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CHALLENGES OF POLICING IN AFRICA

By

Joseph Henry Ashimala

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Supervisor: Dr. Ochieng Kamudhayi

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DECLARATION

This is my original work and has not been submitted for any award in any other University.

JOSEPH HENRY ASHIMALA

R50 / 69715 / 2013

Signature...

Date......... 11.04.14.

This work has been submitted for examination with my approval as University Supervisor.

DR. OCHIENG KAMUDHAYI

Signature...

Date...

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DEDICATION

Dedicate this work to my loving family. I also dedicate this work to my lecturers at the University of Nairobi and the Commandant and all the staff of National Defence College, Kenya.

ACKNOWLEDGEMENT

ABSTRACT

Police forces play an important role in every state and in all democratic societies. The police force is one of the organs of the state responsible for the proper administration of justice, law and order, thereby providing a safe environment guaranteeing the respect and enjoyment of basic rights by all citizens. Police forces in Africa today are battling the legacy of their past, and still struggling to enforce the highest ethical standards in an environment where their political masters appear not to prioritize the independence and capacity of the police. The study aimed to establish key challenges on policing in Africa. Through this research policy makers and policy agencies will understand more about the direct and indirect crime control benefits of this approach; which will eventually add values to the on-going police reforms. Several factors militate against police oversight in Africa. They include the colonial and post-colonial legacies of authoritarian rule; lack of autonomy of policing institutions because of the prevalence of patrimonial (bigman) rule. The Kenyan police are significantly challenged when it comes to managing ethnic relations and violence. This is in part explained by the nature of divisive politics practised in the country. Ethnic-related violence is more prevalent during election periods (prior to and after elections). This study interviewed police officers of various ranks from the fieldwork locations. The study will specifically target to interview officers at police headquarters where crimes are recorded and investigations instituted, as well as those deployed in potential high crime areas. Empirical data collected was analyzed interpretively using thematic analysis, document analysis and content analysis. The data was collected from total of (119) respondents, out of the initial (120) respondents, and this represents (99%) response rate, which was adequate for analysis. The study visited the police head quarters and key police stations in the city and had lengthy discussions (using focus discussion tools) with police administrators and police leadership within various station. In addition it held hearings at the police training school and received written and oral representations from members of the police service, the public and from civic, spiritual, business and other stakeholders, from various junior ranks within the police, and visiting them in their stations and posts with the Country. The study there concludes that corruption and political interference interfere with the proper functioning of the service. This observation is corroborated by Gimode[1] who argues that the apparent failure of the police and the courts to guarantee justice has in turn led to the culture of mob justice among the citizenry. The public prefer to hand out "justice" by either stoning suspects or burning them to death. The study recommends the police to procure the latest equipment as these types of equipment essential to effective police performance were also found to be in short supply or outdated. This included computers, communication systems and equipment, evidence-gathering tools such as photographic equipment, operational aircraft and maritime equipment. Those matters of police recruitment, promotion, discipline, welfare and dismissal be removed from the Public Service Commission and vested in independent institutions. That the police service should find a way to offer-come political interference, by separation of different state powers.

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[1] Edwin, A. Gimode, "An Anatomy of Violent Crime and Insecurity in Kenya: The Case of Nairobi in the Last Quarter of the Twentieth Century," Paper presented to the Conference on the Urban Experience in Eastern Africa (Nairobi, British Institute in Eastern Africa, 2001).

LIST OF ABBREVIATIONS

APS   - Administration Police Service

IBEA   - Imperial British East Africa

IMLU   - Independent Medico-Legal Unit

KPF   - Kenya Police Force

KPRs   - Kenya Police Reserves

KPS   - Kenya Police Service

NGOs   - Non-governmental organizations

NPF   - Nigeria Police Force

ONUMOZ   - United Nations Operation in Mozambique

SAPS   - South African Police

TI   - Transparency International

UN   - United Nations

UNAMSIL   - United Nations Mission in Sierra Leone

US   - United States

VIPs   - Very Important Persons

ZANU–PF   - Zimbabwe African National Union – Patriotic Front

MAP OF AREA OF STUDY

Map of Africa (Political) showing Kenya highlighted.

CHAPTER ONE

INTRODUCTION TO THE TOPIC

1.1   Background of the Study

According to Steinberg, police the world over are thinking about the challenges they are likely to face in this century. Perhaps 100 years or even 1000 years ago, police or their equivalent engaged in similar exercises to prepare for new problems and to improve their ability to carry out their responsibilities. Police of the late 20th century, however, had advantages their predecessors lacked in attempting to project the future.[1] Jonny Steinberg is a freelance journalist and researcher - he argues that all police services in the World have come of age and they must start pre-empting police services challenges and opportunities; especially based on their past experiences. He further argues that the modern police service must now apply a lot of discretion in deciding which aspects of policing to prioritize.

Steinberg uses the example of the South African Police (SAPS), whose discretion is exercised primarily at a national level. Area and station level managers are given quantifiable crime reduction and police action targets to meet. Steinberg reveals that at present, the highest priority crimes in the SAPS are contact crimes, and are attached to an annual crime reduction target of seven percent.

Police have access to unlimited information, the ability to share ideas and experiences globally; higher levels of education and training, and a better understanding of what policing can

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[1] J Steinberg (2004) *Sector policing on the West Rand*. ISS Monograph Series no 110. Pretoria: Institute for Security Studies.

contribute towards the quality of life of a nation. But on the debit side is a world far more complex than it was 100 or 1000 years ago. The demands on police are constant, compelling and often competing, so it is not always clear how police skills and resources can best be deployed to achieve the civility, order and security which society requires. If all their modern skills, resources and good intentions are not to be stretched too thinly and rendered ineffectual, police must be able to cut through the tangle of issues to focus on what is important. Study of the future is therefore vital for police managers to identify those key trends that will demand their attention so that they can achieve maximum advantage for minimum expenditure of effort and resources.[2]

Antony Altbeker argued that the South Africa's decision after 1994 to 'place the prevention of crime at the centre of the strategic vision for the criminal justice system' undermined the building of an effective futuristic criminal justice system and may have led to the country's high crime levels. The author insist that the police service should dedicate more resources into prevention of crime, but investigating emerging crimes, as to justify the budget allocation in the fight against crime. The author suggest that the new police service should exchange information freely, which should then be used to create a data base of emerging crime – and this is where they should prioritize all their money, time and energy. The emerging issue here is the full justification of the resources deployed by the police, in a sustainable manner, the author is trying to bring-out the issue of justified resource mobilization in the police service.

Globally, policing lies at the heart of any effective criminal justice system, and many of the challenges faced by judicial systems in both developed and developing Worlds directly confront police forces on a daily basis. Increasing populations and rising crime rates confronted by under-resourced police forces reduce the capacity of the police to prevent and investigate

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[2] A Altbeker (2007) *A Country at War with Itself: South Africa's Crisis of Crime*. Cape Town: Jonathan Ball

crime. International crime, such as the illegal drug trade and money laundering, and the perception of widespread corruption at all levels of governance, further stretch the ability of the police to maintain public confidence.[3] In their journal, Abrahamsen, Rita and Michael Williams emphasizes on problem-oriented policing. A layperson may think this focus elementary on first being introduced to it. Indeed, laypeople probably assume that police continually focus on the problems they are expected to handle. But within policing, this focus constitutes a radical shift in perspective. Problem-oriented policing recognizes, at the outset, that police are expected to deal with an incredibly broad range of diverse community problems–not simply crime. It recognizes that the ultimate goal of the police is not simply to enforce the law, but to deal with problems effectively–ideally, by preventing them from occurring in the first place. It therefore plunges the police into an in-depth study of the specific problems they confront. It invites consideration of a wide range of alternatives, in addition to criminal law, for responding to each specific problem.

Across the United States, in spite of the numerous challenges such as budget constraints and difficult working environment, police organizations are striving for a new professionalism. Their leaders are committing themselves to stricter *accountability* for both their effectiveness and their conduct while they seek to increase their *legitimacy* in the eyes of those they police and to encourage continuous *innovation* in police practices.[4] Brian states that the biggest challenge facing police world is lack of professionalism, he introduces a concept known as new professionalism; as the biggest challenge currently especially facing the police service in USA. The author argues that new professionalism has still not being understood by many police managers in both developed and developing countries, because it is made up of four principles

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[3] Abrahamsen, Rita and Michael Williams. (2009). '*Security beyond the State: Global Security Assemblages in International Politics.*' International Political Sociology, Vol. 3, pp. 1-17.

[4] Reaves, Brian A. (2004), *Census of Law Enforcement Agencies,* (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, 2007), p. 1.

— accountability, legitimacy, innovation and coherence — are not new in themselves, but together they provide an account of developments in policing during the last 20 years that distinguishes the policing of the present era from that of 30, 50 or 100 years ago.

There are similar police challenges and ambitions for accountability, legitimacy, innovation and coherence in other countries, from the state police organizations in Brazil and India to the South African Police Service, the French Gendarmerie and the Chilean Carabineros. A global police culture with these same four elements increasingly defines the ambitions of police leaders in most countries.[5]

Effective police leaders become adept at responding to challenges. Like other organizations, police agencies must balance constancy and predict-ability with adaptation and change. Even as they strive to standardize operations, most police leaders recognize the fluid context in which their agencies operate. They also understand that there are forces to which police organizations must adapt and evolve in order to remain effective in a changing world. It is those forces that drive organizational change and create new models for conducting the business of policing.[6]

Tankebe states that police researchers have often assumed that perceptions of police effectiveness enhance police legitimacy, and yet there has been very little empirical support for this assumption. This article reports a lack of reliability, in the Ghanaian context, for the overall Sunshine—Tyler scale, and therefore focuses attention on a sub-scale labeled 'perceptions of police trustworthiness'. The findings show that though perceptions of police effectiveness

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[5] Reaves, Brian A. (2004), *Census of Law Enforcement Agencies,* (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics), p. 1.

[6] Tankebe, J. (2007) *Policing and Legitimacy in a Post-Colonial Democracy: A Theoretical and Empirical Study of Ghana.* Ph.D. Thesis (Unpublished), University of Cambridge.

exercise a direct impact on perceived police trustworthiness, the relationship is stronger if the police are also perceived to be procedurally fair without being interfered with, especially by politicians. This section is significant as it shows that police still face a lot of interferences in Africa, and this is a major challenge in them undertaking their duty effectively. In building public trust in the police requires democratic reforms, which is free of political interference that will simultaneously improve the capacity of the police to achieve both substantive effectiveness and procedural fairness.

1.2   Statement of the Research Problem

Considering the importance of police legitimacy in shaping effective and efficient order maintenance, scholars have sought to explicate the processes that influence legitimacy, identifying procedural justice as perhaps the most important antecedent of police legitimacy.[7]

The proliferation and growing importance of research in the area of police service and order maintenance over the last twenty years demands careful review of empirical evidence to help police and policy makers understand more about the direct and indirect crime control benefits of this approach. Yet public compliance with the law and cooperation with legal authorities is crucial for the maintenance of social order.

In Africa today, police forces are battling the legacy of their past, and still struggling to enforce the highest ethical standards in an environment where their political masters appear not to prioritize the independence and capacity of the police. Currently in Kenya there is very little

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[7] Tyler, T.R. (2004). *Enhancing Police Legitimacy*. The ANNALS of the American Academy of Political and Social Science, 593(1), 84-99.

comprehensive summary of literature on police service and lack of synthesis and analysis of the empirical evidence of the policing methods that encourage improvements in policing.

Kenya Police are yet to make the ideological shift necessary to fully transform from a force to a service. To do so, they will need to rethink the approach to policing and develop a more service oriented policing, with better investigative capacity and internalize their human rights obligations. It is on this background that the study aims to answer, what are the key challenges on policing in Kenya today?

1.3 Research Objectives

a. To establish the influence of police legitimacy on policing.

b. To describe the impact of inadequate resources on policing.

c. To investigate politicization of policing and its impact.

d. To establish the results of poor terms and conditions on policing.

1.4 Research Questions

a. What are the key challenges on policing in Africa?

1.5   Literature Review

The police forces of Africa's ex-British colonies have their roots in the colonial forces, created with a mandate dominated by the need to stifle dissent and maintain colonial rule. The legal basis for the police forces studied was laid down, following independence, with the passing of legislation establishing the new forces and the first indigenous police chiefs. In all the states examined here, firstly conflict (in Sierra Leone) and secondly tendencies towards one party authoritarianism (in Tanzania and Zambia) impacted on the political independence of police forces, on their capacity and on how they were perceived by the public. [8]

Many police leaders also have developed an appreciation for how organizations can be informed by research that supports different types of law enforcement approaches. Departures from the past include current references to intelligence-led, evidence-based or predictive policing that attempt to introduce greater efficiencies and enhance effectiveness. These also may incorporate new skills brought to the workplace by contemporary employees or could integrate civilian personnel to reduce the cost impact of sworn officers. Further, the wave of the future for the modern police organization may be reflected in the development of new skill sets such as stronger analytic capacity, information technology specialists, forensic computer experts, strategic planners and change management specialists, many of which are consistent with the interests and skills of the contemporary employee.[9]

Historically, the African system of policing has been based to a considerable extent on a quasi-military - or paramilitary - pattern. Training was similar to that of soldiers, with a great

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[8] Mahmood Mamdani, (1996). *Citizen and Subject: Contemporary Africa and the legacy of Late Colonialism* (*London*: James Currey).

[9] Geller, W.A., and G. Swanger. (1995). *Managing Innovation in Policing*. Washington, D.C.: Police Executive Research Forum.

emphasis on drill. The function of the police, many commentators have alleged, was in the first place the protection of the colonial order itself, with conventional crime-fighting a secondary priority. Given the relative underdevelopment of education and the economy, the rank-and-file police in Africa at independence were poorly educated and paid, and did not enjoy a secure status in the eyes of the general public. Matters did not improve after independence.[10]

The author reveals that most African states inherited their police services from the colonial masters', including the problems and challenges, especially the terms and conditions of police service. The author talks of Nigeria as a classic example, where Nigeria inherited a national police force (created in 1930 with national jurisdiction) and some local administration police forces on independence in 1960, albeit with marked regional decentralisation. The new government moved to complete Federal centralisation of the police, culminating in 1971 with the final establishment of a unitary Nigeria Police Force (NPF) and the dissolution of local police forces which existed in many parts of the country, in addition in order to overcome the challenges of terms and conditions of the police among other challenges, the government embark on numerous reforms. It seem as though many Africa states did inherit their police, and the terms of service is seen as a great challenge in many of this inherited institutions.

Other adaptations will be reflected in changes in police discipline systems, signifying a shift from harsh punishment that research tells us does not stop dysfunctional behavior to systems based on values, logic and behavior modification. Finally, the mentality of "do as I say," which once worked in factories and paramilitary settings, no longer hits the target, particularly as recruits with high potential whom leaders seek to mentor and retain come into the workforce.[11]

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[10] R Abrahamsen and M Williams (2005) *The Globalisation of Private Security: Country Report: Nigeria.* Dept. of International Politics, University of Wales, Aberystwyth.

[11] Ibid.

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According to Mkutu, the current police forces in Africa were the creation of colonial regimes from the mid-19th century whose main role was frequently the provision of law and order to the colonizers, the protection of their property, and the minimization of resistance from the natives. Thus police services were strongly concentrated in central government reserves and not provided to the majority of the people. These structures have persisted and in turn have served the interests of many post-colonial rulers, who have maintained a strong hold on their operations and used them for personal gain. The police in turn are also allowed to operate with impunity and thus their lack of autonomy works in favour of both themselves and the rulers they serve.[12]

Mkutu examines the various opportunities and challenges facing the Kenya Police Reserves (KPRs) in Kenya's Turkana and Laikipia counties, and considers in particular the management and control of reservists' firearms, given the wider problems of arms control and insecurity in Kenya's peripheral areas.[13] It seeks to relate the changing economic environment in rural parts of these counties to the evolving role of the KPRs. This paper highlights some of the challenges faced by the police, especially in this area as economic pressure, corruption, competition for resources (both natural and technical), weak or non-existent operational policy, a lack of oversight or governing structure and the attraction of secondary employment.

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[12] Mkutu, Kennedy. (2008). *Pastoralism and Conflict in the Horn of Africa*. London: APFO/Saferworld/University of Bradford. Pp. 41 – 42.

[13] Kennedy Mkutu is a professor of International Relations and Peace Studies at the US International University, Nairobi and manager of the Crime Prevention Seminar Series funded by the Open Society Initiative in East Africa.

The profession of policing and public safety continues to confront new challenges that also present a wealth of opportunities for initiating substantive change. As evidenced by the work of the Executive Sessions, police leadership today may be better positioned to address them in ways that benefit the field and that maintain American police leaders' position at the forefront of the profession.[14] Today's police leaders were trained to operate in an ingrained bureaucratic structure. This training, the resulting organizational culture and fixed attitudes present conditions similar to those in the auto industry a few short years ago. Many police leaders, however, have seen the need to alter these traditions in favor of becoming more flexible and adaptive to the world we currently live in and to the people with whom we work. Their efforts will be the key to preventing systemic failure in policing similar to what has occurred in some segments of the private sector. Today's leaders and tomorrow's visionaries will continue to need a strong foundation anchored in the values.[15]

The police forces of Africa's ex-British colonies have their roots in the colonial forces, created with a mandate dominated by the need to stifle dissent and maintain colonial rule. The legal basis for the police forces studied was laid down, following independence, with the passing of legislation establishing the new forces and the first indigenous police chiefs.[16] Bayley, D.H., and C. Nixon acknowledge that policing lies at the heart of any effective criminal justice system, and many of the challenges faced by judicial systems in Africa directly confront police forces on a daily basis. In spite of these the authors also argue that increasing populations and rising crime rates confronted by under-resourced police forces reduce the capacity of the police to prevent

[14] Bayley, D.H., and C. Nixon. (2010). The Changing Police Environment, 1985-2008.New Perspectives in Policing Bulletin. Washing ton, D.C.: U.S. Department of Justice, National Institute of Justice. NCJ 230576.

[15] Ibid.

[16] Bayley, D.H., and C. Nixon. (2010). *The Changing Police Environment*, 1985-2008.New Perspectives in Policing Bulletin. Washing ton, D.C.: U.S. Department of Justice, National Institute of Justice. NCJ 230576.

and investigate crime. The authors state that international crime, such as the illegal drug trade and money laundering, and the perception of widespread corruption at all levels of governance, further stretch the ability of the police to maintain public confidence. It is clear that the author is hinting at lack of resources as the major challenge facing the police service in Africa.

Police problems are typically described as groups of related incidents of concern to the community. There are three elements here. First, problems are groups of incidents, not singular events. Second, the incidents in this group are connected in some meaningful way, not random or arbitrary. These two elements suggest that the events that make up a problem stem from the same underlying cause. The third element requires that the incidents be disturbing or harmful to members of the public, not just to the police (Goldstein; Office of Community Oriented Policing Services). This definition includes an extensive range of concerns and it provides limited guidance to the police or the public. The principal use of this definition is to define the outer boundaries of the problem territory - individual crimes are outside this territory, for example, as are police policies and procedures.[17]

Sadly, the necessary transformative reform of the police force has been mostly elusive in the majority of the post-colonial states of Africa, not least in Kenya. Evidence from the 24 years of the Nyayo government reveal that the KPF was instrumental to a catalogue of human rights violations, including politically motivated disappearances of many perceived opponents. Many leading pro-democracy activists that campaigned for the expansion of the political space were repeatedly harassed and brutalized by the KPF. Unlawful and prolonged detention of opponents without trial was rampant. The media houses were not spared as a number of critical private media were banned. Also, owing to the prolonged undemocratic rule the Nyayo era, the police

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[17] Ibid.

institution became highly politicized with the result that recruitment and promotion of officers were for the most part based on cronyism and clannism.[18]

The Kenya Police Service has evolved from a pro-imperial colonial police (founded to subjugate the colonized 'native populations') to what it is today. Originally formed as a colonial constabulary, the institution was not created as a people's police, but as a reactionary instrument of conquest and repression with the aim of achieving the imperial objectives of resource extraction and political domination. This peculiar history of pro-imperialist coercion and anti-locals disposition is what preponderantly shaped the institutional character and operations of most African police forces, including the Kenya Police Service. It is in this historical context that one can properly understand the role of Kenya Police Service in the crackdown of the anti-colonial struggle and brutalization of activists in the nationalist movements for independence, such as the famous Mau Mau freedom fighters. One of the greatest but rarely appreciated challenges of independence in Kenya and Africa was the need to transform the inherited colonial police force from an anti-people to a legitimate national police protective of, and owned by the people.[19]

This paper is concerned with the challenges and dynamics of state policing in contemporary Kenya. The popular transition to multi-party democracy in Kenya in 2002 came with a great hope and expectation of reforms in the political, economic, and security spaces. In particular, it was envisaged that reform in the security sector would, among other things, end the dismal paradigm of policing for regime security and replace it with a new dispensation of

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[18] Gimode, E. (2001) "*An Anatomy of Violent Crime and Insecurity in Kenya: The Case of Nairobi in the Last Quarter of the Twentieth Century.*" Paper presented to the Conference on the Urban Experience in Eastern Africa. Nairobi: British Institute in Eastern Africa.

[19] Mahmood Mamdani (1996) *Citizen and Subject: Contemporary Africa and the legacy of Late Colonialism (London*: James Currey).

popular policing oriented to the general protection and security of the citizens. For about eight years into the new multi-party republic, the Kenyan police force was hardly reformed. The outbreak of the infamous post-election violence of early 2008 with its horrifying incidents of ethnic massacre and police incapacity and brutality graphically reported by the international media served as a reminder to security specialists and observers alike that the Kenyan security sector crisis, which reached a crescendo during the Nyayo Era. This paper analyzed the transition from state policing to multi-choice policing in Kenya, including its underlying structural and empirical impediments, externalities, challenges, and opportunities. Police in Kenya operate with very limited resources. This has led to weak operational preparedness, and a lack of equipment and logistical capacity. For example, the police do not have a forensic laboratory. Vehicle patrols are constrained by a lack of availability of vehicles and funds for fuel. Police salaries are low and police officers complain about bad housing and poor working conditions.[20]

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[20] Usalama Reforms Forum (2012) *Communities and their police stations. A study report of 21 police stations in Kenya.*

1.6   Conceptual Framework

Dependent Variable   **Independent Variable**   **Outcome**

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┌─────────────────────┐
│                     │
│ Terms and conditions│───────┐
│                     │       │
└─────────────────────┘       │
                              ▼
┌─────────────────────┐    ┌──────────────────┐    ┌──────────────────────────┐
│                     │    │                  │    │                          │
│ Lack of resources   │──▶ │ Policing in Kenya│──▶ │ Police Service Performance│
│                     │    │                  │    │                          │
└─────────────────────┘    └──────────────────┘    └──────────────────────────┘
                              ▲
┌─────────────────────┐       │
│                     │       │
│ Political interference│─────┘
│                     │
└─────────────────────┘
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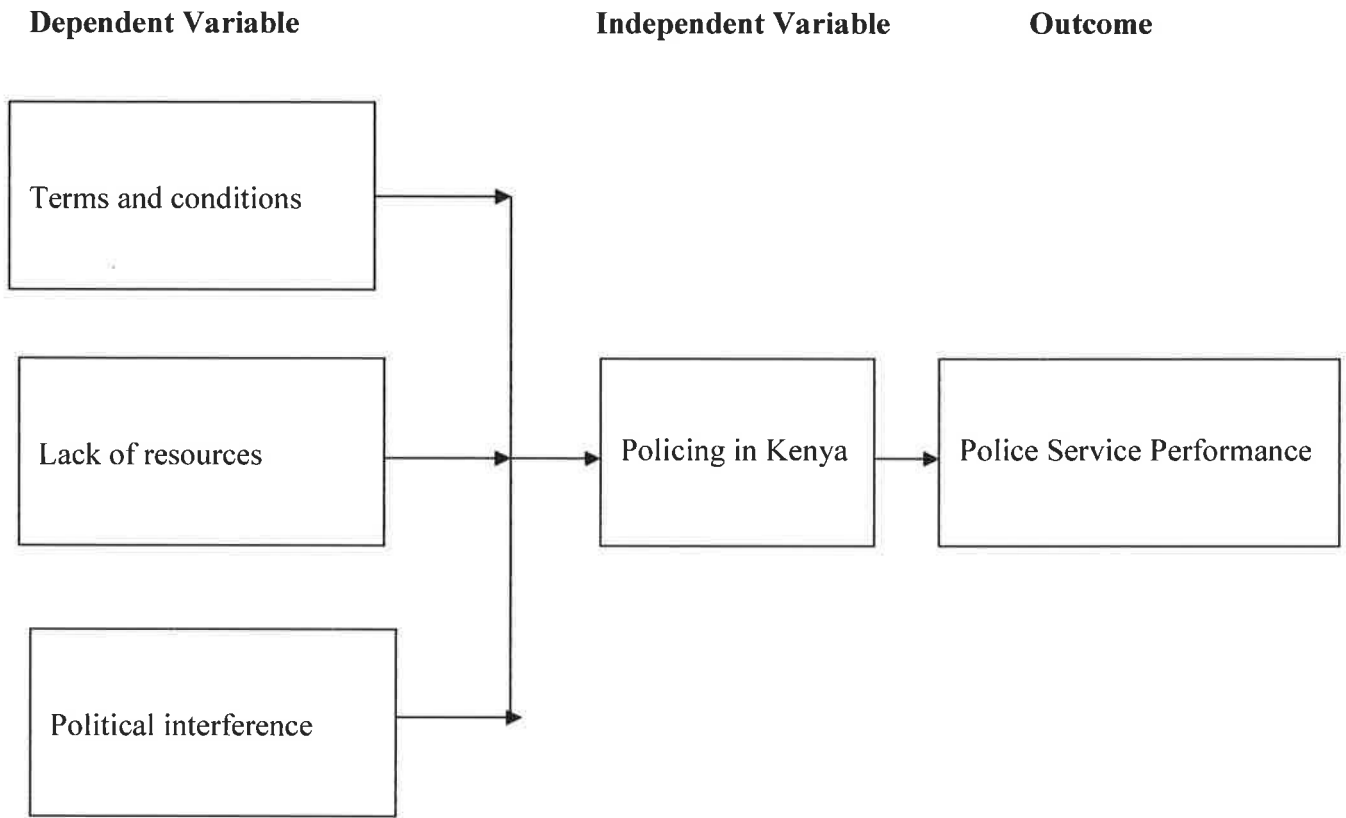
Figure 1: Conceptual framework

The diagram shows that the Kenyan police face several deficiencies that in varied ways hinder their effectiveness in implementing their broad mandate of maintaining law and order. Some of the challenges include political interference, lack of resources, terms and condition; these three have a great influence on policing in Kenya, that finally affect Police Service Performance. Favorable terms of reference for the police, combined with adequate resources and non-interference with the police will give the service the freedom to do their work as they should, in the process it will enhance policing in Kenya, leading to improved police performance.

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1.7   Hypothesis of the Study

That police terms of references act as a challenge to their performance.

That political interference does not act as a challenge to police.

1.8   Justification of the Study

This research aims to create public awareness that will improve public perceptions of the police service; through this study the police can enhance its legitimacy which will ultimately help in its efforts to reduce crime. This research aims to provide new information to the police services, as the power of improving legitimacy in the police lies in what perceptions of legitimacy can offer the police, both individually and institutionally, and what this can offer the community. Through this research policy makers and policy agencies will understand more about the direct and indirect crime control benefits of this approach; which will eventually add values to the on-going police reforms. This study will empower scholars as currently there is very little comprehensive literature on police legitimacy and lack of synthesis and analysis of the empirical evidence of the policing methods that encourage legitimacy in policing.

1.9   Research Methodology

This study was based on qualitative methods of data collection and analysis. The study made use of both primary and secondary data.

In regard to secondary data, the following types of data was collected: official statistics and information about the rate, diversity and the nature of crime in Kenya; budgetary allocation to the police service - how it is disbursed and utilized, as well as the general information about the dynamics of security and law enforcement in Africa. All secondary data and information will be sourced from academic and policy literature (especially, books, periodical, articles and journals); and publications of governments, international organizations and civil societies.

For primary data, this study adopted the use of semi-structured interview method of data collection from the police, civil society, and members of the public. Choice of study locations and selection of respondents will be based on a simple non-probability sampling, implying that territorial locations and fieldwork respondents will be selected on the basis of their considered relevance to the study, as well as the logistical convenience of the researcher. Primary data collection will be done mainly in Nairobi.

This study interviewed police officers of various ranks from the fieldwork locations. The study will specifically target to interview officers at police headquarters where crimes are recorded and investigations instituted, as well as those deployed in potential high crime areas.

Empirical data will be analyzed interpretively using relevant document and content analysis conceptual themes.

1.10 Chapter Summary

Chapter One: Introduction to the Study

In this section, the researcher gives a brief introduction to the main study. This chapter makes up the background of the study. Here, the researcher lays makes a conceptual framework of the issues to be addressed and particularly, what is to be investigated, why and how. Key components of this section are the problem statement, objectives, literature review and justification for the study.

Chapter Two: Emerging Issues on Policing in Africa

This section looks at the emerging issues on the police in Africa. Police forces play an important role in every state and in all democratic societies. The police force is one of the organs of the state responsible for the proper administration of justice, law and order, thereby providing a safe environment guaranteeing the respect and enjoyment of basic rights by all citizens.

Chapter Three: State Policing in Kenya

This section highlights the functions of the Kenya Police Service. The KPS has evolved from a pro-imperial colonial police to what it is today. Kenya's new constitution, promulgated in August 2010, contained major changes to security and police governance, including provisions to diminish political manipulation and increase accountability of the police.

Chapter Four: Challenges of Policing in Kenya

This section is concerned with the challenges and dynamics of state policing in contemporary Kenya. The popular transition to multi-party democracy in Kenya in 2002 came with a great hope and expectation of reforms in the political, economic, and security spaces. In particular, it was envisaged that reform in the security sector would, among other things, end the dismal paradigm of policing for regime security and replace it with a new dispensation of popular policing oriented to the general protection and security of the citizens.

Chapter Five: Summary of Findings, Conclusion and Recommendations

This section sums up the major findings in line with the objectives and hypotheses of the study. It acts as the final and ultimate verdict on the issues addressed in the research. It makes several key conclusions and important recommendations on the way forward.

CHAPTER TWO

EMERGING ISSUES ON POLICING IN AFRICA

2.1   Police Forces in Africa

Police forces play an important role in every state and in all democratic societies. The police force is one of the organs of the state responsible for the proper administration of justice, law and order, thereby providing a safe environment guaranteeing the respect and enjoyment of basic rights by all citizens. Maintenance of such an environment is only possible if the state, its institutions, and the citizenry respect the basic precepts of democracy and the rule of law.[1]

Unfortunately, many Africans have entirely negative perceptions of the police. In many countries, the police are ineffective, unprofessional, corrupt, even predatory. Their primary interest is in protecting the government in power rather than serving the public. The police are often sources of insecurity rather than providers of security.[2] Many African citizens, particularly those living outside urban areas, the police are conspicuous by their absence. Many, perhaps the majority, of Africans rely on non-state security providers such as neighborhood watch groups and chiefdom police to keep them safe. In sub-Saharan Africa, the most are perceived as not performing to their maximum, some are seen as underperforming institutions in their jobs. The consequences of this failure are severe. Insecurity affects the ability of people to go about their

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[1] Frame, I. *et al* (Eds), 2008, *Africa South of the Sahara 2008*, 37th Edition, London, Routledge.

[2] J Steinberg (2004) *Sector policing on the West Rand*. ISS Monograph Series no 110. Pretoria: Institute for Security Studies.

daily lives, farm their fields, run their businesses, and make investments. It acts as a drag on economic development, delaying recovery in post-conflict states.[3]

2.2 Police Oversight in Africa

Several factors militate against police oversight in Africa. They include the colonial and post-colonial legacies of authoritarian rule; lack of autonomy of policing institutions because of the prevalence of patrimonial (bigman) rule; lack of appropriate normative and legal frameworks; weak institutional capacity; and pervasive insecurity.[4]

Modern organised police forces in Africa were the creation of colonial rulers from the mid-nineteen centuries. The forces were established to enforce law and maintain order so that the colonisers could dominate the colonised with either minimum resistance from the colonised or through effective repression. Police forces and policing under the colonial rule were not aimed at satisfying the needs of the indigenous communities. The colonial police forces in Africa were deployed as occupation forces to suppress resistance against colonial rule and threats against the person and possessions of the colonisers. This explains the uneven distribution of police services between the government reserved area occupied by the colonial officials and entrepreneurs on one hand and the native residential areas on the other. While the latter lacked police services the former was saturated with police officers deployed as residential guards and personal orderlies.[5]

After independence, post-colonial rulers appropriated the privileges of the colonisers and failed to restructure inherited institutions, including the police. Patrimonial or personal rule rather than democratic governance rapidly became entrenched in most African countries after

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[3] Ibid.

[4] Stone, C. & Ward R. 2004 *"Democratic policing: A framework for action"* in Policing and Society, 10:11–45.

[5] Alemika, E.E.O. 2003 *"Police, Policing and Rule of Law in Transitional Countries"* in Lone Lindholt, Paulo de Mesquita Neto, Danny Titus and Etannibi E. Alemika (eds.) Human Rights and the Police in Transitional Countries. The Hague, Kluwer Law International.

independence. As opposition to post-colonial authoritarian rule intensified, the rulers also strengthened their grip on the armed forces and other security agencies. Leaders of these institutions owe their tenure to the head of the government. In this environment, neither the rulers nor the head of these agencies desire relative autonomy of the police forces. This is because autonomy will mean that political leaders will have less control over the forces. Similarly, the heads of police forces will lose immunity from lawless policing. In essence, autonomy will undermine impunity by both the rulers and the police forces.[6]

Given the continuing legacy of authoritarian government and policing, there is no political will to ensure effective oversight and accountability of the police. The absence of democratic rule in most African countries, until political reforms aimed at establishing multi-party democracy began in the early 1990s, undermined the development of normative and legal frameworks for police oversight and accountability. Notwithstanding recent adoption of multi-party forms of government, former authoritarian rulers are still in power in many African nations. Thus, democratic transition remains feeble in the majority of African countries. This poses a challenge to the police oversight, which served and continues to serve as handmaiden of the political rulers on the continent. Another important challenge to police oversight and accountability in Africa is pervasive lack of capacity and resources. African police forces lack the capacity required for policing increasingly complex societies. In particular, their control, command, composition, training, remuneration, equipment and deployment render them ineffective. Lack of capacity and resources is visible in such critical areas as crime prevention,

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[6] Boshoff, H. 2004 '*The United Nations Mission in Burundi (ONUB): Overview*' in African Security Review, 13(3).

surveillance, intelligence, investigation and apprehension of offenders. This handicap engenders inefficiency and lack of trust in the police to promote security and safety.[7]

High rates of crime and the inefficiency of the police to combat the problem have engendered the proliferation of armed vigilante groups. The groups engage in trial by ordeals, mutilation and killing of suspects. Citizens often praise them because they consider them more effective than the police. The increasing rates of violent crimes in many African countries engender public support for unlawful policing acts by the police and vigilantes, thereby undermining oversight and accountability. While the governments in many African countries have established oversight institutions, police accountability and oversight remain weak due to several factors, including those enumerated above.[8]

These basic social and political conditions have an impact on policing; they shape the organization, roles, performance and accountability of the police. The most obvious problems created for policing by the contexts in which they work include: a lack of occupational and operational autonomy of the police; .an occupational culture which still echoes a colonial mentality rather than abides by a commitment to service, the rule of law, protection of rights and professional norm.[9] Organizational failures, specifically a lack of effective and inefficient management, lack of resources, weak organizational identity, persistent corruption and impunity for abuses of power; .abysmal relations with the public which views the police, and rightly so, as

[7] Ibid.

[8] Frame, I. 2008 *Africa South of the Sahara (37th edn)*. London: Routledge.

[9] Rotimi, K. (2001). *The Police in a Federal State. The Nigerian Experience.* Ibadan: College Press Limited.

corrupt, brutal, inefficient, and abusive in its normal encounters with the public and a vast informal social ordering system to do what the state police are unable or unwilling to do.[10]

2.3   Public Trust in Africa's Police

According to the United Nations Office on Drugs and Crime, Africa accounted for over a third (36 percent) of the total number of homicides around the globe in 2010 while representing only a sixth of the global population. At 17 per 100,000 persons, the homicide rate in Africa is *more than double the global average* of 6.9 per 100,000. In South Africa, about 45 people were killed and 182 people were raped or sexually assaulted each day in 2012, making it one of the most dangerous states in the world "outside of a war zone." Violence is especially onerous in Africa's urban areas. Homicide rates in Cape Town, for example, have hovered around 60 per 100,000 since 2001. The Central African Republic, Côte d'Ivoire, the Democratic Republic of the Congo, Malawi, Namibia, Swaziland, Uganda, and Zambia similarly score in the top quartile of homicide rates within Africa.[11]

Surveys also paint a bleak portrait of crime more generally on the continent. In Nairobi, 37 percent of residents have reported being victims of armed robbery, giving rise to the unflattering moniker "Nairobbery".[12] According to one survey, more than half of the citizens of Nairobi worry about crime "all the time" or "very often." In Lagos, Nigeria, 70 percent of respondents in a citywide survey said they feared becoming crime victims. According to surveys from across the continent, substantial numbers of Africans regularly fear crime in their

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[10] Frame, I. 2008 *Africa South of the Sahara (37th edn)*. London.

[11] "Factsheet: South Africa's official crime statistics for 2012/13," AfricaCheck. org, September 19, 2013, available at <http://www.africacheck.org/reports/factsheetsouth-africas-official-crime-statistics-for-201213>.

[12] Bruce Baker, *Nonstate Policing: Expanding the Scope for Tackling Africa's Urban Violence*, Africa Security Brief No. 7 (Washington, DC: National Defense University Press, September 2010), 1.

neighborhoods. Property crimes are certainly serious, but violent crimes such as rape are devastating. In 2002, statistics suggested that a girl born in South Africa had a greater chance of being raped than learning how to read. Estimates are that more than 30 percent of girls have been raped by the time they are 18. More than 37 percent of South African men admitted to raping someone in a 2009 government funded survey. Behind these cold numbers is a long trail of ruined lives and deep despair. [13]

Low confidence in the police may lead to skewed crime statistics. Only about a fifth of Africans surveyed across 22 countries report crimes. The three most common explanations provided by those who do not report crimes are a belief that the police "don't care," that they would demand a bribe, and a fear of reprisals from attackers. Of course, crime in Africa is complex, making it difficult to generalize without feeding stereotypes or relying on conjecture. With more than a billion people inhabiting one-fifth of the global landmass, generalizations about Africa of any kind are problematic. A dearth of reliable, comparable crime statistics makes the challenge even greater.[14]

Indeed, with few exceptions, most African countries fail to keep reliable crime data of any kind. Available statistics such as homicide rates are often reconstructed from medical and hospital records, not from police reports. Even where data are collected there is reason for skepticism concerning their accuracy.[15]

The best that can be said about the image of the police in the public's mind is that it is not good. The police are considered to be among the most corrupt government institutions in African

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[13] Bruce Baker, *Nonstate Policing: Expanding the Scope for Tackling Africa's Urban Violence*, Africa Security Brief No. 7 (Washington, DC: National Defense University Press, September 2010), 1.

[14] Ibid.

[15] Ibid.

states, which is not surprising given their power in the streets and offices. It is widely believed, and known from personal experience and the stories told by acquaintances and friends and read in the media, that coming into contact with the police can lead to no good.[16]

The police generally behave with little regard for the rights of people, in normal encounters or in work, such as investigations. Stories of abuse, mistreatment, and torture[i] to extract confessions or killing suspects in their custody are widely circulated and believed. In Zaire, under Mobutu, the police generally were not paid at all and survived in their communities by thefts, extortion, corruption and killing those who refused to hand over bribes and property. In Zimbabwe, currently, the police enforce the land eviction and slum clearance policies designed by The Zimbabwe African National Union – Patriotic Front (ZANU–PF) government to remove oppositions to its rule, and in the process routinely beat, torture and kill opponents of the regime and appropriate their property.[17]

The withdrawal of much of the public from the state into personal economic survival and subsistence activities, since the state cannot provided even basic services, is also and quite frequently an attempt to withdraw from contact with the police, who are the main source of insecurity and economic predation in many areas.[18]

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[16] Cawthra, G.& R. Luckham (Eds.). (2003). *Governing Insecurity. Democratic Control of Military and Security Establishments in Transitional Democracies.* London: Zed Books.

[17] CLEEN Foundation (Centre for Law Enforcement Education in Nigeria) (2006). *Opportunity for Justice. A Report on the Justice Olasumbo Goodluck Judicial Commission of Inquiry on the Apo Six Killings by the Police in Abuja.* Lagos: author.

[18] Hills, A. (2007). *Police Commissioners, President and the Governance of Security.* Journal of Modern African Studies, 45, 409-423.

2.4   Police Leadership in Africa

Leadership matters. The police are actors in their own behalf, everywhere. They do not merely carry out directives from the political leadership but will seek to interpret demanded goals, policies and programs in a manner that reflects and incorporates their conceptions of professional, organizational and personal interests. But in African contexts, their capacity to act is severely constrained by the political dynamics of their countries. Even when they wish to be professional, modern leaders they fully understand the realities in which they work, including at the very top that they serve at the pleasure of the political leadership. They are attuned to political events and currents. They know their job is to provide policing but also became cautious about overdoing their commitment to professionalism if it runs against the interests of the political elites. It is a delicate balance easily tipped in favor of subservience to the state rather than adherence to professional norms.[19]

Leadership is the most likely source for reform, but lacks the power, resources and authority to create the conditions or policies leading to change. As stated earlier, police leaders know what is happening in the worlds of policing outside their countries and are not immune to the enticements of professionalism. And they can change some management practices which now contribute to the sorry state of policing in Africa. They could be more insistent on curbing corrupt practices, and do so in visible ways; they could use new information technology to institute different deployment patterns or improve crime investigations. But many of the administrative problems are not within their power to cure, such as recruitment patterns, levels of pay, or the composition of personnel which tend to be governed by police laws passed by

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[19] African Security Dialogue and Research (ASDR). (2002). *Key Issues in Contemporary Ghanaian Policing: Identifying Reform Priorities*. Legon, Ghana: author.

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military or elected regimes. And it is highly unlikely that they will be able to overcome the desire by the powerful to have police as personal protectors.[20]

The ultimate determinant of policing in the future will be, as it is now, the dynamics of domestic politics. International pressures and police leadership can only seek to promote an agenda for reform. That agenda will matter if political leaders begin to think of reforming the policing and social control systems in their countries as an important goal, not tied to self or partisan interests. Right now, there are few indications that this change in the political culture and practices of African countries is imminent, despite occasional political reforms, the reemergence of democratic politics (at least in appearance) in some countries, and the reconciliation and transformation of former enemies into allies in political contests. [21]

In countries which have changed profoundly in their political structures and laws, such as South Africa, policing has changed as well. Not as much as reformers wished or envisioned, but certainly the current policing systems are a far cry from the practices of the apartheid police. Civic society has become actively involved in demanding reforms. Academic research has begun to strip the veil of opaqueness from the workings of the police, making it more difficult for the police to justify undemocratic practices.[22]

Other countries, such a Nigeria or Kenya, tend to repeat historical cycles of stability and instability and are not yet on a clear path toward stable and secure political systems. Until that path is trod, the police will experience similar cycles of reform and retreat as well. In sum, the

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[20] Alemika, E. E. O. & I. C. Chukwuma. (2004). *The Poor and Informal Policing in   Nigeria. A Report on the Peoples' Perceptions and Priorities on Safety, Security and Informal Policing in A2J Focal States in Nigeria*, Lagos: CLEEN Foundation. .

[21] Ibid.

[22] Baker, B. (2008). *Multi-Choice Policing in Africa*. Uppsala: The Nordic Africa Institute.

limits of police leadership and international pressures on the future developments of policing in African states are set by local political and security conditions. Until and unless these conditions change, by their own dynamics or through outside pressures, policing will not be able to detach itself sufficiently from its societal contexts to achieve the minimal level of semi-autonomy needed for democratic policing to be possible.[23]

Among failures one can list: a recruitment system which rewards formal education more than merit; deployment policies which favor the powerful; a lack of adequate gender representation within the police; management inefficiencies, including the inequitable distribution of resources within the police organization and impunity from corruption. Ultimately, such failures create an organization in name only. Identification by police at the lower ranks with the organization is weak or non-existent - lower ranks think themselves exploited, misused, and unfairly sanctioned or rewarded by their superiors (ASDR).[24]

Recruitment into the police is typically bifurcated, on the basis of formal education, leading to an organization that distinguishes, in military fashion, among rank and file and an officer corps. Lower ranks require minimal levels of education, attested by certificates; officers are recruited from institutes of higher education graduates. With rare exceptions, it is impossible to move up in the hierarchy from lower ranks to officer levels through experience and merit.[25]

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[23] Joseph, R. (2003). *State, Governance and Insecurity in Africa*. Democracy and Development, 3, 7-15.

[24] African Security Dialogue and Research (ASDR). (2002). *Key Issues in Contemporary Ghanaian Policing: Identifying Reform Priorities*. Legon, Ghana: author.

[25] Ibid.

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The consequences of this pattern of recruitment are disastrous for identification with the organization, morale and effectiveness. Lower ranks know that their career opportunities are severely limited, no matter how long or how well they perform, and that their superior officers look down on them because they lack longer periods of formal education. Officers, as they are among the educated elites of their countries, or as students will tell you they are 'the future leaders of their country' (university education is strongly pyramidal), are completely convinced that they are better than less-educated folk and that they deserve respect from others, including their own police; they know little about policing as it happens on the streets not having come up through the ranks, nor are they trained formally in such matters; and they think little of using the lower ranks as personal protectors and even servants. There is little identification across ranks but, possibly within ranks (this is a hypothesis since there is no research on this), that all belong to a common organization or that all are police engaged in a common enterprise.[26]

One can find, on official websites and in occasional police reports, what functional units in the organization officers are nominally assigned to. But little is known on how and where the police actually work. One pattern that is known is that police personnel assigned to patrolling basically work in upper class and expatriate areas and housing estates, and that many are siphoned off into protection services for VIPs. Police area treated as a status symbol by the political elites. One can always tell how important a person is by the number of police who swirl around her or his every move.[27]

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[26] Baker, B. (2008). *Multi-Choice Policing in Africa*. Uppsala: The Nordic Africa Institute.

[27] Bekoe, D. (2007). *USIP Briefing. Cote d'Ivoire: Ensuring a Peaceful Transition*. Washington, D.C.: United States Institute of Peace.

2.5   Knowledge of Policing in Africa

Accurate knowledge of policing in African states is severely limited, for a number of reasons. For an English speaking only observer, the writings, such as they are, on policing in former French or Portuguese colonies, which have retained the colonial language as their lingua franca or for states which have adopted in addition an indigenous language of wide circulation as a second national language (such as Swahili in Tanzania or Kenya) are not easily accessible.[28]

An extensive public, basically polemical, discourse on the failures of policing can be found in the mass media (if it is free or allowed to be critical within limits), novels, autobiographical reminiscences, internet blogs, and in conversations. There is a fairly substantial scholarly literature, by African (most of whom have been trained outside their home countries) and foreign academics on the history of policing. One can find descriptions of the formal aspects of policing systems (organization, recruitment requirements, etc) in government documents, scholarly writings (such as world encyclopedias), and now websites. Many NGOs concerned with human rights, police reform, and accountability (e.g., Saferworld, CLEEN Foundation, Human Rights Watch, Amnesty International, The Justice Initiative funded by the Open Society) also publish fairly detailed reports on police in specific countries.[29]

Yet such knowledge is from the 'outside in', written and reported by scholars, policy wonks, journalists and people who have had personal encounters with the police. Their analyses

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[28] Bekoe, D. (2007). *USIP Briefing. Cote d'Ivoire: Ensuring a Peaceful Transition.* Washington, D.C.: United States Institute of Peace.

[29] Rotimi, K. (2001). *The Police in a Federal State. The Nigerian Experience.* Ibadan: College Press Limited.

and critiques cannot easily reach beyond the formalities and institutional setups of the police and the political and cultural contexts in which the police are enmeshed.[30]

The exceptions are South Africa, which after the collapse of the apartheid system embarked, of political necessity, on the structural and cultural reformation of the South African Police (SAP). As part of the release from oppression, scholarly studies of the police also became possible and fashionable). The other exceptions could be Nigeria and Ghana, which are developing a fairly substantial literature on the practices, and abuses, of their police forces.[31]

There are tremendous practical difficulties in trying to do research on the police, as access is either impossible or a crime (policing being considered a state secret in most countries). It is a serious offense to take a picture of a police station or car, and a serious internal violation for a police officer to reveal any information to an outsider. In addition, criminology and criminal justice as an academic discipline has not been emphasized or developed in African universities. Only a few academics working in African universities are interested in systematically studying the police, or other aspects of the criminal justice system.[32]

The scholary literature reviewed highlights some gaps. There is very little material on policing in Kenya. Also very little is found little on how the police actually work, make decisions on the use of force, implement community policing visions, think about their job, including why they engage in corruption, or what conditions are like within the police as

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[30] Rotimi, K. (2001). *The Police in a Federal State. The Nigerian Experience*. Ibadan: College Press Limited.

[31] Ibid.

[32] Rausch, C. (Ed.) (2006). *Combating Serious Crimes in Postconflict Societies. A Handbook for Policymakers and Practitioners*. Washington, D.C.: United States Institute of Peace Press.

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experienced by different rank levels. There is little in the way of a systematic literature on how the police think and work: e.g., the values and priorities of their occupational culture; kind and quality of training; how they are deployed; how rank and file are rewarded and sanctioned; the gender, ethnic, career or age composition of personnel; what impact police work has on crime or order; or how managers control and guide their forces. Even the most basic information and analyses, which are the bread and butter issues and products of police studies elsewhere, are missing.

2.6   Crimes in Africa

It has often been said that crime in South Africa is related to the transition from authoritarian rule to democracy in the country. Similar patterns appear to apply in other transitional societies such as those who have moved from military to civilian rule in Latin America, the former communist regimes of Eastern and Central Europe, as well as states in Africa, most clearly illustrated by Nigeria and Mozambique, which have moved from authoritarian forms of rule or civil war to fledgling democracies.[33]

The rise of crime in periods of political (and related economic and social) transition is a complex phenomenon difficult to analyse. Statistical data on levels of crime before and after the transition are difficult to come by, and when available, their accuracy may be open to question. In South Africa, for example, there are no reliable crime statistics for the whole country before January 1994. At the same time, our understanding of crime in authoritarian societies is often complicated by the fact that state repression led to a blurring of the boundaries of political and

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[33] Rausch, C. (Ed.) (2006). *Combating Serious Crimes in Postconflict Societies. A Handbook for Policymakers and Practitioners.* Washington, D.C.: United States Institute of Peace Press.

criminal activity and that the state itself was often a significant source (although not defined as such at the time) of criminal activity.[34]

These issues raise important questions about whether or not dramatic transitions lead to the more visible appearance of older forms of criminal activity in new guises or whether transitions themselves give rise to new forms of criminal activity. In South Africa, for example, is the increase in crime predominantly the result of a displacement of criminal activity previously contained in townships and which has now spread to (white) suburban areas? Have levels of rape, for example, not always been high but now because they are reported (and viewed with concern by both government and citizens) it appears that the transition has brought with it remarkably high levels of sexual violence? The answer probably lies somewhere in between the two positions. Old forms of criminal activity have undoubtedly been displaced (often in new forms) into the new democratic order, while at the same time they have been joined by growth in the overall level of all forms of criminality. Of course, this still leaves the question of why a shift from authoritarian rule to democracy should lead to higher levels of crime, and if so, how? Ironically, and contrary to popular belief, increases in crime in transitional societies may be less an issue of declining levels of law enforcement and policing than is commonly assumed.[35]

A comparison of authoritarian regimes across countries suggests that most citizens were policed as much for crime control as for political control. Yet it is not certain whether policing in most post-authoritarian states has improved in the eyes of the majority of citizens, and if it has,

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[34] Innocent Chukwuma and Ogaga Ifowodo (eds), *Policing a Democracy*, Centre for Law Enforcement Education, Lagos, 1999, p.2.
[35] Innocent Chukwuma and Ogaga Ifowodo (eds), *Policing a Democracy*, Centre for Law Enforcement Education, Lagos, 1999, p.2.

whether this is not because the police are more effective in controlling crime, but because they are now less repressive and thereby less intrusive.[36]

An overview of the growth of crime in a number of transitional societies suggests a more complex reason for the growth in crime: the breakdown of community and related principles of social organisation, including the crime control arrangements and reduced risks for punishment, punishment, as well as an increase in opportunities, targets and motivation. Thus, dramatic political, economic and social transitions may be much more disruptive of the internal social organisation, including that of crime prevention and control, of communities than has often been assumed. The conference presentations suggested that three forms of internal social organisation may be dramatically altered in a period of transition.[37]

In societies such as in South Africa, the struggle against an authoritarian state produces opposing forms of community cohesion and social control, which keeps criminality in check. In Northern Ireland, for example, criminal activities have been restricted given the vulnerability of offenders (who are threatened with prosecution if they do not agree) to being recruited as informers by the police.[38]

In communist countries with centralized political structures such as in Eastern and Central Europe and the former Soviet Union the state itself imposed the organizational network.

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[36] Adewale Maja-Pearce, *From Khaki to Agbada: A handbook for the February 1999 elections in Nigeria*, Civil Liberties Organisation, Lagos, 1999, p.33.
[37] Leggett, T (2000) Law enforcement and international gun trafficking. In Lumpe, L (ed.) *Running Guns: The Global Black Market in Small Arms*. London: Zed Books.

[38] Deng, X. and A. Cordilia (1999) To get rich is glorious: Rising expectations, declining control, and escalating crime in contemporary China. *International Journal of Offender Therapy and Comparative Criminology*. 43(2).

The collapse of the communist state led to a breakdown of these structures, fragmenting local forms of social cohesion without any immediate replacement.[39]

In most societies, quite apart from structures established in a response to, or by, an authoritarian state, some form of community controls remained. These include structures such as the church, community groups, the extended family and neighbourhood groups. A review of societies which have undergone dramatic transitions suggests that these structures are weakened and lose their reach into the community. This is a result of the strength of the two new forms of community cohesion outlined above and which are generated by authoritarian states. But it is also a consequence of the disruptive nature of transitions and the violence that often accompanies them, weakening old forms of social organisation which no longer provide an attractive option for increasingly militarized and vocal sectors of the society, often the youth. In addition, traditional forms of social control are undercut during periods of transition by the emergence of new social movements and non-governmental organizations (NGOs).[40]

2.7   Police Reforms in Africa

The "role of the police" is a multi-faced concept: police in general have a primary justice function of ensuring basic law and order; this primary justice function may be fulfilled through a combination of domestic, international, and local police or security agents; and the establishment of basic law and order is a necessary condition for sustainable reconstruction, in particular for rebuilding the population's trust in state institutions.[41]

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[39] Adewale Maja-Pearce, *From Khaki to Agbada: A handbook for the February 1999 elections in Nigeria*, Civil Liberties Organisation, Lagos, 1999, p.33.
[40] Adewale Maja-Pearce, *From Khaki to Agbada: A handbook for the February 1999 elections in Nigeria*, Civil Liberties Organisation, Lagos, 1999, p.33.

[41] Ibid.

In the context of post-conflict reconstruction the role of the police has to be the securing of basic law and order immediately after the end of the conflict. If the local police are unable to fulfill this task, UN civilian police can try to fill this void. Under ordinary conditions the police are responsible for the prevention of dangers for public security and order, that is, they ensure a peaceful living-together of society. Of course , the state police are not the only actors responsible for public security; on-state institutions such as community guards, neighborhood watches and private security augment the provision of security. All actors taken together perform what is commonly referred to as policing. In sum, the police should act as a social authority regulating social conflicts under the framework of the rule of law.[42]

While police reform in every jurisdiction is unique, Francophone jurisdictions display commonalities based in part on the history they share with the French legal system that they inherited. Whereas jurisprudence is an integral part of the legal system inherited from British colonialism, Francophone countries rely on civil law and often continue to rely directly on French Law, which is ill-suited to the West African context. In addition to the inquisitorial role played by the judiciary, Francophone countries generally have three services with a policing mandate: the national police, the National Guard and the gendarmerie. The first two are very often located under the ministry of interior or ministry of security, whereas the gendarmerie is usually located in the ministry of defence. The overlap of mandate is often confusing and creates competition for resources. As in many Anglophone jurisdictions, oversight and complaint mechanisms remain weak.[43] Indicators are tools of measurement to help assess whether defined

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[42] Adewale Maja-Pearce, *From Khaki to Agbada: A handbook for the February 1999 elections in Nigeria*, Civil Liberties Organisation, Lagos, 1999, p.33.

[43] Ilkjaer, L. & Bouremia, S.S. (2004) 'A model for developing performance indicators in Niger'. *International Journal of Police and Management* 12(2).

objectives are being met and are therefore crucial in any transformation project. What you cannot measure, you cannot manage. Using indicators enables us to know if there is progress in relation to the objectives that have been fixed. In taking forward police reform in West Africa, building cooperation between European and West African police or building the West African Network on Police Reform, it is important to be able to measure progress in terms of performance effect and impact.[44]

Police should give consideration to setting up a focal point which can monitor the indicators and follow progress. This focal point could be located in the statistics department or a similar unit within the police and it should be in close contact with other institutions that collect information relevant to police performance, such as relevant ministries, statistical offices as well as other security services. It is important that all relevant state and non-state actors participate in the development of indicators. Partnership will strengthen cooperation between the police and other stakeholders in and outside of government and is in line with the principles of community policing and democratic policing.[45]

Police reform is part of a larger effort of reforming the security sector. The concept of security sector reform was developed by some donor agencies in the late 1990s. It refers to a holistic approach with a "range of objectives covering all security sector institutions" (Brzoska). The term reconstruction of the security sector refers to the reestablishment of the legitimate monopoly of force. The term reform emphasizes the need to alter the governing principles of domestic security institutions. In the case of the police this pertains in particular to crime control

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[44] Forman, J. 'Security Sector Reform: What role for civil society'. In *Civil Society and Security Sector Reform*, Caparini, M., Fluri, P., Molnar, F., eds, DCAF, 2006.

[45] Bajraktari, Y., Boutellis, A., Gunja, F., Harris, D., Kapsis, J., Kaye, E., et al. (2006, January 3). The PRIME System: Measuring the Success of Post-Conflict Police Reform.

and crime prevention with regard to the monopoly of force and addresses aspects of human

rights, professionalism and accountability mechanisms with regard to governing principles.[46]

According to Brzoska security sector reform has three main objectives: first, the

consolidation and provision of security which requires a functioning police and army as well as

functioning court and prison systems; second, the governance of the security sector requires a set

of norms, most importantly transparency, accountability and professionalism; and third, the

security institutions have to perform effectively and efficiently. While Brzoska sees a certain

merit in the theory of comprehensive reform, his critique is that the holistic nature of security

sector reform confronts the actors with the issue of policy priorities. Despite numerous post-

conflict reconstruction efforts to date, no international organization or donor country has

managed to present a convincing doctrine of police reform.[47]

Mode of coordination Most if not all post-conflict situations require outside-inside assistance by

the United Nations and bilateral donors. A UN peacekeeping operation is initiated committing

blue helmets and civilian police under UN command to the post-conflict situation. The

subsequent security sector reform is usually not implemented by the UN alone. The reform can

be UN-lead and coordinated as was the case during the United Nations Operation in

Mozambique (ONUMOZ).[48] The coordination can be performed by the UN together with a lead

nation as in the case of the United Nations Mission in Sierra Leone (UNAMSIL) with the United

Kingdom as lead nation. Or the context produces a piecemeal approach in which the UN is only

one actor among many others which often results in an unsystematic and disjointed reform effort.

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[46] Brzoska, M. (2006). Introduction: Criteria for evaluating post-conflict reconstruction and security sector reform in peace support operations. *International Peacekeeping, 13*(1), 1 - 13.

[47] Ibid.

[48] Davis, L. (2009). Justice-Sensitive Security System Reform in the Democratic Republic of Congo.

The latter case might best be reflected by the predominant conditions during the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC).[49]

The Constitution's 5th Schedule allows two years for the enactment of new laws governing the National Police Service, the government decided to prioritize these laws and to have them in place by 27 August 2011; within one year of the promulgation of the Constitution.

Though the public is becoming more vocal in their demand for fair and effective policing, people do not seem to know what good policing is making it harder to voice their aspirations, as the focus for many human rights organizations has been on what should not be in place. The history of violence against activists working on issues of police reform has also left its mark, including the killing of two human rights defenders in 2009. Police reform has taken on a rather legalist approach. Too great a focus on laws and legislation, though important, has left little room for emphasis on social change or policy development. The challenge with this approach is that it is rather narrow and leaves little room for locating reforms within the challenges of the real lived experience of policing in Kenya.[50]

Despite the fact that they have been working within a new Constitutional dispensation since August 2010, the police have continued to serve under senior officers in charge under the previous dispensation. That is, senior officers who were previously under the direct political control of the executive and in the same environment responsible for causing and sustaining the culture of impunity. Coupled with the fact that the new oversight bodies, though created, are not yet fully operational, in many ways it is business as usual for the police. Indeed, the police are still responsible for human rights violations, as shown in a national survey on torture in 2011 by

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[49] Ibid.

[50] The Transparency International [TI] 2009 Corruption index that ranked the Kenya Police as most corrupt..

the Independent Medico-Legal Unit (IMLU). IMLU's report on the prevalence of torture in Kenya found that 54% of the cases of torture they documented had been caused by the members of the Kenya Police Service and 7% by the Administration Police Service.[51]

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[51] Independent Medico-legal Unit, *Upscaling Torture Prevention and Response in Kenya: National Torture Prevalence Survey Report*, 2011, p.35.

CHAPTER THREE

STATE POLICING IN KENYA

3.1 Introduction

The Kenya Police service is established under provisions of an Act of Parliament known as the Police Act, Chapter 84 of the Laws of Kenya. The Force is headed by the Commissioner of Police who is appointed by the President under the provisions of section 108 of the Constitution of Kenya. The Police Act provides for the functions, organization and discipline of the Kenya Police service and the Kenya Police Reserve, and for matters incidental thereto. According to section 14 of the Act, the Police service is established in the Republic of Kenya to perform the following functions; Maintenance of law and order, The preservation of peace, The protection of life and property, The prevention and detection of crime, The apprehension of offenders and the enforcement of all laws and regulations with which it is charged.

Kenya is a multi-party democratic state with three arms of Government – the legislature, the executive, and the judiciary. The 2010 Constitution made a number of changes to Kenya's political and governance structures, including the introduction of a devolved government. Against the backdrop of constitutional, legislative and administrative transition, following the promulgation of the new Constitution of Kenya on 27 August 2010, as laid down in Chapter 17 Part 4, the Kenyan police forces shall undergo a series of reforms. Hence called The Kenya Police Service, it shall be headed by an inspector-general and the division of its functions shall be organized to take into account the devolved structure of government in Kenya.

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Since independence, policing in Kenya has been shared by two separate institutions – the Kenya Police Force (KPF) and the Administration Police Force (APF) – each established by, and subject to, their own separate legislation and command structures. However, the 2010 Constitution established a new National Police Service, which brings together the renamed Kenya Police Service and Administration Police Service. The two services remain independent, although under one command, led by the Inspector General of Police. Each service has a separate commander (with the rank of Deputy Inspector General) who reports to the Inspector General of Police. There are over 200 police stations across the country, however at the time of writing there was no information about the number of detainees currently in police custody.[1]

The newly established Independent Policing Oversight Authority (IPOA) provides civilian oversight of the National Police Service, and has a mandate to receive and investigate complaints into a range of police abuse and misconduct. The National Police Service Commission is currently in the process of vetting police officers for their suitability to continue service in the new National Police Service.

Kenya has two police forces, the Kenya Police Service and the Administration Police Service (APS). Kenya's modern police force originated during the colonial era in Kenya and its

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[1] Independent Medico-legal Unit (2011), *Upscaling Torture Prevention and Response in Kenya: National Torture Prevalence Survey Report*, p.35.

officers were concentrated in urban areas, along railway lines, and in areas occupied by the propertied class (predominantly people of European origin). The APS originated in colonial times and was known as 'the chiefs' police' as they were responsible for assisting chiefs in the administration of rural (predominantly African) areas. After independence, control of the APS was moved from the chiefs to the Office of the President, where it remains to this day.[2]

The Kenyan Police Force (KPF) is entrusted with delivering effective policing services as required by law. The KPF has evolved from a pro-imperial colonial police to what it is today. Originally formed as a colonial constabulary, the institution was not created as a people's police, but as a reactionary instrument of conquest and repression with the aim of achieving the imperial objectives of resource extraction and political domination. This peculiar history of pro-imperialist coercion and anti-locals disposition is what preponderantly shaped the institutional character and operations of most African police forces, including the KPF. It is in this historical context that one can properly understand the role of KPF in the crackdown of the anti-colonial struggle and brutalization of activists in the nationalist movements for independence, such as the famous Mau Mau freedom fighters.[3]

The current police formations consists of; General Service Unite (GSU) both headquarters and training school are in Nairobi. Anti Stock Theft Unit is situated at Gilgil in Naivasha district, 117 km from Nairobi. Criminal Investigation Department its headquarters is in Karura. Traffic Police Department, Kenya Police College, Kenya Police Air Wing, Kenya Railway Police, Kenya Railways Police, Kenya Police Dog Unit, Tourism Police Unit, Kenya Airports Police Unit, Maritime Police Unit and Diplomatic Police Unit.

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[2] Independent Medico-legal Unit (2011), *Upscaling Torture Prevention and Response in Kenya: National Torture Prevalence Survey Report*, p.35.

[3] Ibid.

3.2   Brief History of the Police in Kenya

The Kenya Police has its small beginnings in the period between 1887 – 1902, tracing its foundation on the Imperial British East Africa (IBEA) Company, and a businessman Sir William McKinnon, who in the interest of his business found it necessary to provide some form of protection (security) for his stores along the coastline of Kenya. It is from this origin that the concept of constituting a real police service was formed in Mombasa. Generally, police activities centred on protection of the business of the I.B.E.A. Company where the strength was mainly of Indian origin with a skeleton staff of some Africans otherwise referred to as "*Askaris*". During those early stages of the small police force, its duties were negligible.[4]

The construction of the Kenya - Uganda Railway provided for the growth of this infant force inland from our coastline, and by 1902 there existed police service units at Mombasa, Nairobi and Kisumu for the purpose of safeguarding the railways property and materials as well as the manpower engaged in constructing the railway. In essence, peace, law and order had to be maintained despite the fact that the personnel employed then had little training. The laws in force were from India including the Indian Criminal Procedure Code, the Indian Evidence Act and Police Ordinance. It is notable that up to 1907, the Kenya Police was organized along military lines and the training was military in nature. In 1906, the Kenya Police was legally constituted by a Police Ordnance.[5]

In 1920, the modern Kenya Police was founded. Africans were recruited but only to fill the lowest ranks of the force — subservient to European and Asian officers. Within the urban areas, the police force strategy of keeping Nairobi safe for the settlers meant containing the

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[4] Baker, Bruce. (2009). '*The Future Is Non-state.*' *In Mark Sedra, ed. The Future of Security Sector Reform.* Ontario: Centre for International Governance Innovation, pp. ").

[5] Ibid.

potential crime and disorder perceived to emanate from the Africans residing illegally in the slum areas of Nairobi's Eastland's. With the police primarily serving as a tool of the colonists right from the start, the early Kenya police force has been described as 'a punitive citizen containment squad". The activities of the police involved night patrols in the urban areas, the recognition of property crimes, the enforcement of labour laws on settler farms, and, more than anything else, the protection of European property and persons. The enforcement of minor offences took up most of the police time.[6]

By the end of the 2nd World War, the Kenya Police had largely taken over most activities from the Tribal Police forces, and now comprised some 5,000 agents, most of which were Kenya Africans. The Kenya Police was also rapidly professionalized after the war: a Mounted Branch was established for patrol and pursuit work, an Emergency Company was set up to handle labour unrests- there had been strikes in Mombasa in 1947.[7]

In 1948, several important developments were made in the Force. The Kenya Police Reserve was formed as an auxiliary of the Force. This Unit used armored cars and was deployed in trouble spots. To improve the effectiveness of crime control, a dog section was also introduced in 1948 and the General Service Unit established and deployed in troubled areas in emergency situations.[8]

In 1949, the Police Air wing was formed to carry out duties as communication and evacuation of sick persons to hospitals and was made part of the permanent Police service in January 1953. After the declaration of the state of emergency in 1952, there was an immediate increase in personnel to cope with the situation and in response to the Mau Mau insurgency. In

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[6] Hans-Martin Sommer, NMK. 2007. History of the Police. Kenya.

[7] Ibid.

[8] Bevan, James. (2008). *Blowback: Kenya's Illicit Ammunition Problem in Turkana North District*. Occasional Paper No. #). Geneva: Small Arms Survey.

1953, a commission was formed to review the organization, administration and expansion of the Force. In 1957, the Police Headquarters building was opened and in 1958 the Force was integrated within the Ministry of Defense. In the period prior to independence, the Kenya Police was greatly involved in the maintenance of law and order during political meetings and at the height of the independence election period.[9]

After Kenya gained her independence from Britain on 12th December 1963, there was a need to make some drastic changes in the Administration of the Force. This led to the replacement of the expatriate officers in the senior ranks by Africans. Since then, the Force has realized tremendous achievements in various fields of operation. Among them, due to the increase in criminal activities and in line with the police resolve to effectively deal with security threats and to bring down crime to minimal levels, various specialized units have been formed. They include the Anti-Stock Theft Unit, Anti-Motor Vehicle Theft Unit, Tourism Police Unit, The Anti-Corruption Police Unit, Presidential Escort Unit, and the Anti-Terrorism Police Unit.[10]

Successive Kenyan government, KANU to Nyayo to NARC up to PNU - maintained firm executive control over Kenya's two police branches (the Kenyan Police Force and the Administration Police), and used the force to exercise political control. In 1964, Kenyatta jettisoned police autonomy a year after independence, retained the paramilitary structure of the colonial police, and employed the police to suppress political dissent. The use of the police for political purposes deepened in the 1980s under the increasingly autocratic government of the time, as units were deployed to attack and torture political opponents. The Nyayo government ignored calls for police reform after the move to multi-party politics in 1991, using the police to

[9] Bevan, James. (2008). *Blowback: Kenya's Illicit Ammunition Problem in Turkana North District*. Occasional Paper No. 1). Geneva: Small Arms Survey.

[10] Carmody, Pádraig. (2009). *The New Scramble for Africa*. Cambridge: Polity Press.

arm ethnic militias and suppress opposition voter turnout in the violent and flawed 1992 and 1997 elections.[11]

In an environment of violent crime and endemic corruption, National Alliance Rainbow Coalition (NARC), came to power in 2002 on a campaign of renewal, launching a police reform program in 2003 that aimed to professionalize the police force and experiment with community policing. The rhetorical move toward democratic policing achieved little, however, as NARC continued the Kenyan tradition of using the police for regime security. That became vividly apparent as a result of police involvement in the 2007-2008 post-election violence, where the police were implicated in 36 percent of the officially recorded 1,113 fatalities and the wounding of over 500 more. The short-term triggers of the post-election violence were an exceedingly close election, reports of vote rigging, and the Electoral Commissions' decision to hastily declare victory. But the underlying roots of the violence can be traced to several longer-term trends in Kenya's history, including the state's loss over the monopoly of violence, the fragmentation of elites, and ethnically-based, high stakes "winner takes all" politics. To end the crisis, in February 2008, Kibaki and his challenger, Raila Odinga, established the coalition government that expired after the 2013 elections. As part of the power-sharing agreement, the coalition pledged to overhaul the troubled police force.[12]

Gichigi highlights, two main factors helped achieve substantial, albeit sluggish and incomplete, police reforms in Kenya under coalition government: first, a low degree of political influence in the police; and second, strong police reform provisions in the text of the power-sharing agreement. A unique combination of factors led the police to become deeply politicized,

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[11] Carmody, Pádraig. (2009). *The New Scramble for Africa*. Cambridge: Polity Press.

[12] Mkutu, Kennedy. (2001). *Pastoralism and Con"ict in the Horn of Africa*. London: APFO/Saferworld/University of Bradford.

as noted above, but police leaders never amassed enough of a power base to reciprocally influence the political sphere, a symbiotic relationship that is often seen in other cases such as Zimbabwe. These two factors allowed local, regional, and international actors to leverage the power-sharing text and push reforms forward, while, at the same time, recalcitrant police leaders were unable to sufficiently block reforms.[13]

The current Kenyan police force, consists of three forces which report to the Inspector-General of Police, and is a department of Ministry of Interior and Co-ordination of National Government, one of the two ministries in the Office of the President. As of October 2003 the force fielded about 35,000 officers and is divided into eleven service and one training formations, who work in divisions in each of the regions. Each county is headed by a Provincial Police Officer (PPO); each province is further divided into police divisions headed by an Officer Commanding Police Division (OCPD) normally in the rank of Deputy Commissioner of Police (DCP). The police divisions are divided into police stations headed by an Officer Commanding Police Station (OCS). National Kenya Police Headquarters is located at Vigilance House on Harambee Avenue in Nairobi's The Kenya Police is governed by the force standing orders which establishes the formation of various units and their scope of work. Every unit of the Kenya Police Service now undergoes specialized officer corps training from world class experts.[14]

Thus, in spite of a halting pace and constant pushback from anti-reform elements, several significant legislative and constitutional police reforms took place during the tenure of the

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[13] Gichigi, Allan. 2008. 'In-depth: Kenya's Post Election Crisis: Tracing Roots of Conflict in Laikipia.' Nairobi: IRIN.

[14] Bevan, James. (2008). *Blowback: Kenya's Illicit Ammunition Problem in Turkana North District.* Occasional Paper No. #). Geneva: Small Arms Survey.

coalition government from 2008 to 2013. Kenya's new constitution, promulgated in August 2010, contained major changes to security and police governance, including provisions to diminish political manipulation and increase accountability of the police. The new constitution also merged the two police forces into one National Police Service, which was intended to help streamline the often overlapping and conflicting mandates of the two branches (the Administration Police was a colonial relic, created to help local chiefs with policing and administrative issues). In August 2011, three key police reform laws were passed: the National Police Service Bill, the National Police Service Commission Bill, and the Independent Policing Oversight Authority Bill. Passage of these laws set in motion the long process of reshaping police governance in Kenya.[15]

3.3   Crime Profile by Kenya Police

Crime involving firearms, which has significantly increased in our major urban centres, has resulted to increased physical and psychological costs to society and a challenge to the police. Since the advent of regional instability in the Horn of Africa and the Great Lakes Region, Kenya has had to bear the brunt of entry of a large quantity of small arms. Organized crime, including smuggling of illegal immigrants and narcotics, and gangsterism, serve to generate insecurity and fear of crime.[16]

White-collar and cyber crimes continue to place a burden on the economy and contribute to the prevailing sense of lawlessness. Terrorism, a global phenomenon has continued to wreck

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[15] Bevan, James. (2008). *Blowback: Kenya's Illicit Ammunition Problem in Turkana North District*. Occasional Paper No. #). Geneva: Small Arms Survey.

[16] Kenneth J. Matulia, *A Balance of Forces*, Executive Summary (Gaithersburg, MD: International Association of Chiefs of Police, 1982), p. 25.

havoc by scaring away investors and tourists, leading to loss of jobs and depleting further the meagre state resources in countering it. Gender violence and crimes against children are not only highly prevalent but have a profoundly negative impact on the rights and future well being of women and children.[17]

Violence associated with inter-group conflicts, such as political conflicts, ethnic tensions and land disputes have been common in Kenya and pose a threat to democratic tolerance and orderly co-existence. Vehicle thefts and car jackings have increased substantially and have contributed to increased levels of fear and insecurity. Peoples' experiences of incivility and anti-social behaviour in their local neighbourhoods contribute to their fear of crime. There is widespread demand for an increased and more police presence on our streets and neighbourhoods.

Road carnage continues to claim many lives of our people resulting into significant loss of manpower. Corruption in the issuance of driving licenses to poorly trained drivers coupled with dilapidated state of roads, and corrupt traffic officers have been singled out as the major causes. In addition, provision of road licenses to unroadworthy vehicles and the Matatu phenomena have ensured that our roads remain unsafe.[18]

In order to re- orient the police from a force to a service in line with the current reform process, the amendments of the Police Act (Cap. 84) will be necessary to facilitate change of name to Kenya Police Service. The recent amendment of the Evidence Act requiring that

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[17] Ibid.

[18] Herman Goldstein, *Policing a Free Society* (Cambridge, MA: Ballinger, 1977), pp. 273–79. Copyright by the Board of Regents, University of Wisconsin. Reprinted with the permission of the University of Wisconsin Law School.

confessions from suspects may only be obtained before a magistrate, may hamper police work in crime investigation, detection and prevention.[19]

The absence of strong institutional mechanisms for holding the police accountable to the people and to the rule of law must receive particular emphasis. Under the current law, formal mechanisms for holding the Kenyan police accountable do not extend beyond the office of the President. The result of this legal arrangement has been that, in practice, the police, have been vulnerable to interference by powerful individuals outside of formal mechanisms of accountability and the regular chain of command, such as politicians and wealthy business owners. These powerful individuals have been able to use the police for their own political and personal agenda, often in direct contravention of the interests of the Kenyan people. Dependence "for their own career advancement and well being on politicians", has made the police acquiescent to politicians, bureaucrats and their friends even when orders have been in contravention of the law or clearly in the interests of some and unfair to others.[20]

The recent amendment of the Evidence Act requiring that confessions from suspects may only be obtained before a magistrate, may hamper police work in crime investigation, detection and prevention. The Traffic regulations require that all traffic offences be brought before courts; including minor offences, which could otherwise be handled on the spot thereby reducing pressure on the courts.[21]

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[19] Ibid.

[20] Herman Goldstein, *Policing a Free Society* (Cambridge, MA: Ballinger, 1977), pp. 273–79. Copyright by the Board of Regents, University of Wisconsin. Reprinted with the permission of the University of Wisconsin Law School.

[21] Bradbury, Mark and Kleinman, Michael. *Winning Hearts and Minds? Examining the Relationship between Aid and Security in Kenya.* Boston: Feinstein International Center Tufts University, 2010.

To reform its police force, Kenya must build upon a framework based on principles of accountability, where clear standards are established and appropriate sanctions put in place for those who transgress. The police should be accountable both to the government and to the citizens. Reform must be comprehensive to be effective, encompassing all sectors and actors within the justice system.[22] There are currently emerging crimes that the Kenya police are now seeking further clarity in as far as the law is concerned, they include; Cyber crimes – e.g. credit card frauds, extradition challenges, international terrorism and sexual offence Act.

Transnational crimes are not a new phenomenon in modern international history as organized crime groups have existed in the past. Examples include the relations between the Italian and American Mafias since the 1950s, and the smuggling operations by the Chinese triads, among others. Since the 1990s, however, there has been an upsurge in transnational crime globally. A number of reasons have been advanced to explain this state of affairs. Firstly, the proliferation of these crimes can be explained in part by the increased transnational flow of people, goods, and money in the second half of the twentieth century, a process referred to as "globalization" and which has contributed to the growth of both licit and illicit economies operating transnationally. Secondly, the spread of free market economies and democracy in most of the non-western world has contributed to increase in these crimes as a result of their undermining state authority.[23]

Terrorism is a transnational crime that goes beyond the purview of the state police. It has increasingly become a global problem that requires concerted action by the comity of nations.

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[22] CHRI & KHRC (2002), A Report on Roundtable Conference on Police Reform in East Africa.

[23] Commonwealth Human Rights Initiative (CHRI) and Kenya Human Rights Commission (KHRC). *The Police, The People, The Politics: Police Accountability in Kenya.* Nairobi: CHRI and KHRC, 2006.

Kenya has been a target of terror attacks in the past. On August 7th 1998, the US Embassy in Nairobi was attacked in which over 200 lives were lost. Apparently, the anti-terrorism debate in Kenya is dominated by the regional policy agenda of the US government in which the Kenyan government is considered an important ally given the country's geographical and historical proximity to the Middle East and the Arab world believed in Western security agendas to be the principal source of contemporary international [Islamist] terrorism. Hence, with regard to the Global War on Terror (GWOT) championed by the US government, there appears to be a convergence of interest between the Kenyan state security apparatus and the US foreign policy goals on security. From a purely Kenyan state-centric position, this relationship is arguably beneficial because international cooperation and support may assist the Kenyan state to overcome capacity deficits in terms of policing terrorism. Police officers interviewed, cognizant of the fact that they cannot effectively prosecute the anti-terrorism campaign alone, advocated the need for partnership with international bodies, such as Interpol.[24]

In the Post-9/11 international order, the global war on terror has been waged by the US government and its allies. Increasingly, the US has securitized aid to Kenya by the deployment of their Civil Affairs team to the Muslim-dominated North Eastern Province and Lamu in the Coast Province as a counter-terrorism strategy to secure its interests and those of its allies. The threats are perceived to emanate from several sources. For instance, the North Eastern Province is believed to be a soft underbelly of Al-Qaeda in East Africa. The Lamu area of the Kenyan Coast is perceived as a permissive "ungoverned" area in which terrorists fleeing violent clampdown from the Middle East and North Africa take advantage of weaknesses in the state's

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[24] Commonwealth Human Rights Initiative (CHRI) and Kenya Human Rights Commission (KHRC). *The Police, The People, The Politics: Police Accountability in Kenya.* Nairobi: CHRI and KHRC, 2006.

governance capacity to flourish undetected. The other threat emanates from the high levels of social and economic deprivation and grievances among Kenya's Muslim population, which is believed to make large sections of the youth sympathetic and vulnerable to the course of Islamist militant groups.[25] Analysts like Hills, while acknowledging that Kenya is reputed to host Al-Qaeda operatives and sympathizers, further argues that terrorism seems to matter less to the ordinary Kenyans when compared to the high rates of common crime manifested in such incidents as murder, manslaughter, rape, robbery, use of narcotics and the flow of illegal weapons.[26]

Interviewed police officers of various ranks in the two fieldwork locations of Nairobi and Nakuru indicate that policing drug trafficking poses significant challenges. Respondents posit that Kenya serves as a transit point of narcotics transported to various quarters of the international market with some finding their way into the local market. The officers cite a number of challenges in addressing the narcotics trade in the country. Whereas the police have a specialized anti-narcotic unit within the Criminal Investigation Department (CID), respondents still point to a number of hurdles. One of the challenges is the fact that the drug traffickers control enormous wealth and are allegedly insulated by top echelons in both the police and the upper levels of government.[27]

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[25] Francis, D. 'Introduction' in D. Francis (ed.) *Civil Militia: Africa's Intractable Security Menace?* Aldershot: Ashgate Publishing Company, 2005, 1 - 29.

[26] Francis, D. 'Introduction' in D. Francis (ed.) *Civil Militia: Africa's Intractable Security Menace?* Aldershot: Ashgate Publishing Company, 2005, 1 - 29.

[27] Gimode, E. "An Anatomy of Violent Crime and Insecurity in Kenya: The Case of Nairobi in the Last Quarter of the Twentieth Century." Paper presented to the Conference on the Urban Experience in Eastern Africa. Nairobi: British Institute in Eastern Africa, 2001.

3.4 Police Accountability

An infusion of funds alone will not solve KPS's managerial and cultural problems; only serious, sustainable institutional reforms can transform KPF's from a "Force" to a "Service." This will involve retraining of officers in management and internalization of change. Those who would not cope will be forced to leave.[28]

Improving the transparency and fairness of police personnel administration represents a key step toward ensuring accountability and reducing illegitimate interference with police operations. Establishment of fair, efficient, and transparent mechanisms, both inside and outside the police force, for investigating and punishing misconduct is necessary. The present reliance on powerful patrons of necessity leads to widespread impunity. The chief enemy of accountability is impunity - a state of affairs in which police officers can engage in misconduct, crime and violation of human rights and be confident that they will not be disciplined or held to account for their actions.[29]

Impunity exists in the absence of effective mechanisms for investigating and punishing police misconduct. It also exists when powerful individuals outside the chain of command can, through their patronage, shield favoured officers from investigation and discipline. The recruitment, training, equipping deployment and promotion of Kenya Police Reserve (KPR) have become ripe grounds for corruption. There is need therefore to streamline its operations if its service and image are to be restored.[30] Accountability can most effectively be achieved through

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[28] Peter Scharf and Arnold Binder, *The Badge and the Bullet: Police Use of Deadly Force* (New York: Praeger, 1983), p. 178.

[29] Gimode, E. "An Anatomy of Violent Crime and Insecurity in Kenya: The Case of Nairobi in the Last Quarter of the Twentieth Century." Paper presented to the Conference on the Urban Experience in Eastern Africa. Nairobi: British Institute in Eastern Africa, 2001.

[30] Peter Scharf and Arnold Binder, *The Badge and the Bullet: Police Use of Deadly Force* (New York: Praeger, 1983), p. 178.

the maintenance of both internal and external mechanisms of accountability that are mandated to work cooperatively with one another.

In order to reform the Kenya Police Service, the Country must build upon a framework based on principles of accountability, where clear standards are established and appropriate sanctions put in place for those who transgress. The police should be accountable both to the government and to the citizens. Reform must be comprehensive to be effective, encompassing all sectors and actors within the justice system. Several challenges emerge, however, when implementing reform within the Kenyan context: Such as, previous attempts at reform have been stalled or actively prevented from succeeding, leading many to doubt the potential for progress.

Existing external accountability mechanisms have been allowed to languish, undermining people's confidence in such systems. Existing system for processing citizen complaints is completely opaque and unresponsive, again undermining support for similar accountability practices. Police working conditions are detrimental to morale and are not conducive to developing a sense of professional pride. Specifically, honesty is not sufficiently rewarded.

3.5   Staffing and Deployment

Transparency, regularity and fairness must be hallmarks of personnel decisions not only at the top of the Police Force, but at all ranks. Many police officers, at all ranks, owe their positions not to their academic qualifications or to their performance on the job, but rather to the patronage of powerful individuals outside the police force.[31]

Emphasis needs to be placed on establishing clear and appropriate criteria both for recruitment and promotion within the force. Formulation of policies and guidelines for

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[31] Galtung, J. "Violence and Peace." In A *Reader in Social Studies,* edited by P. Smoker *et al*. New York: Pergamon Press, 1990, 9-14.

promotion should be established. A police service that abides by clear criteria for recruitment and promotion reduces greatly opportunities for interference in its operations. Equally important is the selection of appropriate promotion criteria. A police service that promotes officers based, for example, on the number of arrests they have made will provide quite a different kind of service to the public than a police service whose criteria for promotion emphasize, for example, investigative techniques, ability to communicate effectively with civilians, and integrity.

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Paradigms must also shift to let go of some of the present responsibilities to other sections of the disciplined services, e.g. driving and guarding of VIPs; could be taken over by the National Youth Service officers, leaving the Service to carry out its core functions. Gender

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[32] Kamau, Carolyne. "Kenya and the War on Terrorism." *Review of African Political Economy* 33, no. 107 (2006): 133-41.

[33] Murunga, R. G. "Conflict in Somalia and Crime in Kenya: Understanding the Trans-Territoriality of Crime." *African and Asian Studies* 4, nos. 1-2 (2005):137-61.

disparity has been the norm in recruitment resulting to very low numbers of women in the service. Deliberate actions must be taken to address this imbalance. [34]

The Kenya Police Force has recently developed an ambitious plan for police reform, aimed at transforming the Kenya Police into an institution that will be modern, efficient and effective and responsive to the needs and expectations of the public. This proposal represents a fundamental shift in policing in Kenya police recruitment and deployment. [35]

3.6   Lack of Adequate Resources

Police in Kenya operate with very limited resources. This has led to weak operational preparedness, and a lack of equipment and logistical capacity. For example, the police do not have a forensic laboratory. Vehicle patrols are constrained by a lack of availability of vehicles and funds for fuel. Police salaries are low and police officers complain about bad housing and poor working conditions. Police find themselves dealing with dangerous, sometimes life-threatening, situations without adequate insurance to provide for their families when things do go wrong. [36]

In an effort to address the challenges posed by the poor relationship between the police and the public, the police service has piloted community-based policing and established a community policing forum in one station (and is planning to expand to various other locations). However, the concept of community policing has at times been misunderstood and misapplied by members of the public. Community policing is sometimes mistaken for vigilantism which has, in

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[34] Peter Scharf and Arnold Binder, *The Badge and the Bullet: Police Use of Deadly Force* (New York: Praeger, 1983), p. 178.

[35] Ibid.

[36] Mwenda, Albert. A *Review of the Kenya Police Force Budget and its Effect on Crime Management*. New Delhi: Matrix, 2005.

some cases, led to lynching of suspects and extortion of members of the public by vigilante groups. [37]

The Kenyan police are critically challenged with regard to transport facilities. The policing needs far outweigh the transport resources at their disposal. Whereas there are minimal vehicles to carry out their duties, the few available resources are poorly serviced and scarcely fuelled. The fieldwork team was informed by some of the police respondents that each police vehicle has a quota of 10 litres of fuel a day (i.e. every 24 hours) regardless of the jurisdiction. The lack of reliable transport means therefore that the police will be slow to respond to incidents of crime. Similarly, it also minimizes police presence in certain crucial localities, making it possible for criminals to have a field day. The police acknowledge that their mere presence in various localities is in itself deterrence to crime. The poorly serviced vehicles also mean that the police cannot match the speed and efficiency with which criminals often escape from crime scenes. [38] There are still other factors that affect the capacity of the police. Natural attrition, physical injury, resignation for greener pastures elsewhere and dismissal on disciplinary grounds also contribute to reduced capacity of the police. The last population census figures by Kenya National Bureau of Statistics (KNBS, 2010) suggest rapid growth and changes in the country's demographic structure. However, it is apparent that government policy makers have not responded progressively to address the policing needs of a state with rapidly changing demography. For instance, the Kenyan police had a three year recruitment freeze between 2008 and 2010. The annual recruitment process was resumed again in early 2011. The recruitment freeze was instituted to wait for the government to establish a Police Service Commission in line

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[37] Peter Scharf and Arnold Binder, *The Badge and the Bullet: Police Use of Deadly Force* (New York: Praeger, 1983), p. 178.
[38] Stevrou, A. Crime *in Nairobi. Results of a Citywide Victim Survey.* Nairobi: UN Habitat, Safer Cities Series 4, 2002.

with the recommendations of Ransley Report (The National Taskforce on Police Reforms). This commission will oversee police conditions of service, recruitment and training among others. A new police training curriculum that involved the participation of various stakeholders has been recently completed. Under the new curriculum, police recruits will now train for fifteen months as opposed to the previous six months while graduate officers will train for 21 months after which they are appointed to the rank of assistant inspector of police. The Kenyan Police Strategic Plan of 2008 - 2012 envisages to have expanded enrolment to possibly meet the UN recommended police - population ratio of 1:450 by 2012, which has not yet been achieved.

3.7 Political Interference

The Kenyan police force has historically been used a political tool. Indeed, interference by politicians into police operations is officially sanctioned in law. As a result, a culture of corruption, impunity and violence pervades the police force, undermining citizen trust and respect for the rule of the law. Further deficiencies include the lack of adequate transparency within the police force, with secrecy frustrating reform efforts; the lack of political will at key points in the government blocking the reformist agenda; tight restrictions on civil society preventing it from playing a more effective role in pushing police reform; and uncertainty about roles and responsibilities among different branches and agencies of the justice system causing confusion and inefficiency.[39]

Dominant opinions of the interviewed police and civil society officials indicate that in carrying out their duties, the Kenyan police have been subject to interference by the top political

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[39] Herman Goldstein, *Policing a Free Society* (Cambridge, MA: Ballinger, 1977), pp. 273–79. Copyright by the Board of Regents, University of Wisconsin. Reprinted with the permission of the University of Wisconsin Law School.

leadership in their work. This is in part explained by the wide ranging powers the executive arm of government, especially the President wielded under the old constitution. Previously, the President had the sole authority to appoint and to dismiss the Police Commissioner who served at his pleasure. This meant in practice that previous office holders had to toe the regime's line or risk being dismissed. Among other things, political interference, which has not been significantly changed by the promulgation of a new constitution, impairs the rule of law and law enforcement.[40] This is particularly so with cases involving drug trafficking and other high profile crimes. The interviewed police officers argued that they had to toe the line of their superiors or risk far-reaching consequences, including dismissal from work.[41] The popular transition to multi-party democracy in Kenya in 2002 came with a great hope and expectation of reforms in the political, economic, and security spaces.

3.8 Negative Ethnicity

The Kenyan police are significantly challenged when it comes to managing ethnic relations and violence. This is in part explained by the nature of divisive politics practised in the country. Ethnic-related violence is more prevalent during election periods (prior to and after elections). This is what Ajulu (terms as "political ethnicity," which he defines as a "tendency among political elites to mobilize ethnicity for political ends." Election-related violence is not a new phenomenon in Kenya, as it has been recurrent in the modern history of the nation. The reintroduction of multi-party democracy in 1991 saw the return of ethnic conflicts in the Rift Valley Province. The high level of organization of the clashes, which the state security agencies

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[40] Stevrou, A. Crime *in Nairobi. Results of a Citywide Victim Survey.* Nairobi: UN Habitat, Safer Cities Series 4, 2002.

[41] Herman Goldstein, *Policing a Free Society* (Cambridge, MA: Ballinger, 1977), pp. 273–79. Copyright by the Board of Regents, University of Wisconsin. Reprinted with the permission of the University of Wisconsin Law School.

appeared incapable of surmounting, heightened the speculation about the involvement of the state and some top politicians in the clashes. The 2007/2008 election violence was particularly overwhelming to the police who contain it, under very difficult circumstances.[42]

Ethnic conflict in Kenya tends to be exacerbated by the proliferation of militia gangs and vigilantes in the country such as the *Taliban, Baghad Boys, Jeshi la Mzee, Mungiki, and Jeshi la Embakasi* which some analysts see as a response to youth marginalization by the state. These militia groups, exponents argue, are formed for economic survival and are mobilized around ethnic identities. The other motivation for the rise and mutation of these militia groups has to do with the growing incapacity of the state to provide security. They thus emerge to help fill the security vacuum created by the state's abdication of its responsibility in security provisioning. These militias operate as 'shadow states' in urban slums. As part of their strategies for survival, these militias extort a protection levy from residents of informal settlements in addition to charging for use of illegal water and electricity connections.[43]

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[42] Ibid.

[43] Siegel, Larry. *Criminology: The Core*. Belmont: Wadsworth, 2010.

CHAPTER FOUR

CHALLENGES OF POLICING IN KENYA

4.1   Introduction

This section is concerned with the challenges and dynamics of state policing in contemporary Kenya. A fully functioning police service is vital for maintenance of peace, provision of security, and enforcement of the law. In the last two decades the security system deteriorated to a point where the government has had a challenge to guarantee security to its citizens and their property.

The effective enforcement of law, the maintenance of public safety, and the guarantee of the protection of life and property are fundamental to economic growth and the creation of an enabling environment for private sector-led growth and development. Crime involving firearms, which has significantly increased in our major urban centres, has resulted to increased physical and psychological costs to society and a challenge to the police. Since the advent of regional instability in the Horn of Africa and the Great Lakes Region, Kenya has had to bear the brunt of entry of a large quantity of small arms. Organized crime, including smuggling of illegal immigrants and narcotics, serve to generate insecurity and fear of crime. White-collar and cyber crimes continue to place a burden on the economy and contribute to the prevailing sense of lawlessness. Terrorism, a global phenomenon has continued to wreck havoc by scaring away investors and tourists, leading to loss of jobs. Fieldwork interviews with police officers of various ranks, civil society and grassroots citizens indicate that a multiplicity of factors account for insecurity in the country. The factors mentioned by respondents include unemployment among the youth, poverty, police collusion with criminals, drugs and peer influence, the growth of vigilantes and ethnic militias, corruption and political machinations in the police force.

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4.2 Response Rate

This study interviewed police officers of various ranks from the fieldwork locations. The study will specifically target to interview officers at police headquarters where crimes are recorded and investigations instituted, as well as those deployed in potential high crime areas. Empirical data collected was analyzed interpretively using thematic analysis, document analysis and content analysis. The data was collected from total of (119) respondents, out of the initial (120) respondents, and this represents (99%) response rate, which was adequate for analysis.

The Kenya Police is a national body in charge of law enforcement in Kenya. While organized at a national level, each arm reports to a County police authority, which in turn divides its force by local Police Divisions, headquartered at local police stations. All these element report to a National Kenya Police Headquarters in Nairobi, and several specialist elements, such as the Kenya Police College, are commanded directly from here. An Administrative Police service is commanded through a hierarchy separate from that of the National Kenya Police.[1]

The current Kenyan police force, consists of three forces which report to the Inspector-General of Police, and is a department of Ministry of Interior and Co-ordination of Nation Government, one of the two ministries in the Office of the President. As of October 2003 the force fielded about 35,000 officers and is divided into eleven service and one training formations, who work in divisions in each County. Each county is headed by a Provincial Police Officer (PPO); each province is further divided into police divisions headed by an Officer Commanding Police Division (OCPD) normally in the rank of Deputy Commissioner of Police (DCP). The police divisions are divided into police stations headed by an Officer Commanding

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[1] The Crime and Development in Kenya. (2010).

Police Station (OCS). National Kenya Police Headquarters is located at Vigilance House on Harambee Avenue in Nairobi's Central Business District (CBD).[2]

The Inspector general is responsible for all administrative and personnel matters affecting the force. The Kenya Police is governed by the force standing orders which establish the formation of various units and their scope of work. Every unit of the Kenya Police Service now undergoes specialized officer corps training from world class experts.[3]

The study visited the police head quarters and key police stations in the city and had lengthy discussions (using focus discussion tools) with police administrators and police leadership within various station. In addition it held hearings at the police training school and received written and oral representations from members of the police service, the public and from civic, spiritual, business and other stakeholders, from various junior ranks within the police, and visiting them in their stations and posts with the Country.

The totality of views, reflections, and impressions that emerged from data collected provided the study with a better understanding of the challenges of policing in Kenya. The study was able to highlight complex security concerns of Kenyans, as well as of the challenges that Government and the police face in effectively addressing the safety and security concerns of citizens. Many representations related to the relationship between the two police forces in Kenya, namely Kenya Police and the Administration Police. Many Kenyans had become increasingly concerned about what appears to be a growing rivalry, an overlap of functions, and competition between the Kenya Police and the Administration Police, with the majority advocating for a merger of the Administration Police with the Kenya Police whilst the majority of submissions

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[2] Ministry of Interior and Coordination of National Government (2012) Kenya Police.

[3] The Crime and Development in Kenya. (2010).

received were against such a merger as they had greater trust in, and related better to, the Administration Police, particularly in the rural areas.

Majority 119 (100%) of the respondent were concerned with the current state of insecurity in the country. There was a perception that crime has increased, and a growing public anxiety about personal safety and security was apparent. The few members of the public place part of the blame for this on the shoulders of the police. Public confidence in the police, particularly the Kenya Police, is low and members of the public are reluctant to pass on crime information to the police. A major concern raised by the public related to allegations of links and collusion with organized criminal groups, especially the drug cartels. Many held the view that the police should have a more caring attitude towards the public and respond to pleas for assistance. They claimed that the police failed to respond promptly to the reporting of crime and that there was widespread extortion of money through bribery. Many see the police as ineffective and as corrupt at all levels. They expect the police to cease their harsh and aggressive treatment of suspects, victims, and members of the public, and their widespread reliance on corruption and use of excessive force. Respect for human rights and a more pro-active, service orientated approach towards the public is something the public asked for.

4.3 Key Challenges Facing the Police Service in Kenya

4.3.1 Demands on the police service

Based on the focus group discussion, the study noted that the Kenya Police officers shall act with fairness and impartiality, without fear or favor, malice or vindictiveness in all dealings to all people and should be mindful of their welfare. They shall treat every person with equal respect, protect human dignity and maintain and uphold their human and Constitutional rights. They shall not discriminate against any person in the application of the law. In addition the respondents noted that the Police has the following roles; To safeguard public security; To prevent, detect and

investigate crime and arrest Offenders; To Aid the general public; and to maintain general peace, public order and the rule of law.

The study noted that the mandate of the Public Safety Law and Order sector (PSLO) Sector includes overseeing the security of all Kenyan residents, administering justice and maintaining law and order. Critical governance objectives for this sector include: restoring the rule of law, promoting governance by developing strong coordinated administration and governance systems; maintaining an efficient and motivated police force; eliminating corruption; strengthening capacity for crime management including investigation and prosecution; and strengthening institutional capacity and coordination mechanisms.

The study observed a shift in policing. Where policing culture and conduct was now moving away from reactive policing to proactive policing based on increased interaction with communities and on the professional investigation of crime and a more effective internal complaints process for police officers was currently being set-up. The completion of the National Policy on Community Policing be fast-tracked and that the National Policy should ensure full community involvement in the development and implementation of the policy.

4.3.2 Police budget allocation

Majority 119 (100%) of the police persons interviewed stated that the Kenya Police Service is facing serious financial resource challenges as shown in figure 2.
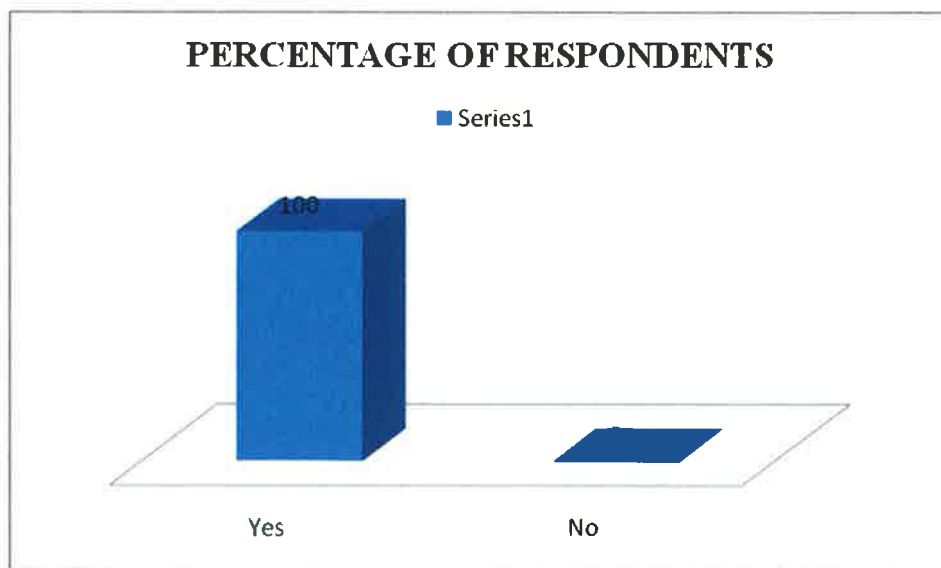
Figure 2: Respondents feedback on financial resources

These findings are similar to a Citywide Victim Survey in 2002 showed that the KPF was grossly under-resourced. Victims of crime also perceived the KPF to be incompetent, inefficient, corrupt and unprofessional, and therefore incapable of offering much assistance in controlling crime.[4]

Kenya adopted the Medium-Term Expenditure Framework (MTEF) in 1999 and this remains its primary budgetary system. Prior to the MTEF, the government applied the line item budgeting system as well as incremental budgeting. The former focuses on controlling inputs, rather than optimizing outputs. Incremental budgeting on the other hand, starts by establishing the total expenditure as well as due commitments; surplus funds are subsequently allocated on a pre-determined basis between spending agencies.

The focus in line item budgeting is on control of public spending at an item level, and authority must be granted before purchases are made under the specific budget items. This

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[4] UN-Habitat, UNDP, Safer Cities & ITDG: Crime in Nairobi: Results of a Citywide Victim Survey, September 2002.

system fails to provide incentives to spending ministries and departments to economise or even relate their expenditure to output. On the contrary, spending agencies tend to avoid controls and spend on favoured activities resulting in operational inefficiency and ever increasing wasteful expenditure. This system also complicates the process of monitoring and evaluating performance, since it only indicates items purchased and not service(s) provided.

4.3.3 Daily operational challenges

Based on the visits to police establishments and from discussions with the police persons, the study revealed that the Kenya Police Service is generally poorly resourced. Most of the salaries and allowances have lagged behind and they often lack the basic equipment that police require to function properly and professionally. Many live in appalling conditions and their morale is low as shown on figure 3.
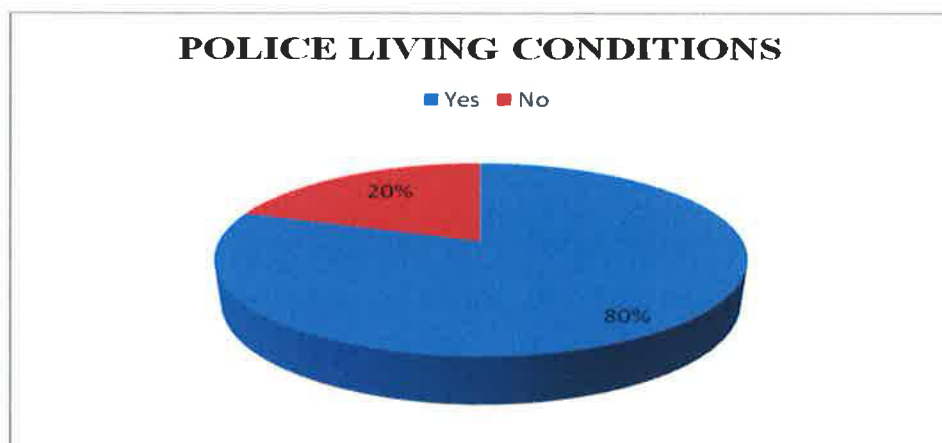
Figure 3: Respondents feedback on police living conditions

They were very concerned about the level of political interference, corruption and nepotism in policing matters, including the release of suspects from police custody on orders of senior officers under questionable circumstances, and interference in the recruitment, transfer and promotion processes. Corruption in the police was seen as widespread and endemic. The tolerance levels for corruption for all ranks are unacceptably high. Many from the rank and file

of the police were unhappy about the centralized command, transfer and deployment policy and the non-payment of allowances. They are not adequately covered for injury or death that might result in their line of duty.

In addition the study identified many structural and management problems. The study also observed that policing by the Kenya Police has in recent years been undertaken through a highly centralized command structure from Police Headquarters. This has eroded the powers of provincial and district police commanders and contributed to widespread dissatisfaction amongst police officers, stifled local police initiative and alienated members of the public. Due to the manner of the appointment and the centralized powers vested in the police managers, there has been very little accountability to the people that the police are meant to serve. This has made the police vulnerable to both political and hierarchical misuse.

Corruption amongst junior and senior police officers has been rife and has had a debilitating impact on policing and on public trust. Some recommendations in the report aim at tightening controls and supervision mechanisms. The police services in Kenya have to transform their policing culture and their image in the eyes of the public and many recommendations in the report aim at achieving this. One important means of doing so is for the police to adopt a set of key values and principles and to strictly adhere to them in their policing work.

The Kenya Police face serious shortage of personnel, the Kenya Police Service currently needs additional manpower to improve its service delivery. Presently, police officer to citizen ratio averages 1:900 - way below the UN recommended ratio of 1:450. The department aims to raise this ratio to 1:650 by 2007, and hopefully, to the UN recommended ratio in subsequent years. This will require a serious review of funding available to the Kenya Police.[5]

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[5] Albert Mwenda (2005) A Review Of The Kenya Police Force Budget And Its Effect On Crime Management. Nairobi, Kenya.

Another challenge as noted my majority of the informants was an increase in Administrative Units: The creation of approximately twenty-five new districts in Kenya has necessitated the establishment of twenty-eight additional police divisions within a period of less than twenty years. Unfortunately, general resources including housing for officers, equipment, arms and motor vehicles to back this rapid expansion of the police force have not been readily available.

Lack of research on crime and other security concerns: The KPS lacks the capacity to carry out research on crime and other security related issues. Of the various KPS departments, none are dedicated to doing research on crime, police and security issues. Terrorism and Terror Gangs: The terrorist violence calls for a police force that is well equipped and trained to cope with new security demands.

The study observed that less than 1% of total budgetary allocation to KPF is dedicated towards the acquisition of Information Management Systems, during the period in review. This is insufficient to meet the force's need to upgrade its communication and information management system. Worse still, exchequer releases, especially for development expenditure are not forthcoming in certain cases where such allocations are made. The Police Strategic Plan, 2003-2007 estimates the cost of upgrading the Information Communication and Technology (ICT) systems at approximately Ksh.1.5 billion over the period of the plan. Yet, annual allocations for ICT systems fluctuate between Ksh.2 million and Ksh.50 million - significantly below the estimated cost.

The Traffic Department of the police seems to have been particularly prone to corruption. Based on the concerns raised by many informants, and most corruption is said to happen in the numerous roadblocks in Kenya. Many of these roadblocks had virtually become permanent features used by traffic police officers to extort money from motorists and members of the public.

The study revealed police to emergency as wanting, also preparedness of the police to effectively combat crime and emerging security challenges and concluded that the police were ill prepared due to both a lack of adequately trained human resources and a lack of suitable equipment. Their effectiveness is inhibited by, amongst others, a lack of motor vehicles to undertake policing work. They lack adequate protective clothing and equipment such as hand gloves, the necessary tape for sealing crime scenes, and bulletproof vests with the right specifications are seldom used. When dealing with public disorder policing, most police officers are not provided with helmets and other necessary equipment for their protection. Other types of equipment essential to effective police performance were also found to be in short supply or outdated. This included computers, communication systems and equipment, evidence-gathering tools such as photographic equipment, operational aircraft and maritime equipment.

Many respondents cited transport as a challenge. Whereas there are minimal vehicles to carry out their duties, the few available resources are poorly serviced and scarcely fuelled. The fieldwork team was informed by some of the police respondents that each police vehicle has a quota of 10 litres of fuel a day (i.e. every 24 hours) regardless of the jurisdiction. The lack of reliable transport means therefore that the police will be slow to respond to incidents of crime. Similarly, it also minimizes police presence in certain crucial localities, making it possible for criminals to have a field day. The police acknowledge that their mere presence in various localities is in itself

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deterrence to crime. The poorly serviced vehicles also mean that the police cannot match the speed and efficiency with which criminals often escape from crime scenes.

In terms of communication, the police are deficient in a number of ways. The first is that their communication equipments are susceptible to being tapped and in the past, criminal elements have used this sort of subversion to gain access to confidential police communication. The communication gadgets are also highly limited in number relative to the communication needs of officers. The result is that they have in many instances used their mobile phones at their own expense to carry out their official duties. Another issue that many serving officers expressed disenchantment about with regard to their conditions of service is promotion and transfer.

According to the findings of the East African bribery index conducted by Transparency International Kenya, Transparency International Uganda, and the Tanzania Transparency Forum, the Kenyan police was ranked the most corrupt institution in East Africa in 2009.[6] Dominant interview narratives from members of the public indicate that the police institution in Kenya is perceived to be notoriously corrupt.

4.3.4 Conditions of service

The study also noted the unethical practices that Kenyans have come to associate with the recruitment process in both the Kenya Police and Administration Police. These exercises have often been riddled with corruption, with prospective candidates openly admitting to having paid a bride to secure a place in the police.

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[6] UN-Habitat, UNDP, Safer Cities & ITDG: Crime in Nairobi: Results of a Citywide Victim Survey, September 2002.

POLICE WELFARE CONCERN

■ Yes ■ No

9%

91%
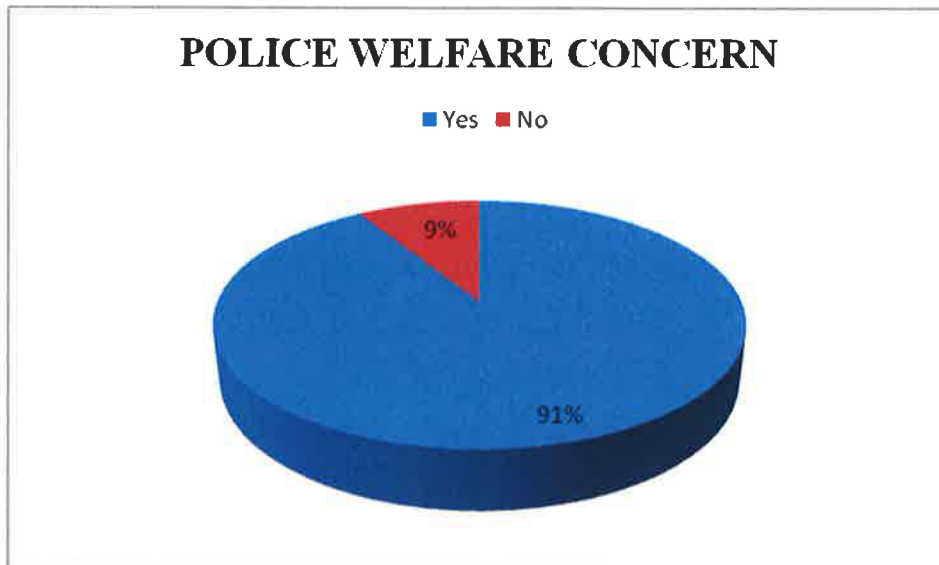
Figure 4: The response on those concerned on police welfare

The study revealed that police welfare was a key concern for many respondents as shown in figure 4, as (91%) who replied Yes that they were very concerned for the state of police welfare in Kenya today. There were even suggestions made aimed at improving conditions of service and at enhancing the provision of welfare benefits and greater security to police officers and their families. The recommendations aim at improving remuneration and allowances, taking interests of family members into account when transferring police officers, providing medical and life insurance cover and significantly improving the very poor conditions in which many police officers and their families are accommodated. Many respondents stated that the Government is quick to respond to salary demands of other categories of public servants but gives minimum attention to those of the police.

The study noted that police housing and accommodation was inadequate and where available, overcrowded with married and single police officers often having no alternative but to share single rooms. Many of these quarters are dilapidated. The Kenya Police Service has a

housing shortfall of about 69 per cent whilst the shortage for the Administration Police Service is about 78 per cent.

The informants noted that unplanned growth of the police is starting to pose a challenge to effective service delivery. Growth of the KPF should be well planned and be backed by necessary resources. In the past, creation of institutional offices has been preceded by the creation of new administrative regions.

Many stated that the Kenyan police have been subject to interference by the top political leadership in their work. This is in part explained by the wide ranging powers the executive arm of government. This meant in practice that previous office holders had to toe the regime's line or risk being dismissed. Among other things, political interference, which has not been significantly changed by the promulgation of a new constitution, impairs the rule of law and law enforcement. This is particularly so with cases involving drug trafficking and other high profile crimes. The interviewed police officers argued that they had to toe the line of their superiors or risk far-reaching consequences, including dismissal from work.

4.3.4   Emerging crimes

The study also observed that the Kenya Police Service faces a number of challenges that pose serious threats to national security as a result of emerging crimes. These include: influx of refugees, terrorism, increasing numbers of street families, banditry, ethnic tensions, cattle rustling, hooliganism, robbery, rural-urban migration, drought/famine, poaching, illegal invasion of forests and other natural resources, electoral violence, riots, etc. To the citizenry, these threats translate into an even greater demand for the services of this sub-sector, emphasis being on the maintenance of law and order.

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Terrorism continues to pose significant challenges to the police. The interviewed Kenyan police officers have "securitized" terrorism as a major threat issue that needs to be addressed urgently. The interviewed police officers perceive terrorism threats as emanating from the lawless state of Somalia that has lacked a central governing authority since the collapse of the Siad Barre regime in 1991. There are striking narratives of interviewed police officers to the effect that terrorist threats abound from the famous Somali-based terrorist group Al-Shabaab said to have clandestine recruitments and training centers in Kenya.[7]

Terrorism is a transnational crime that goes beyond the purview of the state police. It has increasingly become a global problem that requires concerted action by the comity of nations. Kenya has been a target of terror attacks in the past. On August 7th 1998, the US Embassy in Nairobi was attacked in which over 200 lives were lost. Apparently, the anti-terrorism debate in Kenya is dominated by the regional policy agenda of the US government in which the Kenyan government is considered an important ally given the country's geographical and historical proximity to the Middle East and the Arab world believed in Western security agendas.

On law enforcement, some of the interviewed police officers cited the lack of a comprehensive legislation as an impediment to curbing the growing threat of new crime waves such as those that operate through modern technologies like cyber crimes, identity impersonation and theft, copyright infringements, and so forth. They noted that the Kenya Communications Amendment Act of 2008 in which cyber crimes are defined is not sufficiently comprehensive as there are a number of new crimes that are not covered by the Act. For instance, respondents

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[7] Gimode, E. "An Anatomy of Violent Crime and Insecurity in Kenya: The Case of Nairobi in the Last Quarter of the Twentieth Century." Paper presented to the Conference on the Urban Experience in Eastern Africa. Nairobi: British Institute in Eastern Africa, 2001..

observed that over the past two years there has been an increase in fraud involving mobile phone money transfer services that is not adequately addressed in the 2008 legislation. Interviewed police officers stress the need to constantly review legislations to make them more responsive to changing crime trends, especially cyber crimes.

It is evident from this study that the Kenya Police faces far-reaching problems and challenges that fundamentally affect the performance capacity of the force. The problems and challenges analyzed in the study are, for the most part, institutional and operational capacity deficits and they altogether encumber the police force in their responsibility of law enforcement and crime control. This study observes that the high levels of structural violence in the Kenyan society further complicate the security situation in the country. It is imperative for the state to address human security concerns, such as poverty and the equitable distribution of national resources to ensure a more stable polity. Addressing these concerns would, among other things, minimize the prevalence of militia and vigilante groups that presently constitute key security challenges.

4.4 Conclusion

This chapter highlighted challenges and dynamics of state policing in contemporary Kenya. The chapter noted that a fully functioning police service is vital for maintenance of peace, provision of security, and enforcement of the law. The study noted that police housing and accommodation was inadequate and where available, overcrowded with married and single police officers often having no alternative but to share single rooms. In terms of communication, the police are deficient in a number of ways. The first is that their communication equipments are susceptible to being tapped and in the past, criminal elements have used this sort of subversion to gain access to confidential police communication.

CHAPTER FIVE

SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

5.1   Summary of Findings

The study aimed to establish the key challenges on policing in Africa. The Police Service has evolved from a pro-imperial colonial police to what it is today. Originally formed as a colonial constabulary, the institution was not created as a people's police, but as a reactionary instrument of conquest and repression with the aim of achieving the imperial objectives of resource extraction and political domination. Empirical data collected was analyzed interpretively using thematic analysis, document analysis and content analysis. The data was collected from total of (119) respondents, out of the initial (120) respondents, and this represents (99%) response rate, which was adequate for analysis.

The Kenya Police is a national body in charge of law enforcement in Kenya. While organized at a national level, each arm reports to a County police authority, which in turn divides its force by local *Police Divisions*, headquartered at local police stations.[1] The Inspector general is responsible for all administrative and personnel matters affecting the force. The Kenya Police is governed by the force standing orders which establish the formation of various units and their scope of work. Every unit of the Kenya Police Service now undergoes specialized officer corps training from world class experts.[2]

The study visited the police head quarters and key police stations in the city and had lengthy discussions (using focus discussion tools) with police administrators and police

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[1] The Crime and Development in Kenya. (2010).

[2] Ibid.

leadership within various station. In addition it held hearings at the police training school and received written and oral representations from members of the police service, the public and from civic, spiritual, business and other stakeholders, from various junior ranks within the police, and visiting them in their stations and posts with the Country.

The police exercise enormous coercive powers of surveillance, arrest, investigation, search, seizure, interrogation, detention, bail and prosecution. As a result of these powers and their intrusive nature, there is tension between police powers and liberty in democratic societies. This tension is further compounded by the wide discretion enjoyed by the police in law enforcement, which is generally undertaken by low rank officials. Although police powers are aimed at enhancing liberty, security and development in society, they can become instrument of oppression and exploitation if they are not properly regulated.

The return to popular democracy in 2002 following the election of NARC government came with rekindled hope and great expectation in the security sector that KPF would among other things be reformed and professionalized to be able to deliver efficient and productive policing. A number of progressive steps seemed to have been made since 2002 such as the emergence of preventive action through community policing of various neighborhoods. Community policing, which is the main plank of state policing service in Kenya and many modern democracies worldwide, is literally a bottom–up approach that aims at policing in partnership and with the consent of the people. Community policing adopts various strategies to build trust and partnership with the policed including reaching out to community stakeholders to ascertain their needs, public involvement in intelligence and neighborhood surveillance, the creation of police posts and liaison offices within short intervals in residential neighborhoods, sensitization of the public to the needs, difficulties and challenges of the police with a view to

eliciting understanding and sundry supportive actions, etc. Since it was introduced in Nairobi under the PNU regime, community policing has been extended to various parts of the country. Ostensibly, there has not been independent impact evaluation of progress made and problems and challenges encountered in community policing in Kenya.

One of the terms of reference required the Task Force to prepare a Draft Police Reforms Bill that would incorporate the recommendations relating to the restructuring of the two police services. This Bill, and additional legislation stemming from the recommendations, had not yet been finalised by the time that the Report was handed to the President. It was not possible to do so as the legal drafters could only commence with their task once all the recommendations in the Report had been finalised. However, the broad issues that should be addressed in the Bill, as well as those relating to other proposed legislation, are spelt out in the Report. As soon as the proposed Police Reforms Implementation Commission is established, it should assume the responsibility of coordinating and supervising the drafting of the Police Reforms Bill and the other legislation envisaged in the report.

The totality of views, reflections, and impressions that emerged from data collected provided the study with a better understanding of the challenges of policing in Kenya. The study was able to highlight complex security concerns of Kenyans, as well as of the challenges that Government and the police face in effectively addressing the safety and security concerns of citizens. Many representations related to the relationship between the two police forces in Kenya, namely Kenya Police and the Administration Police. Many Kenyans had become increasingly concerned about what appears to be a growing rivalry, an overlap of functions, and competition between the Kenya Police and the Administration Police, with the majority advocating for a merger of the Administration Police with the Kenya Police whilst the majority of submissions

received were against such a merger as they had greater trust in, and related better to, the Administration Police, particularly in the rural areas.

Majority (100%) of the respondent were concerned with the current state of insecurity in the country. There was a perception that crime has increased, and a growing public anxiety about personal safety and security was apparent. The few members of the public place part of the blame for this on the shoulders of the police. Public confidence in the police, particularly the Kenya Police, is low and members of the public are reluctant to pass on crime information to the police. A major concern raised by the public related to allegations of links and collusion with organized criminal groups, especially the drug cartels. Many held the view that the police should have a more caring attitude towards the public and respond to pleas for assistance. They claimed that the police failed to respond promptly to the reporting of crime and that there was widespread extortion of money through bribery. Many see the police as ineffective and as corrupt at all levels. They expect the police to cease their harsh and aggressive treatment of suspects, victims, and members of the public, and their widespread reliance on corruption and use of excessive force. Respect for human rights and a more pro-active, service orientated approach towards the public is something the public asked for.

5.2   Conclusion

In regards to political in the police service, dominant opinions of the interviewed police and civil society officials indicate that in carrying out their duties, the Kenyan police have been subject to interference by the top political leadership in their work. This is in part explained by the wide ranging powers the executive arm of government, especially the President wielded under the old constitution. Previously, the President had the sole authority to appoint and to dismiss the Police Commissioner who served at his pleasure. This meant in practice that previous office holders had

to toe the regime's line or risk being dismissed. Among other things, political interference, which has not been significantly changed by the promulgation of a new constitution, impairs the rule of law and law enforcement. This is particularly so with cases involving drug trafficking and other high profile crimes. The interviewed police officers argued that they had to toe the line of their superiors or risk far-reaching consequences, including dismissal from work.

Prominent among the observed problematic issues are the unacceptably poor conditions of service and operational facilities within the force. The highly unfavourable terms and conditions of service of the police, as we have observed in the study, should be addressed if the country is to have a modern and efficient police service. There is also the need for the police force to adopt democratic credentials and shift their emphasis from policing for the regime in power to policing for the citizens. This will require a gradual social engineering of the current policing strategy to a more responsive, citizen-centered philosophy. The restructuring should of necessity include wide ranging reforms in training curricula for new entrants and retraining of serving officers. This is a strong challenge because the police in Kenya have, since the colonial days, been used as a tool of oppression and guarantors of regime security. It is envisaged, however, that with the adoption of a new constitution in August of 2010 and the enacting of new reforms proposed by both the constitution and the Kenyan Police Strategic Plan 2003-2007 (Draft 2) will help to address most of the identified problems and also transform the Kenyan police to a modern, professional, and accountable force – a force for public good. The study therefore concludes that constructive reforms will also help to improve the police-policed relations in the country. Police reforms are presently taking place, albeit at an incredibly slow pace.

Majority of the informant pointed out the issue of corruption and inefficiency both by segments of the police and officials in the judicial and correctional facilities. Inefficiency in the criminal justice system is also partly attributed to poor investigative skills and facilities within the police force. Informants state that crime suspects frequently offer huge sums of money to bribe police officers, thereby influencing them to compromise investigation and have the suspects set free before the time they are expected to be charged to court. Even after conviction by a court of law, suspects or their relatives could bribe the police to have convicted offenders released. The study there concludes that corruption and political interference interfere with the proper functioning of the service. This observation is corroborated by Gimode[3] who argues that the apparent failure of the police and the courts to guarantee justice has in turn led to the culture of mob justice among the citizenry. The public prefer to hand out "justice" by either stoning suspects or burning them to death. The criminal justice system, argued Gimode, "is not fully efficient because at times they frustrate efforts by the police to have suspects prosecuted in court; the system is compromised by corrupt individuals who use their power and wealth to pay their way out."

The dominant opinion of police officers interviewed suggests that the annual budgetary allocation of the Kenyan police is hardly enough to ensure that they discharge their duties effectively. A cross-section of the interviewed officers alleged that the allocation the Kenya Police Service receives is also subject to misappropriation by top commanding officers, thereby further impeding their service delivery. A considerable percentage further argue that in

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[3] Edwin, A. Gimode, "An Anatomy of Violent Crime and Insecurity in Kenya: The Case of Nairobi in the Last Quarter of the Twentieth Century," Paper presented to the Conference on the Urban Experience in Eastern Africa (Nairobi, British Institute in Eastern Africa, 2001).

budgeting, priorities are often misplaced and available resources are not utilized in a prudent manner partly because most policy makers and implementers are civilians who may not have the experience of where financial resource allocation are most needed. The study therefore concludes that the lack of resources greatly hampers effective office function.

5.3   Recommendations

Based on the findings, the study therefore does recpmmend;

- On political interference, the recommended that the police service should find a way to offer-come political interference, by separation of different state powers.

- In regards to proper issues of resources, the study recommends that the tooling, logistical and technological capacity of the police services be reviewed to establish the exact needs and specification in order to bring policing to international standards. Communication and information technology and transportation should be prioritized.

- The study recommends the police to procure the latest equipment as these types of equipment essential to effective police performance were also found to be in short supply or outdated. This included computers, communication systems and equipment, evidence-gathering tools such as photographic equipment, operational aircraft and maritime equipment.

- Those matters of terms of reference – the service should be keep and look into issues like police recruitment, promotion, discipline, welfare and dismissal, to ensure that they are removed from the Public Service Commission and vested in independent institutions.

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APPENDICES

APPENDIX 1: Letter of Data Collection

National Defence College

71 Warai North Road

P.O Box 24381

Karen – Nairobi

22 January, 2014

TO WHOM IT MAY CONCERN

THESIS RESEARCH

JOSEPH HENRY ASHIMALA

The above mentioned senior officer is a student at this college and is enrolled for a Master of Arts in International Studies with the University of Nairobi.

He is undertaking research on a thesis entitled: *The challenges of policing in Africa: A case study of the Kenya Police Service.*

Any assistance rendered to him in facilitating his research will be highly appreciated.

Yours faithfully

.........Lt. Colonel
College Coordinator
J K Murrey 6 JAN 2014
Lt Col National Defence College

for Commandant

APPENDIX 2: Questionnaire

The questionnaire is meant to collect information to establish CHALLENGES OF POLICING IN AFRICA: A CASE STUDY OF THE KENYA POLICE SERVICE.

The information provided will be treated as strictly confidential and at no instance will your name be mentioned in this research. This research is intended for an academic purpose only.

Please answer the questions by writing a brief statement or ticking in the boxes provided as will be applicable.

SECTION ONE: DEMOGRAPHIC INFORMATION

1. Gender?   Male ☐   Female ☐

2. Age?   ☐20 years ☐20-29 years ☐30-39years ☐40-49 years ☐50-59 years

3. For how long did you/have you served in your position?.....................................

    a) ☐0-5 years
    b) ☐5-10 years
    c) ☐10-15 years
    d) ☐15-20 years
    e) ☐20 and above years

4. What is your highest level of education?
    a) Secondary   ☐   b) Tertiary College ☐
    c) Undergraduate   ☐   d) Postgraduate   ☐
    e) Other (specify) ....

5. What is your current position?..

6. What is your specialization in the police service?...

SECTION TWO: TO ESTABLISH THE INFLUENCE OF POLICE LEGITIMACY ON POLICING

7. The following are statements about the Influence of Police Legitimacy on Policying. Kindly tick as appropriate, where 1 = Strongly disagree, 2 = Disagree, 3 = Agree and 4 = Strongly agree and 5 = not applicable.

No.	Description	(1)	(2)	(3)	(4)	(5)
a)	That the biggest challenge facing police world is lack of professionalism?					
b)	That today's police leaders were trained to operate in an ingrained bureaucratic structure?					
c)	That international crime, such as the illegal drug trade and money laundering, and the perception of widespread corruption at all levels of governance, further stretch the ability of the police to maintain public confidence?					
d)	That the primary interest of the police is in protecting the government in power rather than serving the public?					
e)	That though the public is becoming more vocal in their demand for fair and effective policing, many members of the public still do not seem to know what good policing entails?					
f)	Others					

SECTION THREE: IMPACT OF INADEQUATE RESOURCES ON POLICING

8. The following are statements about Impact of Inadequate Resources on Policing. Kindly tick as appropriate, where 1 = Strongly disagree, 2 = Disagree, 3 = Agree and 4 = Strongly agree and 5 = not applicable.

No.	Description	(1)	(2)	(3)	(4)	(5)
a)	That the increasing populations and rising crime rates confronted by under-resourced police forces reduce the capacity of the police to prevent and investigate crime?					
b)	That the lack of resources as the major challenge facing the police service in Africa?					
c)	That Police in Kenya operate with very limited resources and this has led to weak operational preparedness, and a lack of equipment and logistical capacity?					
d)	That terrorism is a transnational crime that goes beyond the purview of the state police?					
e)	That impunity exists in the absence of effective mechanisms for investigating and punishing police misconduct?					
f)	Others					

SECTION FOUR: INVESTIGATE POLITICIZATION OF POLICING AND ITS IMPACT

9. The following are statements about how to Investigate Politicization of Policing and Its Impact. Kindly tick as appropriate, where 1 = strongly disagree, 2 = disagree, 3 = agree and 4 = Strongly agree and 5 = not applicable.

No.	Description	(1)	(2)	(3)	(4)	(5)
a)	That the police forces of Africa's ex-British colonies have their roots in the colonial forces, created with a mandate dominated by the need to stifle dissent and maintain colonial rule?					
b)	That there is no political will to ensure effective oversight and accountability of the police?					
c)	That the ultimate determinant of policing in the future will be, as it is now, the dynamics of domestic politics?					
d)	That the rise of crime in periods of political transition is now becoming a complex phenomenon?					
e)	That powerful individuals have been able to use the police for their own political and personal agenda, often in direct contravention of the interests of the Kenyan people?					
f)	Others					

SECTION FIVE: RESULTS OF POOR TERMS & CONDITIONS ON POLICING

10. The following are statements to establish the results of poor terms and conditions on policing. Kindly tick as appropriate, where 1 = Strongly disagree, 2 = Disagree, 3 = Agree and 4 = Strongly agree and 5 = not applicable.

No.	Description	(1)	(2)	(3)	(4)	(5)
a)	That police salaries are low and police officers complain about bad housing and poor working conditions?					
b)	That police find themselves dealing with dangerous, sometimes life-threatening, situations without adequate insurance?					
c)	That the lack of capacity and resources is visible in such critical areas as crime prevention, surveillance, intelligence, investigation and apprehension of offenders?					
d)	That the absence of strong institutional mechanisms for holding the police accountable to the people and to the rule of law must receive particular emphasis?					
e)	That emphasis needs to be placed on establishing clear & appropriate criteria both for recruitment and promotion within the service?					
f)	Others					

Thank for your participation

APPENDIX 3: Focus Group Discussion

Instrument Title: Discussion Guide for Focus Groups

The purpose of the study is to the key challenges on policing in Africa, using Kenya Police Service as a classic case study.

Introduction

Good morning. My name.........................,. First, I would like to thank you all for taking the time to be with us today.

We will be discussing your thoughts and ideas about key challenges facing the Kenya Police Service. Our discussion will provide us with information that will help us improve police service in Kenya and Africa as a whole.

Kindly answer the questions by writing a brief statement where applicable. The information provided will be treated as strictly confidential and at no instance will your name be mentioned in this research. This research is intended for an academic purpose only.

Interviewer...

Serial number...

1. What really motivated you to join the Kenya Police Service...

2. How long have you been in the Kenya Police Service?..

3. What are some of the demands that you face as a police person?..

4. What can you say of the level of crime in Kenya today?...

5. What is the best way to reduce the crime levels in Kenya today?...

6. Do you suppose that the budget allocation is commensurate to the crimes rates?..Why?..

7. What are some of the challenges of the justice system (expound), in Kenya, in your view?...

8. How do the challenges of the justice system spill over to the police?...

9. Do you face challenges in the police service?..

10. When can you say you started facing real challenges in the police service?..

11. What are the current key challenges of the Kenya police service that you have heard of?

12. Name the key challenges that you have experienced personally?..

13. What challenges have you heard in as far as the resource allocation is concerned?..

14. What challenge have you experience with your terms of reference?..

15. What are your challenges as per the areas of specialization?..

16. Do you suppose the police challenges are getting better or worse?..

17. What are the main resources that you can say confidently that the police in Kenya are missing?..

18. Can you say that there are challenges in staffing and deployment of the police personnel?..

19. Whom do you suppose the police are answerable to?..

20. What are the challenges of Policing in Africa?..

21. Comments? Remarks? Others?..

-END-