clear that there is an increased use of force by the police, the question then is to what extent with the appreciation of the Kenya context.

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## **ABBREVIATIONS AND ACRONYMS**

<b>SWAT</b>	-	Special Weapons and Tactics
<b>SSR</b>	-	Security Sector Reforms
<b>KDF</b>	-	Kenya Defense Forces
<b>KPF</b>	-	Kenya Police Force
<b>KFS</b>	-	Kenya Forestry Services
<b>NYS</b>	-	National Youth Service
<b>KWS</b>	-	Kenya Wildlife Services
<b>IPOA</b>	-	Independent Police Oversight Authority
<b>NPS</b>	-	National Police Service
<b>NPSC</b>	-	National Police Service Commission
<b>KPR</b>	-	Kenya Police Reserve
<b>UPF</b>	-	Uganda Police Force
<b>RRU</b>	-	Rapid Response Unit
<b>CJTF</b>	-	Civilian Joint Task Force
<b>FPU</b>	-	Formed Police Units

## CHAPTER ONE:

### POLICE MILITARIZATION

#### 1.1 Introduction

In the last decade, the country has faced significant safety and security challenges. These challenges have emanated from both internal and external threats; inter-ethnic conflicts, cattle rustling, armed violence and terrorist attacks. The government reaction to these threats has varied across board, but significantly constant, has been the increased use of force to counter these threats. Police are more armed, have more sophisticated equipment and in general the public order management strategy for the government is show of might. This paper will aim to establish the trend in this approach by government and try to answer if there is a trend towards a militarized police force.

Worldwide, the issue of police militarization has attracted scrutiny and microscopic watch from the growing interdependence of the functions and role of the police and military during situations of unrest. This has raised issues as to the proper division of labor between police and the military in a given situation.<sup>1</sup>

Images of police donning heavy artillery and protective gear in armored vehicles are not isolated incidents in today's world. In the US, federal programs providing surplus military equipment along with departments own purchases have outfitted officers with firepower that has often been described as greater than what is necessary for their jobs as defenders of their citizens. The use of teams that are heavily armed to perform regular law enforcement duties work can dangerously

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<sup>1</sup> Enloe. C.H. and Penzer.U. S “*The Military, The Police and Domestic Order: British and Third World Experiences*” Richardson, (London Institute for Conflict and Peace Research. 1976)

exacerbate situations that need not to have involved violence.<sup>2</sup>

A recent report on police militarization “war comes home” in the US found that the Special Weapons And Tactics (SWAT) teams which were originally devised as special responders for emergency situations are deployed paralleled by a corresponding change in attitude whereby police conceive to be “at war” with its citizens rather than as public servants concerned with law enforcement and safeguarding of the people’s rights..<sup>3</sup>

In Kenya during the 2012 general elections, a deployment of about ninety thousand heavily armed police was seen across the country towards efforts of what was referred to as ‘guaranteeing peace’. In recent times, the line between police and military mandate appears blurred. The government has domestically deployed the military in several instances; the Westgate Attack, Mpeketoni, Kapedo, Tana River and Garissa, where the military brandished heavy artillery including tanks and armored vehicles, and where in all instances, excessive use of force, looting and violation of fundamental rights of citizens were reported without follow up or investigation.<sup>4</sup> Additional to this unsettling pattern, is the new Kenya Defense Force (KDF) amendment bill 2015 which if enacted into law shall grant express authority to the chief of the defense forces to deploy KDF on civilian at the slightest hint of civil unrest. The Bill also proposes the establishment of an auxiliary reserve force comprising different civilian based armed forces in Kenya such as Kenya Wildlife Service (KWS), Kenya Forest Service (KFS) and National Youth Service (NYS) to serve beside the KDF.

“The president may in situations of emergency or disaster or during war, unrest, or disaster, order that the auxiliary forces comprising forest guards and NYS be employed

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<sup>2</sup> <https://www.aclu.org/issues/criminal-law-reform/reforming-police-practices/police-militarization>

<sup>3</sup> <https://www.aclu.org/feature/war-comes-home?redirect=war-comes-home-excessive-militarization-american-policing>

<sup>4</sup> <http://theplatformke.com/militarization-of-kenya-and-the-dangers-it-poses-to-democracy-and-civil-liberties/>

to serve with KDF or otherwise in the defense of the nation whether within or outside,”<sup>5</sup> These orders can be issued arbitrarily presenting issues of accountability and potential human rights abuses.

With this background this study sets out to understand the trend in militarization of police in Kenya with a review of the pre-colonial structures and how they set a foundation for the post-colonial systems of policing. The study will also delve into understanding the progression of this militaristic approach through the different political regimes Kenya has been through.

## **1.2 Statement of the Research Problem**

Police militarization has become a polarizing topic; in the US the debate has been ongoing. Critics argue that police militarization leads to abuse of authority and a subtle shift towards a “police state.”<sup>6</sup> The debate surrounding the topic of police militarization has primarily focused on the issue of use of violence and excessive force. Selective use of violent crime statistics by both supporters and critics of police militarization have added to the confusion surrounding the issue. It has been debated that military equipment obtained under the guise of violence has promoted the adoption of military tactics which endanger civil liberties.<sup>7</sup>

Critics argue that the most significant effect of militarization has been on police culture. They claim that militarization has promoted an overly aggressive form of policing that embraces force as the primary means to solve social problems, encourages the use of unnecessary and excessive

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<sup>5</sup> <http://www.standardmedia.co.ke/article/2000171170/new-bill-gives-kenya-defence-forces-key-role-in-internal-security> retrieved 06/01/2015

<sup>6</sup> Whitehead, J and Hentetoff ,”A *Government of Wolves: The Emerging American Police State* (New York: Select Books, 2013), pp 23–30.

<sup>7</sup> Williams, K Kristin Williams “*Our Enemies in blue: Police and Power in America*” (Soft Skull Press 2014) pp 234

force, and teaches officers to treat citizens as enemies.<sup>8</sup>

On the other hand, proponents believe that some degree of police militarization is necessary for law enforcement to combat emerging threats from terrorism, homegrown violent extremism, and attacks by heavily armed violent criminals.<sup>9</sup> This argument proposes that police have been forced to use military-style weapons and protective equipment to keep pace with an ever-changing adversary.<sup>10</sup>

The potential ramifications of the police militarization debate are substantial. At one end of the spectrum, policies addressing militarization could render the police ineffective at protecting the public or themselves from numerous emerging threats. At the other end of the spectrum, unfettered militarized police activity could severely erode civil liberties and result in a significant loss of public support.

The effectiveness of the police is largely dependent upon public support and that support is contingent upon the public's view that the police are exercising their authority in a legitimate manner.<sup>11</sup> It's thus important to give critical and constant scrutiny to these structures as police are given extraordinary amount of discretionary authority. The issue of police militarization must be properly analyzed to ensure law enforcement retains its legitimacy while maintaining public support. This study will focus on understanding this debate with special reference to Kenya.

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<sup>8</sup> Balko, R, *Rise of the Warrior Cop: The Militarization of America's Police Forces*, (New York: 1st Trade Paper edition Public Affairs, 2014).

<sup>9</sup> The Justified 'Militarization' of America's Police," August 25, 2014, <http://chiefsvie.com/2014/08/25/the-justified-militarization-of-americas-police/>.

<sup>10</sup> Garth den Heyer, "Mayberry Revisited: A Review of the Influence of Police Paramilitary Units on Policing," *Policing and Society* 24, no. 3 (May 27, 2014): 346–61, doi: 10.1080/10439463.2013.784304

<sup>11</sup> Jason S and Tom R.T, "The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing," *Law & Society Review* 37, no. 3 (2003): 534–535.

## **1.3 Objectives of the Research**

### **1.3.1 Overall Objective**

The overall objective study is to assess the extent of militarization of the Kenya Police and the potential effect on their overall mandate.

### **1.3.2 Other Objectives**

- i. Assess changes in police militarization across political eras; the trend/rational for increasing militarization, its scope and its justification.
- ii. How militarization has changed the perception of policing in Kenya
- iii. The effect of militarization on police in Kenya.

## **1.4 Justifications of the Study**

The state is seen as the primary provider of security; domestically through police and against external threats through the military. A clear distinction in regards to the roles and laws governing them must be clear. However as security threats globally and locally evolve, the roles of the two institutions seem to get blurred.

The debate on paramilitary policing illustrates clearly that normative concerns play a central role in assessing its desirability.<sup>12</sup> This issue is viewed from diverse perspectives such as beliefs, values, and morals. To many people, the military model represents constraint, discipline, honor, control, competence, and a type of patriotism. However, on the contrary argument for some, it represents tyranny, state violence, human rights abuses, war, and a maxim that views social problems as being best-handled through state force<sup>13</sup>. This can be accredited to the Weberian notion of states and having monopoly on the use of force and the state is seen as the supreme

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<sup>12</sup> Jefferson, Tony. 1990. *The Case Against Paramilitary Policing*, Bristol, PA: Open University Press

<sup>13</sup> Kraska, Peter B. 1993. “*Militarizing the Drug War: A Sign of the Times.*” In Kraska, Peter (ed.), *Altered States of Mind: Critical Observations of the Drug War*, New York: Garland Publishing



power over territory and population.

Studies on police militarization have been undertaken and recommendations made, yet the phenomenon persists and is now a global issue. However, limited research on the subject matter with focus on Africa remains.

#### **1.4.1 Academic Justification**

Globally the nature of safety and security has changed and with it, changes in approach. Some of the key scholars who have studied and written on militarization are Peter Kraska, Alice Hills and Cynthia Encloe.

According to Kraska<sup>14</sup>, he argues that police have always been militarized and what actually varies is the degree. Other arguments presented on the issue note that after the cold war the enemy was no longer across borders but within them, states are also reacting to the global changes of safety and security with a militaristic approach.

Politics and regime according to Hills determine the level of militarization of police in a country; governments always seek to have a force or police service that is loyal to them and their regime. In most cases, these paramilitary arms are used to fight the opposition and to perpetuate the regimes political endeavor for those who may be against it. The need to study these paramilitary/auxiliary arms is therefore necessary in the context of regimes for a country.

While there is literature present in regards to police militarization in the USA, there is limited research on the subject in Africa with limited exception of Nigeria and Uganda. This can be stemmed from the fact that policing as a study has been within other disciplines; criminal justice, law, criminology rather than a discipline of its own.

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<sup>14</sup> Kraska, P. B.. “*Questioning the Militarization of U.S.Police: Critical Versus Advocacy Scholarship.*” Policing and Society (2): 141–155 (1999). 1999

### **1.4.2 Policy Justification**

International policing standards are based on the premise that the state is the sole bearer to objectively and efficiently subject itself to legal constraint in law enforcement within human rights and laws. Police norms are rooted in the international law framework and the police bound by “a maxim of governance in which all entities (person, institutions among others) including the State itself, are held accountable to all laws, objectively enforced and independently adjudicated. In addition, they should be in line with international human rights norms and standards.”<sup>15</sup> Traditional normative notions of police and policing are thus very closely associated with states and formalist notions of statehood. Some of the international law frameworks that have come to be referred as the “International Bill of Human Rights” that are formed from the International Covenant on Civil and Political Rights (1976), the International Covenant on Economic, Social, and Cultural Rights (1976) and the popular Universal Declaration of Human Rights (UNDHR 1948). While this may be seen to lean more on human rights, there are specific ratifications with regard to policing; examples of these are, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Official and The UN Code of Conduct for Law Enforcement Official. These laws and ratifications provide a guideline to ensure international standards and principles for policing. However, it must be appreciated that policing is contextual and while some of these are progressive guidance, some countries are either not signatories, or have not operational zed these laws. Kenya has ratified many of these and some are also enshrined within the constitution which should ideally ensure their implementation.

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<sup>15</sup> UN Security Council, “The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General,”S/2004/616, 23 August 2004, <http://www.unrol.org/files/2004%20report.pdf>. Retrieved June 20 2016

## 1.5 Literature Review

### 1.5.1 Defining Police Militarization

Police militarization and arming of domestic security agent in Africa, dates back to the scramble for the continent and subsequent colonization. The process and its execution have had critical and significant implication on the society and the larger criminal justice system as a whole. This has had a causal effect on the relationship between the citizens and police who over the years have drawn further and further away from the very people they are supposed to “protect and serve”. This has been seen through ways of administering their mandate that does not ideally build the confidence or relationship with the citizenry; beat and patrol in cars, excessive reports of police corruption, poor or lack of training on public order management resulting in excessive use of force and increased cases of extra judicial executions to name a few. This trend in alienation between the service provider and recipient can only be exacerbated by the continued use of force and the trend in militarization.

It’s important to understand the concepts in which this study is centered on; militarism, militarization and paramilitary policing.

*“Militarism, in its most basic sense, is an ideology focused on the best means to solve problems. It is a set of beliefs, values, and assumptions that stress the use of force and threat of violence as the most appropriate and efficacious means to solve problems. It emphasizes the exercise of military power, hardware, organization, operations, and technology as its primary problem-solving tools. Militarization on the other hand is the implementation of the ideology, militarism”*<sup>16</sup>.

Militarization is a process of through which law enforcement and other personnel are organized, engendered into a culture through training and policies.<sup>17</sup>. “Police militarization therefore is simply the process whereby civilian police increasingly draw from, and pattern themselves

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<sup>16</sup> Kraska P, “Militarization and Policing—Its Relevance to 21st Century Police” (Policing Advance Access published December 13, 2007)

<sup>17</sup> Osse. A “Understanding Policing, a resource for human rights activists” (Amnesty International 2006) pp. 51-111: 64

around”<sup>18</sup>; in this case the adoption of military-style equipment, tactics, and/or policies that leverage force, or the threat of force, as the primary means to achieve a law enforcement agency’s goals.

“Since their inception, the police to some extent have been “militarized’ After all, the foundation of military and police power is the same—the state sanctioned capacity to use physical force to accomplish their respective objectives (external and internal security).”<sup>19</sup>.

*Paramilitary policing* means armed forces of the state that have both military capabilities and police powers<sup>20</sup>

Paramilitary policing is the most obvious manifestation of the adoption of a militarized ideology of policing, or the militarization of the police.....militarized police or paramilitary police tend to: deploy as units rather than as individuals, seek training from military personnel in the use of sophisticated weaponry, special apparel, and equipment; and three adopt a system of rank that replicates the structure of the military<sup>21</sup>  
Stephen and Kraska<sup>22</sup> argue that a new trend is also eminent that could also be defined as paramilitary policing; the “policiticization” of the military. This is the use of military to perform policing functions. According to Kraska, police have always been militarized and what had varied over time is the degree

“The real concern when discerning police militarization is one of degree—or put differently, the extent to which a civilian police body is militarized”<sup>23</sup>”

This can be seen through their structure; command and control, training and separation of the units from the public which will be further highlighted under causes of militarization. ”Any assertion that the police are not militarized is simply misguided. This is a nuance easily

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<sup>18</sup> Ibid

<sup>19</sup> ibid

<sup>20</sup>Perito, Robert M 2004 *Where Is the Lone Ranger When We Need Him: America's Search for a Post Conflict Security Force*. Washington, D.C.: USIP Press.

<sup>21</sup> Scobell, Peter B. and Brad Hammitt 1998 "Goons, Gunmen, and Gendarmerie: Toward a Reconceptualization of Paramilitary Formations." *Journal of Political and Military Sociology* 222: 214-227.

<sup>22</sup> ibid

<sup>23</sup>

overlooked by police analysts who react defensively to using these organizing concepts”<sup>24</sup>

The militarization process has a long, rich history. Just as important, it has crucial implications upon society and the criminal justice system. Surprisingly limited research has been done on this subject in Africa and Kenya. Militarization of the police no doubt has effect on the interactions between communities and police.

“Police over a long time have been alienated from the public for many reasons over the decades: corruption, poor training in regards to human rights, excessive force and subcultures. A logical concern would be if the recent accelerated militarization effect will not cause more alienation and further widen the divide between police officers and the communities they are supposed to serve.”<sup>25</sup>

### **1.5.2 Militarization and the Police in Post Independent Sub Saharan Africa**

Militarization and patronage-based politics are defining characteristics of many national police forces in Sub Sahara Africa. These characteristics are intimately related to but not exclusive legacies of colonial rule. The literature frequently refers to these trends in highlighting the role of the statutory police in preserving the ruling regime’s power and their enjoyment of the benefits of patronage. A comparative analysis on the role of police commissioners in Kenya, Uganda, Zimbabwe, and Ghana notes that despite the diverse character of their respective regimes, the executive has wielded unprecedented authority over the national police, using them to enforce political decisions, maintenance of order, regulation of activities and regime presentations<sup>26</sup> This subservience of national police organizations to the whims of the political elite features strongly across countries: from the entrenched authoritarianism of Zimbabwe to the illiberal post-

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<sup>24</sup> Kraska, P. B. (1999). 1999. “Questioning the Militarization of U.S.Police: Critical Versus Advocacy Scholarship.” *Policing and Society* (2): 141–155.

<sup>25</sup> *ibid*

<sup>26</sup> Hills A, “Police commissioners, presidents and the governance of security,” *Journal of Modern African Studies* 45, no. 3 (2007) pp. 403–23.

authoritarian democracies of Kenya and Nigeria.<sup>27</sup>

In a review of security sector reform on the continent, it is observed that while the idea of police is to provide security services to a people of specified geographical area, the ruling elite ensure a gap to favor status quo and protect the certain social classes. Rather, proliferation and maintenance of multiple and redundant police and internal security institutions in otherwise weak and fragile states serve a range of political and operational purposes for national elites. Positions in the security sector are frequently used as “patronage that advantages the kinship groups of national leaders or as gifts in courting political favor across rival factions”<sup>28</sup>. A bloated security sector helps grease the wheels of patrimonial politics that sustains the ruling regime in power. At the same time, ensuring that no single security agency becomes powerful enough to launch a successful coup can be a strong factor in political calculations of the ruling elite.<sup>29</sup> As alluded, some African states maintain numerous regular and ad hoc military and civilian security agencies, often in addition to a range of semi-statutory police services.<sup>30</sup> In an operational setting, the inability to distinguish between armed civilian and uniformed security personnel helps deflect accusations of potential human rights abuses. In its review of oversight and accountability of Ugandan security forces, the Commonwealth Human Rights Initiative expressed concern over the ongoing militarization of the Uganda Police Force. Its 2014 report illustrates how the use of overlapping and indistinguishable security agencies can promote an environment of impunity.

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<sup>27</sup> Hills A, “Learning the hard way: Implementing SSR in Africa’s post-authoritarian states,” in *The Future of Security Sector Reform*, ed. Mark Sedra (Ottawa: Centre for International Governance Innovation, 2010), 177–90

<sup>28</sup> *ibid*

<sup>29</sup> See Patrick Chabal and Jean-Pascal Daloz, *Africa Works: Disorder as a Political Instrument* (Indiana: Indiana University Press, 1999); Leonardo R. Arriola, “Patronage and Political Stability in Africa,” *Comparative Political Studies* 42, no. 10 (2009): 1339–462. See also Habiba Ben Barka and Mthuli Ncube, “Political Fragility in Africa: Are Military Coups d’Etat a Never-Ending Phenomenon?” African Development Bank (September 2012)

<sup>30</sup> OECD, “Enhancing the Delivery of Justice and Security.” For example, see CHRI, *Police Accountability in Uganda*, 15–16; Alemika and Chukwuma, “Analysis of Police and Policing in Nigeria.”

In Kenya's development road map document; Vision 2030 a lot of emphasis on safety and security has been made in regards to them being critical pillars towards economic growth. This and the 2010 Constitution provide for far reaching and game changing police service reforms. The Kenya police have transformed since the pro-imperial colonial era that had been founded on the premise of subjugating the native citizens. . "This history of pro-imperialist tendencies and anti-natives disposition is what inadvertently shaped the institutional character and operations of most post colonial African police forces, including the KPF"<sup>31</sup>

Unfortunately reforms of the police force in majority of the post-colonial states in Africa, Kenya included have been mostly elusive. President Daniel Arap Moi twenty four year reign reveal that the Kenya Police Force played a critical role in human rights violations, which included but not limited to politically motivated disappearances and targeted alleged assassinations of perceived opponents. The pro-democracy movement activists that championed for the expansion of the political space were repeatedly intimidated by the Kenyan Police. Incidents of unlawful and prolonged detention of such activists without trial were rampant.<sup>32</sup> As highlighted by Omeje and Githigiro "as a result of prolonged undemocratic rule by President Moi, the institution became highly politicized with the result that recruitment and promotion of officers were for the most part based on cronyism and clannism; the police was seemingly dominated by hegemonic ethnic groups".<sup>33</sup>

The 1990s experience an increased crime rate, particularly in Nairobi.<sup>34</sup> The image and

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31 Douglas Lucas Kivoi, Casty Gatakaa Mbae. The Achilles ' heel of Police Reforms in Kenya. Social Sciences. Vol. 2, No. 6, 2013, pp. 189-194. doi: 10.11648/j.ss.20130206.13

32 Omeje K and Githigiro J. M "The Challenges of State Policing in Kenya: Peace and Conflict Review Volume 7 pg 1

<sup>33</sup> ibid

<sup>34</sup> Katumanga M and Lionel C, Nairobi – A City Besieged: The Impact of Armed Violence on Poverty and Development (Bradford: Centre for International Cooperation and Security Department of Peace Studies, 2005).

perception of the Kenyan police was at its lowest in the post-independence history. President Moi led a single party state whose hold on power was largely sustained by an unprofessional police. “After 2002, the return to democracy opened up opportunities and expectations in the security sector that the Kenyan Police would undergo a holistic reform process to professionalism it and provide it with a basis for effective policing.<sup>35</sup> Whereas the police have not reached the epitome of this envisaged policing, a number of progressive steps have been integrated since 2002. Some of these include the emergence of preventive action through community policing of some neighborhoods. Community policing, a hallmark of best practice of state policing globally is essentially a bottom–up approach that aims at policing in partnerships through the consent of the people. Community policing uses diverse strategies to engender trust and partnership between the people and the police. This would typically involve proactive communication with community stakeholders to understand their needs, including them in intelligence gathering and neighborhood surveillance, creating of police posts and attendant offices adjacent to each other within residential neighborhoods, among others. Since its introduction in Nairobi under via the Kibaki regime, community policing has grown to different parts of the country. While this was regarded as a step in the right direction, lack of an effective implementation strategy led to poor conceptualization of the initiative leading to parallel community security providers taking the law into their own hands; raise in vigilante groups, taking up an almost militaristic approach.

Recently, in an effort to redeem community policing and restore its lost glory as a form of vigilantism, the government came up with “Nyumba Kumi” initiative where every member of the society is expected to know at least 10 of their immediate neighbors. While this may have

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<sup>35</sup> ibid



been commendable policy declarations, the implementation and execution has hardly been supported and when done, has been politicized. Despite a return to multi part democracy, the remnants of character and approach from the post Moi era resurfaced exponentially as evidenced in the 2008 post election violence. The 2007-08 post-election violence tipped the civil-military relations in Kenya for the worse. The violence saw a return to heavily armed police units to clamp down on citizens become commonplace. In addition, the force inflicted by these units was clearly disproportionate as noted by the Commission of Inquiry into the Post-Election Violence (CIPEV).<sup>36</sup> The commission, under the leadership of Justice Philip Waki was formed to investigate the status of security agencies. The report heavily implicated the Kenya police for gross misconduct and human right abuses. Consequently in 2009 a National Task Force on Police Reforms under the leadership of retired Hon Justice, Philip Ransley was formed to draw a roadmap to the security sector reforms in Kenya. This committee made 200 recommendations, which if fully implemented would overhaul the structure of the police force to address shortcomings which permit and perpetuate impunity for police abuses. Some of these recommendations were; establish and build transparent police body; build structures to bring the 2 police units under one command and look into the welfare of police officers: this would be known as the National Police Service Commission (NPSC).

It is however noteworthy that the establishment of the National Police Service Commission (NPSC) was progress towards reforming law enforcement in Kenya. The execution of bringing the NPSC to full functionality remains incomplete, with critical reforms outstanding such as comprehensive life insurance for all police officers, provision of security kits to all officers and the establishment of a forensic laboratory for the Criminal Investigation Department (CID)

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<sup>36</sup> <http://allafrica.com/stories/201409171722.html>

amongst others. The slow pace at which the reforms at NPSC are taking has increased incidences of human rights violations. It has also limited the response and preparedness of the National Police Service in discharging its constitutional mandate to citizens.

These gaps and challenges are widely acknowledged by the Kenyan government through several telling reports. In 2012, the Kenyan government submitted a report to the United Nations (UN) Human Rights Committee admitting to the existence of extra judicial killings by police and civilians of suspects was a significant issue.<sup>37</sup> The government further acknowledged that extra judicial killing is at the top of the most grievous human rights violations in Kenya. This gives credence to the tainted image of the police service whose culture originated from the historical roots of the Administration police and Kenya Police however has been pervasive in the post 2010 constitution era.

### **1.5.3 Policing in Conflict and Post conflict**

There is a correlation between the quality of police work and the legitimacy of a state. The day to day interactions between the police its citizens make the former more visible and open to scrutiny as opposed to military officers. As a result, the importance of public trust in the police is the foundation of establishing an effective human security system. However, police fail to protect citizens' against crime and violence and in some cases, they are the perpetrators of crime and violence. The effect is detrimental to the general principles applied in security sector reforms that include: enhanced control of crime, civil control, human rights and legitimate security institutions. The Organization for Economic Co-operation and Development (OECD), played a leading role in devising the concept of SSR. In its model, OECD places the police as a service

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<sup>37</sup>Amnesty International, *Police Reform in Kenya A Drop in the Ocean*, AFR/32/001/2013

provider for the public.<sup>38</sup> They are expected subject to the law and accountable to the public in both theory and practice. This therefore increases the need for their tasks to be clearly identifiable and verifiable. OECD SSR model further states that the police should prevent crime by working closely with the public also known as community policing.

The principle of a civilian police force generally means that the functions of police and military are separated. In such a model, the police trained to deal closely with the public use minimum force and have more fruitful experiences in trust building and information gathering.

In contrast, the military as institutions requires the use for maximum force to meet its mandate. Their officers have minimal contact with civilians with most stationed at barracks. Their mode of operation in contrast to the police is appropriate for war but inappropriate for law enforcement in the context of civilian populations. The police, unlike the military, can secure and present evidence that can be used in court.

In states that have experienced intra-state conflict, the separation of police and military duties is of greater significance and impact. The police forces in such states are often militarized, biased and responsible for violations of human rights. This process is however much more difficult in practice in such countries due to gaps in security. More often than not, international players will not send out members of their own civilian police forces until months after the end of a war and then in insufficient numbers. In addition, international police forces do not always have the capabilities necessary to take effective action against presumed war criminals, criminal groups, illegal intelligence services, paramilitary intra-state (in)security forces or even violent demonstrators. This means that international military forces are under pressure to perform police

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<sup>38</sup> Organisation for Economic Co-operation and Development 2007: The OECD DAC Handbook on Security System Reform. Supporting Security and Justice, OECD, Paris Pg. 271

and police-like duties, civilian and military decision-makers, however, are afraid of negative effects on the fighting strength and moral of their soldiers. These security gaps exacerbate the ability for fragile states to stabilize resulting to the military acting as a quasi-police force. In the meantime, Western armed forces are learning to use non-lethal weapons when training for missions abroad so that in the event of potentially violent demonstrations they do not only have the choice between retreating and using firearms. Likewise, there has also been a militarization of the police as several indicators show <sup>39</sup>Material indicators are military weapons and technology, cultural indicators are military-like language and a military style; organizational indicators are the establishment of military-like commando structures, and operational indicators are the participation of police forces in high-risk missions. International players may encourage the militarization of the police in peace operations in two ways. First, they may send in their own robust police forces such as gendarmerie, Formed Police Units (FPU), or Special Weapons and Tactics (SWAT) units. Secondly, international stakeholders may encourage the militarization of the police in post-conflict states through militarized training and armaments programmes. This means that the functional need to close security gaps clashes with the principle of civilian police work. By encouraging militarization, international stakeholders reduce the risk of security gaps. The price may be high, however, if militarization overshadows civilian police work – for example public confidence could be lost as a result of the disproportionate use of force or poor crime detection results due to neglect of police skills. The militarization of the police also sends out conflicting signals to the public and thus risks undermining the credibility of the reform efforts.

These grey areas vary considerably and there is no sure formula for achieving the correct balance

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<sup>39</sup> Kraska, P B.: Militarization and Policing – Its Relevance to 21st Century Police, in: Policing, Vol. 1, No. 4, 2007, 501-513

between civilian and military elements in international police assistance work. SSR guidelines allow the donor states leeway when providing international police assistance.<sup>40</sup> The standard work on SSR does not go so far as to advocate the separation of police and military duties, it does, however, demand a clear separation of the duties of the security forces, their democratic control and a civilian, community-oriented police force.

## **1.6 Theoretical Framework**

Several theories have been put forward in explaining the issue of police militarization. This study will address the tenets of each of the fundamental theories including the rational theory by Weber, the contingency theory and the institutional theory. The institutional theory however will overall guide this study especially its central argument on legitimacy. The theory dictates that, organizations are driven by the need to sustain legitimacy not just efficiency.<sup>41</sup> Organizational fields exhibit considerable diversity in structure and behavior during the early part of the fields existence but once the fields evolve, there is an inexorable push towards homogenization. The argument on legitimacy posits that high crime rates and the criminal justice inability to affect them have resulted in a legitimization crisis for governments<sup>42</sup>. In a bid to safeguard legitimacy and the high advent of new crimes and terror attacks this theory has been used to justify police militarization. This theory will further be explored in the study.

## **1.7 Hypotheses**

1. Political regimes continue to make more militaristic approaches in policing.
2. Police militarization approach to policing does not result in crime reduction.

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<sup>40</sup> This leeway also reflects the differences in the security cultures and police traditions of both the intervening states and the fragile states.

<sup>41</sup> Crank John P., and Robert . H. Langworthy., 1992 “An institutional perspective of policing” *Journal of criminal law and criminology* 83 (2):338-63

<sup>42</sup> Feeley and Simon, “The New Penology”; O’ Malley, “ Volatile and Contradictory Punishment; Simon, “They Died with their boots on”, Garland, “The limits of the sovereign states”, 445

### 3. Police militarization is demanded by the citizens.

While there exist minimal studies on the extent and effect of police militarization, there is little doubt that some degree of military influence on Kenyan police exists and may continue to increase. Evidence can be found in the blurred lines in executing their mandate and the continued involvement of the military in training and civil involvement in overt affairs. Regimes too continue to have auxiliary arms that are military in nature; paramilitary, while more investment has been made towards equipping the police with heavy machinery and equipment than on understanding the needs of the community.

## **1.8 Research Methodology**

The methodology of this research is qualitative and inductive in nature. Qualitative research is all about exploring issues, understanding social phenomena, answering questions, and is more concerned with non-statistical methods of inquiry; and an inductive method is about moving from specific observations to broader generalizations and theories; and it is therefore called a "bottom- up" approach.<sup>43</sup> The research will rely mainly on secondary data obtained from memoirs, expert surveys, books, electronic journals and scholarly articles; Primary data will be obtained from possible in depth interviews with key informants in the Kenyan police administration and experts in police and security sector reforms.

The data will be analyzed using content analysis. Content analysis is a technique for making inferences by objectively and systematically identifying specified characteristics of responses and objectively identifying and using the same approach to relate trends. The results will be

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<sup>43</sup> Ruth G. McRoy. (2005). Qualitative Research. Available: [http://www2.uncp.edu/home/marson/qualitative\\_research.html](http://www2.uncp.edu/home/marson/qualitative_research.html) Accessed: 07-01-2016. 41 Alexander L. George & Andrew Bennett. (2005). Case Studies and Theory Development in the Social Sciences. MIT Press. Cambridge. p. 212

presented under identified themes.

The research methodology maybe limited by the sensitive nature of the sector. Issues of policing and security are by and large viewed as confidential and a prerogative of government. Members of the police force are also not likely to allow scrutiny given the nature of their work.

### **1.9 Scope and Limitations**

The study will be conducted in Nairobi with interviews conducted on general public, selected key stakeholders and informants from the police departments and experts on security sector reforms. The limitation of the study is accessing the respondents who are in different police stations spread across Nairobi. Another challenge will be in getting willing respondents especially within the police service since they are the focus area and have over time been faced with numerous accusations and have a tainted image this will require strategic approach. The study may also be limited due to the small number of respondents for this study. In regard to experts in the field, the availability and access to these individuals could present a challenge. However, enough desktop research on literature review will try and address this limitation.

### **1.10 Chapter Outline**

The study is organized into five sections. The first chapter is the proposal. It gives the introduction to the study. The problem statement is conceptualized and provides justification for this study. The second chapter gives a contextual framework and discusses militarization trends and policing globally and regionally. Chapter three will focus on the subject area militarization of police in Kenya and the emerging trends. This will be outlined based on the different political regimes of the focus years. Chapter four outlines the research methodology including data collection and data analysis methods and critical analysis of findings. The fifth chapter will constitute the conclusions and recommendations.

## **CHAPTER TWO:**

### **GLOBAL PERSPECTIVE**

#### **2.1 Introduction**

Police militarization is a complex subject with significant security implications and is influenced by many interconnected factors. Efforts to implement militarization reform without a clear understanding of the issue could negatively impact law enforcement's ability to respond to emerging threats from terrorism, homegrown violent extremism, and armed criminals. Conversely, unfettered militarization of domestic policing could result in abuse of authority, lack of accountability, loss of public confidence and violations of human rights

#### **2.2 Policing**

To understand militarization of police, one must begin by understanding policing. Policing has been defined as; organized civil force for maintaining order, preventing and detecting crime and enforcing the law. Policing is seen as a means of offering a public good service; security. The police are the most visible manifestation of government security. Police are charged with the mandate of; prevention and detection of crime, maintenance of public law and order, provision of assistance to the public and protection and respect of individual fundamental rights and freedom of citizens.

While there exist different ways of policing, the focus will be on democratic policing, where police are responsive to public needs and expectations, use the authority of the State in the people's interest and uphold the rule of law. Policing is practiced within a context; police work,



live and operate within a society that they serve (police), and adopt and express similar attitudes<sup>44</sup>”

During colonization of states, the imperial governments faced resistance from communities/natives and required protection against these communities. This resulted in formation of protection units that safeguarded the interests of the imperial government. This set structures for policing as we know it now in Africa. Through a social contract, the state was given the sole responsibility to protect its citizenry; through the police.

As indicated, policing is contextual; this is to say that while the term may denote use of force and heavy machinery and hardware, the absence of some of these can be understood as a weak or ill equipped police service.

### **2.3 Policing in Sub Sahara Africa**

Policing has existed for decades, whether formally or informally, policing is regarded as the legitimate power or authority given to a select few to protect and/or administer the rule of law within a certain geographical area. While this may remain true, the operationalization of this mandate varies across board. A general analysis of policing for Africa would then be misguided; however three pillars can be used to draw a comparison in reference to policing in Sub Sahara Africa; regime or political dispensation, actors/players and the stability of a country. Regimes inform and influence the way policing is done; “Disposition of state police forces typically reflects the politics of national government”.<sup>45</sup> Actors/players; security is provided by different actors both state and non-state. “Policing is rarely the sole remit of the state. Justice and security provision typically involves a network of actors both state and non-state performing a wide range

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<sup>44</sup> Osse. A: Understanding Policing: A handbook for human rights, Amnesty International pg 22

<sup>45</sup> *ibid*

of services.”<sup>46</sup> Stability: The quality of policing in a country depends largely on its stability.

## **2.4 Actors and Players in Security Provision**

Many African countries are faced with the challenge of providing security to its citizens. A large percentage or more of the public in fragile and conflict-affected countries turn instead to various semi or non-statutory actors.<sup>47</sup> These services operate with varying degrees of cooperation or contestation and lack or vary in accountability, legitimacy and effectiveness.<sup>48</sup> Multi choice policing also suggests that people’s reliance on one justice or security provider over another has less to do with formalist notions of state legitimacy and more to do with what’s available, trusted, and affordable.<sup>49</sup>

In many fragile contexts, distinctions between state and non-state, formal and informal, and statutory and customary can be rendered meaningless. It’s emphasized that what works in providing just outcomes for people on the ground is normally built on locally legitimate structures rather than formalist notions of what the state does and does not do.

A study of local policing partnership boards in Sierra Leone and Denneys Ethiopia on community policing structures in the Amhara state of Ethiopia illustrate how formalized partnerships between Government and non-government security and justice actors can capitalize on existing local structures of legitimate authority to expand and enhance service delivery in the

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<sup>47</sup> Albrecht P, Helene M. Kyed, Isser D , and Harper E, eds., *Perspectives on Involving Non-State and Customary Actors in Justice and Security Reform* (Rome: International Development Law Organization, 2010), p. 3. See also Organisation for Economic Co-operation and Development, “Enhancing the Delivery of Justice and Security” (Paris: OECD, 2007), [http://www.oecd.org/dac/governance/peace/conflict and fragility/docs/38434642.pdf](http://www.oecd.org/dac/governance/peace/conflict%20and%20fragility/docs/38434642.pdf) Retrieved June 23 2016

<sup>48</sup> For further discussion, see Bruce Baker, “*Protection from Crime: What Is on Offer for Africans?*” *Journal of Contemporary African Studies* 22, no. 2 (2004): 165–88; Etannibi E.O. Alemika and Innocent C. Chukwuma, “*The Poor and Informal Policing in Nigeria*” (Lagos: Center for Law Enforcement Education, 2004); and Lisa Denney, “*Non-state security and justice in fragile states,*” Overseas Development Institute briefing paper no. 73 (London: ODI, April 2012)

<sup>49</sup> Baker, Multi-Choice Policing; “Protection from Crime.”

face of otherwise insufficient state resources.<sup>50</sup> The success of such hybrid partnerships may depend on the extent to which they effectively merge and build on local power structures. In Kenya especially in pastoralist communities, government has had informal arrangements with members of community to help in policing. The Kenya Police Reserve; “The Kenya Police Reserve (KPRs) is an auxiliary force detached from the Kenya Police Service and is made up of volunteers operating within their own localities<sup>51</sup>”. In certain areas eg Turkana, Pokot and Samburu, government will go as far as providing registered arms to the KPRs.....”they are armed by the state to supplement the role of the police in providing security where police presence is low<sup>52</sup>”.

## **2.5 Political Policing**

The inability or unwillingness of many governments to provide public-oriented, responsive, and accountable policing and other public services can reflect a range of underlying political and institutional dispensation of the state often connected with the legacy of colonialism, and frequently characterized by severe corruption and abuse of power with impunity. These are not mutually exclusive and are reflected in the form, function, and disposition of state police organizations. Many African countries inherited their policing structures, even the most democratic states in Africa still have remnants of colonial formed structures of policing, and for example the Force Standing Orders of the Kenya Police which since first edition published in 1905 has had very minimal review. New editions appeared in 1922 and 1938, and in 1956 and

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<sup>50</sup> Peter Albrecht, Olushegu Garber, Ade Gibson, and Sophy Thomas, “Community Policing in Sierra Leone –Local Policing Partnership Boards,” DIIS report 2014:16 (Copenhagen: Danish Institute for International Studies, 2014); Lisa Denney with Demelash Kassaye, “Securing communities for development: community policing in Ethiopia’s Amhara National Regional State” (London: Overseas Development Institute, 2013), <http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8656.pdf>.

Retrieved June 23 2016

<sup>51</sup> Mkutu K and Wandera G, “*Opportunities and challenges for Kenya Police Reserves, Policing the Periphery, small arms survey*” Geneva, March 2013

<sup>52</sup> *ibid*

1962. The last edition was produced in 2002. Since then, there have been significant changes across the Services that have required complete overhaul of the Standing Orders<sup>53</sup>

Colonial legacies are cited as a source of political and institutional fragility in Africa. Colonial institutions for security and justice were by necessity oriented toward preserving European dominance, often engineered with the collusion of certain indigenous groups at the expense of others.<sup>54</sup> “These economic, political, and social structures provided a system of law for the colonizers and systems of rule for the colonized”<sup>55</sup> In many contexts, postcolonial institutions remained characteristically colonial in form and function following independence.

“Despite the expectations that the police at independence would be reorganized and re-orientated from regime policing to a force committed to serving the people, little changed. True, decolonization had seen an expansion and the belated Africanization and training of police forces. Nevertheless there was no change in their role: they were there, as before, primarily to secure the new regime, which meant they were used for repression rather than protection of citizens.”<sup>56</sup>

“It’s been observed that the ease with which postcolonial governments adapted colonial policing is in the context of patrimonial governance.”<sup>57</sup>

Militarization and patronage-based politics are defining characteristics of many national police forces in Africa. These characteristics are intimately related to but not exclusive legacies of colonial rule. The literature frequently refers to these trends in highlighting the role of the statutory police in preserving the ruling regime’s power and their enjoyment of the benefits of patronage. An analysis on the role of police commissioners in Kenya, Uganda, Zimbabwe, and Ghana notes that “despite the diverse character of their respective regimes, the executive wielded

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<sup>53</sup> Usalama Reforms Forum “*Communities and their Police Stations*” Usalama Reforms Forum 2014

<sup>54</sup> A. Adu Boahen, ed., *General History of Africa*, vol. 7, *Africa Under Colonial Domination 1880-1935* (Paris: UN Educational, Scientific and Cultural Organization, 1990).

<sup>55</sup> See Mahmood Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (Princeton, NJ: Princeton University Press, 1996)

<sup>56</sup> Baker, *Multi-Choice Policing*, Pg 68.

<sup>57</sup> David J. Francis, “Introduction: Understanding Policing in Transition Societies in Africa,” in *Policing in Africa* (New York: Palgrave Macmillan, 2012), Pg 13.

unprecedented authority over the national police, using them as a tool for “enforcing political decisions, maintaining order, regulating activities, and regime representations.”<sup>58</sup>

As noted earlier and in reviews of security sector reforms on the continent, it’s evident that provision of security to people or citizens as a whole is not entirely favored by the ruling class/elite. Rather, the proliferation and maintenance of multiple and redundant police and internal security institutions in otherwise weak and fragile states serve a range of political and operational purposes for national elites. Positions in the security sector are frequently used as patronage that advantages the kinship groups of national leaders or as gifts in courting political favor across rival factions. A bloated security sector helps grease the wheels of patrimonial politics that sustains the ruling regime in power. At the same time, ensuring that no single security agency becomes powerful enough to launch a successful coup can be a strong factor in political calculations of the ruling elite.<sup>59</sup>

It’s been alluded to, that some African states maintain numerous regular and ad hoc military and civilian security agencies, often in addition to a range of semi-statutory police services.<sup>60</sup> As highlighted earlier, the inability to distinguish between armed civilian and uniformed security personnel helps deflect accusations of potential human rights abuses. A report on the oversight and accountability of Ugandan security forces notes about the continued militarization of the Ugandan Police Force (UPF) and illustrates how the use of overlapping and indistinguishable security agencies can promote an environment of impunity. The public order management sector also involves many security officers outside the UPF both uniformed and plain-clothed, wielding

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<sup>58</sup> Hills A, “Police commissioners, presidents and the governance of security,” *Journal of Modern African Studies* 45, no. 3 (2007) pp. 403–23

<sup>59</sup> Hutton L, “Following the yellow brick road :Current and future challenges for security sector reform in Africa,” *The Future of Security Sector Reform*, Pg . 193

<sup>60</sup> OECD, “Enhancing the Delivery of Justice and Security.” For example, see CHRI, *Police Accountability in Uganda*, 15–16; Alemika and Chukwuma, “Analysis of Police and Policing in Nigeria.”

high caliber weapons with no known lines of command and control. These unknown security men, who often work alongside the police, are allegedly not part of the police or the government, shielding them from any responsibility or accountability. It is alleged that some of these may be operatives who were part of the former UPF Rapid Response Unit (RRU), a notorious police unit that primarily dealt with violent crime. The RRU was disbanded due to overwhelming allegations of human rights violations. The ongoing presence of the stick-wielding armed groups (commonly known as Kiboko Squad) demonstrates a continued negligent delegation of security and constitutional powers.<sup>61</sup>

In Kenya there have been reports on the use of security agents outfitted by several police and military agencies alongside armed plainclothes officers in its counterterrorism operations in and around Mombasa, where multiple human rights violations allegedly took place.<sup>62</sup> A similar dynamic has also been observed in northeastern Nigeria in the operations of the Civilian Joint Task Force (CJTF), which comprises the Nigerian military, police, state security services, and loosely organized cadres of armed vigilantes. Elements of the CJTF have been similarly implicated for alleged collusion in human rights abuses in their campaign against Boko Haram.<sup>63</sup>

Allegations on excessive use of force, torture, violations to life are the most serious accusations levied against the police and are by no means limited to African countries.

A 2014 study by the Centre of Governance and Human Rights at Cambridge for the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, documented widespread violations of the right to life by state and non-state actors across Africa provided qualitative

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<sup>61</sup> CHRI, A force for good? Improving the police in Kenya, Tanzania, Uganda, Pg.80

<sup>62</sup> Open Society Justice Initiative and Muslims for Human Rights, “We’re Tired of Taking You to the Court” Human Rights Abuses by Kenya’s

<sup>63</sup> Amnesty International, Nigeria: More than 1,500 Killed in Armed Conflict in North-Eastern Nigeria in Early 2014 (London: Amnesty International, 2014).

overviews of documented instances of excessive use of force and custodial deaths at the hands of police, most of which without further investigation or prosecution of the suspect. It highlighted the excessive use of force by police during mass demonstrations and deaths in police custody as pervasive threats to human security across the continent.<sup>64</sup>

## **2.6 Post Conflict Policing**

In some countries, police violence has been an endemic, long-term problem. A report demonstrated widespread practice of extrajudicial executions by the Nigerian police force and the environment of impunity with which these acts occur.<sup>65</sup> In Nigeria, the police force alone was estimated to have killed thousands of civilians between 2000 and 2007.<sup>66</sup> In Kenya, a government pathologist estimated that 90 percent of people shot dead in 2001 were at the hands of the police.<sup>67</sup> At least 405 of the 1,133 killings as well as dozens of rapes that occurred during Kenya's 2007–2008 postelection violence were attributed to the police.<sup>68</sup>

The shoot-to-kill practice has been adopted in a number of African states; including Burkina Faso, Cameroon, Central African Republic, Kenya, Nigeria, Tanzania, and Uganda.<sup>69</sup> Special units are sometimes formed by governments to spearhead anticrime offensives, particularly when a tough approach on crime is politically beneficial to the national elite. In Uganda, for example, major anticrime initiatives came in the form of ad hoc units, such as Operation Wembley, formed to mete out swift and impromptu justice to suspected criminals during a crime spike in 2002.

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<sup>64</sup> Centre of Governance & Human Rights, *Unlawful Killings in Africa: A study prepared for the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions* (Cambridge: Cambridge University, 2014)

<sup>65</sup> Amnesty International, *Killing at Will Extrajudicial Executions and Other Unlawful Killings by the Police in Nigeria* (London: Amnesty International, 2009); Network on Police Reform in Nigeria and Open Society Justice Initiative, *Criminal Force Torture, Abuse, and Extrajudicial Killings by the Nigeria Police Force* (New York: Open Society Institute, 2010).

<sup>66</sup> Paul D. Williams, *War and Conflict in Africa* (Malden: Polity Press, 2011)

<sup>67</sup> Baker, *Multi-Choice Policing*, 75.

<sup>68</sup> International Center for Transitional Justice, "The Kenyan Commission of Inquiry into Post-Election Violence," <https://ictj.org/sites/default/files/ICTJ-Kenya-Dialogue-Inquiry-2008-English.pdf> Retrieved June 23 2016

<sup>69</sup> Baker, *Multi-Choice Policing*, Pg.75.

Wembley was renamed the Violent Crime Crack Unit later that year until transitioning into Rapid Response Unit (RRU) in 2009.<sup>70</sup> These units operated without any clear legal mandate and have been implicated in the widespread use of extrajudicial executions, arbitrary arrest and prolonged detention of hundreds of people without charge, and systematic use of torture and other forms of cruel, inhumane, and degrading treatment. In Kenya, there are several recorded instances that the government of the day or those in authority has resulted in dealing with increased security concerns in the country through shoot to kill orders. During the tenure of John Michuki, as Minister for Internal Security in 2005 he made a shoot to kill order when there was a significant spike of insecurity within Nairobi, In 2013 the Deputy President William Ruto issued shoot to kill order after visiting the western part of the country that had seen an increased level of insecurity from cattle rustling. In 2014, the then Inspector General of Police issued the same order for armed bandits in pastoral communities, in the same year, the Mombasa county commissioner issued shoot to kill orders on suspected terrorists. It's evident that when faced with an insurgence of insecurity that governments of the day are not able to deal with, they result into aggressive approach of shoot to kill orders.

## **2.7 Militarization; A Global Problem**

In liberal democratic states there are several of commonly accepted causes for police being assigned the primary role in internal security. Some of these reasons are bound in tradition and political philosophy. The increase of terrorism, the changing nature of political violence and the impact of the writings of contemporary European revolutionary and counter revolutionary theorists have contributed to the belief that internal violence is an increasingly probable and more threatening phenomena and that the armed forces are certain to be called upon at some time

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<sup>70</sup> HRW, Violence Instead of Vigilance: Torture and Illegal Detention by Uganda's Rapid Response Unit (New York: HRW, 2011)



to deal with it. However the use of armed forces to maintain peace and order within the democratic societies should be limited and emergence of paramilitary organizations to fulfill this role should also be monitored. Several examples of the militarization of the police units globally are highlighted below.

### **2.7.1 Israel/Palestine**

In Israel a third of the police force is what is referred to as “Magav” or the border police. The unit is part of both of the Israeli military and the Israeli police. While the name, “Border Police” infers they are responsible for securing the borders, MAGAV deal mostly with borders between populations - between Israeli-Jews and Palestinians - and also assists the riot police in “controlling demonstrations”, thus blurring the lines between “fighting terror” and “controlling demonstrations”. The Israeli military and army do the same thing; control a civil population in the name of security. The only difference is the legal status of the targeted and whether they are operating as a result of military rule in the west bank or to state in rule in Israel. The MAGAV have led raids in villages as Al-Arakib, which is inside the 1967 Israeli borders, in a similar manner to that of the army raiding villages in the West Bank.<sup>71</sup>

### **2.7.2 United Kingdom**

In Britain the formation of the police special patrol groups caused controversy due to their alleged paramilitary nature. In the wake of the 7/7 attacks ‘London riots’ in 2013, there was increased calls for police to carry firearms and for all police to be trained on use of electric teaser. Marginalized communities feel the most impact; the UK’s black and migrant communities always suffered disproportionately heavy policing<sup>72</sup>

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<sup>71</sup> Hovav, M. and Amir, M. (1979), “*Israel Police: history and analysis*”, Police Studies: The International Review of Police Development, Vol. 2, pp. 5-31

<sup>72</sup> <http://www.bbc.com/news/uk-31071922>

### **2.7.3 South Africa**

In South Africa after the apartheid there were moves to demilitarize the police; both the police and the military were used to maintain the status quo and the police had far reaching powers. During the transition from apartheid, new ranks were introduced to 'demilitarize' the police, and police were retrained to 'manage' rather than 'control' crowds. However, with high crime rates, there were growing calls for the police to extend their capabilities, and deal with crime with 'an iron fist'. Military rankings for the police were reintroduced in 2010, and the South African Police Service has been trained by French police, in techniques described as 'paramilitary' and reliant on show of force. In the autumn of 2012, heavily armed police forces shot 34 striking miners in the now infamous Marikana crisis.<sup>73</sup>

### **2.7.4 Burundi**

Mass protests in April 2015, in response to President Pierre Nkurunziza's decision to seek a third electoral term resulted in political upheaval and widespread killings by the security forces and armed opposition groups. Police used excessive force and shot demonstrators indiscriminately. 20,000 people fled Burundi in fear of civil war returning. After July's disputed presidential election that returned Nkurunziza to power, government forces, armed opposition groups, and unknown assailants killed hundreds of people. The government arrested hundreds of suspected opponents, often arbitrarily, as well as launching a crackdown against civil society activists and journalists, as well as banning protests.<sup>74</sup>

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<sup>73</sup> <http://www.wri-irg.org/en/node/24538> Retrieved June 20 2016

<sup>74</sup> <https://www.hrw.org/africa/burundi> Retrieved June 20 2016

### **2.7.8 Nigeria**

In Nigeria police and military share facilities for housing and training and will sometimes perform joint operations within the state. Since 2011 however the relationship between the two has been severed with ongoing fights between the two that has resulted in loss of lives from both camps and the citizens. The northern region of the country is highly militarized and has recorded the most number of human rights abuses.

#### **1.10.1 Uganda**

Policing and security provision in Uganda is highly militarized; this is illustrated by their excess use of force in dealing with security issues, the use of military style techniques in their training and the use of police in politics, private security in Uganda is also armed with guards carrying guns to assist in their day to day operations; which ideally is surveillance. Uganda like other African countries has come from dictatorial regimes that set precedence in political use of police to suppress opposition to government. Since the 90's there has been a notable increase in militarizing the police that begun when president Museveni registered displeasure of the force after clear indication that they were not in support of his regime during elections. In 1986 President Museveni made to disband the police service but was advised against this by donors. He however went around this by "adopting a more gradual and subtle approach of orienting the police on the same ideological and functional path as the military to buttress regime security."<sup>75</sup> His approach was to discredit the police force in dealing with security and also decreased funding to the service and in so doing convinced the citizens that the police were indeed not capable of handling their role. What followed was the appointment of Military generals to head the service; this was then followed by integrated training for the police within the military and by

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<sup>75</sup> Kagoro J & Biecker. S "For whom do the police work?: The Ugandan police between militarization and everyday duties" Institute for Intercultural and International Studies

military officials. Security provision in Uganda is generally militarized with normal security guards carrying guns and wearing combat gear. In a study done to measure the perception of the public towards the police, many of the respondents implied that the police were more militarized than the military.<sup>76</sup>

### **1.10.2 The United States of America**

The USA is notably the most focus study area in regards to issues of militarization. The USA has seen a significant increase in militarization of police across states. The special task force unit SWAT is regarded as a special unit within the police that responds to crime and security issues within state yet this team's approach to dealing with these issues has come under severe criticism due to the excessive use of force and the use of militaristic reaction in dealing with the issues. In 1878 the USA signed into law The Posse Comitatus Act of 1878 that gave a clear separation of police and military roles and restricted the use or participation of the military in domestic law and order, however 3 amendments have since been done to the bill. In 1993 putting in place the 1033 program to help law enforcement agencies counter drug activities , in 1997, the boundaries of law enforcement expanded after Congress passed the National Defense Authorization Act, granting police and other agencies the right to obtain weaponry for specific law enforcement purposes that would help in making arrests. And after 9/11, the Department of Homeland Security allowed local law enforcement to inherit a surplus of military weaponry from wars abroad through federal funds to counter terrorism. Since 1996 the Defense Department has transferred \$4.3 billion in military equipment to local and state police through the 1033 program

Recent clashes between heavily armed law enforcement and protesters in the wake of an unarmed black teenager Michael Brown Ferguson have reignited the discussion surrounding the

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<sup>76</sup> ibid

militarization of American police forces.<sup>77</sup>

The rules of engagement for police or paramilitary forces abroad allows the use of lethal force using military-grade gear with relatively few restrictions. But with that is a code of conduct, a set of rules that sharply regulates the wide latitude of law enforcement, and puts into a place a system of accountability.

### **1.11 Causes of Police Militarization**

The onset of police militarization can perhaps be seen through training, structure or rank and order and the mode of operation. Across board, police training is structured towards more of aggressor rather than responsive unit. The military like boot camps are designed to break down new recruits through physical abuse then “take the civilian” out of them; It alienates the use of human connection as this is regarded as weak.

Several scholars<sup>78</sup> have applied the concept militarization of the police to denote patterns of police violence and the adoption of military tactics in the enforcement of civilian order. Police history seems to capture two diametrically opposing perspectives—those arising from militia groups and those arising from fear o military control.<sup>79</sup> It is argued that there is an inherent historical, political and sociological bond between the military and police. This notwithstanding, the traditional security thinking perceives the military to be removed from domestic spheres by focusing on external threats and the police to be concerned with monitoring the domestic

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<sup>77</sup><https://www.washingtonpost.com/blogs/post-partisan/wp/2014/09/05/three-troubling-things-exposed-by-the-ferguson-police-shooting-of-michael-brown/>

<sup>78</sup> Kraska P & Kappeler 1997; Weber 1999; Kealy 2003; Chapdelaine 2007

<sup>79</sup> (Enloe 1980; Kraska & Kappeler 1997: 2; Emsley 1996: 20-24)

spheres.<sup>80</sup> The “Security Sector Reform” (SSR) paradigm, which took shape in the 1990s, also advocates for a clear separation between the two forces<sup>81</sup>. However, drawing clear boundaries within the security structures to limit each to a specific type of security is an empirically complex task<sup>82</sup>. Generally, it has been observed that the post-cold war period has witnessed the emergence of challenges which defy the distinction between police and military roles. In fact, it is not only the military that is getting more involved in domestic threats, but the police are also getting more involved in external threats<sup>83</sup>. Alice Hills argues that separating the roles of police and military is particularly more difficult in Africa because the police forces are politicized and have a tradition of Para militarism<sup>84</sup>.

The job of police officers today has become more like a frontline social worker. They make decisions as “social workers” for the majority of their shift yet, these military-like training centers produce an end product of a paramilitary soldier ready to fight an enemy, not a social worker. This has led to abuse of power and loss of innocent civilians lives.

In executing their mandate, police have operational independence; the ability of a police officer to make decision on what to deal with, while this is so, these operational powers must be accountable. Abuse of this operational independence while on duty then translates to militaristic tendency; operational independence is gained not given.

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<sup>80</sup> Lutterbeck, Derec 2004: Between police and military the new security agenda and the rise of Gendarmeries: Cooperation and Conflict: *Journal of the Nordic International Studies Association* Vol.: Sage Publications 39(1):(0010-8367. DOI: 10.1177/0010836704040832), 45–68 [Stand 2010-12-12].

<sup>81</sup> (DFN-SSR 2007; OECD 2007)

<sup>82</sup> Lutterbeck, Derec 2004: *Between police and military the new security agenda and the rise of Gendarmeries: Cooperation and Conflict*: Journal of the Nordic International Studies Association Vol.: Sage Publications 39(1):(0010-8367. DOI: 10.1177/0010836704040832), 45–68 [Stand 2010-12-12]

<sup>83</sup> Den Boer, Monica 1997: *Wearing the Inside Out: European Police Cooperation Between Internal and External Security*, *European Foreign Affairs Review*, (2): 491–508.

<sup>84</sup> Hills, A: *Police commissioners, presidents and the governance of security*: *Journal of Modern African Studies*, 45 ( 3): 2007 403-423.

A second cause of police militarization has been attributed to the police system itself. The structure of the police system is modeled after the military structure, which results to militarization of the police. The rank and file hierarchy of the policing system and the labels placed on these different levels make police less approachable. It also creates a tendency to pass the blame up the ladder as responsibility and orders come from the top; these police officers are less likely to feel responsible for their actions resulting in a system of no accountability. This can be demonstrated when looking back at the history of the holocaust. Ordinary men from Germany that had been entered into the German military completed arguably the most horrific event in history. More notably were the mobile units of the “Final Solution”. These mobile units were groups of ordinary soldiers from the German military. They had a routine in how they executed mass numbers of Jewish captives.<sup>85</sup> They would enter the village where the Jews were being held and tell them that they were being transferred. The Jews would gather every belonging they could hold and line up in the streets. The Jews were then ordered to strip and march all the while being gunned down by the mobile unit of infantry men. Normal German men were doing horrific things because the orders came from the top of their hierarchy system.<sup>86</sup>

Another main cause of police militarization is little control on its use. To stop this overuse of militaristic power against the civilian population by law enforcement there must be limits set upon it. These militaristic tactics have their place in law enforcement when dealing with violent people that could potentially injure members of the law enforcement community. Using these same tactics against non-violent offenders is immoral. This escalation of a military-like police

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<sup>85</sup> Brown, J. (2011). Nazi Death Squads Being Investigated. Huffington Post. Accessed: 02 July 2016. [http://www.huffingtonpost.com/2009/05/26/nazi-death-squads-being-i\\_n\\_207717.html](http://www.huffingtonpost.com/2009/05/26/nazi-death-squads-being-i_n_207717.html)

<sup>86</sup> Ibid

force started in the USA as early as the 1960's in opposition to the Black Panther groups.<sup>87</sup> Police exploited the perception that they needed higher amounts of firepower to match their opposition. The increase of firepower has been seen ever since with police forces acquiring assault rifles, machine guns, and even military surplus tanks. Yet, military-like tactics should be reserved for only the most violent and life threatening of situations.

### **1.12 The Cost of Police Militarization**

The encroachment of military within civilian agencies has led to an increase in militarization of the police forces . Semi military outfits for example in the United States such as Special Weapons and Tactics (SWAT) have become commonplace in the American law enforcement landscape. The greater issue at hand is not simply the increase of SWAT style outfits in the country rather the training style that “peace officers” are now taken through that encompasses of a strong military footprint. The overall outcome of the militarized training and mentorship is a mind-set that declares war on the American citizens.<sup>88</sup>

It's been argued that the semi military approach of policing multiple and diverse problems in the overall culture of the law enforcement institution including stifling genuine problem solving approaches to law enforcement whilst promoting retrogressive forceful ones. One such tactic would be the promotion of soldier like mentality on law enforcement.<sup>89</sup> The police constitute a quasi-military warrior class common with warriors generally, they exhibit bonds of solidarity that are fierce and strong indeed, their human propensities find fullest expression in having an

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<sup>87</sup> N. Stamper. (2011). Occupy the Police. 293(22):6-8. Accessed October 10, 2011. Available from: Academic Search Elite, Ipswich, MA.

<sup>88</sup> Fager, J. (Executive Producer). (1997, December 21). 60 Minutes [Television broadcast]. New York: CBS News Broadcasting Service

<sup>89</sup> Lorinskas, R.A., & Kulis, J.C. (1986). The military model and policing: A misunderstood ideology. *Police Studies*, 7, 184-193.



enemy to hate, fear, and destroy and fellow fighters with whom to share the risks and triumphs of violent action. With the military mind set the metaphor of ‘war’ becomes real life. The streets become the front and civilians exist as enemies.<sup>90</sup> Once an organization with a militaristic orientation becomes institutionalized, the members exist within a culture wherein they believe that they are literally engaged in combat. The police are members of the community from which the citizens they protect arise from and not a warring soldier.

The primary function of the police is to mitigate violence perpetrated by others against innocent civilians, to apprehend those perpetrators and deliver them to the court of law to face justice. The primary function of a soldier is to take decisive violent action based on commands in the context of war, human rights do not take precedence.<sup>91</sup>

Introducing such militarized concepts in police forces through paramilitary police outfits endangers the premise of social life and human rights..<sup>92</sup> It destroys trust within the society, making it difficult to run a successful model for social interaction.<sup>93</sup>

### **1.13 Best Practice Policing**

Human rights monitors say police in Belgium are legally entitled to use proportionate force, after a warning, where there is no other means to achieve a legitimate objective. Police may use firearms in self-defense, to confront armed perpetrators, or in defense of persons or key facilities, but never for crowd control. In India, the Rapid Action Force (RAF) is called on for violent disorder that the police are unable to contain. They require an on-the-spot magistrate’s consent

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<sup>90</sup> Weber, D. C. (1999). *Warrior Cops: The Ominous Growth of Paramilitarism in American Police Departments*. Washington D.C.: The Cato Institute. Whitlock, C., & Fallis, D. S. (2001, July 1). Officers killed with impunity: Officials ruled shootings justified in every case, even of unarmed citizens. *The Washington Post*, p. A01

<sup>91</sup> Ibid

<sup>92</sup> Luhmann, N. (1979). *Trust and Power*. New York, NY: Wiley

<sup>93</sup> Goulder, A.W. (1960). The Norm of Reciprocity. *American Sociological Review* 25, 161-178. Police shooting draws protests (1998, September 7). *Greensboro News and Record*, p. A3.

and must issue a warning before each escalation of the use of force, from verbal warning to water cannon and tear gas, then to rubber bullets or baton rounds, and then to firearms. Britain's law states that "lethal or potentially lethal force should only be used when absolutely necessary in self-defense, or in the defense of others against the threat of death or serious injury." In Italy, police and the paramilitary Carabinieri follow the same guidelines, which say that the use of weapons is allowed only in the line of duty, when it is an "unavoidable necessity to overcome resistance, stop violence or prevent a [serious] crime," and that the response must be proportionate to the situation. The creation of these paramilitary arms of police means that once their perceived role of dealing with violent crimes is over, their existence after must be justified.

### **1.13.1 Making Changes and Amendments**

Several recommendations have been forwarded for re-engineering of the semi military law enforcement culture. Some recommendations encompass the following; implementing community policing as a platform for trust building initiatives, bringing to an end the over-dependence on technology and incorporating symbolic changes in uniforms and appearance of the police force to communicate a positive message to the community.

### **1.13.2 Implement Community Policing as a Mechanism for Trust Building Initiatives.**

The proposition of community policing in literature has been fronted as a viable platform to effect change within the police while at the same time playing the critical role of crime detection and prevention<sup>94</sup>

"Community policing requires strategic change in almost all areas of policing. It also requires that police officers identify and respond to a broad array of community problems such as crime, disorder, and fear of crime, drug use, urban decay, and other neighborhood concerns.

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<sup>94</sup> Kerley-Kent, R., & Benson, M.L. (2000). Does community policing help build stronger communities? *Police Quarterly*, 3(1), 46-69.

Community oriented policing is a strategy that entails crime prevention, problem solving, community partnerships, and organizational transformation.<sup>95</sup> With community policing, the police take on a role of being more community oriented and the citizens take on a role of being more involved in assisting the police with information.<sup>96</sup>

Police officers are expected to espouse partnership with the citizens in the community in maintaining social order.<sup>97</sup> This can be achieved through strategically reforming the organisation through a change process that minimizes traditional military like command and control culture and transform to a more social good approach. In fact community policing is structured to succeed under a corporation like management structure that provides for stakeholder participation (employees and community members/citizens).<sup>98</sup>

### **1.13.3 End the Over Reliance on Technology**

In the past, law enforcement officers have always done their beat and patrol walking, conversing with citizens in face to face settings. Over time, police tactics shifted in large numbers from foot patrol to patrol cars. Though necessary and efficient, the concept of a patrol car does limit ability to communicate and as a result, police citizen contact is fundamentally held in a crime scene or ad-hoc in nature. When law enforcement officers respond only to incidents of crime they view them as potential law breakers and not citizens. This therefore limits communication between the source and receiver deterring trust building which is critical<sup>99</sup> and anticipate issues of crime and violence.

### **1.13.4 Make Symbolic Changes in Uniforms and Messages of Control**

Conceived here, the militarization of symbolic forms is an act of violence used to structure

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<sup>95</sup> Bennett, T., & Lupton, R. (1992). A survey of the allocation and use of community constables in England and Wales. *British Journal of Criminology* 32, 167- 82

<sup>96</sup> Thurman, Q.C., Jihong, Z., & Giacomazzi, A.L. (2001). *Community policing in a community era*. Los Angeles, CA: Roxbury

<sup>97</sup> Carter, D.L., & Radelet, L.A. (1999). *The police and the community* (6th ed.). Upper Saddle River, NJ: Prentice Hall.

<sup>98</sup> Oliver, W.M. (2004). *Community-oriented policing: A systematic approach to policing*. Upper Saddle, NJ: Prentice Hall

<sup>99</sup> Zellner, W. (1995). *Counter Cultures: A Sociological Analysis*. New York, NY: St. Martin's Press.

social relations dominate (the police) and subordinate (the community). It's argued that police uniforms function to maintain an internal legitimacy within the department by enhancing their role as enforcers of public violence, and serve to symbolically construct a hierarchy between the police and the public."<sup>100</sup>

As an important symbolic step, it's been argued that law enforcement should give up their military style clothing and gear and replaced with a color more consistent and symbolic of democracy.

A scholar of the psychology of clothing explains that the militarized appearance of the police is an act of symbolic violence. Conceived traditionally, violence is any physical act committed against a person or object for the purposes of instilling harm. Symbolic violence, on the other hand, is a cultural action used to inspire fear and subservience. Symbolic violence is used to suppress the beliefs and behaviors inconsistent with the interests of the dominant order.<sup>101</sup>

In Jerusalem in September, 1996 an Israeli miscalculation triggered riots which led to the deaths of scores of Palestinians and Israelis. The government under Prime Minister Benjamin Netanyahu opened a tunnel for tourists along the edge of a sacred Moslem site. The tunnel was a symbolic violation of Palestinian and Islamic self-respect. It was an act of symbolic violence, reminiscent of many other Israeli actions, including a military sweep that attracted almost no press attention: the army went into a Palestinian town and killed all the dogs. Someone with a macabre sense of humor had read Kafka: at the end of *The Trial*, Josef K. declines to commit suicide and is stabbed to death by government officials. His last words as he expires: 'Like a dog.' The Israeli message to Palestinians: 'You are like dogs to us. Today we kill your dogs, tomorrow it will be you.' A government that typically hesitates, just slightly, about committing

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<sup>100</sup> Manning, P.K., & Mahendra, P. S. (1997). Violence and Hyperviolence: The Rhetoric and Practice of Community Policing. *Sociological Spectrum* 17, 339-361

<sup>101</sup> Powers, W.F. (1995, May 4). Dressed to Kill? *Washington Post*, Retrieved online from <http://www.washpost.com/index.shtml>

real massacres commits symbolic massacres instead, to prove its point.<sup>102</sup>

It is expected that the militarization of the law enforcement uniform symbolically represents violence. This appearance is used to distance the communication between law enforcement-and the community.

#### **1.14 Conclusion**

Militarization exists in different form and perpetuates itself from different structures, however what is common across board is the structural formation and training. Police training is done to harden an individual; there is a notion of them and us across board. While this may be necessary given they are at the fore front of maintaining security, a form of balance must be achieved at inception; training. Another commonality is that the formation of policing is also structured in rank and order; orders come from the top and failure to take these orders is regarded as insubordination. While any organization cannot function without a structure the level of accountability must be strengthened to mitigate abuse. Evidently politics and political dispensation plays a role in how the police operate, this will be discussed in the next chapter giving focus on regimes.

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<sup>102</sup> Bourdieu, P. (1977). Outline of a theory of practice. Cambridge, NY: Cambridge University Press

## CHAPTER THREE:

### 2. TRENDS IN POLICE MILITARIZATION IN KENYA, PRE-COLONIAL TO PRESENT

#### 2.1 Introduction

During the colonial and immediate post-colonial period, police were used by those in government as a source of power to yield authority and to protect the colonial interests-regime authority. They were isolated in barrack style accommodation, removed from general population giving a clear distinction of police and community. This set the pace in terms of police structure, allegiance and roles; the current policing structure is an inheritance from the pro imperial colonial force. This chapter will aim to highlight how the inherited colonial structures of policing have continued to be displayed across the 4 political regimes that Kenya has been under, and offer a comparative analysis in regards to the militarized policy direction taken by these regimes and by so doing, establish the objective of the research; what has been the trend?

“The genesis of policing in Kenya dates back to the pre-independence times. After independence, the constitution at that time had provisions for the establishment of a neutral police service. However that was just on paper because political leaders turned the police service into a political tool for suppressing and/or repressing political opponents, real or imagined. Thus the police impunity that was there during the colonial era was never eliminated from the service after Kenya got independence...”<sup>103</sup>

#### 2.2 Policing in Kenya

The history of the establishment of the Kenya police dates back to the period 1887-1902 when British Empire set up business along the Kenyan coast through the East Africa Trading Company later referred to as the Imperial East Africa Trading Company. To protect their goods, they set up

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<sup>103</sup> Douglas Lucas Kivoi, Casty Gatakaa Mbae. *The Achilles' Heel of Police Reforms in Kenya*. Social Sciences. Vol. 2, No. 6, 2013, pp. 189-194. doi: 10.11648/j.ss.20130206.13

administrative units with a police force with personnel drawn from Indian settlers. Thereafter came about the construction of the East African Railway where those constructing the railway required protection as well as safe guard equipment and material they were using. Later the British took up the administrative running of the region from the company and with it, given mandate to form a police force to defend the protectorate due to the opposition they faced while expanding in-land.

In 1906 the Kenya Police was established by police ordinance where Africans were recruited but only occupied the lowest rank. This was closely followed with the establishment of a police training school set up in Nairobi. In 1920 what can be referred to as the modern police was set up following an increase of white settlers in the region who demanded security from the administration. Continued expansion of the police followed with the establishment of Criminal Investigation Department (CID) and in 1946, a Police Terms of Service committee was formed to look into the expansion of the police in regards to operational mandate. In 1948 the Kenya Police Reserve (KPR) was formed as an auxiliary of the force in a bid to integrate the settler communities into security operations. A dog section, General Service Unit (GSU) and a police Airwing was formed to facilitate communication and evacuation of sick persons to hospital (earliest indication of police serving the community in Kenya) . These two auxillary arms of police KPR and GSU continue to exist and although the KPR mostly operate in the marginalised and pastroalist areas of the community, their approach in providing security is purely millitaristic.

With these expansions, the police were maintained as a form of suppression of the local community. This became evident during the state of emergency 1952-1960 where the army took

over as the primary law enforcement agency.<sup>104</sup> Setting the precedence of military for overt affairs in Kenya; the security forces used at that time included the British Army, Home Guards and the police. A detailed brutality programme was well laid out to suppress the Mau Mau and its sympathisers. Three departments of police were most notorious in using militaristic approaches in investigation and detention; Kenya Police Reserve, CID and the Special Branch.

### **2.2.1 The Police, The Politics and the Regimes**

As indicated earlier, the colonial structures of policing laid a foundation to existing policing in Kenya and its subsequent trend towards militarisation. “At independence, the new government inherited the philosophy, structure and systems of the colonial police which successive governments have maintained to safeguard their grip on political power<sup>105</sup>,”

In discussing the regimes, this section aims to confirm or negate if regimes increasingly embrace patterns of militarization of the civil police force as argued by Hills; police in Africa are inclined to structure themselves according to the government of the day<sup>106</sup> At least three dimensions illustrate this phenomenon; one, the deployment of military personnel within the police and subsequent appointment of military generals to head it, second, adoption of military models such as the shoot-to-kill operations and violence-centric means of problem solving, third, police involvement in political policing<sup>107</sup>. The following section aims to highlight this by providing an analysis of policing through the different regimes that Kenya has experienced.

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<sup>104</sup> KNHR and CHRI Report The police the people and the politics

<sup>105</sup> Douglas Lucas Kivoi, Casty Gatakaa Mbae. The Achilles’ Heel of Police Reforms in Kenya. *Social Sciences*. Vol. 2, No. 6, 2013, pp. 189-194. doi: 10.11648/j.ss.20130206.13

<sup>106</sup> Alice Hills, Police commissioners, presidents and the governance of security, *The Journal of Modern African Studies*, Vol. 45, No. 3 (Sep., 2007), pp. 403-423 Published by: Cambridge University Press

<sup>107</sup> Jude Kagoro & Sarah Biecker Institute for Intercultural and International Studies For whom do the police work?: The Ugandan police between militarization and everyday duties



For the purpose of this paper the immediate and post-colonial period under two regimes will be briefly highlighted; Kenyatta and Moi regime and then delve into the multi-party era under two regimes; Kibaki and Uhuru.

### **2.2.2 One Party State Policing**

Kenyatta retained the paramilitary colonial structures and used the police to suppress political dissent. When President Jomo Kenyatta took control, changes in the police followed colonial pattern relying on ethnic loyalties and alliances. “He appointed Bernard Hinga, an ethnic Kikuyu, as Police Commissioner in 1964. By 1967 all branches and departments were led by an ethnic Kikuyu (except the Criminal Investigation Department which went to a Kikuyu in 1973)<sup>108</sup>. The police were also used to suppress any opposition especially from certain communities.

After the Kenyatta regime that was predominantly ethnic, President Moi took over and came on a corruption free agenda, releasing political detainees and a vast of other promises. It “turned out to be a strategy geared toward the achievement of specific objectives, namely, the control of the state, the consolidation of power, the legitimization of his leadership, and the broadening of his political base and popular support.....<sup>109</sup>” This strategy had little regard for human rights and the use of police for political purposes deepened.

During one party state, the president had enormous powers; he was above the law and therefore had full access and authority over the police. All executive power to hire, fire and give orders was solely done by the president. It is not surprising then that the police of the time felt answerable and paid allegiance to the president. The president had the power to appoint and dismiss public servants at will and “members of police understood that it was sometimes in the

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<sup>108</sup> Eynde, Kuhn, Moradi Ethnic Politics and Job Performance in the Kenyan Police 1957-1970

<sup>109</sup> ibid

interest of their personal survival to follow what they understood to be the directions or inclination of the president” This meant that the president also controlled the larger criminal justice system and in cases where there were human rights violations by police either under instructions by the president or relevant high ranking officers, they were shielded from prosecution.

The 1980s and 1990s were a particularly dark period that saw hundreds of political activists, intellectuals and ordinary criminals brutalized by the Kenyan police<sup>110</sup>. It was marked by an era where there was excessive use of force and unlawful arrests with those opposing the regime of the day getting detained and tortured. The period was also marked by political assassinations carried out by special units within the police and were hardly investigated or were covered up during investigation; police were the enforcement wing of repression<sup>111</sup>. As there were no accountability mechanisms, those implicated were not prosecuted. During this period of time there was also a significant rise in insecurity. Moi ignored calls for police reform and during the 1992 and 1997 he used the police to arm ethnic militias and suppress opposition voter turnout, resulting in violent and flawed elections. Following this, was civil society unrest who opposed the results of the election but their protests were met by government display of might releasing special units from the police to deal with them; using force.

1998 marked a significant change in security conversation and policing as a whole. The United States of America embassy attack by Al-Shabab in Nairobi led to the demand of a more responsive police by both citizens and international community especially the US government. The attack changed the dynamics in regards to security provision as a whole.

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<sup>110</sup> Mutuma Ruteere (2011) *More than political tools*, African Security Review, 20:4, 11-20, DOI: 10.1080/10246029.2011.630805

<sup>111</sup> Ibid

Presidents use special units to deal with important matters, and never rely on police units for their personal security; most have alternative policing resources. “A survey by an American scholar in 2002 on Kenya’s coup prevention strategies found that both Presidents Jomo Kenyatta and Daniel Arap Moi each set up a paramilitary organization as a counterweight and rival to the other regular services of the military<sup>112</sup>”. Kenya's 3<sup>rd</sup> president, Mwai Kibaki, for instance, had a separate secretive police agency, the Administration Police, which answered to him by way of presidentially appointed district commissioners. Its sole purpose appeared to be that of bolstering the president<sup>113</sup> There was significant budgetary allocation to this arm of police as compared to the regular police; new vehicles, increased use and a more favored approach; “Between 2005-2007, the Kenya Administration Police emerged from the shadows and morphed into a feared combat force, complete with an aviation department for aerial patrols, advanced anti-riot gear and speedboats for marine surveillance, with its annual budget rivaling that of the regular police”

### **2.2.3 Multiparty Policing**

#### **3.2.3.1 Kibaki Regime**

In 2002 Mwai Kibaki was elected on a reformist platform. The proposed reforms hinged on a more professional and accountable police service. From 2003, attempts were made by the Kibaki government to reform the Kenyan police as part of the government’s Economic Recovery and Wealth Creation Strategy; this would transform the police into an effective, efficient, human rights-respecting, people-oriented and accountable institution over a five-year period. The reforms prioritized the improvement of policing and security as fundamental prerequisites of economic growth, as well as police officers’ welfare. The police remained bureaucratically

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<sup>112</sup> Kenya Today May 15 2014

<sup>113</sup>Hills.A, *Police commissioners, presidents and the governance of security*, The Journal of Modern African Studies, Vol. 45, No. 3 (Sep., 2007), pp. 403-423Published by: Cambridge University Press

opposed to reforms and the political leadership demonstrated little interest in comprehensive change. By the time of the 2007 Post Election Violence, little had changed in the mentalities, structures and operational rules of the Kenyan police. Nor had the police succeeded in rehabilitating their image of being a political tool for the president and a rogue force more interested in executing suspects than in enforcing the law. Little wonder then that the inquiry after the violence would reach a devastatingly critical conclusion on the conduct of the police.<sup>114</sup>

During the much contested 2007 elections that were highly ethnic, there was desperate need for security reinforcement during this period, different units of police were used in a bid to restore order. In certain parts of the country referred to as “hot spots” there was use of the military to bring back order. The police were however heavily implicated in the post-election violence contributing heavily to the 1,113 recorded fatalities and 500 wounded people. There is no doubt that policing at this period was not only challenging but the environment was also highly politically charged. “The interaction of all these dynamics is important in understanding the policing of the 2007/08 PEV”<sup>115</sup>

“Police forces anywhere in the world are not revolutionary and often act to support the state and regime in power. In this respect, then, it is not surprising that Kenyan police would support the government of the day. The challenge for the police in 2007/08, however, was that the regime was contested and the legitimacy of the president in question. This resulted in the lack of a unified and disciplined response to the violence by the entire police corps, with ethnic and political fealty sometimes trumping the imperative to protect the Kibaki government at all costs”<sup>116</sup>

Despite the disarray in command and control at this period, the police still protected the government of the day.

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<sup>114</sup> *ibid*

<sup>115</sup> Mutuma Ruteere (2011) More than political tools, *African Security Review*, 20:4, 11-20, DOI: 10.1080/10246029.2011.630805

<sup>116</sup> *ibid*

After the 2002 post-election violence, Kibaki appointed an army general to head the police. The appointment of an army general in the police was seen as a move to reduce the level of crime and to inject new blood into policing. “retrospect, it was probably the political implications of crime and his lack of faith in the police leadership, rather than political machinations or the threat of disorder, that prompted Kibaki to replace his civilian commissioner, Edwin Nyaseda, with Brig. Hussein Ali in 2005<sup>117</sup>”. This was well supported by the citizens due to the increased rate of insecurity.

During his regime Kibaki also faced the insurgence of vigilante groups notorious among them the Mungiki. It has been argued that the rise of the Mungiki came about during the 2007 elections. The group that drew membership from the Kikuyu ethnic community had been mobilized to ensure the election of president Kibaki. After the election the group had gained a life of its own, taking over public spaces and terrorizing business especially in the transport industry. The government response was a shoot-to-kill order for the insurgency. The government human rights body, the Kenya National Commission on Human Rights, reported that in a five-month period in 2007 the police were responsible for the killing or disappearance of 500 suspected *Mungiki* members<sup>118</sup>. The United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions that the Kenyan police were operating death squads tasked to eliminate suspected *Mungiki* members<sup>119</sup>

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<sup>118</sup> Republic of Kenya, Kenya National Commission on Human Rights, *The cry of blood’: report on extra-judicial killings and disappearances*, 2008

<sup>119</sup> UN Office of the High Commissioner for Human Rights, *Statement by UN Special Rapporteur on extrajudicial, arbitrary or summary executions – mission to Kenya 16–25 Feb 2009*, 2009

“Overall, the years 2004-2007 represent a phase of lost opportunities to fundamentally reshape the Kenyan police<sup>120</sup>”. While political detentions and arrests by the police declined, political partisanship did not disappear from police operations; Kibaki continued the Kenyan tradition of using the police for regime security.

### ***3.2.3.2 Post New Constitution Policing 2010-2015***

With the promulgation of a new constitution the police reform agenda got re-injected with new hope and was legally acknowledged. Chapter 14 of the Constitution of Kenya (2010) deals with national security. In that chapter, national security is defined as the protection against internal and external threats. Traditionally the former has been seen as the responsibility of the Kenya Police Service while the latter has been seen as the primary responsibility of the Kenya Defense Forces. There are key features present in the 2010 Constitution of Kenya that uphold independence of the police from the executive (Article 239(3)); independence of the Inspector-General (IG) from the Executive in decision making processes (Article 245(2)(b)); limitation of powers of the Minister in the Cabinet pertaining to the police to only setting policy (Article 245(4))

Under the new constitution there was a drive to bring the police units together under one authority and observe human rights. It also aimed to diminish political manipulation and increase accountability of the police. This gave rise to the development of new bills to guide policing. In August 2011 three key bills were passed; National Police Service Bill, National Police Service Commission Bill and the Independent Policing Oversight Authority Bill. These bills gave autonomy to police in regards to command, gave policy direction in regards to accountability, build better structures to enhance community relations and ensure a more human rights centered

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<sup>120</sup> Mutuma Ruteere (2011) More than political tools, African Security Review, 20:4, 11-20, DOI: 10.1080/10246029.2011.630805

service; have a police more responsive to the community rather than reactive. The new bills also gave room for community policing and county policing authorities that would see communities work together with the police in crime and violence prevention.

While the operationalization of these bills continues to be a challenge, the institutional framework helped depoliticize the force ahead of the 2013 election<sup>121</sup>. The police acted in a less apolitical manner, contained tensions and although there had been widespread concerns of renewed bloodshed like 2007, the violence only erupted in small pockets around the country and were relatively well managed.

Through different policy and structural options as will be highlighted below, there are notions of how the police are more inclined to take up a militaristic nature through:

#### *Purchase of armored vehicles*

There has been increased budgetary allocation for armored vehicles and militaristic equipment for the police. In recent riots and protest this equipment has been used by the police on civilian at the slightest provocation, whether it's a government strategy for show of might to potential threats, it is a clear message on the regimes decision to further militarize the police.

#### *Use of military in overt affairs inland-Kapedo, Lamu, Marsabit*

While there have been progress in an effort to have a more accountable police, there are several aspects of its militarization. On September 24<sup>th</sup> 2013 an up market mall in Nairobi was attacked by Al Shabab terrorists, resulting in a hostage and delicate situation. The attack which should have been addressed by the internal security agencies presidential orders were given and the military was called upon to lead the operation. This created a command and control challenge resulting into tactical errors that should not have happened.

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<sup>121</sup> Foreign Policy: Cleaning house in Kenya's Police Force Dec 30, 2013

Another attack on Kenyan soil that would should have had police presence but instead the military was called upon was the attack on a University in Garissa. Despite previous incident at Westgate, The Kenyan military, which has a barracks in the town was the first to respond with some help from local police. “The police department's paramilitary tactical unit, known as the Recce Squad, was briefed about the attack but put on standby following the operation command unit directive requesting for the military to could handle the attack. It was only after hours had gone by and the military had suffered casualties that a decision was made to send in the Recce unit, which is trained in close-quarters combat and hostage rescues.”

In 2014 alone the army has been sent out of their barracks at least three times to solve conflicts between local peoples. In May, the army was deployed to Mandera County to disarm residents. In 21 September, they were sent to Marsabit County to stop the fighting between the Gabra and the Borana communities. In November, the army was sent to stop the violence in Kapedo that had resulted in the death of 19 police officers and recover arms and ammunition that had been taken away from the officers by the bandits. Although a small center (Kapedo), “The General Service Unit of the Kenya Police Service, the Administration Police and the Anti-Stock Theft Unit all have bases a few hundred meters from each other. Their presence is by far too much compared to the size of the center”<sup>122</sup>

The Uhuru regime has also seen many proposals to amend security bills. While these proposals and amendments may be reaction to increasing and growing concerns of security and terrorism, the bills amendments proposed will increase the level of militarized society. As highlighted earlier, the proposed amendment of the KDF bill gives room to the formation of an auxiliary reserved force.

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<sup>122</sup> Dr. Beneah M. Mutsotso, David M. Kimaiyo and Perpetua Gaciuki Socio-Political Contests in a Kenyan Administrative Outpost: The Case of Kapedo Centre in Baringo County of North Western Kenya, ISSN 2346-7479; Volume 3, Issue 5, pp. 75-80; May, 2014



### *Paramilitary for political gain*

In July 2013 a law was passed that brought back the NYS conscription for high school graduates. While the pre-university service was previously voluntary, the new law requires that all high school graduates undergo the program. The NYS whose mandate is to give young people vocational training, instill patriotism and empower them to safe guard the country, there have been rising concerns in regards to the militarization of the National Youth Service (NYS). The fear emanates from the fact that the large group of youth go through paramilitary training but are however not answerable to any command structure. Analyst argue that this is a ticking time bomb given the number of youth recruited in the service and no clear mandate on their sustainability after they leave the service can this presents a huge concern. The increased number of recruits has also been argued to be Uhuru Kenyatta's way of having an auxiliary security arm like his predecessors in preparation for the 2017 elections. In a study done by the National Intelligence Service that was not publicly shared, some of the conclusions arrived at highlighted that the programme would increase the public's perception of militarism.

### *Appointments of Army Generals to head National Security Matters*

Following his predecessor's footsteps, president Uhuru appointed former army generals to key security agencies in the country. In 2015 the president appointed retired Major general Joseph Nkaissery as the interior ministry cabinet secretary, previously he had also made two appointments of former army generals; one to head the National Intelligence Service and the other to revamp the National Youth Service.

While there are many accusations and criticism of police use of militaristic approaches and deficiencies in providing security, the citizens continuously try to support the institution by providing it with infrastructure in order to get it closer to provide security services.

### *Increase in Paramilitary arms*

“The more militarized the police become, the more they come to resemble their military counterparts, both in ideology and form”<sup>123</sup> Kenya has 8 paramilitary arms that deal with a cross section of security concerns, The Kenya Wildlife service Rangers who conduct security operations in areas where wild game live to protect them from poachers, Kenya’s elite inter-agency anti-poaching unit and addition to the already existing KWS rangers combined with members from the Administration Police and the General Service Unit, Kenya Forest Service Rangers whose operational areas are forests around the country in a bid to protect them, Kenya Police anti-stock theft unit this is the paramilitary unit of the Kenya Police Service created to combat cattle rustlers and curb theft of cattle, Administration Police Service this is the most equipped arm of the police service and are capable of being deployed in the event of war. The GSU is primarily a reserve force that deals with special operations and civil disorder. They come from the larger Administration police service and are therefore well equipped to be called to the war front.

“The General Service Unit is technically a unit of the police force, but for specific tactical, bureaucratic and, especially, historical reasons it is classified as a separate force. It was established in 1948 (before independence) as an emergency company, the Regular Police Reserve, to deal specifically with insurgency in the country and was re-designated in 1953 as an independent unit that was fully equipped to deal with the Mau Mau insurgency. The GSU is still an independent unit headed by a commandant and with strength of over 5000 men. It is a highly trained paramilitary force, reputed to be capable and firm in dealing with matters of internal security<sup>124</sup>,”

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<sup>123</sup> Stephen Hill and Randall Beger: *Paramilitary Policing Juggernaut Social Justice*, Vol. 36, No. 1 (115), *Policing Protest and Youth* (2009), pp. 25-40

<sup>124</sup> Munene, A. N “The Colonial legacy in Kenya-British Military Relations 2013

The Rapid Deployment Unit is an emergency response unit under the Administration Police, they are an emergency response unit and can be easily deployed within short duration, and they are highly skilled and receive tactical training from the US Marines. The General Service Unit Recce Company is the elite unit of the GSU with military trained skills they are called upon to reinforce security operations, form part of the presidential guard and other diplomatic and VIP protection services. As noted by Hills “paramilitary police is the most obvious manifestation of adoption of a militarized ideology of policing<sup>125</sup>”.

### **2.3 Analysis of Policing Across the Four Regimes**

This analysis will try to show the effect the continuous militarization across the four regimes had had on policing in Kenya. It will use a desk study research while chapter four will aim to provide more qualitative data.

#### **2.3.1 Police Use in Politics**

“Africa’s police are accountable to their presidents alone and references to democratic forms of accountability are rarely more than tactical concessions or gestures to donors on the part of political elites”<sup>126</sup> 50 years since independence and the use of police for political agenda continues, while this may have reduced given the assenting of new bills, the regime of the day always find ways of having auxiliary arms that are answerable to them. Each regime in Kenya has used the police for political gain and on most occasions to suppress any opposition, this is most evident during election period. During the 2007 there was significant ethnic bias in policing and there were several accusations of police turning a blind eye to violence perpetrators who belonged to a specific ethnic group. While police are supposed to be non-partisan, there was

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<sup>125</sup> Stephen Hill and Randall Beger: Paramilitary Policing Juggernaut Social Justice, Vol. 36, No. 1 (115), Policing Protest and Youth (2009), pp. 25-40

<sup>126</sup> Alice Hills, Police commissioners, presidents and the governance of security, The Journal of Modern African Studies, Vol. 45, No. 3 (Sep., 2007), pp. 403-423 Published by: Cambridge University Press

clear indication that this happened in 2007. The Administration police was highly implicated in parts of the Rift Valley and Nyanza for distributing hate speech leaflets against the then opposition leader of the Kibaki regime; Raila odinga.

### **2.3.2 Use of Military for Covert Affairs**

By involving the military in what are primarily policing duties, there are at least three important issues that the state must be ready to answer to. First, the military is not trained in homeland policing; their primary duty is to protect society from external aggression. Involving them in policing duties therefore exposes them to duties for which they have no training and usually no aptitude. The effect is to militarize society. Because the military are not trained to deal with civilians they are not sensitive to the preservation and protection of the civil liberties that are guaranteed by the Constitution. Although it is true that whenever and wherever the military have been deployed to deal with violent situations within the country, peace has been restored, this peace always comes at a heavy price. Every time that the military has been brought in to restore civil order in Kenya it has always been followed by complaints about the abuse of civil rights and violation of citizen freedoms. This was witnessed in Kapenguria, Marsabit and Kapedo areas where there was human rights abuses recorded. During the westgate attack the military was also blamed for looting. On the flip side the use of military solutions to internal security issues that should be a prerogative of the police can create laxity and hands off approach. Police are trained to detect, investigate and help in the prosecution of crime while the military is not. This can lead to insubordination and or go slow in operational work.

### **2.3.3 Lack of Political Will to Support Reforms**

While all regimes have come into office with reform agendas, lack of follow through irks the 4 regimes that Kenya has been through especially in concern to policing. As indicated by former

Inspector General of police in an interview, the operationalization of key issues in the new bills has been done but the implementation is seriously lacking.

#### **2.3.4 Failure of the Community Policing Initiative**

Even as the police continue to be militarized and government makes more budgetary allocation to equipment for fighting crime and addressing security concerns there is no remarkable change in regards to the reduction of crime. The objective of community policing or the Nyumba Kumi initiative was to bring the communities and police closer and working together. However this continues to be a gap and can be partly credited to the police increased use of force.

#### **2.3.5 Increased Use of Force**

One of the tenets of a militarized police is their excessive use of force to deal with policing issues. Militarized police view point is that they are fighting an enemy yet policing is a service that requires evaluation of situation and should be more responsive than reactive. The police are given the power to use force this force must be reasonable while this is so the ability to measure what is reasonable is challenging. In recent peaceful protest in the country and situations of unrest, the police have used more force than was reasonable; live bullets, detention, torture, disappearances and unlawful killings. Despite the coming in of police laws to ensure the accountability of police and provide an avenue for Kenyans to report cases where there has been excessive use of force, the police have continuously responded to issues by use of force. In 2014 in counter terrorism operation in the North and Coastal regions of Kenya security agencies tortured, harassed and detained thousands of people. The same had previously been replicated in Eastleigh following a move to weed out terrorism suspects. Several reports by a civil rights body IMLU indicate that in 2014 police had killed 199 people while in 2015 it recorded 97.

### **2.3.6 Increased budgetary allocation to paramilitary equipment**

No strategic decisions can be implemented without budgets. In the last decade the budgetary allocation for security as a whole continues to increase. While this is not a phenomenon in Kenya alone, there has been significant increase in the name of fighting terror and new and emerging security concerns. In 2014 the budget for police was 71.3 billion, from this budget 3.5 billion was allocated for upgrade of police equipment and 3.1 billion for police operations. In 2015 the budget for the above went up significantly paramilitary training had the highest recorded % increase with 45% increase for training Administration Police and 16% rise allocated for the GSU training college, both paramilitary arms of police while the Kenya Police receive a 46% increase. This budgetary allocation and changes from year to year give a clear indication of the government's priorities<sup>127</sup>.

## **2.4 Conclusion**

Every regime has made certain strategic options on the use of police, the coming in of reform laws has somewhat prevented the excessive misuse of the body however, there are still exists loop holes that have been exploited. Direct militarization training may be exempted from the police but other avenues to militarize certain security agents and society are explored.

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<sup>127</sup> Daily Nation 17 October 2015

## CHAPTER FOUR:

### 4. DATA ANALYSIS, FINDINGS AND DISCUSSIONS

#### 4.1 Introduction

This chapter discusses data analysis, results and discussion. The data used in this study has been analyzed using descriptive and quantitative research techniques. The data in this study is primary data and analysis was done to answer the research questions and in light of the objectives of this study. This section will provide an analytical perspective of the data used in this particular study and how the results of this study will affect the overall perspective on the achievement of the research objectives.

#### 4.2 Demographic information

##### 4.2.1 Gender of respondents

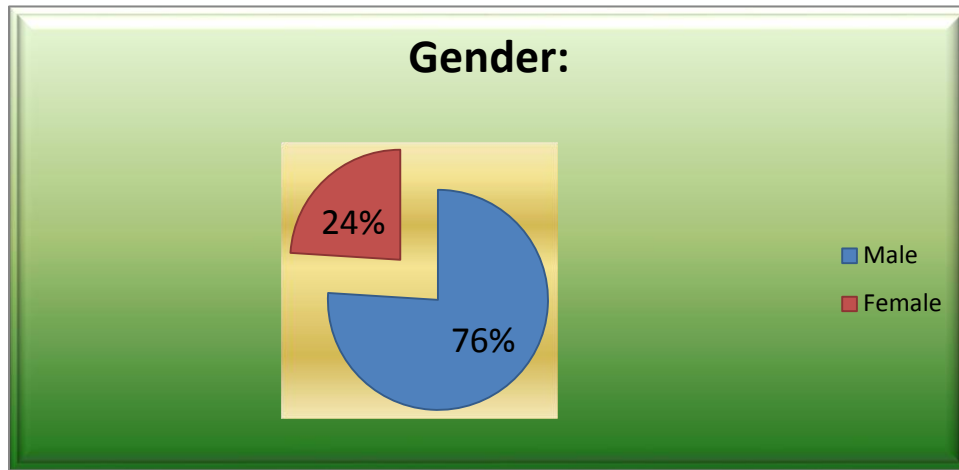
**Table 1: Gender**

<b>Gender</b>	
Total	21
	100%
Male	16
	76%
Female	5
	24%

Source: Researchers compilation based on research findings 2016

Field data showed that more males than females took part in the study. Out of 21 respondents, 76% were male while only 24% were female. Generally, this indicated that there are more men than women in the police force. Field data was as shown in the table above and the chart below

**Figure 1: Gender**



Source: Researchers compilation based on research findings 2016

#### **4.2.2 Age of Respondents**

**Table 2: Age of Respondents**

<b>Age Range</b>	
Total	21
	100%
20-30	7
	33%
31-40	6
	29%
41-50	5
	24%
Over 50	3
	14%

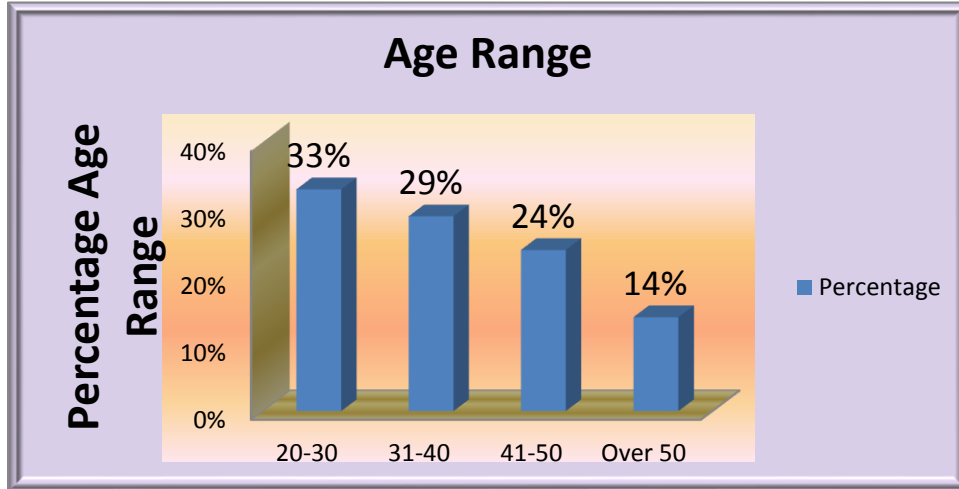
Source: Researchers compilation based on research findings 2016

A larger percentage of the respondents were between 20 and 30 years of age (33%). This was followed by those aged between 31 and 40 who represented 29% of the total respondents. Moreover, 24% of the respondents were aged between 41 and 50 year while only 14% of the



respondents were more than 51 years of age. From above findings it can be seen that majority of the respondents were youth.

**Figure 2: Age of Respondents**



Source: Researchers compilation based on research findings 2016

### 4.2.3 Rank in Police Force

**Table 3: Rank in Police Force**

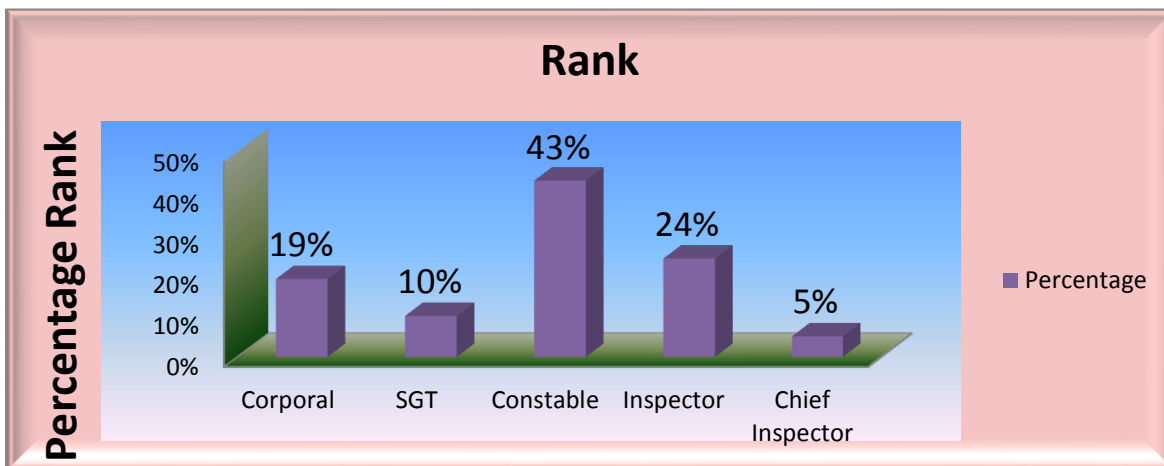
Rank	
Total	21
	100%
Corporal	4
	19%
SGT	2
	10%
Constable	9
	43%
Inspector	5
	24%
Chief Inspector	1



Source: Researchers compilation based on research findings 2016

Based on ranks, larger percentage of the respondents were constables representing by 43% of the total respondents. This was followed by those working as inspectors who comprised 24% of the total respondents. A significant percentage of 19% were ranked as corporals while 10% were SGT's. Only a few 5% were chief inspectors. This indicated that only a small percentage of the respondents were involved in strategic or managerial roles.

**Figure 3: Rank in Police Force**

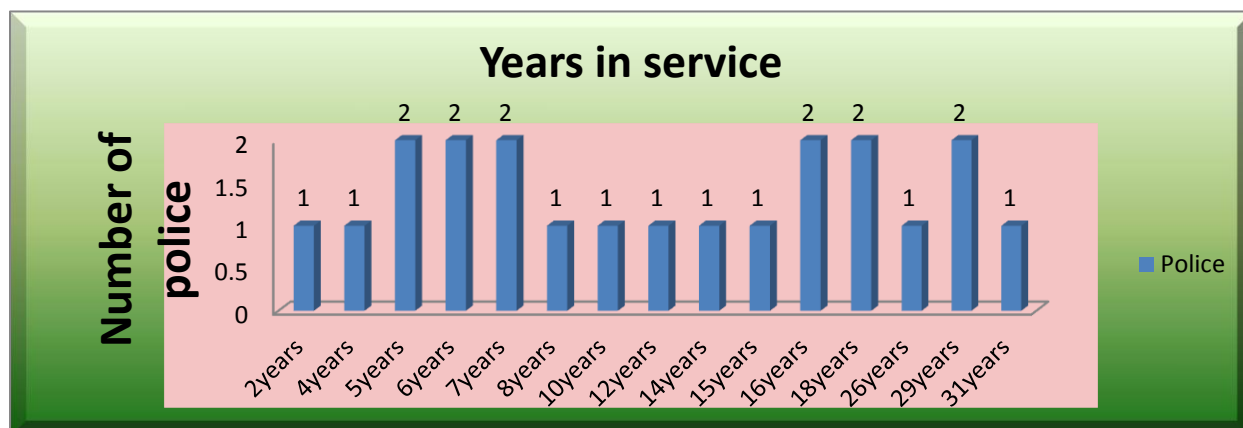


Source: Researchers compilation based on research findings 2016

**4.2.4 Years in service**

In term of work experience about 16% of the respondents had less than five years experience while 30% of the respondents had between 5 and 10 years of service. 35% had experience of between 10 and 20 years while 16% had more than 20years of experience in the service.

**Figure 4: Years in service**



Source: Researchers compilation based on research findings 2016

**Table 4: Years in service**

<b>Years in service</b>	<b>Number of police</b>
2years	1
4years	1
5years	2
6years	2
7years	2
8years	1
10years	1
12years	1
14years	1
15years	1
16years	2
18years	2
26years	1
29years	2
31years	1
<b>Total</b>	<b>21</b>

Source: Researchers compilation based on research findings 2016

### 4.3 Difference between military training and police training

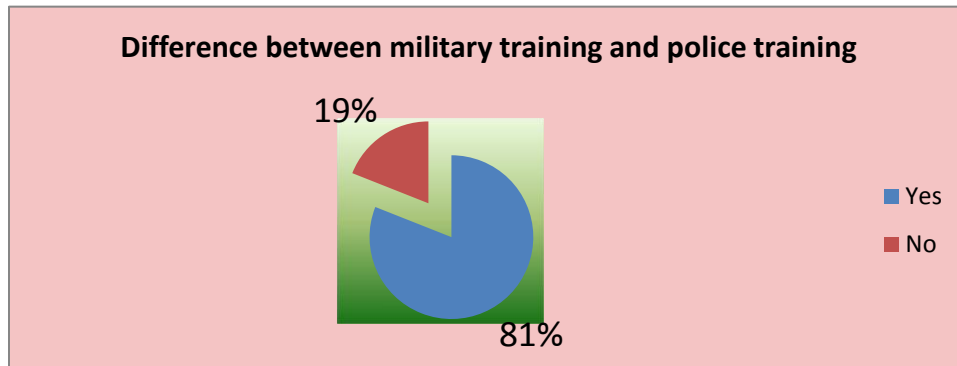
**Table 5: Difference between military training and police training**

Difference between military training and police training	
Total	21
	100%
Yes	17
	81%
No	4
	19%

Source: Researchers compilation based on research findings 2016

The researcher also sought to understand if there were in significant differences between military training and police training. 81% of the respondents indicated that there were differences in the training offered to the two groups. Only 19% of the respondents disagreed with the statement saying that police and military training was the same. It can therefore be empirically concluded that police service lack some significant skills that are available in military service.

**Figure 5: Difference between military training and police training**



Source: Researchers compilation based on research findings 2016

### 4.3.1 Paramilitary training received

**Table 6: Paramilitary training**

Paramilitary training	
Total	21
	100%
Yes	13
	62%
No	8
	38%

Source: Researchers compilation based on research findings 2016

The study also sought to understand whether the police service had received any form of paramilitary training. The findings were that a majority of the respondents (62%) had gone through the training while only a minority percentage of 38% had not the training. This shows that a significant 62% of the population have undergone a form of paramilitary training.

**Figure 4.6**

**Figure 6: Paramilitary training**



Source: Researchers compilation based on research findings 2016

**4.3.2 Importance of Paramilitary Training in Execute Police mandate**

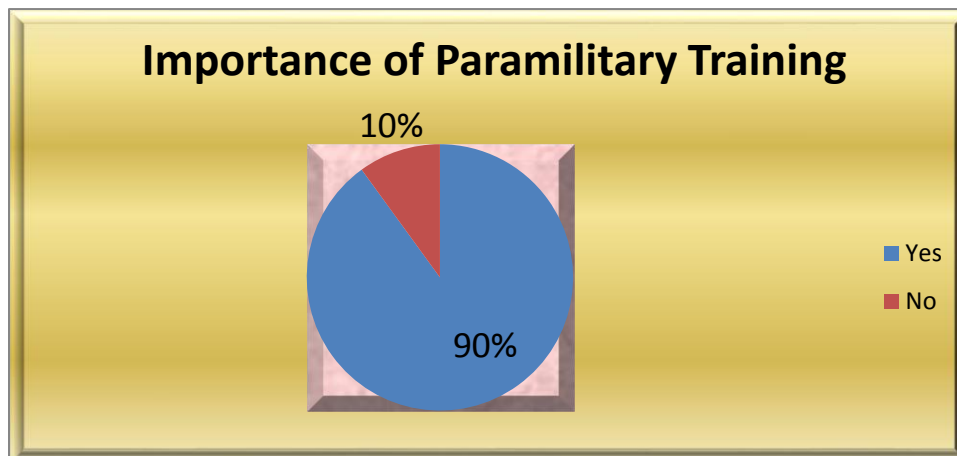
**Table 7: Importance of Paramilitary Training**

<b>Importance of Paramilitary Training</b>	
Total	21
	100%
Yes	19
	90%
No	2
	10%

Source: Researchers compilation based on research findings 2016

Moreover the study sought to establish the relevance of the paramilitary skills to the police force. Out of the total respondents, 90% agreed that these skills were very relevant in executing the duties and responsibilities. Only a minority percentage of 10% indicate that the skill were not necessary in executing their duties. From above, 38% of the respondents did not have paramilitary training while only 10% said that his skill were not important. This shows that more than 28% of the respondents desired to have the skills although the training was not available for them.

**Figure 7: Importance of Paramilitary Training**



Source: Researchers compilation based on research findings 2016

### 4.3.3 Other Trainings Received

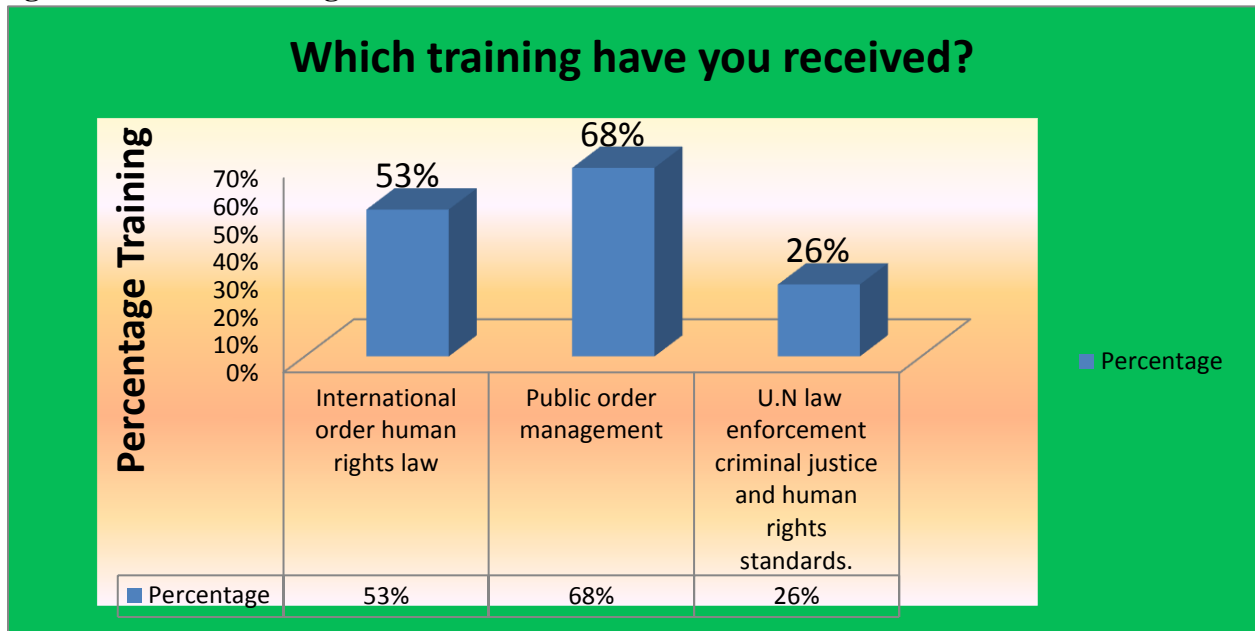
**Table 8: Other Trainings Received**

Which training have you received?	
International order human rights law	10
	53%
Public order management	13
	68%
U.N law enforcement criminal justice and human rights standards.	5
	26%

Source: Researchers compilation based on research findings 2016

Curious to understand the nature of trainings offered to the police service. The researcher found that 68% of the respondents had received public order management training, while 53% of the respondents had received international order human rights law training and 26% had received U.N law enforcement criminal justice and human rights standards training. Importantly, Majority of the respondents had received both public order management training and international order human rights law training.

**Figure 8: Other Trainings Received**



Source: Researchers compilation based on research findings 2016

## 4.4 Important Powers in the Police Force

### 4.4.1 Protective equipment

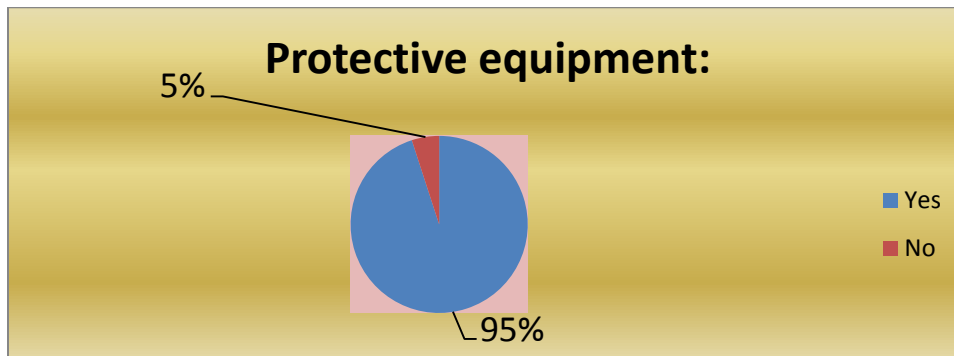
In regard to the safety of the police service, 95% said that there was a great need for improvement of protective equipments to minimize injury. Only a minimal percentage of 5% were comfortable with the existing safety equipment. The high number of respondents who recommended buying of more safety equipments shows that police did not have the full confidence to face opponent due to safety issues.

**Table 9: Protective equipment**

Yes	95%
No	5%

Source: Researchers compilation based on research findings 2016

**Figure 9: Protective Equipment**



Source: Researchers compilation based on research findings 2016

### 4.4.2 Sophisticated Weaponry

**Table 10: Sophisticated Weaponry**

Yes	89%
No	6%
Not Sure	6%

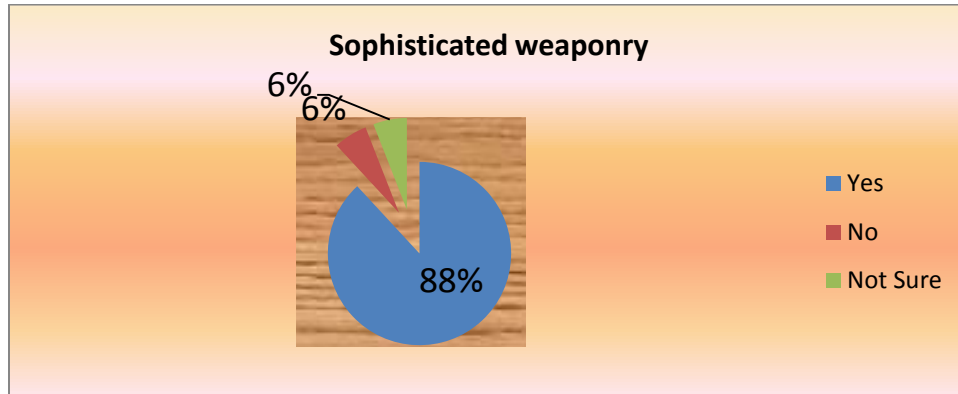
Source: Researchers compilation based on research findings 2016

Moreover a larger percentage of 89% recommended that there was a great need to improve on sophisticated weaponry while only 6% were against this statement. However, 6% were not sure



about the impact on sophisticated weaponry in strengthening the force. The high desire for weapons clearly indicates that there is a deficient of weapons at the moment.

**Figure 10: Sophisticated Weaponry**



Source: Researchers compilation based on research findings 2016

**4.1.1.1 Surveillance equipment**

**Table 11: Surveillance equipment**

Yes	100%
-----	------

Interestingly, all the respondents agreed that surveillance equipments need improvement. Evidently, these equipments are in limited supply and even where they are available, the equipments are in deplorable conditions.

**Figure 11: Surveillance equipment**



Source: Researchers compilation based on research findings 2016

### 4.4.3 Paramilitary Training

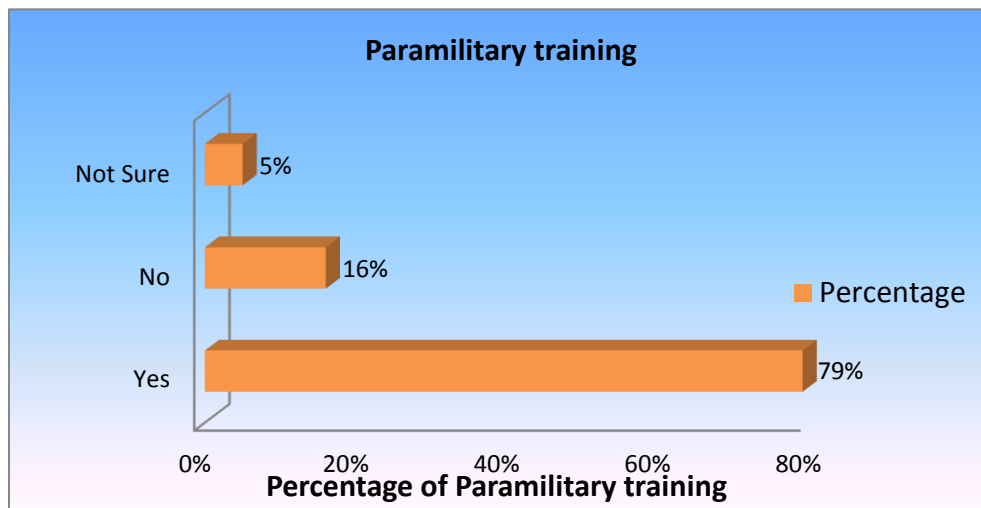
**Table 12: Paramilitary Training**

Yes	79%
No	16%
Not Sure	5%

Source: Researchers compilation based on research findings 2016

In relation to paramilitary training, 79% of the respondents indicated that paramilitary training was critical in strengthening the police force. Moreover 16% said that this training had no correlation with the strength of the police force. However, 5% of the respondents had no clues about the relationship between the two.

**Figure 12: Paramilitary Training**



Source: Researchers compilation based on research findings 2016

### 4.4.4 Civilian Intelligence

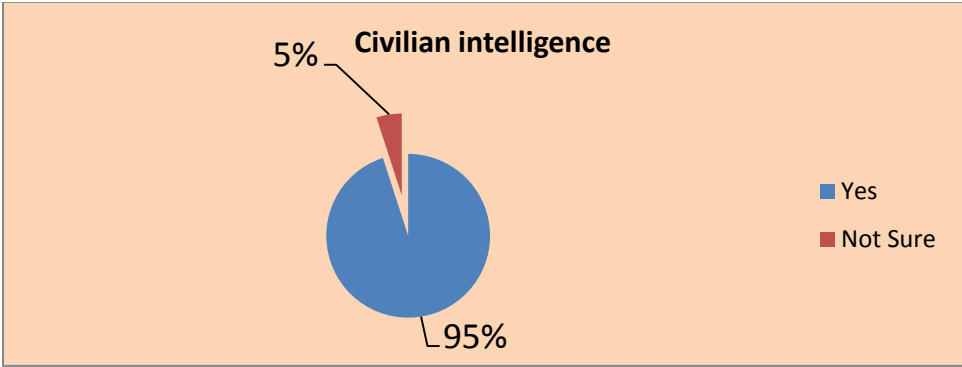
**Table 13: Civilian intelligence**

Yes	95%
Not Sure	5%

Source: Researchers compilation based on research findings 2016

The study also sought to understand the role of civilians in enhancing the performance of the police force. A greater percentage of 95% acknowledged the role of civilian intelligence saying that it was a critical source of information. However, only 5% disagreed saying that civilian intelligence wasn't very important in strengthening the police force.

**Figure 13: Civilian intelligence**



Source: Researchers compilation based on research findings 2016

**4.4.5 4.1.9 Civilian Confidential Informants**

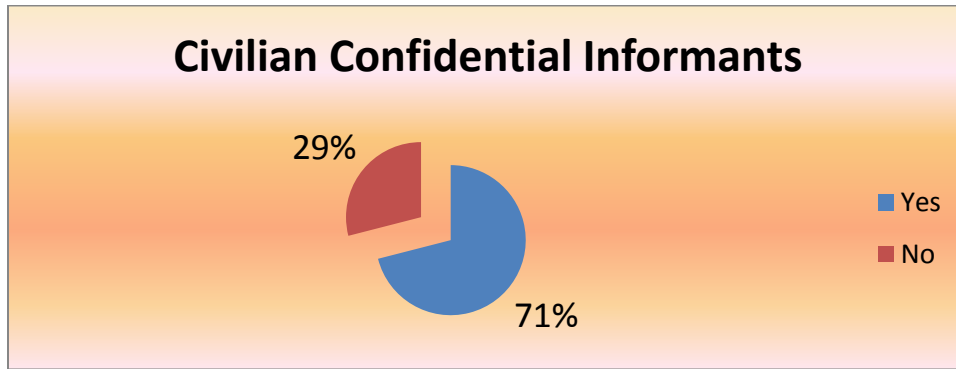
**Table 14: Civilian Confidential Informants**

Civilian Confidential Informants	
Total	21
	100%
Yes	15
	71%
No	6
	29%

Source: Researchers compilation based on research findings 2016

The study also sought to understand the extent to which civilian intelligence was used in the police force. The findings were that 71% of the police force had confidential civilian informants. Only 29% of the police officers did not have civilian informants or relied on other sources of information.

**Figure 14: Civilian Confidential Informants**



Source: Researchers compilation based on research findings 2016

**4.4.6 Effectiveness of Confidential Informants**

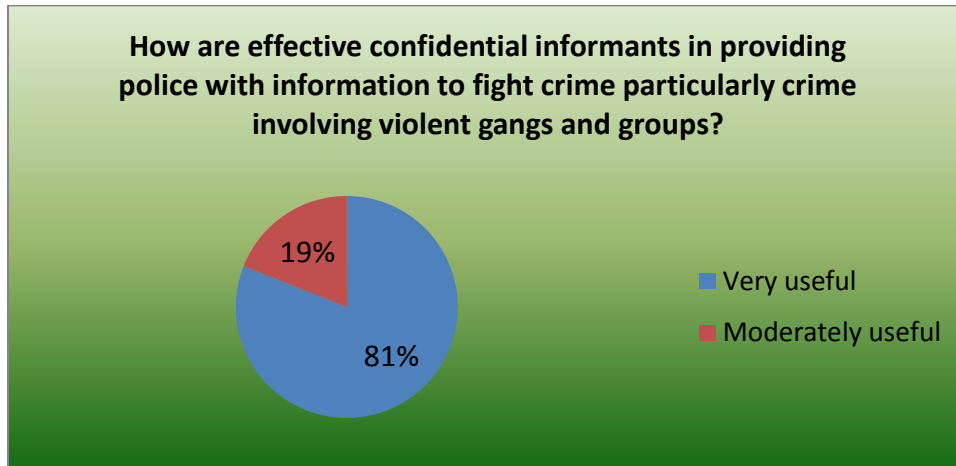
Moreover, the researcher further sought to find out the usefulness of the civilian informants on the police force operations. 81% of the respondents indicated that the civilian informants were very effective while only 19% of the respondents said the informants were moderately useful. This showed that he civilians have a critical role in police operations as they are a key source of information.

**Table 15: Effectiveness of Confidential Informants**

<b>Effectiveness of Confidential Informants</b>	
Total	21
	100%
Very useful	17
	81%
Moderately useful	4
	19%

Source: Researchers compilation based on research findings 2016

**Figure 15: Effectiveness of Confidential Informants**



Source: Researchers compilation based on research findings 2016

#### 4.5 Effectiveness of Powers in Meeting Emerging Security Issues

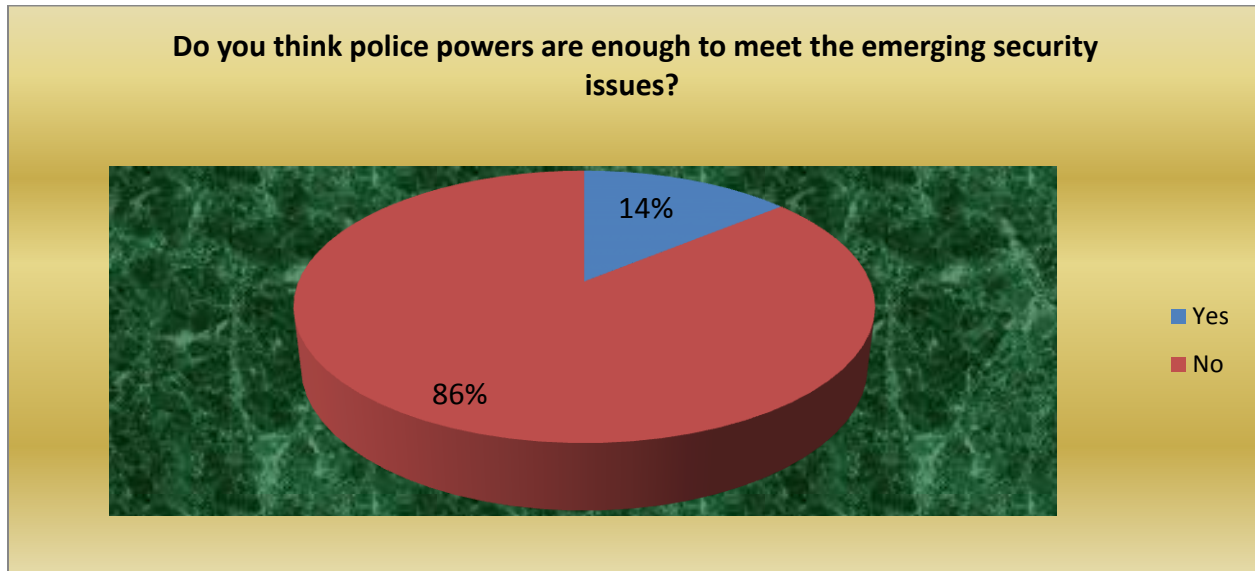
**Table 16: Effectiveness of Powers in Meeting Emerging Security Issues**

Total	21
	100%
Yes	3
	14%
No	18
	86%

Source: Researchers compilation based on research findings 2016

Moreover, the researcher was curious to know whether the powers and authority given to the police were important in executing their duties. A large percentage of the respondents (86%) said that these powers were critically important in executing their mandate and maintain security in the dynamic environment. Only 14% of the respondents had no idea about the relationship.

**Figure 16: Effectiveness of Powers in Meeting Emerging Security Issues**



Source: Researchers compilation based on research findings 2016

#### **4.6 Powers that should be strengthened**

Further, the study sought to understand specific powers and their impact on the police force. The finding indicated that the following powers and importance was as rated through percentages as shown in the table below.

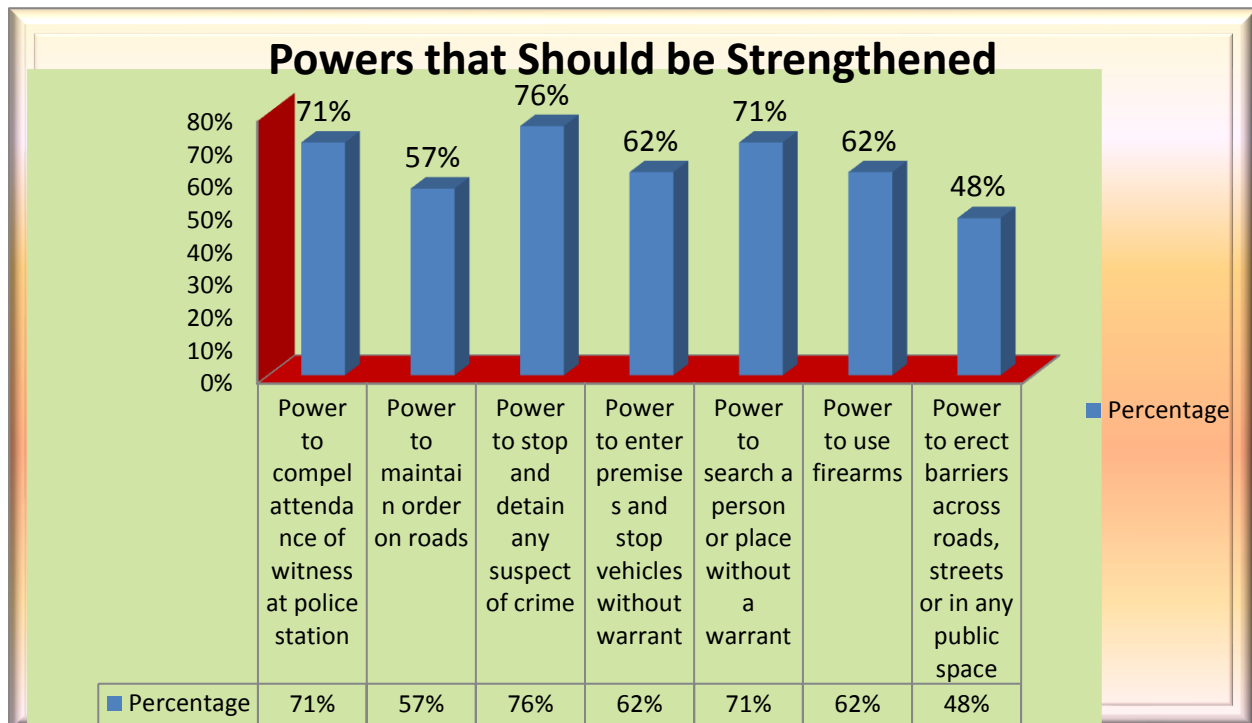
**Table 17: Powers that should be Strengthened**

<b>Powers that Should be Strengthened</b>	
Total	21
	100%
Power to compel attendance of witness at police station	15
	71%
Power to maintain order on roads	12
	57%
Power to stop and detain any suspect of crime	16
	76%
Power to enter premises and stop vehicles without warrant	13
	62%

Power to search a person or place without a warrant	15
	71%
Power to use firearms	13
	62%
Power to erect barriers across roads, streets or in any public space	10
	48%

Source: Researchers compilation based on research findings, 2016

**Figure 17: Powers that should be Strengthened**



Source: Researchers compilation based on research findings, 2016

#### 4.7 Challenges in Executing Mandate as a Police Officer

Finding also indicated that the police force faced a number of challenges. Some of the biggest challenges identified as Long chain of commands (55%), poor police housing (55%) and negativity by community toward the police force (35%). Other challenges were identified as shown in the table below.

**Table 18: Challenges you face in executing your mandate as a police officer**

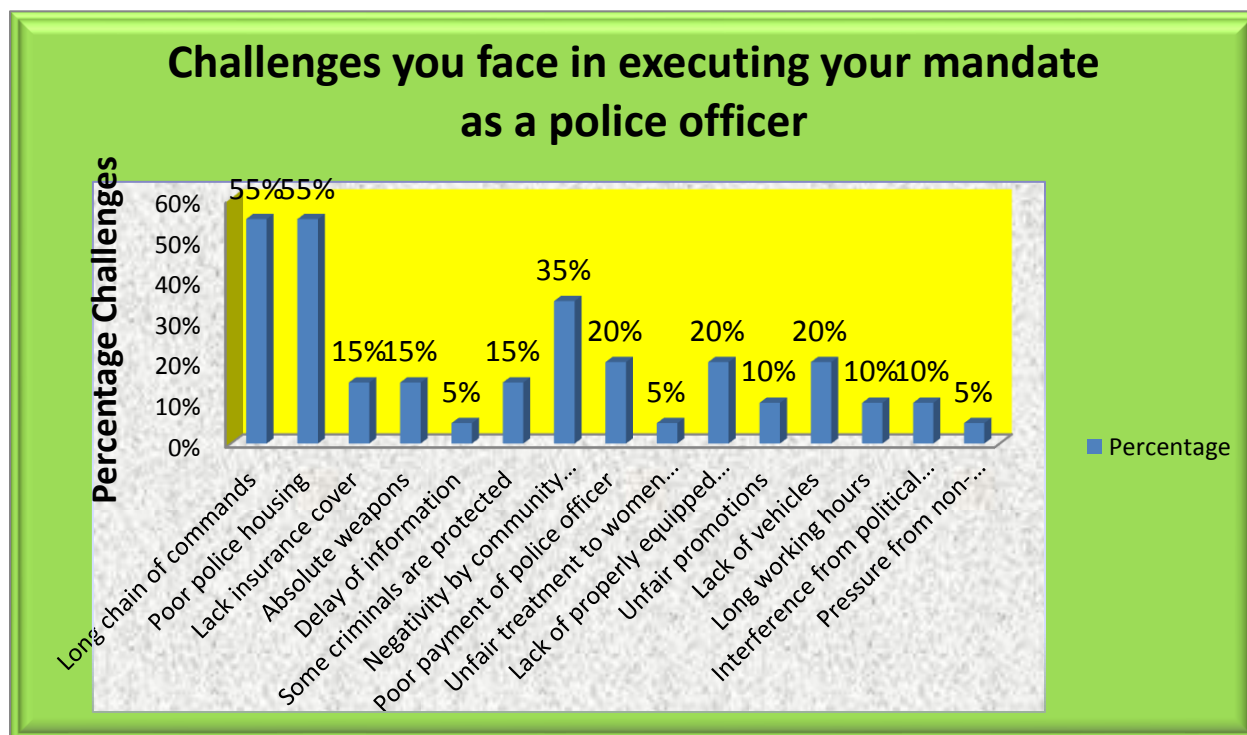
<b>Challenges you face in executing your mandate as a police officer</b>	
Long chain of commands	11
	55%
Poor police housing	11
	55%
Lack insurance cover	3
	15%
Absolute weapons	3
	15%
Delay of information	1
	5%
Some criminals are protected	3
	15%
Negativity by community toward the police force	7
	35%
Poor payment of police officer	4
	20%
Unfair treatment to women officers	1
	5%
Lack of properly equipped police laboratories	4
	20%
Unfair promotions	2
	10%
Lack of vehicles	4
	20%
Long working hours	2
	10%
Interference from political leaders	2
	10%



Challenges you face in executing your mandate as a police officer	
Pressure from non-governmental organizations	1
	5%

Source: Researchers compilation based on research findings, 2016

4.8 Figure 18: Challenges in Executing Mandate as a Police Officer



Source: Researchers compilation based on research findings, 2016

#### 4.9 Solution to Police Challenges

Table 19: Solution to Police Challenges

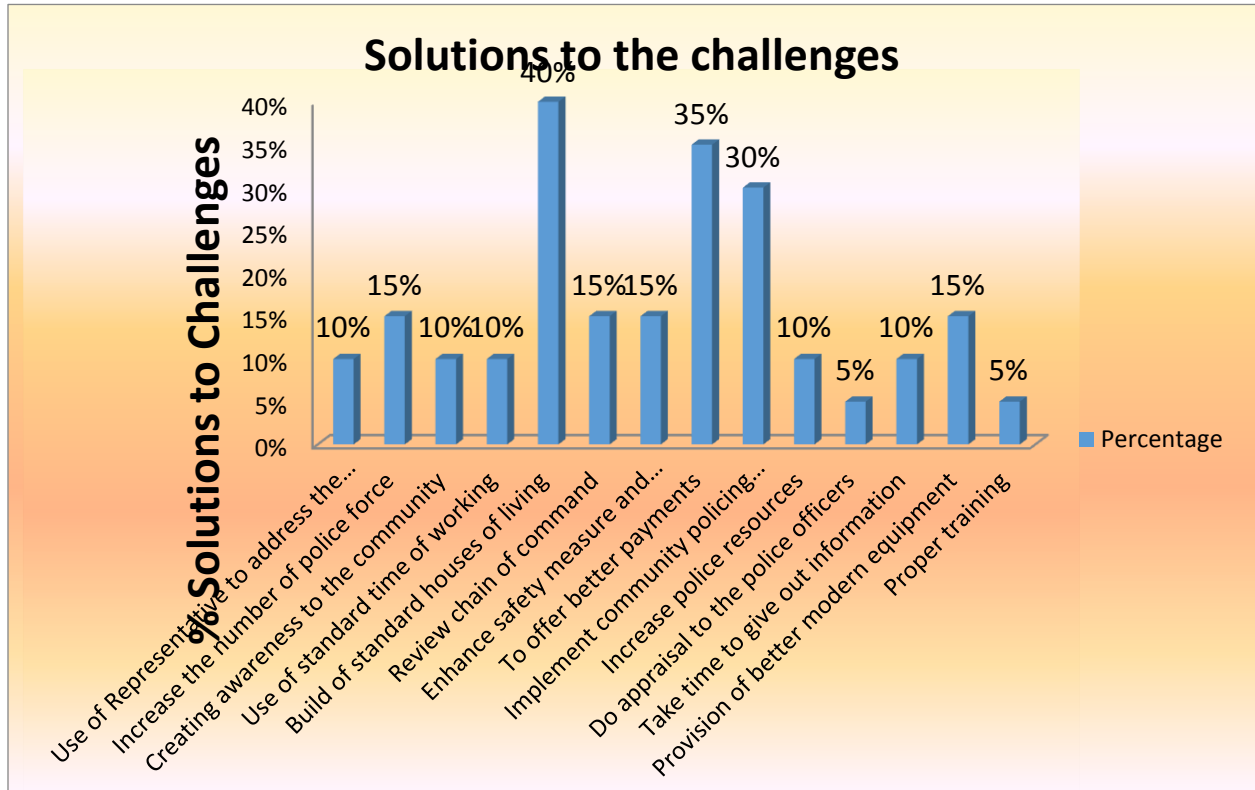
Solutions to the challenges	
Use of Representative to address the issues	2
	10%
Increase the number of police force	3
	15%
Creating awareness to the community	2

	10%
Use of standard time of working	2
	10%
Build of standard houses of living	8
	40%
Review chain of command	3
	15%
Enhance safety measure and security of police officers	3
	15%
To offer better payments	7
	35%
Implement community policing programme	6
	30%
Increase police resources	2
	10%
Do appraisal to the police officers	1
	5%
Take time to give out information	2
	10%
Provision of better modern equipment	3
	15%
Proper training	1
	5%

Source: Researchers compilation based on research findings, 2016

Further the study sought to find out possible solutions to the challenges identified above. Most of the respondents said that solutions lied in tackling each of the individual challenge separately. For instance, 40% said there was need to build standard houses while 35% said they need improve payment schemes and 30% emphasized on the need to enhance community policing program. Other solutions identified by respondents were as shown in the bar graph below.

**Figure 19: Solution to Police Challenges**



Source: Researchers compilation based on research findings, 2016

## **CHAPTER FIVE:**

### **5. SUMMARY, CONCLUSIONS & RECOMMENDATIONS**

#### **5.1 Introduction**

This chapter presents a summary of the research findings, conclusions of the study, and recommendations of the study. The objectives of the study were: to assess the extent of militarization of the Kenya Police and the potential effects on their overall mandate, to assess changes in police militarization across political eras to find out the trend/rational for increasing militarization, its scope and its justification and how militarization has changed the perception of policing in Kenya. The study was a case study on police militarization in Kenya.

#### **5.2 Summary of Findings**

The research used qualitative data from primary sources obtained from in depth interviews with key informants in the Kenyan police administration and experts in police and security sector reforms. The data was prepared for coding where once coded the data was analyzed using content analysis where inferences were made by objectively and systematically identifying specified characteristics of responses. The findings were presented in frequency tables, pie charts and bar graphs for easy understanding and using the same approach to relate trends

On general information, the study found out that 76% of the respondents were men and 24% were female showing that a high percentage of the police force are men .Majority of the respondents were youth from the findings, that is, a greater percentage of the respondents were between 20 and 30 years of age (33%) followed by those aged between 31 and 40 who represented 29% of the total respondents, 24% of the respondents were aged between 41 and 50 year while only 14% of the respondents were more than 51 years of age.

On the aspect of rankings, the lowest among the respondents were the Chief inspector with a percentage of 5%, 10% were SGT'S, 19% were ranked as corporals and the highest were constables with a percentage of 43%. On the aspect of years of experience, a high percentage of the respondents had vast experience in their fields of work i.e. between ten and twenty years. An equal value in terms of percentage i.e. 16% of the population had an experience of less than five years and more than 20 years experience.

One important objective of the researcher was to find out the significant difference between the training given to the police and the military. On that aspect the findings indicate that, there is a great difference between the trainings offered to the police and military since 81% of the respondents indicated that there is a significance difference between the trainings offered to the two while only 19% of the respondents disagreed to the trainings being the same. This gives an indication that the military have more significant skills and are better equipped compared to the police.

The researcher also intended to find out if the respondents had received paramilitary training. The findings indicate that not all the police service servants have paramilitary training. A greater percentage of the population i.e. 62 % of the respondents received paramilitary the training while only 38% of the respondents did not receive paramilitary training .This findings indicate that most of the police service servants have adequate paramilitary training which is adequate for carrying out their duties.

On the aspect of the nature of the training received by the police service, the findings indicate that a greater percentage of the respondents received public order management representing 62% percentage. While 53% of the respondents had received international order human rights law training .The least was training on the U.N law enforcement criminal justice and human rights

standards training which was represented by 26%. This is a good indication since the results indicate that the police force have adequate training and most have both trainings on public order management and international order human rights law rights law training .In addition a substantial number of respondents have knowledge in UN law enforcement criminal justice and human rights this enables them be able to competently work well both internationally and domestically .

The researcher also sought out to find out the important powers in the police service. He found out that a number of powers are of importance. There is that aspect of protective equipment under this the researcher intended to find out the level of satisfaction by the respondents with the protective equipment they use at the moment. The results indicate that a high and significant number of the respondents are not satisfied with the protective equipment they use in the execution of their duties. 95% of the respondents are not satisfied while 5% of the respondents are satisfied with the equipment that they are using currently for protection purpose .This findings have an indication that most of the police service need better protection equipment in the execution of their work in order to minimize injuries.

Another important power that was found to be of great importance by the researcher was one on the sophisticated weaponry. The researcher intended to find out the relevance of improving the sophisticated weaponry in making the force more strong. From the findings, a greater number of the respondents agreed that there is need for improving on the sophisticated weaponry in order to strengthen the force represented by 83%, while 6% were against these while the other 5% were not sure if improving the sophisticated weaponry could strengthen the force. This gives an indication that there is need of improving on the sophisticated weapons in order to improve in the strength of the police force for better performance in serving both the domestic and

international citizens and strengthening the force in dealing with their enemies. These findings also indicate a major weakness in the police force management and lack of investments in better weapons to tackle insecurity issues by the government as evidenced in the results.

One great important power sought out by the researcher was that of surveillance equipment. The researcher intended to find out if there was need of improvement on this equipment or if the respondents were satisfied with the available surveillance equipment. The results indicate that all the respondents agreed that there is need for purchasing better surveillance equipment or improving the existing equipment. This is an indication that currently the police force have poor surveillance equipment and they all agree that there is need to improve the existing surveillance equipment since all the respondents agreed to that i.e. 100%.

Another important power of importance in the police force sought out by the researcher was that of paramilitary training. The researcher intended to find out the importance of paramilitary training on performance of the police force and in the strengthening the police force. The results indicate that there is great importance of paramilitary training on strengthening the police force in .Paramilitary training is seen to be a key important aspect in the strengthening the police force. A high percentage of 79% of the respondents agreed that paramilitary training is key in the strengthening the police force while a small percentage of 16% of the respondents indicated that there was no relationship between the paramilitary trading and the strength of the police force while 6% had no clue on the relationship between the two aspects.

On the aspect of civilian intelligence as another importance in the police, the researcher intended to find out the effect of the level of to the civilian intelligence on the performance of the police force. The findings indicate that 95% of the respondents agree that high levels of civilian intelligence is very key to the performance of the police force .This is because the civilians are

seen as a critical source of information of to be used by the police force in the execution of their duties. Only 5% of the respondents disagreed on to this .This results indicate that civilian intelligence is very key to the performance of the police force.

Civilian Confidential Informants aspect was also an important aspect in the police force. The researcher intended to find out if the information from the civilians was used by the police force in their duties and how many of the respondents have confidential civilian informants. The results from the survey indicated that 71% of the respondents have confidential civilian informants and use information from them in their duties, while 29% of the respondents didn't have civilian informants and neither did they use the information from them. This is an indication that a greater percentage of the police force makes use of civilian informants.

Effectiveness of confidential informants was also a major important aspect in the police force as sought by the researcher. The researcher intended to find out the effectiveness of the confidential informants in the performance of the police force on fighting crime and specifically crime involving gangs and groups. The findings indicate that confidential informants are very key and crucial in the performance of the police force. They act as source of information which is used in the operations of the police force .It is indicated by an 81% percent of the respondents agreeing that confidential informants are very effective and only 19% disagreeing to that.

On the effectiveness of Powers in Meeting Emerging Security Issues, the researcher found out that there is a great impact of power given to the police officers in the carrying out of their duties and most importantly on the management of the alarming increase in the security issues in the country. Power was seen to have a positive relationship to the ability of the officers in the management of emerging security issues. This is seen in the responses where a higher percentage of 86% of the respondents agreed to the fact that power is very effective in the management of



security issues while only 14% of the respondents said it has no effectiveness in the management of security issues.

The researcher listed a number of powers that are of importance in the police force. These powers were evaluated from the research on the level of the need to strengthen these powers. The findings indicate that the highest number of respondents agreed that , power to stop and detain any suspect in jail is the most important one that needs to be strengthened with a 76%, followed by power to compel attendance of witness at the police station with and power to search a person or a place without a warrant at 71% .This was followed by the need to strengthen the power to use fire arms and the power to enter premises and stop vehicles without warrants at 62%, then the need to strengthen the power to maintain order on roads at 56% .The lowest percentage was in the need to strengthen the power to erect barriers across roads, streets or in any public place with a low respondents rate of 48%.This indicated that most of the respondents agreed that there was need to strengthen the police powers to stop and detain any suspect in jail being the one given the highest priority by all the respondents. This is an indication that the police need to be given more powers to arrest and detain any suspect in jail as they go on with their investigations .On the other hand, most of the respondents agreed that least of all powers that need to strengthened is the power to erect barriers on roads, streets, or in any public place.

Another important objective of the study was to find out the challenges facing the police force in the execution of their mandate. The findings indicate the highest challenges were those of long chains of command and poor housing rated at 55% then the challenge of negativity by the community against the police force at 35% then poor pay to the officers, lack of vehicles and lack of properly equipped laboratories of the police officers all rated at 20%.That challenge of the fact that some criminals are protected was the next on the list rated at 15%.Finally the least

important challenge faced by the officers was that of long working hours, unfair promotion and interference from political leaders being a less important challenge rated at 10%. The least important challenge was that of pressure from nongovernmental organizations rated at 5%. These findings indicate that most of the police force faces the challenge of long chains of command and poor housing which is a major impairment in their execution of their mandate. An indication that the housing of the police is very poor and there are long chains in the passing of judgment and in the execution of their duties.

Finding solutions to the challenges was also an important objective sought out by the researcher. The researcher set out a number of solutions to the challenges facing the police officers. They were rated on the degree of importance by the respondents. The findings indicate that building of standard houses of living as the most important solution to the challenges rated at 40% followed by better payments to the officers rated at 35%. This was followed by implementation of community policing rated at 30%. Provision of modern equipment, enhance safety measures and security to police officers, increasing [police force and review chain of command rated at 15%. Use of representatives to address issues, creating awareness to communities, use standard timing for working increase police resources and take time to give out information being rated at 10%. The least important solution to challenges facing police officers were those of doing appraisals to police officers and proper training. These results indicate that a major solution to the challenges facing the police officers is building standard houses for them and also better pay for the police officers. However the challenges and the solutions were looked at individually.

### **5.3 Conclusion**

From the study findings it can be concluded that most of the police officers are youths aged between 20-30. Most of the police officers have vast experience in the force of between 10 and 20 years.

In addition most of the police officers agree there is a great difference between police training and military training. There are a high percentage of the officers who have received paramilitary training in the course of their work and it's very key to the execution of their work and their general performance. From the findings we can also conclude that most of the officers have public order management trainings followed by trainings on international order human rights law. While this is so, there is a significant gap in the practice given the evident reporting on police brutality.

Besides there is a great need for improvement of surveillance equipment, protective equipment and sophisticated weaponry as indicated from the findings for proper performance and strengthening of the police work force. Other than that paramilitary training, civilian intelligence, use of civilian confidential information has been seen as being crucial in the performance of the police force in their operations. Most of the police officers have confidential informants and most see the information from the confidential informants being very effective in their execution of their duties. The confidential informants are used in getting of viable information which is to be used in their work especially in crimes to do with gangs and groups.

The powers and authority given to the police are very important in executing their duties especially in the curbing of the alarming increase in the insecurity in the country. There is high need to strengthen power to detain and jail any suspect of crime by the police officers. The major challenge facing the police officers is poor housing and long chain of commands the least

challenge was that of delay of information and unfair treatment of female officers. The best solution to the challenges facing police officers is building of standard houses and also better payment of the officers while the least solution being increase in police training and proper training.

#### **5.4 Recommendations**

It is evident from the research that policing operates within a context. What this translates to is that whatever recommendations provided must reflect the norms and values that the community appreciates, otherwise they result to well written policies and recommendations that cannot be implemented.

This study established that there are many areas that need to be improved in the performance of the police. It also established that while the police are the actors of to the trends in militarization, there is a community that willingly accepts this. This study therefore recommends a further research to be done on the effect of paramilitary training on the performance of the police. Reforming of the police cannot be done in isolation; the community must also be reformed to change the mindset that instant justice is what will work. As highlighted throughout the research the context must be understood, the Kenyan society believes in instant justice, a reflection of the poor trust in the overall criminal justice system. This therefore means that even more research is carried on the trend to militarize and ongoing police reforms are carried out, there is need for a reform on the larger society as well the criminal justice system; police reform cannot be done in isolation.

In addition further research needs to be done on the effect of availability of resources and equipment on the performance of police officers. Based on the analysis the police believe that to be more efficient and deliver their services better, they require more equipment. While this

confirms existing literature discussed on why police opt to invest more on equipment, it is also evident that this has not had an impact on the level of crime; reduction. This requires a crime and violence prevention approach. Crime and violence prevention takes up the approach of preventing crimes before they occur. This requires a close relationship with the communities to establish what really their needs are and enhance the crime data collection. Currently in most police stations across the country, crime data is manually collected and stored in the Occurrence book. This book is susceptible to human interference, lack of proper, effective and timely crime records resulting in skewed data that result in misdirected/misinformed policy decisions/interventions. It's evident from the research that the police/government are not meeting the needs of the people as their interventions and strategies eg use of force does not necessarily result into a decrease in crime rate or the motivation to commit crime. The constitution and police laws provide for county policing authorities where police and communities work together to develop community safety initiatives that are beneficial to them but hardly will you have these structures existing in the community years after the laws have come into being. This will in turn build trust amongst the citizens and enhance public support which then translates to police effectiveness; the further away the community feels physically or psychologically, the less confident they feel about the police and the lower the likelihood to cooperate with them.

While there is vast investment in the tools and equipment that police are provided, this does not necessarily come with comprehensive training of use and more importantly the ability to evaluate when this equipment should be used. In this case, while hardware is investment there is need for more investment on the software; training, implementation of crime prevention initiatives, working with communities which in large are more of soft skills in policing.

It's been 6 years since the new constitution was promulgated, this came with the revision of the police laws, yet despite this, many police officers remain in the unaware on what law governs them, while this can be credited to naivety, the conscious effort by government to educate its internal security organ on this has seriously lacked. The recommendation would then be to educate the police on the existing laws and code of conduct that governs their work and operations.

While different community policing initiatives have been started across the years, sustainability continues to be the challenge, proper documentation of progress; challenges and strides made must be documented to enable learning and improvement of previous work done. Partnership with significant stakeholder must be developed as security is not a preservative of the police but must involve all.

Many of the reform agenda initiatives are yet to be executed years after the coming in of the new laws. There is need for proper investment by the government in regards to good will and support to have a culture change amongst the police. Without the governments support and invest all current and previous recommendation in regards to reforming the police will implement the policy of having police stay with the communities this ensures relationship and the notion of them versus us.

The role of the Inspector General was strengthened and gained independence with the coming in of the new police laws, however there stills exist a challenge in regards to Inspector General's feeling they need to seek consent from the Minister of Interior and Security. There is need to build the capacity of this office to realize it' independence and free from political influence.

While the constitution brought with it hope of a reform agenda, it only provided for the title but not the possession of the letter of the constitution especially in regards to the reform. The police and government of the day continue to maintain the status quo despite continued talk on support of the reform agenda. In this regard a recommendation to have policy guidelines would be null and void if there is no investment on ensuring its implementation both in spirit and letter, this will ensure the legitimacy of the process.

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## Annex 1: Questionnaire

We want to assess whether police and citizens understand the primary role of the police and whether militarization is viewed as positive (in light of the emerging and changing safety and security threat).

The questionnaire believes that insights of police who bear witness first hand to crime in Kenya should be taken seriously and gaps should advise on the impact militarization are having on the police force and how to deal with it.

### Demographic information

1. Gender

- Male
- Female

2. Age

- 20-30
- 31-40
- 41-50
- Over 50

3. Rank

4. Years in service?

5. Do you think there a difference in Military training and the police training that you go through?

- Yes
- No

6. Have you ever received any para military training?

- Yes
- No

7. Is it important to receive para military training to allow you to execute your mandate

Yes

No

8. Kindly tick any of the trainings you have received below.

International Human rights law

Public order management

U.N law enforcement criminal justice and human rights standards

9. Should the threat of emerging security issues lead to increased funding to the police for the following:

Protective equipment            Yes        No        Not Sure

Sophisticated weaponry            Yes        No        Not Sure

Surveillance equipment            Yes        No        Not Sure

Paramilitary training            Yes        No        Not Sure

Civilian intelligence            Yes        No        Not Sure

Others Please Specify

10. Do you (as a police officer) have civilian confidential informants?

Yes

No

11. How effective are confidential informants in providing police with information to fight crime particularly crime involving violent gangs and groups?

Very Useful

Moderately Useful

Not Useful at all

12. In your view, do you think police powers you have are enough to meet the emerging security issues?

Yes

No

13. Which of the following powers given to you as a police officer do you think should be strengthened? (tick as many)

Power to compel attendance of witness at police station

Power to maintain order on roads

Power to stop and detain any suspect of crime

Power to enter premises and stop vehicles without warrant

Power to search a person or place without a warrant

Power to use firearms

Power to erect barriers across roads, streets or in any public space

14. What are the main challenges you face in executing your mandate as a police officer? List at least 4

15. What do you think can be done to address these challenges?