

UNIVERSITY OF NAIROBI



INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES

RESEARCH PAPER TITLE:

**DEVOLVED GOVERNMENTS AND THE ENHANCEMENT OF NATIONAL SECURITY:
THE CASE OF NORTHERN KENYA, 2013 - 2017.**

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REG NO R47/8910/2017

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**A RESEARCH PAPER SUBMITTED IN PARTIAL FULFILLMENT FOR THE AWARD
OF THE POST-GRADUATE DIPLOMA IN STRATEGIC STUDIES.**

05 July 2018

Declaration

I, **Owuor Godfree Omondi** hereby declare that this research paper is my original work and has not been presented for a Post Graduate Diploma in any other University.

Signed Date

The project has been submitted for examination with my approval as University Supervisor.

Signed Date

Nzau Mumo, Phd

Acknowledgement

The research would not have been possible without the guidance received from my able supervisor, Dr Mumo Nzau. I am greatly indebted to him for the valuable knowledge and advice he imparted towards the writing of this paper. I acknowledge his timely response and support that facilitated my research effort.

Many thanks to the college administration for the academic environment and resource support afforded to me in terms of resource and reference materials among other services. I am grateful to all of those with whom I have had the pleasure to work during this research including the entire Defence Staff College directing staff and support staff for their moral support and direction.

Dedication

This work is dedicated to my beloved wife, Peninah Gacheri Omondi, my daughter Tracy Achieng Omondi and sons Trevor Owuor Junior Omondi and Teddy Muthomi Omondi, who provided unending inspiration, encouragement, unwavering support and sacrificing many hours of family time to allow me the chance to complete this research paper.

Table of Contents

Declaration	i
Acknowledgement	ii
Dedication	iii
Abbreviations	vi
Abstract	vii
CHAPTER ONE	1
INTRODUCTION AND BACKGROUND TO THE STUDY	1
1.0 Introduction	1
1.1 Background to the Study	1
1.2 Statement of the Research Problem	5
1.3 Research Questions	6
1.4 Research Objectives	6
1.5 Literature Review	6
1.5.1 Devolution and National Security	6
1.5.2 Relationship between Devolution and National Security	8
1.6 Justification of the Study	11
1.7 Theoretical Framework	12
1.8 Hypotheses	13
1.9 Scope and Limitations	13
1.10 Methodology	14
1.10.1 Research Design	14
1.10.2 Data Collection	14
1.10.3 Data Analysis	14
1.10.4 Data Presentation	15
1.11 Organisation of the Study	15
CHAPTER TWO	16
DEVOLVED GOVERNMENTS AND NATIONAL SECURITY IN 2010 CONSTITUTION ..	16
2.1 Introduction	16
CHAPTER THREE	29
DEVOLVED GOVERNMENTS AND NATIONAL SECURITY IN NORTHERN KENYA...	29
3.1 Introduction	29
3.2 Devolution in Northern Kenya	30
3.3 National Security in Northern Kenya	32
3.3.1 Loss of Lives	34
3.3.2 Religious Tension	37
3.3.3 Radicalisation and Recruitment	38
3.4 Devolution and the Security in Northern Kenya	40
3.4.1 Contribution of Devolution on Northern Kenya’s Security	41
3.5 Chapter Summary	43
CHAPTER FOUR	45
FUTURE OF DEVOLUTION AND SECURITY IN NORTHERN KENYA	45
4.1 Introduction	45
4.2 Challenges of Devolution in Improving Security in Northern Kenya	45

4.2.1 Lack of Coordination by Security Forces	45
4.2.2 Unresolved Resource Conflict	46
4.2.3 Ethnic Exclusion in Counties.....	46
4.2.4 Cultural Gang and Militia Violence.....	47
4.2.5 Delayed Funding by the National Government	47
4.3 Future Interventions of Devolution and National Security in Northern Kenya.....	48
4.3.1 Deployment of Military and Police.....	48
4.3.2 Issuance of Warnings and Curfews.....	49
4.3.3 Border wall construction.....	50
4.3.4 Refugee camp relocation.....	50
4.3.4 Countering Violent Extremism Strategy.....	51
4.3.5 Legal Frameworks	53
4.4 Chapter Summary	54
CHAPTER FIVE	55
CONCLUSION AND RECOMMENDATIONS	55
5.1 Introduction.....	55
5.2 Conclusion	55
5.3 Recommendations.....	58
BIBLIOGRAPHY	59

Abbreviations

AP	Administration Police
CC	County Commissioners
CoG	Council of Governors
CRA	Commission for Revenue Allocation
CVE	Countering Violent Extremism
IBEC	Intergovernmental Budget and Economic Council
IS	Islamic State
KADP	Kenya Accountable Devolution Program
KADU	Kenya African Democratic Union
KANU	Kenya African National Union
KDF	Kenya Defense Forces
KLRC	Kenya Law Reform Commission
KSG	Kenya School of Government
MCA	Members of County Assemblies
MP	Member of Parliament
NA	National Administration
NGO	Non- Governmental Organisation
NIS	National Intelligence Service
NPS	National Police Service
OTI	USAID Office of Transition Initiatives
UNDP	United Nations Development Programme

Abstract

The overall goal of this study was to investigate the role of devolved governments in enhancing national security in Kenya between 2013 and 2017. Specifically, this study sought to address three major questions. The first objective was to examine the place of devolved governments in the enhancement of National Security under the post 2010 Constitutional Dispensation. The second objective was to critically analyse the place of devolved governments in the enhancement of national security with specific reference to Northern Kenya. The third objective was to draw the experience of Northern Kenya towards informing future direct directions on the place of devolved government in the national security outlook. This study adopted case study research design. The researcher carried out desktop reviews from books, journals and reports. Findings of this study on the place of devolved governments in the enhancement of National Security under the post 2010 Constitutional Dispensation have indicated that there exists a weak relationship between devolved governments and national security. The findings on the place of devolved governments in the enhancement of national security with specific reference to Northern Kenya indicate that the current situation in the northern parts of Kenya has benefitted immensely from the devolved units yet security remains one of the major challenges. Findings on the experience of Northern Kenya towards informing future direct directions on the place of devolved government in the national security outlook indicate that the region remains a significant in shaping future direction of national security. In view of the findings on devolution and enhancement of national security, this study concludes that legal framework on devolution limits County governments from taking lead in protecting human life, property and other resources. The study recommends Constitutional review for the involvement of County governments in enhancing national security.

CHAPTER ONE

INTRODUCTION AND BACKGROUND TO THE STUDY

1.0 Introduction

Devolution in Kenya is emerging as one the systems of governance that is addressing inadequacies in previous central governments. Considered as a complimentary system to central or national government, this system of governance is gradually resulting into many social, economic and political benefits. This study seeks to investigate the role of devolution in enhancing national security. This chapter describes background to the study, statement of the research problem, objectives of the study, research questions and literature review. The chapter also describes significance of the study, hypotheses, scope and limitations and methodology.

1.1 Background to the Study

Devolution is considered as delegation of power from central or national government to other levels of governments at regional or county level.¹ The role of devolution is to ensure equitable distribution of power and resources in a sovereign country. This ensures equal opportunities for social, economic and political development. Many countries in the world have this system of governance and include Canada, Australia, Mexico, France, Spain, United Kingdom and United States of America.² In Africa, devolution is practiced in South Africa, Nigeria, South Sudan and Kenya.³ In these countries, documented evidence indicates that the devolved units gradually become self-sufficient thereby reducing over dependence on national or central government.

¹ Hauss Charles, "Devolution: Government and Politics," Encyclopedia Britannica, [Online]. Accessed 28 November 2017 at: <https://www.britannica.com/topic/devolution-government-and-politics>

² Kubai Martin, "Factors influencing effective implementation of devolution: Case of Meru County, Kenya." Master Thesis, Nairobi: University of Nairobi, 2015

³ Hauss Charles, "Devolution: Government and Politics," Encyclopedia Britannica, [Online]. Accessed 28 November 2017 at: <https://www.britannica.com/topic/devolution-government-and-politics>

In Canada, devolution has contributed to greater control and accountability of resources by the regional territories or devolved units while in Mexico, the indigenous communities have been allowed to have self-autonomy in terms of social, political, cultural and economic development.⁴ In United Kingdom, France and Spain, the devolved units have autonomy in collecting revenues and spending together with allocations from central government.⁵ This implies that devolution supports fair allocation and distribution of national resources and allows for autonomy of regions based on their interests and needs.

In Africa, devolution in countries such as South Africa and Nigeria takes the same devolution architecture as that in developed countries such as Canada, France, United Kingdom and Spain. In these jurisdictions, devolution's architecture involves the presence of a central government that controls sovereign power and delegates the power to local authorities.⁶ The two forms of government in this arrangement are distinct and interdependent. In South Africa and Nigeria, devolution is considered to have contributed to political stability and development.⁷ This indicates that in absence of devolution there is likelihood of political instability. Political instability and development are characteristics of insecurity. This consideration implies that devolution is linked to national security. How this is evident in Kenya with 47 County governments is yet to be established.

National security is the protection of the nation interest and the defending of its vital interest and safety of the country's secret and its citizens.⁸ National security is also the protection of a sovereign state or country against internal and external threats to territorial integrity and

⁴ Kubai Martin, "Factors influencing effective implementation of devolution: Case of Meru County, Kenya." Master Thesis, Nairobi: University of Nairobi, 2015

⁵ Ibid

⁶ Hauss Charles, "Devolution: Government and Politics," Encyclopedia Britannica, [Online]. Accessed 28 November 2017 at: <https://www.britannica.com/topic/devolution-government-and-politics>

⁷ Omari, A. O. Kaburi S. N. and Sewe. T., "Change Dilemma: A Case Of Structural Adjustment Through Devolution In Kenya," Thesis, Jomo Kenyatta University of Agriculture and Technology, 2012

⁸ Macmillan publishers accessed online version

sovereignty and prosperity and other national interests.⁹ Studies have attempted to assess the role of devolution on social, economic and political systems but few of the studies have elaborated the extent to which devolution is significant in enhancing national security.

In a World Bank report on devolution, it is documented that devolution helps in managing conflicts when there is gradual approach to the issues.¹⁰ The World Bank's assertion is within the context where violence and insecurity is caused by unfair distribution of national resources by Central or National government. This implies that cases of marginalization are major contributors to insecurity that can be addressed through devolution. This has been evident in North Ireland where central government continued to be less responsive to the needs of unionists who considered themselves as British while Catholics were considered minority group.¹¹

Access to security services is considered as one of the fundamental human right. In modern societies, the role of provision of security is the responsibility of the state.¹² However, with emerging issues or challenges in providing this vital service to an ever increasing population, the state is overwhelmed. This condition has led to paradigm shift in provision of security; from state dependency to shared responsibility. In this case, County governments are required to facilitate and support provision of national security yet the actual role of County governments in provision of national security is not clearly defined.

Insecurity in Kenya is largely evident in Northern Kenya. Studies indicate that the continued marginalisation of Northern Kenya and its proximity to conflict prone countries such as

⁹ Constitution of Kenya 2010 chapter 14

¹⁰ World Bank, "Conflict, Security and Development: Transforming institutions to deliver citizen security, justice and jobs," New York: The World Bank, 2011

¹¹ Barron.....2010

¹² Kinyua Susan, "The contribution of private companies in security provision for corporate organizations in Nairobi City, Kenya." Nairobi: University of Nairobi, 2012; p 6.

Somalia and South Sudan have contributed to insecurity in the region.¹³ Other studies indicate that over reliance on nomadism as a source of livelihood contributes to insecurity especially during drought that results into high competition for pasture and water.¹⁴ Such competitions for dwindling natural resources to support their livestock often result into conflicts which are characterised by use of illicit weapons making outcomes of such conflicts deadly.

In Kenya, debate on whether devolution is significant to provision of security remains inconclusive. In a growing discourse, while acknowledging security as a function of National Government the Council of Governors proposed for the involvement of the County governments in enhancing national security.¹⁵ This was informed by the fact that Governors were required to respond to matters security in insecurity prone Counties such as Lamu, Garissa, Mandera, Samburu, Turkana and West Pokot. Some Governors argued that in some democracies such as Nigeria, Australia, South Sudan and Canada, Governors are in charge of security in their respective counties.¹⁶ Another justification is that Governors are conversant with their respective hence at an advantage in identifying and eliminating security threats.

The propositions by Council of Governors indicate that while security is everyone's responsibility, the Governors have valid reasons for being involved in ensuring security in their respective Counties. However, this seems to be far from being achieved as it requires needs assessment to determine the extent to which the governors can be involved. Presently, such needs assessment has not been done and it is through this study that findings on the extent to which

¹³ Kubai Martin, "Factors influencing effective implementation of devolution: Case of Meru County, Kenya." Master Thesis, Nairobi: University of Nairobi, 2015

¹⁴ Hauss Charles, "Devolution: Government and Politics," Encyclopedia Britannica, [Online]. Accessed 28 November 2017 at: <https://www.britannica.com/topic/devolution-government-and-politics>

¹⁵ Muraya Joseph, "Do we need to devolve security functions?" Capital News, August 11, 2014. [Online] Accessed 28 November 2017 at: <https://www.capitalfm.co.ke/news/2014/08/do-we-need-to-devolve-security-functions/>

¹⁶ Ibid

devolution should be incorporated in national security architecture will inform policy and law makers about the role of devolution in security.

Given that devolution was intended to reduce marginalization by bringing development to the marginalized Northern Kenya region, the role in enhancing security is not clearly established. The debate on whether devolution is part of national security or depends on national security to thrive remains inconclusive. It is against this background that this study sought to investigate the role of devolution in enhancing national security.

1.2 Statement of the Research Problem

Devolution is emerging as one of the systems that depend on national security for their sustenance. Also, in the course of implementing devolution, security aspects are created which require active participation of the devolved governments in enhancement of national security. However, while the function of national security is provided by the national or central government, the continued implementation of devolution is not linked to national security either through policy or institutional cooperation. To policy makers and legislators, this situation seemed to be made irrelevant yet it has implications on the enhancement of national security especially in Northern Kenya's counties which are largely marginalized and insecure. The lack of scholarly works on the role of devolution in enhancement of national security is also an obstacle that does not support generation of information to determine the experience of Northern Kenya towards informing future directions on the place of devolved government in the national security outlook. This study therefore seeks to investigate devolved governments and the enhancement of national security in northern Kenya between 2013 and 2017.

1.3 Research Questions

The following were major research questions to be answered by this study:

1. What is the place of devolved governments in the enhancement of National Security under the post 2010 Constitutional Dispensation?
2. What is the place of devolved governments in the enhancement of national security with specific reference to Northern Kenya?
3. What is the experience of Northern Kenya towards informing future direct directions on the place of devolved government in the national security outlook?

1.4 Research Objectives

In view of the above stated questions, the following objectives were derived:

1. To examine the place of devolved governments in the enhancement of National Security under the post 2010 Constitutional Dispensation.
2. To critically analyse the place of devolved governments in the enhancement of national security with specific reference to Northern Kenya.
3. To draw on the experience of Northern Kenya towards informing future direct directions on the place of devolved government in the national security outlook.

1.5 Literature Review

1.5.1 Devolution and National Security

Devolution is considered as delegation of power from central or national government to other levels of governments at regional or county level.¹⁷ The role of devolution is to ensure equitable distribution of power and resources in a sovereign country. This ensures equal

¹⁷ Hauss Charles, "Devolution: Government and Politics," Encyclopedia Britannica, [Online]. Accessed 28 November 2017 at: <https://www.britannica.com/topic/devolution-government-and-politics>

opportunities for social, economic and political development. Many countries in the world have this system of governance and include Canada, Australia, Mexico, France, Spain, United Kingdom and United States of America.¹⁸ In Africa, devolution is practiced in South Africa, Nigeria, South Sudan and Kenya.¹⁹ In these countries, documented evidence indicates that the devolved units gradually become self-sufficient thereby reducing over dependence on national or central government.

In Kenya, the devolved governments are commonly known as County governments and are a creation of the Kenyan Constitution 2010. Article 1 (3) and (4); Article 6 (1) and (2); Chapter Eleven and in the First Schedule and Fourth Schedule of the Constitution of Kenya 2010 have established the devolved governments.²⁰ The creation of the County governments was intended to support proper distribution of state functions, power and resources across the regions in Kenya. As a result, 47 County governments were formed with which the Central Government (national government) and Devolved Governments are expected to be distinct yet interdependent on each other.²¹ This indicates that National government or Central Government and County governments have institutional, policy and legal relationship that is based on consultation and cooperation. In this respect, services such as security should be provided through consultation and cooperation. This makes security an important service at which central government and devolved governments to cooperate and consult.

¹⁸ Kubai Martin, "Factors influencing effective implementation of devolution: Case of Meru County, Kenya." Master Thesis, Nairobi: University of Nairobi, 2015

¹⁹ Hauss Charles, "Devolution: Government and Politics," Encyclopedia Britannica, [Online]. Accessed 28 November 2017 at: <https://www.britannica.com/topic/devolution-government-and-politics>

²⁰ Republic of Kenya, "Kenyan Constitution 2010," Nairobi: Government Printers, 2010.

²¹ Friedrich-Ebert-Stiftung, "Devolution System Made Simple: A popular Version of County Government System," Nairobi: Fes-Kenya, 2012

National security is the protection of the nation interest and the defending of its vital interest and safety of the country's secret and its citizens.²² National security is also the protection of a sovereign state or country against internal and external threats to territorial integrity and sovereignty and prosperity and other national interests.²³ In Kenya, National security as stipulated in chapter 14 of the new constitution of Kenya consist of: The Kenya Defense Forces (KDF); The National Police Service (NPS); and The National Intelligence Service (NIS).

The NPS comprises of the Kenya Police Service (KPS) and the Administration Police (AP)²⁴, who enforce law and order within the country. The new constitution lays down the functions of various security organs principles and regulations on executing those functions which includes respecting the diverse culture of communities within Kenya and ensuring the recruitments reflects the diversity of the Kenyan people in equitable proportions.

1.5.2 Relationship between Devolution and National Security

Several reports and studies have been documented on devolution and national security, but, there are few studies detailing the role of devolution on national security. For example, devolution policy by the Ministry of Devolution and Planning in Kenya acknowledges that devolution in Kenya is facing threats related to security. In the policy, terrorism and insecurity are cited as some of the major threats that devolved governments are facing.²⁵ In the same policy, insecurity in devolved governments is linked to poor planning where resources are not equitably distributed. Although the policy seems to indicate the relationship between security and devolution, scholarly studies have not been done to determine the extent to which poor planning

²² Macmillan publishers accessed online version

²³ Constitution of Kenya 2010 chapter 14

²⁴ National Security Council Act 2012 ,national council for reporting

²⁵ Republic of Kenya, "Devolution Policy, 2015," Nairobi: Ministry of Devolution and Planning, 2015.

in devolved governments results into insecurity. This study therefore attempted to investigate the role of devolved governments in national security under the 2010 constitutional dispensation.

In 2016, a devolution policy was put in place with an aim of involving the people in decision making through public participation. The values of the policy include: placing development as a first priority, equitable sharing of resources, involving all Kenyans and good governance.²⁶ These values are critical in ensuring human and national security. In a study on securing the counties, Mkutu, Marani and Ruteere argue that while national security is the function of the national or central government, devolved governments have introduced aspects that affect the provision of the national security.²⁷ According to Mkutu et. al., the county governments' legislation and practice, that while counties do not have a direct mandate to provide security, they have vital functions in priority setting an important development mandate which impacts upon drivers of insecurity such as unemployment, inequality and disputes over land. Mkutu et. al., opine that it is within counties that what are termed national security concerns emerge, crystallize and are ultimately resolved.

Consequently, county governance is inextricably weaved with the national functions of security management and governance. This indicates that even in the absence of an explicit constitutional provision, in practice, security is emerging as a concurrent function with both the national and county governments co-financing security activities. With absence of such studies in Northern Kenya, this paper seeks to further explore the place of devolved governments in the enhancement of national security with specific reference to Northern Kenya.

²⁶ Republic of Kenya, UNDP, "Making Devolution Work," Nairobi: Ministry of Devolution and Planning and UNDP, 2016.

²⁷ Mkutu Kennedy, Marani Martin, Ruteere Mutuma, "Securing the Counties: Options for Security After Devolution in Kenya," Nairobi: Centre for Human Rights and Policy Studies, 2014.

In the implementation framework of devolution, security agencies are conspicuously missing yet security matters affect the operations of devolved units. UNDP reports that key implementing partners include Ministry of Devolution and Planning, Council of Governors, Kenya School of Government, Commission for Revenue Allocation, and Intergovernmental Budget and Economic Council.²⁸ This indicates that while implementing partners have legal obligation to support devolution, the omission of security agencies either as a main agency or auxiliary agency in the devolution framework does not enhance national security especially in Counties.

Many reports on devolution do not articulate the role of devolution in provision and enhancement of security. For example, in the report on results of UNDP in devolution support, thematic areas reported include service delivery, civic education, policy formulation, legislative support, management, climate change and disaster reduction, budgeting and gender.²⁹ This also indicates that security matters have not been given special attention yet the success of the Counties depends on the peace and stability of the nation. Placing this situation in the context of Northern Kenya where success of devolution depends on peace and stability implies that investigation is required to determine the extent to which national security is significant to performance of devolved units.

In another case, the legal framework on Devolved Governments does not provide for the enhancement of national security. Reviews of the legal framework on devolution indicate that none of the Acts of Parliament on devolution links devolution with national security. For example, by 2016, 51 County Model Laws were developed and launched and none of the Model

²⁸ Republic of Kenya, UNDP, “Making Devolution Work,” Nairobi: Ministry of Devolution and Planning and UNDP, 2016.

²⁹ Ibid

Laws is dedicated on provision of security in Counties.³⁰ This indicates that while legal frameworks provide a basis at which programmes and policies are implemented in the public sector, the absence of such legal frameworks on security limits the interaction between County governments and security agencies. In this regard, there was need to investigate the place of devolved governments in the enhancement of National Security under the post 2010 Constitutional Dispensation.

In an attempt to provide transitional solutions for refugees, a report on devolution indicates that refugees contribute to security challenges in Turkana and Garissa Counties. It is on this basis that role of devolution was considered to be important in changing the management of humanitarian issues affecting refugees. In this regard, the report identified thematic areas in which county governments can be used to enhance security in these security risk areas. These thematic areas include: programming, advocacy and knowledge building with a view of County governments supporting refugees and host communities.³¹ This implies that County governments are supposed to support programmes that enhance national security. However, this seems not to have been achieved as insecurity cases involving refugees and host communities are still recorded. This indicates that there was need to investigate the place of devolved governments in the enhancement of national security with specific reference to Northern Kenya where refugee concerns are ever growing.

1.6 Justification of the Study

Devolution was introduced in Kenya soon after independence, but it did not last for long. It has been introduced into the system of governance in Kenya for the second time in the

³⁰ Kubai Martin, “Factors influencing effective implementation of devolution: Case of Meru County, Kenya.” Master Thesis, Nairobi: University of Nairobi, 2015

³¹ Regional Durable Solutions Secretariat & Samuel Hall, “Devolution in Kenya: Opportunity for Transitional Solutions for Refugees? Analysing the impact of devolution on refugee affairs in refugee hosting counties.” 2015

country's history. Many consider it as a new concept that is intended to enhance social, economic and political development. In addition, devolved units depend on security to support social, political and economic development. The dependence has resulted into debates on whether security should be integrated in devolved government systems or not. This study seeks to provide findings that will inform policy makers on the extent to which devolved governments require reinforcement in terms of security. To the scholars, this study will bridge the gaps on lack of scholarly studies showing the relationship between devolution and national security.

1.7 Theoretical Framework

Theoretical review of this study is drawn from the work of Ludwig von Bertalanffy in 1968.³² Ludwig stated that to fully understand the functions of an entity, the entity must be viewed as a system whose parts are interdependent. Ludwig von Bertalanffy (1968) shows that a system is greater than the sum of its parts, though each sub-system is a self-contained unit it is part of a wider and higher order. To be viable, a system must be strongly goal-directed, governed by feedback, and have the ability to adapt to changing circumstances (Ludwig von Bertalanffy, 1968). In addition, Ludwig von Bertalanffy indicates that this theory is based on premise that there is interdependence (dependent on each other); interconnections within the organization and between the organization and the environment.

From this review, this study is informed that the National Government and County Government work within a defined system in which each level of government has distinct functions. The effective functionality of the two sets of government is determined by the interaction between the two levels of government. One of the points of convergence is security in which while the National Government has security as its function, the services rendered are

³² Ludwig von Bertalanffy, "General System Theory". Panarchy. 1968, Accessed 4 November, 2017 at: <http://www.panarchy.org/vonbertalanffy/systems.1968.html>

output for the National government. As for the County government, the security provided by the national government becomes a product to be consumed.

However, the input into the system is the state of security in County governments that determines the extent to which national government will process to yield an output to be consumed by County government. In this relationship, the County government becomes a key player in the processing of security services by the central government to be later consumed by the same County government. This relationship supports the principles of distinctiveness and interdependence. This system therefore requires more cooperation between National government and County Governments in which Ludwig von Bertalanffy states that the system must be strongly goal-directed, governed by feedback, and have the ability to adapt to changing circumstances. This implies that there is need for system of devolution to conform to changing needs such as incorporating the county governments as part of inputs of enhancing national security.

1.8 Hypotheses

This study tested the following hypotheses

1. Insecurity in Northern Kenya is significantly resulting from lack of place of devolution in enhancement of national security.
2. Insecurity in Northern Kenya is not significantly related to devolution.

1.9 Scope and Limitations

This study investigated the role of devolution in enhancing national security after 2010 Constitutional dispensation. The study also focused on state of security in Northern Kenya between 2013 and 2017. The study had several limitations that include reliance on secondary data. This limitation was mitigated by integrating primary data to validate secondary data.

Another limitation was the vast region of Northern Kenya where carrying out survey took long duration in all the Counties. However, this limitation was addressed through sampling the Counties to obtain at least three Counties.

1.10 Methodology

1.10.1 Research Design

This study adopted case study research design. Case study traces relationships among the groups to gain a deeper insight into the situation.³³ The study employed correlation approach for comparison on the relationship between devolution and security. In social sciences, case study design helps to develop a comprehensive understanding of single case/phenomena by providing more realistic responses than purely statistical survey.³⁴

1.10.2 Data Collection

This study utilized secondary data collection approaches. The researcher carried out desktop reviews from books, journals and reports. In developing literature review, the researcher obtained the information from the library and the internet.

1.10.3 Data Analysis

The researcher analyzed data based on the objectives of the study. The analysis will also be based on the source of data as well as type of data. Based on objectives of the study, the researcher sorted data into themes derived from the objectives of the study.

³³ Kumar, Robert, “.Research Methodology: A Step by Step Guide for Beginners,” Thousand Oaks, CA: Sage Publications, 2005; p 26

³⁴ Orodho, J.A., “Elements of Education and Social Science Research Methods Nairobi: Nasola Publishers,” 2004; p. 17

1.10. 4 Data Presentation

Qualitative analysis yielded themes that were presented in a chronology based on the objectives of the study.

1.11 Organisation of the Study

This study was organised in the following Five Chapters:

1. Chapter One: Introduction and Background to the Study.
2. Chapter Two: Devolved Governments and National Security in 2010 Constitution
3. Chapter Three: Devolved Governments and National Security in Northern Kenya
4. Chapter Four: Future of Devolution and National Security
5. Chapter Five: Conclusions and Recommendations.

CHAPTER TWO

DEVOLVED GOVERNMENTS AND NATIONAL SECURITY IN 2010 CONSTITUTION

2.1 Introduction

This chapter presents a discussion on devolved governments and national security in the Constitution of Kenya 2010. The chapter describes concept, history and objectives of devolved governments and security in context of Kenya's Constitution 2010. The chapter also describes relationship between Devolved Governments and National Security in Kenya.

2.2 Concept and History of Devolution

2.2.1 Concept of Devolution

Burbidge defines devolution as the legal process through which a central government of a country delegates its statutory powers to county governments, or any other regional, sub-national or local level to ease service delivery and distribution of national resources.³⁵ As a result of devolution, decentralized sub-national or regional levels can make their own legislations depending on the needs of the people in that region. This definition is applicable to the case of Kenya where the dispensation of a new constitution in 2010 allowed for decentralization of government duties to county governments. The aim was to get the government, and national resources closer to the people thus foster regional growth across the country. To achieve this, it was necessary that the central government, whose headquarter was initially in Nairobi, to cede power to newly created countries.³⁶ This meant moving some government operations from Nairobi to designated county headquarters across the county.

³⁵ Burbidge, Dominic. "Security and devolution in Kenya: Struggles in applying constitutional provisions to local politics." *Strathmore L. Rev.* 3 (2017b): 131.

³⁶ Akech, Migai. "Institutional reform in the new constitution of Kenya." *International Center for Transitional Justice* (2010): 15-32

Notably, the decentralized functions included economic, administrative, political and fiscal dimensions. In particular, decentralization of administrative responsibilities refers to transfer of duties such as management, financing and planning of public functions. Political decentralization focused on sharing of political power between the three arms of government; namely, Judiciary, Legislature and Executive as well sharing of power between regional and national governments.³⁷ Fiscal decentralization entails transferring financial resources initially held by the central government to the county governments. This involves direct transfers of funds through budgeting as well as allowing counties to tax people operating within their regions. Under the concept of government devolution, residents of a given county are allowed to elect their leaders, including governors, senators, members of parliament and members of county assembly who represent the citizens in decision making. These elective positions make people to be in touch with the common citizens and through them, local issues can be settled at local levels and where necessary, forwarded to the national government for further support. It is upon this understanding of devolution that this paper discusses the relationship between devolved governments and national security in Kenya in the context of 2010 constitution.

2.2.2 History and Objectives of Devolution

Following the promulgation of a new constitution in Kenya, in the year 2010, the World Bank (2017) lauded the move noting that Kenya's consideration for a decentralized system of government was an ambitious and rapid process that sought to reform governance.³⁸ The World Bank went ahead to note both opportunities and challenges that could be attributed to the

³⁷ Cheeseman, Nic, Gabrielle Lynch, and Justin Willis. "Decentralisation in Kenya: the governance of governors." *The Journal of Modern African Studies* 54, no. 1 (2016): 1-35.

³⁸ The World Bank. *The World Bank and Devolution in Kenya* (2017). Available at: <http://www.worldbank.org/en/country/kenya/brief/kenyas-devolution>

devolved system of governance. These sentiments were backed by Ghai who notes that the promulgation was a momentous point in Kenyan history as it provided an opportunity for the country to set new precedents of governance that would enable it to improve service delivery by providing localized solutions to local challenges.³⁹ In order to protect devolution, its foundation was rooted in a new constitution which acts as a check and balance for regulating service delivery. In addition, the constitution defines the role of citizens and parliament thus helping reduce conflict of power among different organs of the government. The constitution equally advocates for an independent judiciary which plays a role in prosecuting law offenders.

Following these changes in approach to governance, Kenya has realized changes in institutional and policy framework. New laws have been introduced to guide and safeguard peaceful coexistence and also, increase transparency in county governments and public finance management. The elections conducted in 2013 marked the onset of the new constitution. It was followed by the creation of 47 county governments.⁴⁰ The counties were further subdivided into wards represented by members of county assemblies (MCA). Given that the MCA's are the lowest unit in the representation of the common citizens, they are responsible for presenting grievances of their wards to the citizens at the grass root level.

They work in conjunction with the members of parliament (MPs) and senators who represent the counties in county and national assembly. Being the first time to adopt a devolved system of governance, the government has worked hand in hand with constitution implementation experts and even introduced a ministry dedicated to effecting devolution. In addition to the ministry, there is the Kenya Accountable Devolution Program (KADP) which acts as an oversight authority, providing analytical and technical support to county leadership and

³⁹ Ghai, Yash. *History and Objectives of Devolution* (2013). Available at: https://www.the-star.co.ke/news/2013/04/20/history-and-objectives-of-devolution_c763748

⁴⁰ Ibid

national government on enacting policies and effecting devolution agenda. This has helped give shape to the devolved system of governance. Currently, the system has been practiced for one electioneering term and following the August, 2017 elections, the country is looking forward to fostering the perceived benefits of devolution. One of the target areas has been improving national security across the country.

2.3 Constitution and National Security

According to the Kenya Law Reform Commission (KLRC), National Security is enshrined in the constitution of Kenya. The topic is enshrined in Chapter Fourteen of the Constitution under the heading of National Security.⁴¹ It is found in part one of the national security organs and article 238 on the principles of national security. The Kenyan constitution defines national security as the protection against external and internal threats to Kenyans territorial sovereignty and integrity, their rights, its people, property, freedoms, peace, stability, national interests and prosperity.

The constitution stipulates that national security of Kenya is supposed to be guaranteed and subsequently promoted in accordance with four principles. First, it notes that national security is subject to authority of the parliament and the constitution.⁴² Second, it makes it categorical that in pursuing national security, the government should comply with the law, and show utmost respect for fundamental freedoms, human rights, democracy and rule of law.⁴³ Third, it specifies that when performing its function or exercising its powers, the organs in charge of national security have to respect the diversity of cultures across communities in Kenya.

⁴¹ Republic of Kenya, "The Kenya Constitution. 2010," Nairobi: Government Printers, 2010

⁴² Ibid

⁴³ Ibid

Fourth, recruitment of people to help in reinforcing national security has to respect diversity of Kenya as a country and also, ensure that it promotes equity.

In Kenya, national security is promoted by various national security organs. The top most organ is the National Intelligence Service (NIS).⁴⁴ This organ is responsible for securing counter intelligence and intelligence thus contributing towards enhanced national security. It is headed by a presidential appointee known as a Director General. The general has to be approved by the National Assembly. This hints at the relationship between devolved governments and national security. Other include; The National Police Service and The Kenya Defense Forces. Kramon, and Daniel note that the National Police Service is made up of Administration Police Service and the Kenya Police Service.⁴⁵ They collectively enforce internal security in Kenya. This is achieved by maintaining law and order, providing safety, protecting rights and freedoms, and also securing people. On the other hand, the Kenya Defense Forces, is charged with protecting Kenyan borders against external aggression. It is consistent of the Kenya Army, Kenya Air Force and Kenya Navy.

The functioning of these organs is controlled and overseen by a National Security Council which is composed of the President, Deputy President, cabinet secretary in charge of defense, foreign affairs and internal security, the attorney general, chief of Kenya Defense Forces, attorney general, director general of NIS and inspector general of National Police Service. By performing this role, it shows that national security is more of a function of the national government than it is of the county government. This means that it is the core responsibility of the government to ensure national security, thus, the role played by devolved governments is negligible.

⁴⁴ Republic of Kenya, "The Kenya Constitution. 2010," Nairobi: Government Printers, 2010

⁴⁵ Kramon, Eric, and Daniel N. Posner. "Kenya's new constitution." *Journal of democracy* 22, no. 2 (2011): 89-103.

2.3.1 Relationship between Devolved Governments and National Security in Kenya

The relationship between national security and devolved governments in Kenya is governed by chapter 11 and chapter 14 of the Kenyan constitution. Specifically, the functions of the devolved government are stipulated in part 3 of sections 186 and 187 on the functions and powers of county governments. Githinji notes that in order to understand the dynamics of the relationship between these two variables, it is important to consider other parts of the chapter 11 such as boundaries relationships between governments and in particular, cooperation between national and county governments.⁴⁶ It is specified that as much as the national government might be legally involved in the delivery of a given service as in the case of national security, it is necessary that county governments cooperate, assist, consult and support the national government in reinforcing national security. At the same time, the constitution requires counties to liaise with the government at different levels through exchange of information, and coordination of policies to improve national security. It is through these articles of the constitution that relationship between national security and devolved government is highlighted.

Another significant argument is presented by Akech showing that the Fourth Schedule of Kenya's constitution adopted in 2010 set the police services and the judiciary under the national government.⁴⁷ This reduced the role of county government to that of supporting the national government rather than taking responsibility for its own security. Nonetheless, following this oversight, the Kenyan parliament passed a bill known as the National Police Service Act in 2011. The bill has since been amended in 2014. Section 41 of this Act creates county policing

⁴⁶ Githinji, George. *Internal Security Should be devolved to Counties*. (2017). Available at: <http://www.monitor.co.ke/2015/11/04/internal-security-should-be-devolved-to-counties/>

⁴⁷ Akech, Migai. "Institutional reform in the new constitution of Kenya." *International Center for Transitional Justice* (2010): 15-32.

authorities to performing several functions.⁴⁸ First, to promote community policing initiatives. Second, to monitor patterns and trends in crimes in counties. Third, to develop proposals on priorities, targets and objectives of police performance in the respective counties. The inclusion of this bill into the 2010 constitution was aimed at reinforcing the significance of county governments and specifically, the communities in policing and national security. To this end, it is evident that the bill strengthened the relationship between devolved governments and national security in Kenya.

Mkutu, Martin, Mutuma, Murani and Ruteere, delve further into the relationship after which he makes an affirmative that as much as the introduction of the National Police Service Act helped decentralize security functions from the national government, the counties contribution towards the whole function is curtailed by the constitution.⁴⁹ He notes instances where governors have been making proposals and demanding that national security, and mostly community policing is devolved and left to the county government. The reasons for their proposal is backed by the following three points.

First, they noted that Kenya is a multiethnic society and given the proximity of the devolved government to the people, it has the ability to reconcile inter-ethnic conflicts and differences among communities since it understands them better. The second reason was that the voters associated devolved governments with the provision of security and thus, failure to assure them high standards of security would lead to perception that their regimes have underperformed. Third, the council of governors, on half of the 47 governors in Kenya showed

⁴⁸ Burbidge, Dominic. "Emerging diversity in security practices in Kenya's devolved constitution." *conflict trends* 2017, no. 1 (2017a): 34-42. Available at: <http://www.accord.org.za/conflict-trends/emerging-diversity-security-practices-kenyas-devolved-constitution/>

⁴⁹ Mkutu, Kennedy, Martin Marani, Mutuma Ruteere, M. Murani, and M. Ruteere. "Securing the Counties: Options for security after devolution in Kenya." *Centre for Human Rights and Policy Studies (CHRIPS)* (2014).

resentment in the possibility that policing structures, if left under the national government, could be periodically misused to circumvent development plans of the counties. The central government could equally use the organs of national security to jeopardize inter-ethnic harmony. On the contrary, government advisors retorted that devolving national security could give governors more authority than it is necessary. Such power could be misused through blatant manipulation of inter-ethnic relations and political events to the advantage of the governors and other county officials.

Akech notes a case in particular where devolved government used security apparatus to manipulate local elections. A research conducted by Mai Hassan showed that during the Kanu regime, the ruling president Daniel arap Moi used the governments' security officials to influence election outcome in his favor between 1992 and 2002.⁵⁰ Despite the ambitious thought that devolution would help settle such issues which were believed to be a result of the previous constitution bestowed on Kenyans by colonialists, much progress is yet to be realized. In fact, over the past two electioneering periods such as 2013 and 2017, there have been instances of conflicting interests among local political representatives and security personnel over who is in charge of the devolved government's security.⁵¹ Because of these conflicts, it is seen that the current relationship between devolved governments and national security is fragile. This is because the constitution fails to establish with clarity the position of different security organs, and institutions in the event of a dispute of overlap in the delivery of security functions.

Reflecting on the history of reforms in national security hierarchy, there have been several contentious bills passed by parliament that have attempted to divide the role of national

⁵⁰ Akech, Migai. "Institutional reform in the new constitution of Kenya." *International Center for Transitional Justice* (2010): 15-32.

⁵¹ Burbidge, Dominic. "Security and devolution in Kenya: Struggles in applying constitutional provisions to local politics." *Strathmore L. Rev.* 3 (2017b): 131

and devolved government. This division of power is however, still unclear given that the legislators have had varied opinions on whether national security should be fully or partially devolved. Burbidge reports on a debate by members of parliament held in 2011.⁵² The MPs anonymously agreed on the abolition of Provincial Administration which was a position enshrined in the previous constitution. The role of PA's was scrapped and replaced by a new role known as national government administrative system or the National Administration (NA). Under NA, the role of PC's was recreated as County Commissioners (CC) to help manage security at county level.

A County Governments Bill passed in 2012 stipulated that the NA officials should report to county governments instead of the National government. This was a way of ensuring that NA's respect the core principles of devolved governance. Contrary to what was expected in the County Government Act enacted in 2012, such provisions were assumed. This means that the responsibility of administering national security in Kenya, is still a role of the national government.⁵³ This is because CC were denied an opportunity to report to governors. Similarly, it can be noted that the proposed amendments did not change the mandate of the national government in ensuring national security. This failure implies that there is a weak relationship between devolved governments and national security in Kenya.

As much as widespread evidence shows the lack of a cordial relationship between national security affairs and devolved governments, the national government has historically ensured that it provides security equally and evenly to all Kenyans. Given the complexity of challenges across the country, with some countries and regions being more volatile and prone to

⁵² Burbidge, Dominic. "Emerging diversity in security practices in Kenya's devolved constitution." *conflict trends* 2017, no. 1 (2017a): 34-42. Available at: <http://www.accord.org.za/conflict-trends/emerging-diversity-security-practices-kenyas-devolved-constitution/>

⁵³ Githinji, George. *Internal Security Should be devolved to Counties*. (2017). Available at: <http://www.monitor.co.ke/2015/11/04/internal-security-should-be-devolved-to-counties>

security risks than others, it has been hard for the government to achieve desirable levels of security. The government acknowledges the need for national security and strong international relations in cross-border trade and bilateral trade arrangements with foreign countries.

These sentiments are seconded by a 2016 report by the World Bank Group depicting the ease of doing business globally.⁵⁴ Kenya ranked 92, falling behind: South Africa, Botswana, Rwanda and Mauritius which were ranked 74, 71, 56 and 49 respectively. The most promising sectors in Kenya include technology, tourism, agriculture, manufacturing and infrastructure. The achievement of better ranking in terms of national security and other economic metrics has been barred by security threats across the country. This includes drought crisis in arid parts of the country which often lead to violent outbursts between the nomadic communities. There is also the potent threat posed by militia groups especially at and from the coastal counties of Kenya. At the same time, Kenya is perpetually faced with the threat of Al-Shabaab, mostly in areas along and around the Kenya-Somalia border. Kumssa and Tabitha identify instances of violence in the Great Rift Valley region, militant arrests in coastal counties, and cross border attacks by Somalia based Al-Shabaab militants.⁵⁵

Among recurrent national security threats in Kenya include the inter-ethnic violence in the Great Rift Valley region. Conflicts among inhabitants of this region are motivated by droughts and famine. Some communities often blame their neighbors of encroaching into their land leading to extended period of civil strife. Makinda, Wafula and David add that these regions have a general lapse in security and lawlessness which equally contributes towards violence.⁵⁶

⁵⁴ The World Bank. *The World Bank and Devolution in Kenya* (2017). Available at: <http://www.worldbank.org/en/country/kenya/brief/kenyas-devolution>

⁵⁵ Kumssa, Asfaw, and Tabitha W. Kiriti-Nganga. "Human Security Assessment in Kenya—The Case of Isiolo, Lakipia, Nandi and Elgeyo Marakwet Counties (Note 1)." *Review of European Studies* 8, no. 3 (2016): 156.

⁵⁶ Makinda, Samuel M., F. Wafula Okumu, and David Mickler. *The African Union: Addressing the challenges of peace, security, and governance*. Routledge, 2015.

Specific areas that are affected in the region include; Baringo, Elgeyo Marakwet, West Pokot, Turkana, and Laikipia.⁵⁷ These communities have easy access to ammunitions and guns. These threats have in the past motivated foreign countries such as the UK Foreign and Commonwealth Office (FCO) to issue advisories to Europeans visiting the region. This followed instances of violence against foreign investors in Kenya. This includes attacks on ranches in Laikipia by the pastoralist communities in search of grazing grounds. Reported incidences include the ambush on a British National and owner of Sosian Farm. The second incidence included the death of an Italian conservationist shot by invading attackers in Laikipia County.⁵⁸ Violence was also reported in Turkana and Baringo following scarcity of land and water for the pastoralists. There region also experienced cases of cattle rustling. Because of the purported insecurity and instability in the area, which was feared to cause economic stagnation in the area, the government deployed KDF to Elgeyo Marakwet, Pokot, Baringo and Laikipia countries to restore security.

Apart from these cases of internal threat to security in the Rift Valley region, Kenya has faced challenges following attacks from organized militia groups throughout the country, and specifically in major cities such as Nairobi and Mombasa. This has led to internal attacks, with shopping malls being key targets.⁵⁹ Security risks have also affected the transport and education sectors following an Al-Shabaab attack on a university in Garissa and killing of passengers aboard busses to Mandera and Garissa. These attacks have been attributed to Islamic State (IS) and al-Shabbab. These groups operate a highly networked connection to human trafficking

⁵⁷ Makinda, Samuel M., F. Wafula Okumu, and David Mickler. *The African Union: Addressing the challenges of peace, security, and governance*. Routledge, 2015.

⁵⁸ Kareparambil, Varun. *Challenges to Kenya's National Security: An Analysis*, (2017). Available at: <https://www.linkedin.com/pulse/challenges-kenyas-national-security-analysis-varun-kareparambil>

⁵⁹ Williams, Paul. "after Westgate: opportunities and challenges in the war against al-Shabaab." *International Affairs* 90, no. 4 (2014): 907-923.

movements such as the Magafe network of Libya from Mombasa, Kilifi and Kwale counties. Government's intervention into these dealings saw the arrest of people suspected to facilitate the growth of the network in Kenya.

By analyzing these reports, it emerges that Kenya is a diverse society with inter-ethnic and religious differences. In addition, the country has disparities in development and literacy levels which is a hindrance to the achievement of equal or near equal levels of national security. For instance, whereas most of the pastoralist communities in the Rift Valley stick to their cultural practices, most of the coastal residents are of the Islamic faith. The region has also reported high dependence on tourism because of the high unemployment rates, especially in Kwale and Kilifi counties.⁶⁰ These factors have directly contributed towards the flourishing of pastoralism and radicalization of Kenyans into militia groups.

Another major security threat is cross-border attack from Al-Shabaab. The most affected countries include; Garissa, Mandera, Wajir, Tana River and Lamu. Unlike previous years when such attacks were rampant, in 2017, the government invested more in policing through introducing dusk to dawn curfews along border counties.⁶¹ In spite of this, the government has failed to completely eradicate cases of cross-border attacks as seen in the El Wak attack on June 23, 2017. The attacks are not only targeted at people, but destruction of infrastructure such as telecommunication masts. The Al-Shabaab have also killed Kenyan forces on peace keeping mission in Somalia. This includes the death of 57 KDF soldiers in Kulbiyow.

⁶⁰ Williams, Paul. "after Westgate: opportunities and challenges in the war against al-Shabaab." *International Affairs* 90, no. 4 (2014): 907-923.

⁶¹ Kareparambil, Varun. *Challenges to Kenya's National Security: An Analysis*, (2017). Available at: <https://www.linkedin.com/pulse/challenges-kenyas-national-security-analysis-varun-kareparambil>

2.4 Chapter Summary

To this end, it is affirmative that there exists a weak relationship between devolved governments and national security. Chapter 14 of the Kenyan constitution promulgated in 2010 specifies key organs of national security. In this exposition, it is seen that the main mandate of providing national security is a reserve of the national government. This is aimed at helping avoid manipulation of security apparatus by county governments to their advantage. On the other hand, analysts note that devolving security functions could help handle county specific challenges such as those reported in the Rift Valley and Coastal regions of the country. These arguments are contrasted by arguments that relationship between devolved governments and national security should be limited to coordination operations and policy making as it is currently the case. These proponents go ahead to note that the government plays a significant role in formulating strategy and fostering international relations thus, should control national security and ensure that security is provided to support economic development in all parts of the country.

CHAPTER THREE

DEVOLVED GOVERNMENTS AND NATIONAL SECURITY IN NORTHERN KENYA

3.1 Introduction

Devolution and national security are complimenting each other in the current administration and governance systems in Kenya. Emerging from the previous chapter is that in 2010, under the Kibaki administration, Kenya witnessed the promulgation of a new constitution. The milestone had the aim of bringing together the government and the Kenyan citizens through proper governance. The new constitution instituted amongst other things, a new form of governance involving devolved systems. The new constitution directed the dissemination of democratic power and the available resources to the grassroots, away from the capital in a procedure known as devolution. The new devolved government is like the Majimbo system implemented in 1963 after independence, although the system disintegrated without any substantial return after the supporting party dissolved into KADU and KANU.⁶² The system was similar to the bicameral parliament used in Westminster, as it had a Senate and a national assembly.

Devolution aims at bringing the power of the government closer to the Kenyan citizens. Additionally, the devolved units functioned as a central point through which to disperse political power, while the available economic resources could reach all the citizens at the grassroots level. Devolution provided an opportunity for the citizens to create their governments at a sub-national level, which ensured service provision was autonomous.⁶³ In addition, it also enables the citizens to make decisions based on their locality without obligation to the national governments, even with the realization that they were part of the bigger state.

⁶² Lind, Jeremy. 2017. "Devolution, Shifting Centre-Periphery Relationships and Conflict in Northern Kenya

⁶³ Crisis Group. 2016. "Kenya's Somali North East: Devolution and Security." *Crisis Group*. August 23

The definitive aim of devolving power to the grassroots is developing a clear democratic unit where the citizens receive adequate services as well as good governance. For the devolution to work efficiently, the devolved governments should eradicate the previous challenges faced involving utilization of resources. Devolution ensures that there is cohesive national development. Each unit receives equitable resources from the national government as well as investments in the devolved units. Outlined in this chapter are the relationships between devolution and national security in Northern Kenya.

3.2 Devolution in Northern Kenya

The Northern region of Kenya has lagged behind for a long time in regards to infrastructural development and other aspects including healthcare, education, and energy. The changing patterns of governance brought on by the new constitution and devolution have led to a shift in political scenery.⁶⁴ In the past, the region suffered from endless conflict arising from the irregular distribution of resources as well as incessant marginalization.

With the advent of devolution, the region benefitted from a windfall in economic resources from the national government. Additionally, global investors have also placed considerable resources in the region as they aim to tap into the vast resources available in the region including oil and gas reserves. As a result, the national and the county governments embarked on infrastructural development as they construct the northern corridor and the Isiolo airport, which will expose the region even further.

Previously, the region was plagued by conflict arising from allocation of resources such as land, and cattle. The landscape changed with the new constitution as conflict evolved to

⁶⁴ Lind, Jeremy. 2017. "Devolution, Shifting Centre-Periphery Relationships and Conflict in Northern Kenya

political reasons, as they fight for top county posts. The Northern region is home to various regions and tribes, which raises concerns over equitable sharing of available jobs, tenders, and other economic opportunities.⁶⁵ Due to the region's proximity to Al-Shabaab zones, devolution of security has posed a challenge to the county government, thus forcing the national government to chip in to curb the violence. Analysts cite devolution as a major cause of the violence due to the escalating tensions from various disgruntled parties, but in the end, the northern region stands to gain from the devolution process.

While devolution provides an opportunity to acquire resources and invest in their development, the county government still faces challenges in the transfer of power and resources from the national government. The northern region of Kenya comprises of various regions including Moyale, West Pokot, Garissa, Turkana, and Isiolo. Others include, Wajir, Samburu, Marsabit, and Baringo, each of these counties comprise diverse people, which makes them unique.⁶⁶ The shared concerns arise from the similarity in that a majority of the communities practice pastoralist farming, which forces them to migrate in search of food for their livestock. Consequently, this raises issues on borders and encroachment into tribal land, hence causing further conflict.

Devolution is beneficial to the Northern region of Kenya as it improves on poor governance, financial mismanagement, inequitable distribution of resources, escalating levels of graft, and the marginalization. The ill facing the communities during the previously centralized governance system have subsided. By using the budgets allocated to the counties, the northern region takes charge of its service delivery, a departure from previous regimes where commissioners were appointed directly by the state.

⁶⁵ Lind, Jeremy. 2017. "Devolution, Shifting Centre-Periphery Relationships and Conflict in Northern Kenya

⁶⁶ Nyanjom, Othieno. 2011. "Devolution in Kenya's New Constitution.

Devolution also provides a clear and accountable system of governance, which the majority Somali community voted for overwhelmingly. County officials state that since the inception of devolution, there has been more progress than the preceding years since independence. The reasons include that, out of the nine counties in the northern region, three of them received the highest amount of devolution funds; Mandera received over 8 billion shillings in the budget year 2015/2016. Such figures reflect positively on sectors such as healthcare, as the communities invest in medical centers and hospitals. Educational infrastructure is also improving as more children attend classes, instead of the usual pastoralist activities. Furthermore, the World Bank classified Wajir County in northern Kenya as the top county regarding the devolution funds utilized in development projects, totaling to over 58 percent.⁶⁷ This clearly indicates that devolution has supported capacity building in the region.

3.3 National Security in Northern Kenya

This section describes state of security before and after devolution in Northern Kenya. In Northern Kenya, thousands of Somali natives have died over the years since independence due to a pacification campaign initiated in the late 1960s. The shifta rebels trying to secede from newly independent Somalia caused the government to kill more than 4000 civilians, as they declared a state of emergency in the region. The security forces continued their rampage in the region until the curfew ceased in 1991.⁶⁸ In view of this, reference has been made to some of these high insecurity aspects and phenomena in this region.

Other than shifta rebels, the region also deals with bandits from neighboring North Rift region including Samburu and Baringo. Cross-border raids for cattle were rampant in the years

⁶⁷ Nyanjom, Othieno. 2011. "Devolution in Kenya's New Constitution.

⁶⁸ Turkana County Government. 2016. "Devolution Brings Hope to the Residents of Turkana County

after independence, with the government creating a special unit from the General Service Unit, to deal with the menace. Drought during the early 1980s caused even more harm as some communities took advantage of affected areas such as Turkana. The cattle raids persisted into the next decade despite an increase of security apparatus. The raids coincided with wars between various clans with analysts linking the military and political personnel with the raids in a bid to feed their armies or to sell. Other raids were also viewed as revenge attacks. Such continued infighting between the communities was also blamed on the security apparatus due to the lack of trust cultivated between the security forces and the tribes.

In later years, there have been recurrent peacebuilding attempts by the central government. Peace Building Committees were formed including women who effectively mediated between the fighting clans. The central government and donors paid for the committee, and with success in Wajir, the efforts spread out in the whole region. In 2011, the enactment of the new constitution saw the National Policy on Peace-building and Conflict Management; create a legal framework through which peace initiatives could prosper.⁶⁹ The District Peace Committees received full legal backing, thus ensuring recognition.

Shortly before enforcement of devolution, a new insecurity phenomena in the form of Al-Shabaab emerged. Insecurity in northern Kenya is currently characterized by many spillover effects of Somali conflict since the civil war broke out in Somalia. The nation has been grappling with the effect of the conflict in a number of ways among them hosting huge number of refugee population caused by the conflict in its own border, insecurity, negative economic effects due to travel advisory, terrorism among others. The conflict has had more negative impact on the people of North eastern than any other region.

⁶⁹ Turkana County Government. 2016. "Devolution Brings Hope to the Residents of Turkana County

The situation was made worse by the activities of the terrorist group Al-Shabaab which has been controlling Southern Somalia since 2007. The activities of this militant group are the major drivers of conflict on the Kenya-Somalia border. The Somali civil war created a conducive environment for the flow of illegal weapons into Kenya and neighbouring countries. The collapse of Somalia government resulted into lawlessness characterised by proliferation of firearms in the region including Kenya's Counties bordering Somalia. The presence of firearms in the region has increasingly contributed to insecurity in the border areas.

The high influx of refugees has become a security challenge as refugees have been associated with rise in insecurity in the region. For example, the refugees have been found to contribute to ethnic tensions in the region besides contributing to environmental degradation as well as harbouring Al-Shabaab militants.⁷⁰ This has since supported the argument by Kenya to close down refugee camps in the region. The Somali based militant group have a number of time killed innocent citizens in the region for example the Mandera bus attack, the Mandera Quarry workers, the Garissa university attack among others all with the intent of intimidating the local population and to raise public sentiments to force government to pullout its forces from Somalia. In addition the security forces have been accused of conducting extrajudicial killing of innocent youth suspected to be Al- Shabaab operatives in response to counter terrorism.

3.3.1 Loss of Lives

Al-Shabaab's operations have infiltrated the social systems in North Eastern Kenya leaving trails of varied effects on religious, educational, cultural and administrative structures. For example, in October 2008 Al-Shabaab is accused of supporting violence between the Gare

⁷⁰Ruto Pkalya, Mohamud Adan, & Isabella Masinde (2003), Conflict in Northern Kenya A Focus on the Internally Displaced Conflict Victims in Northern Kenya, DTP Martin Karimi, pg

and Murule clans in Mandera.⁷¹ In January 2012 it is reported that Al-Shabaab militants killed Kenyan police officers and one civilian in Hagadera.⁷² The plans for killing the administrative officers are reported to have been done in Ifo and Daadab refugee camps. This indicates that the Al-Shabaab infiltrated the refugee camps and turned them into militia bases for planning attacks in North Eastern Kenya. The refugee camps are social institutions that provide protection functions to the refugees yet the Al-Shabaab use the camps for other purpose other than protection of people.

On July 1, 2012 attacked two churches for the Catholic and African Inland Church in Garissa town.⁷³ The death toll was reported to be 17 while more than 50 people were injured.⁷⁴ As Christians in the region interpreted the attacks to be religious war against Christians, the Supreme Council of Muslim in Kenya warned of the misinterpretation.⁷⁵ This clearly indicates that many Christians had considered the attacks as religious war pitying Christians against Muslims. In social systems, the religious functions of the society are threatened as religious structures such as churches become prime targets by militants.

On 30th September 2012, it is reported that two police officers were killed while undertaking security patrol along Ngamia road in Garissa town.⁷⁶ Similarly, on 15th September 2012, two police officers were injured after their car hit a landmine in Garissa town.⁷⁷ On 27th October 2012, a criminal investigation officer was shot dead as he read a Quran in a Daadab

⁷¹ Atta-Asamoah Andrews, "The nature and drivers of insecurity in Kenya," East Africa Report, Issue 2, April, 2015. p. 6

⁷² Kibiwott Koross, "Chronology of terrorist attacks in Kenya", The Star. 2012. Accessed 11th May, 2017 at: <http://www.the-star.co.ke/news/article-7279/chronology-terrorist-attacks-kenya>.

⁷³ Bosire Boniface, "Timeline: grenade and landmine attacks in Kenya," 30 May 2012. Accessed at on May 10, 2017 at : http://sabahionline.com/en_GB/articles/hoa/articles/features/2012/08/30/feature-01

⁷⁴ Ndonga, Simon, "Kenya: Church Grenade Attacker, 'A Known Terrorist'. All Africa, 4 May 2012. Accessed 10 May 2017 at: <http://allafrica.com/stories/201205070024.html>

⁷⁵ Kibiwott Koross, Op. Cit., 2012.

⁷⁶ Ombati Cyrus, "Police officers killed in Garissa," Standard Media, 1 October, 2012. Accessed 11 August, 2015 at: <http://www.standardmedia.co.ke/?articleID=2000066197>

⁷⁷ Bosire Boniface, Op. Cit., 2012

mosque.⁷⁸ Also, on December 27, 2012 Al-Shabaab claimed responsibility for ambushing, killing one police officer and taking a rifle from two police officers in Mandera town.⁷⁹ The attacks intensified on 4th January 2013, a grenade hurled by Al-Shabaab militants killed two people and wounded seven people who were chewing khat in Dahagale area in Garissa.⁸⁰ This indicates that Al-Shabaab intended to disrupt social functions of the society such as leisure by creating disharmony among people.

On 7th January 2013, Al-Shabaab used grenade to attack police officers near District Officer's office in Garissa town where four people were injured.⁸¹ This attack near government's administrative institutions indicates that the Al-Shabaab is taking the war to the government institutions mainly to target government officers such as administrators and security officers. Other than the government institutions, the Al-Shabaab has attacked international institutions such as the grenade attack on World Food Programme compound in Mandera town on 9th January 2013.⁸² It is reported that the compound has a mosque where there were no casualties amongst worshipers that were the target.

On 22nd November 2014, Al-Shabaab militants killed 28 persons majority being teachers on a Nairobi bound bus from Mandera.⁸³ The attack led to massive applications by teachers for transfers from the region. It is reported that learning in Mandera has been adversely affected due

⁷⁸ Kibiwott Koross, Op. Cit., 2012.

⁷⁹ Bosire Boniface, Op. Cit., 2012

⁸⁰ Ombati Cyrus, "Two Killed in Garissa Grenade Attack," Standard Media, 5 January 2013. Accessed 11 April 2018 at: http://www.standardmedia.co.ke/?articleID=2000074276&story_title=Kenya-Two-killed-in-Garissa-grenade-attack

⁸¹ Kibiwott Koross, Op. Cit., 2012.

⁸² Ombati Cyrus, "Two Grenades Thrown into WFP Premises," Standard Media, 10 January 2013. Accessed 11 May, 2017 at: http://www.standardmedia.co.ke/?articleID=2000074682&story_title=Kenya-Two-grenades-thrown-into-WFP-premises

⁸³ Mukinda Fred, "At least 28 killed in Al-Shabaab attack on Nairobi bound bus in Mandera," Nation Media, 22 November 2014. Accessed 11 April 2018 at: <http://www.nation.co.ke/counties/28-dead-suspected-Al-Shabaab-attack-in-Mandera/-/1107872/2531256/-/ljsywl/-/index.html>

to shortage of teachers especially those who are non-locals.⁸⁴ Also, on 17th January 2013, two suicide bombers of the Al-Shabaab died after improvised explosive devices intended for use in Hagdera refugee camp went off.⁸⁵ The attack on a quarry on 2nd December 2014 Al-Shabaab killed 36 Christians which sparked religious tension between Muslims and Christians in Mandera town.⁸⁶

The 2nd April 2015 was one of the saddest days in Kenya history after Al-Shabaab militants claimed responsibility for attacking Garissa University College in which 147 people killed majority being students and about 80 injured.⁸⁷ During the attack, it is reported that the Al-Shabaab militants isolated Muslims from Christians and took hostage persons who could not recite Quran.⁸⁸ This isolation of Muslims from Christians is similar to the bus attack on 22nd November 2014. This seems to be the new mode of operation of the Al-Shabaab in which the militants are targeting Christians to be killed. From these attacks, there are emerging effects on social systems of the society in North Eastern Kenya. The effects include religious tension, increased radicalization and recruitment and education meltdown.

3.3.2 Religious Tension

Infiltration of Al-Shabaab into Kenya has contributed to religious tensions. The Muslim-Christian religious harmony has been affected by Al-Shabaab which has infringed on Kenya's

⁸⁴ Kibiwott Koross, Op. Cit., 2012.

⁸⁵ Ombati Cyrus, "Terror suspects die after bombs explode on them," The Standard, 17 January 2013. Accessed 11 April 2018 at: http://www.standardmedia.co.ke/index.php?articleID=2000075252&story_title=Kenya-Terror-suspects-die-after-bombs-explode-on-them

⁸⁶ The Independent, "Kenya bus attack: Al-Shabaab Militants slaughter 28 non-Muslims who failed to recite Koran. The Independent. 2 December 2014. Accessed 11 April 2018 at: <http://www.independent.co.uk/news/world/africa/kenya-bus-attack-gunmen-kill-36-at-mandera-quarry-9896973.html>

⁸⁷ Mutambo Aggrey & Hajir Abdimalik, "147 killed as Garissa University College attacked by gunmen," The East African, 3 April 2015. Accessed 11 April 2018 at: <http://www.theeastafrican.co.ke/news/70-killed-as-Garissa-University-College-attacked-by-gunmen/-/2558/2674310/-/gcoefgz/-/index.html>

⁸⁸ Odula Tom, Muhumuza Rodney & Senosi, Khalil, Al-Shabaab militants kill 147 at University in Kenya." Associated Press, 2 April 2015. Accessed 11 April 2018 at: <http://bigstory.ap.org/article/e1f42fc2fd034658a3a22dff9d6d0612/police-gunmen-attack-university-eastern-kenya>

civil liberties.⁸⁹ Indeed, historically there has been relatively rare sectarian violence between Muslim and Christian communities.⁹⁰ But after terror attacks, the conflict has seemingly taken a religious perspective where Muslims are considered by Christians to be enemies with many Christians blaming local Muslims for abetting the attacks.⁹¹ For Muslims, these accusations add insult to injury because many of them believe that they are disadvantaged in their access to jobs and other socioeconomic opportunities.⁹²

Whether rightly or wrongly, Muslim perception that they are under siege is beginning to radicalize them resulting in their increasing demand for a federal system of government that could make it easier for them to introduce Sharia (Islamic) law in their regions as they have done in North Eastern Nigeria.⁹³ Actually, Islamic law is already in use in limited cases in predominantly Muslim areas of Kenya such as Northeastern Province.⁹⁴ The accompanying effects to this are disintegration of the society that contributes to lawlessness. For example, the intention of the Al-Shabaab in the attack on a Nairobi bound bus in Mandera as well as Garissa University College is to expel non-Muslims in the region.

3.3.3 Radicalisation and Recruitment

Radicalisation of youths at North Eastern Kenya is a prerequisite to Islamic fundamentalism. Aronson argues that international terrorism threat is a significant challenge that

⁸⁹ Mulama, John, "Constitutional Endorsement of Muslim Courts Provokes Anger," 2004. Accessed 28th March, 2018 at http://www.axisoflogic.com/artman/publish/printer_5623.shtml,

⁹⁰ Vittori Jodi and Bremer Kristin, "Islam in Tanzania and Kenya: Ally or Threat in War on Terror?" USA: The Department of Defense, 2009, p. 18

⁹¹ Mwaura Peter, "Islamophobia on the rise everywhere, Daily Nation, Friday, January 23, 2004, Accessed 10 April 2018 at <http://www.nationaudio.com/>,

⁹² Ibid

⁹³ Mulama, John, Op. Cit. 2004

⁹⁴ Weiss, T. (2004). Chapter Five: Northeastern Province, in *Guns in the Borderlands, Reducing the Demand for Small Arms*, Monograph No 95, January 2004, Online at <http://www.iss.co.za/pubs/Monographs/No95/Chap5.pdf>, accessed April 10, 2018

is linked to perceived extreme practices of Islam.⁹⁵ The international terrorism threat is significantly influencing the youth. It is reported that the radicalization is further perpetuated by radical Islamic spiritual leaders.⁹⁶ Adan also observes that Al-Shabaab has continued to collaborate with Kenya's civil society groups such as Muslim Youth Center in Mombasa to increase influence in the region.⁹⁷

It is reported that Al-Shabaab has intensified its recruitment drive in North Eastern Kenya. The BBC reports that Al-Shabaab has devised new ways of recruiting young people through exposing them to radicalization content in mosques.⁹⁸ This increased recruitment has underscored fears voiced by Kenyan intelligence officers as well as leaders. It is argued that the young men are lured into jihadism and upon falling into the militants' trap, the young men are taken to Somalia for military training. The disappearance of the young people from their homes marks a new life for them because they return to Kenya to carry out attacks. For example, in the Garissa University College attack, it is reported that one of the gunmen was a Kenyan graduate of law and a son to a former chief in Mandera.⁹⁹

The change in tact by the Al-Shabaab from relying on their militants from Somalia to using Kenyan youth poses a threat to the security in the country. The youth who have been radicalized and trained on jihadism easily blend in the society thereby making it difficult for the security officers to detect them. The concern for security agencies is to ensure that radicalization is stopped to avert adverse effects on national security.

⁹⁵ Aronson Samuel "Kenya and the Global War on Terror: Neglecting History and Geopolitics in Approaches to Counterterrorism," *African Journal of Criminology and Justice Studies: AJCJS*, Vol.7, #s1 &2, November 2013, p. 29

⁹⁶ Shinn Hajj, "Fighting terrorism in East Africa and the Horn," *Foreign Service Journal*, 81(9), (2004). 40.

⁹⁷ Adan, Hajj, "Combating transnational terrorism in Kenya," Defense Technical Information Center, 2005. Accessed May 18 2017 at: <http://www.dtic.mil/>.

⁹⁸ Karen Allen, "Al-Shabaab recruiting in Kenyan towns," BBC News, 16 April 2015. Accessed 29 March 2018 at: <http://www.bbc.com/news/world-africa-32329518>

⁹⁹ Karen Allen, Op. Cit., 2015

3.4 Devolution and the Security in Northern Kenya

The new constitution provided an opportunity for far-reaching institutional as well as constitutional repositioning aimed at stopping the tribal wars and violent terrorism. Proponents of devolution in the region argued that the new constitution paved the way for increased accountability by the elected officials to the citizens. Devolution also ensured that northern Kenya leaders made decisions that were more in tune with the local citizens and their conditions. The leaner central government was a blessing to the northern region as it provided the county governments with a say in their regional security matters. The devolved units also made crucial security-based decisions on how to invest the funds they received, while they could also raise taxes to fund any projects. In the northern region, a long-standing issue was the mistrust between the locals and security apparatus. Devolution mitigated conflict risks as the pastoralists felt more freedom with the removal of commissioners. Furthermore, conflicts were changed from territorial to county-level political feuds. Moreover, the devolution has also caused localization of corruption, which could risk a rise in new conflict.

Notwithstanding the new sources of conflict, figures released after the new constitution show a clear decline in the number of conflict activities in northern Kenya. After the 2010 plebiscite, the number of attacks dropped to 40 but escalated after the 2013 general as the Al-Shabaab waged war on the government. The Kenyan government placed its troops in the neighboring country, Somalia that reduced the number of attacks. Despite that, revenge attacks continued in some areas bordering the north-rift region including Baringo and Tana River, but on a smaller scale¹⁰⁰.

While the attacks may be more severe than before, struggles for local power and external influence from militant groups has been the main driver of such violence. This is in comparison

¹⁰⁰ Nyanjom, Othieno. 2011. "Devolution in Kenya's New Constitution

to the previous tribal conflict based on land. A majority of the attacks since 2015 are sponsorships of the militant group, accounting for over 40 percent of attacks. The group takes sides, for instance, an attack on a governor's convoy in 2015.¹⁰¹ Militant groups take advantage of grievances brought on by devolution by minority groups with the aim of generating insurgents in the region.

Natural resources have also come under scrutiny as oil and gas exploration continues in Turkana. There is evidence of tension between separate clans in the county, which raised tensions in the run-up to the 2017 gubernatorial elections, as warring clans competed for the position. Due to this, factors such as Al-Shabaab, sharing of resources, and other devolution functions, have caused a collapse in previous peace pacts. The sway of peace committees is waning as politics takes center stage. Previous verbal peace agreements and committees are suddenly invalid, as they become mono-ethnic.¹⁰² Without proper intervention from the national government, governors may take advantage of quickly negotiated democracy to stifle some tribes, hence leading to more conflict.

3.4.1 Contribution of Devolution on Northern Kenya's Security

The newly devolved county units have a responsibility for dealing with the chronic insecurity that plagues the northern region. The newly elected governors have taken up new security-based approaches which are innovative, and do not involve delegating the task of providing security to the national government. The shared responsibility ensures that counties in the northern region create policies that are unique to their challenges, while also including provisions to ensure participation of the warring clans.

¹⁰¹ Lind, Jeremy. 2017. "Devolution, Shifting Centre-Periphery Relationships and Conflict in Northern Kenya

¹⁰² Ibid

Additionally, after the devolving of governance, like-minded leaders from the Kenyan Somali tribe, created a new approach after long periods of political vendettas and infighting.¹⁰³ The new strategies led by senior national government officials of Somali origin used their ties to the society to create a bridge for dialogue between the clans. Devolution helped the security situation as such ceasefires between infighting clans enabled new collaboration in aspects of security such as sharing of information with security officials. Insecure areas also received extra security officials and patrols in collaboration with the locals.

Previously under-utilized peace committees formed by NGOs have also become active as clan elders, and religious leaders take up the mantle in each county. They also ensure they do not involve the county or national administration that ensures that they can speak in trust on issues affecting the public. The county government's investment in social services including health and education has created a positive effect on the security of the region. Schoolchildren previously engaged in banditry, clan violence, and livestock theft have returned to school as the counties in the north invest in schools. The national government has also provided more teachers to the region thus improving the ration in schools. Educated citizens also ensure integration between the varying religious and tribal groups, while it is also crucial in reducing the chances of youth turning into extremists. Such investments by the county government provide long-term solutions to the northern region's long-standing issues.

To deal with marginalization, the new constitution also came up with an equalization fund. The new financial resource aimed to bring up to par the marginalized communities. Due to the deeply entrenched tribal structure, marginalization may persist, but dedicated policy decisions and the finance delivered will push counties to invest their resources in their projects. Due to the increased insecurity lately, health and education workers are shunning the Northern

¹⁰³ Humanitarian Foresight Think Thank. 2015. "North-Eastern Kenya A Prospective Analysis"

region. The effect on the long-term humanitarian condition will be immense; therefore, the government in conjunction with teachers' unions is hiring more local teachers. The aim is getting rid of future gaps in social services. In addition, providing secured sleeping quarters for the non-local teachers is important to guarantee their safety, thus keeping the impact of education investment intact.

By promoting devolution in the northern region, the national government created opportunities for governors on behalf of the county to receive aid from foreign donors. Foreign donors are entering into concessions with county governments in the northern area with the aim of providing funding for services and infrastructural developments. Partnerships with county governments could yield funds, which they can invest in the region's security apparatus. Some of the donors have military expertise, which would benefit the northern region in their fight against the Al-Shabaab. Displaced people in camps also pose a security threat, but through devolution, county governments can collaborate with agencies such as the UN to ensure the refugees receive the required humanitarian assistance.

Devolution also created opportunities for entrepreneurs in the counties. Such businesses play an important role in subsidizing the county investments regarding the security process. They support the counties through the installation of surveillance equipment in their premises, provision of vehicles to the security personnel, as well as creating networks for information. Such cooperation between the new businesses and the county government assist in reducing cases of theft or systematic violence, thus, in the end, a benefit of devolution.

3.5 Chapter Summary

The current situation in the northern parts of Kenya has benefitted immensely from the devolved units. Despite the various uncertainties on the implementation of devolution, the region

faces an outlook of sustainability and stability in future as they invest in their development. Such positive indicators will eventually lead to a reduction of conflict and thus better security.

The spillover impact of the war in Somalia is evident, and it continues causing insecurity in northern Kenya. Additionally, intra-communal fighting as well as bandit attacks remain a problem for the county as well as the national governments. Injustices by previous governments in the early 1960s to 1990s have also caused mistrust, but peace committees have acted in dissipating further conflict.

In regards to security, devolution has provided an opportunity for the counties to deal with their issues more closely. With the additional funding and the prospect of county police authorities, the counties in northern Kenya will eventually deal with any instability. Further, equitable sharing of resources such as appointments and revenue from minerals will change the dynamics of the region while ensuring inclusivity for the diverse region.

CHAPTER FOUR

FUTURE OF DEVOLUTION AND SECURITY IN NORTHERN KENYA

4.1 Introduction

The situation in Northern Kenya requires interventions that are designed to address challenges stemming from rising insecurity. The interventions should significantly be contributed from devolution. In this chapter, the challenges facing devolution and security are analysed and interventions examined.

4.2 Challenges of Devolution in Improving Security in Northern Kenya

The process of devolving services including security is still incomplete. The county governments are still conducting recruitment for county officials despite the presence of top national and government leaders. The process of devolution contains structures that are aimed at facilitating security and other issues, but there is still a long way. Further investments and capacities should be built to sustain the improvement of security.

4.2.1 Lack of Coordination by Security Forces

One of the main issues facing the counties is a lack of clear policies in the fight against the radical elements and cattle rustlers. Internal attacks in the region begun over 50 years ago but still the government is yet to come up with a concise plan for dealing with the bandits. Specialized units such as the anti-stock theft unit failed to deal with the menace effectively, while the previous commissioners faced accusations of inconsistency.

Other security players in the northern region including the national government administration office have created security gaps from lack of implementing county police authorities. There are no legal frameworks required to keep the authorities running, hence making it hard for the counties in northern Kenya to convey their responsibility in planning for

security. Governors also have a concern over the role the county police would take since they also have an advisory role.¹⁰⁴ The national government could relegate them to their purposed implementation role. Additionally, any cooperation between the affected counties is also non-existent due to lack of guiding frameworks for dealing with cross-county security issues.

4.2.2 Unresolved Resource Conflict

The national government recently unearthed oil and mineral resources in the northern region. The discoveries offer an opportunity to grow the county as well as the local communities. Despite the opportunity, the extent to which the communities will benefit is a concern. The decisions over extraction and control of the mineral resources are mainly by the national government under the constitution. The previous conflict over resources is set to escalate with the newfound oil and gas. There are already conflicts between the mining companies and the local communities due to unequal employment, available business opportunities as well as land. Longstanding conflicts coupled with new ones are already feeding into existent inter-county and intra-county conflicts. Consequently, disgruntled citizens are articulating their frustrations over such resources, which may lead to increased violence.

4.2.3 Ethnic Exclusion in Counties

The advent of devolution presented the counties as new stages for politicking. A majority of the counties in the north of Kenya is diverse; they have comprised of varying ethnicities, clans or regional divisions even in cases where one ethnic group fully inhabits them. Consequently, this caused the creation of new minorities regarding their clan, ethnicity, and regional divisions. These new minorities face discrimination and in varying instances, extreme hostility since they are viewed as outsiders depending on their differences and grievances aired. For instance, the

¹⁰⁴ Mosoku, Geoffrey. 2015. "Governors Demand More Roles in Kenya's Security Management

Somali tribe has created new factions of indigenous and outsiders who are immigrants, thus raising the potential for violence. The conflict also limits the area of available capacity and expertise for the northern Kenya devolved units.¹⁰⁵ This issue should be addressed comprehensively.

4.2.4 Cultural Gang and Militia Violence

Devolution of counties also brought about the problem of organized crime based on specific regions. In a bid to have a say in the management of resources local gangs have cropped up also stemming from the high unemployment rates witnessed in the counties. Longstanding marginalization also means some parts of northern Kenya lack employment opportunities. Additionally, previous cases of use of violence by police, bad relations with the security forces, as well as political patronage remain an issue for the community. Such challenges brought on by devolution could continue hindering the plans and strategies put in place by counties for development.

4.2.5 Delayed Funding by the National Government

The national government's yearly budget dictates devolution of funds. Due to that condition, the availability of funds for sensitive elements such as security may affect how the county governments deal with conflicts. Phased payments and delays in payments all affect the northern Kenya counties negatively. Counties in northern Kenya also use the funds for payment of confidential information about sensitive security matters. The amounts ranging from 10,000 to

¹⁰⁵ Lind, Jeremy. 2017. "Devolution, Shifting Centre-Periphery Relationships and Conflict in Northern Kenya

50,000 monthly are crucial in curbing terrorist activities.¹⁰⁶ Lack of funds for infrastructure also hinders efficient solution of crime and conflict.

4.3 Future Interventions of Devolution and National Security in Northern Kenya

Continued insecurity in North Eastern Kenya should prompt the government of Kenya to assert its authority by cracking down on terror networks and pacifying the region. This has mainly been done through: deployment of military and police; issuance of warnings and curfews; border wall construction; and refugee camp relocation.

4.3.1 Deployment of Military and Police

The Kenyan government has deployed military and police to carry out security patrols, security checks and counter-attacks during Al-Shabaab attacks. At public functions police have intensified security checks to eliminate any security threat to be perpetuated by Al-Shabaab. For example during Jamhuri celebrations in Garissa, police officers carried out thorough inspection of the members of the public and vehicles entering the celebration grounds.¹⁰⁷ This has been scaled up in other public places such as hospitals, government offices as well as churches.

Police and military also carry out security patrols along the Kenya-Somalia border as well as within Wajir, Garissa and Mandera Counties. To protect its borders as a result of the increased terrorist threat after the 2002 terrorist attacks, the government increased security along the Kenya-Somalia border, which precipitated the sealing of all the borders.¹⁰⁸ In a collaborative approach, Kenya navy forces with French navy forces patrol the Indian Ocean. This is intended

¹⁰⁶ Mkutu, Kennedy, Martin Marani, and Mutuma Ruteere. 2014. "Securing the Counties: Options for Security after Devolution in Kenya

¹⁰⁷ Hiran Online, "Al-Shabaab change tactics to carry out terror attacks in N. Kenya," Thursday, December 13, 2012, Accessed April 13, 2018 at: http://www.hiiraan.com/news4/2012/Dec/27277/al_shabaab_change_tactics_to_carry_out_terror_attacks_in_n_kenya.a.aspx

¹⁰⁸ Beth Elise Whitaker, Op. Cit., p. 260

to deter Al-Shabaab vessel hijackers as well as preventing encroachment of Al-Shabaab into Kenya's coastline.¹⁰⁹ This move remains relevant though the focus should be on sustainability.

During one of the operations, police officers seized firearms intended for an attack during Jamhuri Day celebrations in Garissa town. During the seizure, seven militants were arrested and a commander arraigned in court. Also, police confiscated firearms destined for Garissa town believed to belong to Al-Shabaab at Elwak town in Mandera. In another case, the Al-Shabaab attacks in North Eastern Kenya shortly before Obama's visit led to increased surveillance of security in the region as well as beyond mainly including Nairobi.¹¹⁰ This was meant to protect Kenya from any attacks from the militant group. This activity should therefore be escalated in future.

4.3.2 Issuance of Warnings and Curfews

The government through County commissioners has also warned persons supporting Al-Shabaab to disengage from the activities. For example, Garissa County Commissioner Maalim Mohamed warned police officers who take bribes to allow entry of weapons into the country thus compromising national security.¹¹¹ Also warned are owners of vehicles used to transport militants or arsenal aimed at compromising national security. After the repeated attacks in Garissa, the government enforced dusk to dawn curfews in which the local people claim that the

¹⁰⁹ Ringa, Mathias. "France and Kenya to Collaborate in Terror War." *The East Africa Standard*, Nairobi, 5 October. Article on-line. Available from www.eastandard.net/hm_news/news.php?articleid=789290802/content/articles/article1c01.html. Internet. Accessed March 30, 2018.

¹¹⁰ Mutiga Murithi, "Al-Shabaab kills more than a dozen in Kenya attack weeks before Obama visit," *The Guardian*, Nairobi Tuesday 7, July 2015. Accessed April 13, 2018 at: <http://www.theguardian.com/world/2015/jul/07/al-shabaab-kills-more-than-a-dozen-in-kenya-attack-weeks-before-obama-visit>

¹¹¹ Hiran Online, "Al-Shabaab change tactics to carry out terror attacks in N. Kenya," Thursday, December 13, 2012, Accessed April 13, 2018 at: http://www.hiiraan.com/news4/2012/Dec/27277/al_shabaab_change_tactics_to_carry_out_terror_attacks_in_n_kenya.a.aspx

government is punishing them.¹¹² While this intervention has improved security, the sustainability should be centre of focus.

4.3.3 Border wall construction

In the wake of continued Al-Shabaab attacks in North Eastern Kenya including the gruesome Garissa University attack, the Kenyan government proposed the construction of a wall along the Somalia-Kenya border.¹¹³ The construction of a giant wall on the Kenya-Somalia border is meant to deter Al-Shabaab militants from easy entry into Kenya.¹¹⁴ Also, the wall is intended to contain the security situation in North Eastern Kenya.

4.3.4 Refugee camp relocation

After finding out that refugee camps significantly aid Al-Shabaab to plan attacks in North Eastern Kenya, the government proposed to close the Ifo and Dadaab refugee camps. Intelligence reports showed that many attacks including the Westgate attack were planned in Daadab refugee camp.¹¹⁵ Part of the proposals to handle the refugee issue included repatriation. It is argued that following Westgate and Garissa University attacks in Nairobi and North Eastern Kenya respectively, the government proposed to close the refugee camps in Ifo and Daadab.¹¹⁶ This was aimed at eliminating pockets of Al-Shabaab planners in North Eastern Kenya who are often disguised as refugees. By closing the camps, the government meant to ease the burden of

¹¹²Graveline Sarah, "Kenya Must Turn Back the Clock on its own Human Rights Record to Fight Al-Shabaab," Reman IR, 8 June, 2015. Accessed 12 April 2018 at: <http://ramenir.com/2015/06/08/kenya-must-turn-back-the-clock-on-its-own-human-rights-record-to-fight-al-shabaab/>

¹¹³ Carl De Souza, "Kenya University attack highlights Security failures," Amnesty International, 2 April 2015. Accessed 12 April 2018 at: <https://www.amnesty.org/en/latest/news/2015/04/kenya-university-attack-highlights-security-failures/>

¹¹⁴ Dick-Godfrey Alex, "Al-Shabaab Dangerous Evolution," The National Interest, March 30, 2018, Accessed April 13, 2017 at: <http://nationalinterest.org/blog/the-buzz/al-shabaab%E2%80%99s-dangerous-evolution-12778>

¹¹⁵ Dersso Solomon, "The Fight Against Al-Shabaab," Al-Jazeera, 08 October 2013. Accessed 11 April 2018 at: <http://www.aljazeera.com/indepth/opinion/2013/10/fight-against-al-shabab-201310282112677589.html>

¹¹⁶ Ibid

refugee effects on national security. While this intervention has begun, there is need for comprehensive relocation of the camps.

4.3.4 Countering Violent Extremism Strategy

Countering violent extremism is a becoming a global activity. There is a growing concern and attention to preventing global terrorism and organised crimes.¹¹⁷ This follows constant increase in the number of victims of violent extremist movements since 2001.¹¹⁸ Terror and militant groups especially al- Qaida, Islamic State (IS), Boko Haram and Al-Shabaab in Somalia and Kenya have managed to hold their ground despite international counterterrorism efforts. In the aftermath of 2015 attacks in Europe, Countering Violent Extremism (CVE) gained support and adoption by most Europe's states to fight Islamic State and Foreign Terrorist Fighters.¹¹⁹ In most security circles in Europe, CVE measures have been perceived to be crucial components of a sustainable counterterrorism strategy in responding to activities of terror groups.

A pilot CVE programme supported by USAID Office of Transition Initiatives (OTI)'s between 2011 and 2014 was implemented in Kenya with an aim of countering the drivers of violent extremism.¹²⁰ The programme focused on addressing violent extremism through support initiatives such as economic and social empowerment. This programme came in place as a measure against retaliatory attacks in Kenya by the Al-Shabaab after Kenya military crossed into Somalia to fight Al-Shabaab. Despite the programme focusing on countering violent extremism, the programme did not involve military.

¹¹⁷ Global Center, "Countering Violent Extremism," [online] Available at:

<http://www.globalcenter.org/topics/countering-violent-extremism/> Accessed 8 April, 2018

¹¹⁸ Frazer Owen and Nünlist Christian, "The Concept of Countering Violent Extremism," CSS Analysis, Zurich: Center for Security Studies, 2015

¹¹⁹ Ibid

¹²⁰ Khalil James and Zeuthen Martine, "A Case Study of Counter Violent Extremism (CVE) Programming: Lessons from OTI's Kenya Transition Initiative," *Stability: International Journal of Security & Development*, 3(1): 31, pp. 1-12

In Kenya, CVE strategies involving the military have been applied against the Al-Shabaab and other organised criminal groups. The military under Kenya Defence Forces (KDF) has been involved in destroying the strongholds of Al-Shabaab. This is aimed at weakening the Al-Shabaab thereby reducing the group's lethality in carrying out violent extremism activities in Kenya. The government response to counter violence extremism has involved an integrated approach that involves law enforcement, diplomacy and social re-construction. In terms of diplomacy, collaboration between Kenya and Israeli governments on matters security has been explored and utilised.¹²¹ Adan further explains that Kenya's government has also engaged security support from U.S. and European Union. The rationale of this collaboration is to foster intelligence gathering and promotion of military support.

At the national level, many interventions have been put in place to counter terrorism. On 7 September 2016, the National Strategy to Counter Violent Extremism strategy was launched and the overall goal of the strategy is to improve security through preventing violent extremism and terrorism.¹²² It is envisaged in the strategy that local, national and international resources will be used to counter terrorism thereby reducing threats arising from Al-Shabaab and other affiliate groups. Part of the major activities of the strategy is to rehabilitate terrorist fighters and radicalized persons. During the launch, the President affirmed that outcome of the strategy is to protect and advance liberty as well as prosperity among Kenyans. The implementing body is the National Counter Terrorism Centre in the Ministry of Interior and Coordination of National government.

¹²¹ Khalil James and Zeuthen Martine, "A Case Study of Counter Violent Extremism (CVE) Programming: Lessons from OTI's Kenya Transition Initiative," *Stability: International Journal of Security & Development*, 3(1): 31, pp. 1-12

¹²² Republic of Kenya, "President Kenyatta launches new strategy to fight extremism, terror," [online] Available at: <http://www.president.go.ke/2016/09/07/resident-kenyatta-launches-new-strategy-to-fight-extremism-terror/>, Accessed 18 October, 2016

This strategy indicates that the government acknowledges the extent to which violent extremism has taken root in Kenya's social, economic and political systems. It is for this reason that counter measures such as formulating and launching the counter violence extremism strategy are put in place. From the strategy, it is clear that the government is committed to improving security of the nation through facilitating the implementation of the strategy by funding and allocating human resources to the National Counter Terrorism Centre.

4.3.5 Legal Frameworks

Other than the criminal legislations, the government of Kenya has put in place legal frameworks that make terrorism a capital offense. For example, in 2003 the Kenyan government introduced the Suppression of Terrorism Bill.¹²³ The Bill was intended to prevent terror activities. However, the Bill was rejected on grounds of not considering human rights.¹²⁴ It is indicated that the Bill did not have a framework of upholding human rights since the anti-terror police unit created under the Bill was considered to have the potential of abuse by police officers. This prompted for revision of the Bill between 2005 and 2012.

Other local legal frameworks, Kenya has integrated international conventions into its legal frameworks. For example, the Kenyan government has ratified protocols and agreements on matters of countering violence and extremism.¹²⁵ This explains the commitment of Kenya on its national security. Legislation has also been a measure against counter violence extremism. On April 30th, 2003, the government published the Terrorism Bill which sought to make it criminal terrorism activities such as training, possession of terror materials and weapons as well as

¹²³ Beth Elise Whitaker, Op. Cit., p. 260

¹²⁴ Beth Elise Whitaker, Op. Cit., p. 257

¹²⁵ Adan, H.H. Maj. Op. Cit., 2005.

formation of terror groups among others.¹²⁶ However, Kenya's attempts to address the threat of violent extremism, the Somali Kenyan community is often stigmatized, and serious human rights violations during counter-terrorist operations by the police and other security forces have been reported.¹²⁷ The legal frameworks should therefore be integrated with devolution.

4.4 Chapter Summary

Kenya as a country has been instituting a number of measures to deal with various security threats that have been contributed by civil war and insurgency in Somalia. However, as we have seen from the various terror attacks that have been following one another in quick succession, each subsequent attack being deadlier and grievous than the other, and the counter terror operations have been ineffective. This is because of a number of factors which have served as force multipliers in insecurity in the region. Challenges in the implementation of devolution such as delayed funding, insurgencies, unresolved conflict about natural resources, as well as a lack of coordination by the county and national government negatively influence the security of the region. With continued investment in dealing with those problems, northern Kenya will continue benefitting from the natural resources and infrastructure at their disposal. There is need for devolution to be integrated with national security as a means of improving security in the region.

¹²⁶ Republic of Kenya, "The Terrorism Suppression Bill (draft), in *Kenya Gazette Supplement No. 38 (Bills No. 15)*, 2003. Nairobi: Government Printers

¹²⁷ Buchanan-Clarke Stephen and Lekalake Rorisang, "Is Kenya's anti-terrorist crackdown exacerbating drivers of violent extremism?," *Afro-Barometer*, Dispatch No. 37, 2 July 2015

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter describes conclusion of the study on devolved governments and national security in the context of the Kenya Constitution 2010. Conclusion is also provided on role of devolved governments in National security in Northern Kenya. Conclusion is also provided on future of devolution and national security. The chapter also describes recommendations of the study.

5.2 Conclusion

The overall goal of this study was to investigate the role of devolved governments in enhancing national security in Kenya between 2013 and 2017. Specifically, this study sought to address three major questions. The first objective was to examine the place of devolved governments in the enhancement of National Security under the post 2010 Constitutional Dispensation. The second objective was to critically analyse the place of devolved governments in the enhancement of national security with specific reference to Northern Kenya. The third objective was to draw the experience of Northern Kenya towards informing future direct directions on the place of devolved government in the national security outlook.

Findings of this study on the place of devolved governments in the enhancement of National Security under the post 2010 Constitutional Dispensation have indicated that there exists a weak relationship between devolved governments and national security. Chapter 14 of the Kenyan constitution promulgated in 2010 specifies key organs of national security. In this exposition, it is seen that the main mandate of providing national security is a reserve of the

national government. This is aimed at helping avoid manipulation of security apparatus by county governments to their advantage.

The study also established that devolving security functions could help County governments in addressing challenges endemic in the respective areas. These arguments are contrasted by arguments that relationship between devolved governments and national security should be limited to coordination operations and policy making as it is currently the case. These proponents go ahead to note that the government plays a significant role in formulating strategy and fostering international relations thus, should control national security and ensure that security is provided to support economic development in all parts of the country.

The findings on the place of devolved governments in the enhancement of national security with specific reference to Northern Kenya indicate that the current situation in the northern parts of Kenya has benefitted immensely from the devolved units. Despite the various uncertainties on the implementation of devolution, the region faces an outlook of sustainability and stability in future as they invest in their development. Such positive indicators will eventually lead to a reduction of conflict and thus better security. Also, the spillover impact of the war in Somalia is evident, and it continues causing insecurity in northern Kenya. Additionally, intra-communal fighting as well bandit attacks remain a problem for the county as well as the national governments. Injustices by previous governments in the early 1960s to 1990s have also caused mistrust, but peace committees have acted in dissipating further conflict.

In regards to security, devolution has provided an opportunity for the counties to deal with their issues more closely. With the additional funding and the prospect of county police authorities, the counties in northern Kenya will eventually deal with any instability. Further,

equitable sharing of resources such as appointments and revenue from minerals will change the dynamics of the region while ensuring inclusivity for the diverse region.

Findings on the experience of Northern Kenya towards informing future direct directions on the place of devolved government in the national security outlook indicate that the region remains a significant in shaping future direction of national security. The study established that Kenya as a country has been instituting a number of measures to deal with various security threats that have been contributed by civil war and insurgency in Somalia. However, insecurity in Northern Kenya is yet to be contained. This is because of a number of factors which have served as force multipliers in insecurity in the region.

Challenges in the implementation of devolution such as delayed funding, insurgencies, unresolved conflict about natural resources, as well as a lack of coordination by the county and national government negatively influence the security of the region. With continued investment in dealing with those problems, northern Kenya will continue benefitting from the natural resources and infrastructure at their disposal.

In view of the findings on devolution and enhancement of national security, this study concludes that County governments are required to participate in enhancement of National security functions. However, the current Constitutional provisions do not stipulate the engagement of County governments in National security. The current situation therefore limits County governments from taking lead in protecting human life, property and other resources. This explains the current insecurity cases in Northern Kenya as National government is overwhelmed in restoring peace and security due to challenges endemic to the area that require other interventions. The involvement of County governments in the region in enhancing national security is the missing link. Addressing this missing link through entrenching the role of County

governments in enhancing National security is vital. This study therefore accepts the hypothesis that insecurity in Northern Kenya is significantly resulting from lack of place of devolution in enhancement of national security.

5.3 Recommendations

The recommendations of this study are as follows:

1. There is need for devolution to be integrated with national security as a means of improving security in the region. The National government should therefore call for referendum or Constitutional amendments to ensure that role of the national security is not limited to National government alone yet County governments are required to enhance National security in respective counties.
2. County governments should institute measures aimed at improving national security without expecting or relying on National governments. While Constitutional amendments take more time, security should be priority to county governments. In this regard, security will be guaranteed regardless of the mandated level of government.
3. National and County governments should collaborate in provision of national security. Each level of government should therefore have specific roles in provision of national security.

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