

UNIVERSITY OF NAIROBI
Institute and Diplomacy and International Studies

PARADIGM SHIFT IN KENYA'S SECURITY
INTELLIGENCE SERVICE

A CASE STUDY OF KENYA, 1963-2010

BY

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A research thesis submitted in partial fulfillment of the requirements for the award of Masters of Arts Degree in International Studies at the University of Nairobi.

OCTOBER 2013

DECLARATION

I declare to the best of my knowledge that this research project is my original work and that all the sources that I have used have been acknowledged. No part of this thesis may be reproduced without prior permission of the author and / or the University of Nairobi.

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DEDICATION

Dedicated to my husband, my three children mum Martha and late Dad.

ABSTRACT

This research contributes to the role of Security intelligence service in Kenya as one of the arms of Administration of Justice from 1963 to 2010 anchored on a background of the pre colonial, colonial, and post independence periods. It establishes a paradigm shift in its attempt to depart from the traditional *modus operandi*. The paper identifies some of the elements of traditional intelligence operations and the colonial period establishment of African spies, the Special Branch (SB), Directorate of Security Intelligence (DSI), National Security Intelligence Service (NSIS) and subsequently National Intelligence Service (NIS). The dynamics of both state and non state actors, realism to liberalism prospectus are considered. The Kenya intelligence system's image received a boost when it was factored in the New Constitution of 2010 albeit the public clamour for more transparency and accountability with its role changing from both executive and advisory to being purely advisory and the need for a bottom up approach.

Since post- cold war era, an upsurge in international terrorism, innovation in information and communication technology, cyber crime, fear of the use of Weapons of Mass Destruction, globalization and ever widening democratic space have called for the need to shift focus in terms of threats and priorities in intelligence operations hence the need to understand the policy maker. Additionally Security Intelligence in developing countries has not been researched on unlike in the developed world where its curriculum is offered in Public and Private Institutions hence the attempt by this research to contribute to the field.

LIST OF ABBREVIATIONS

CIA	Central Intelligence Agency
CID	Criminal Investigation Department
CSIS	Canadian Security Intelligence Services
DSI	Directorate of Security Intelligence
G4S	Group 4 Security
GCHQ	Government Communications Headquarters
KANU	Kenya African National Union
KYM	Kenya Youth Movement
NARC	National Rainbow Coalition
NIS	National Intelligence Service
NSAC	National Security Advisory Committee
NSIS	National Security Intelligence Service
PKK	Party for Independent Candidates of Kenya
SB	Special Branch
SSR	Security Sector Reforms
UK	United Kingdom
US	United States

TABLE OF CONTENTS

DECLARATION	ii
ACKNOWLEDGEMENT	iii
DEDICATION	iv
ABSTRACT.....	v
LIST OF ABBREVIATIONS.....	vi
TABLE OF CONTENTS.....	vii
CHAPTER ONE: INTRODUCTION	1
1.0 Background of the study	1
1.1 Statement of the Problem.....	2
1.2 Research Questions	2
1.3 Hypothesis.....	3
1.4 Objectives	3
1.5 Justification of the Study	4
1.6 Research Methodology	5
1.7 Conceptual Frame Work Showing Paradigm Shift in Kenya Intelligence system.....	6
1.8 Definition of key Terms.....	7
1.9 Chapter Outline.....	8
2.0 Literature Review.....	9
1.2.3 National security as an ambiguous symbol.....	11
1.2.4 The Internet and The Changing Nature of Intelligence.	16
1.2.5 Changes of security within a new world order of new threats.....	17
1.2.6 The Dimension of colonialist paradigm.....	18
CHAPTER TWO : INTELLIGENCE IN THE COLONIAL STATE 1890-1945	22

2.0 The Origins of Intelligence System of Kenya.....	22
2.1 History of Kenya.....	22
2.2 The Whites, Murders and Happy Valley Intelligence	23
2.3 Use of Explorers and Missionaries in intelligence collection.....	24
2.4 Beginnings	24
2.5 Training of traditional intelligence agents	25
2.6 Kenyan Intelligence Service and the settlers	26
2.7 Collaboration as bait to give out secrets	28
2.8 Development of Colonial Intelligence	29
2.9 Post-World War I Intelligence Reforms	32
2.10 The Kenyan Intelligence Services (1952–1963).....	39
2.11 Role of special branch in Mau Mau.....	40
CHAPTER THREE : IMPACT OF THE MAU MAU 1945-1964	44
3.0 The Impact of Mau Mau Intelligence (1945 - 1964)	44
3.1 Inherited Colonial Administration Structures.....	45
3.2 The Kenyan intelligence services (1952–1963).....	46
3.3 Establishment of local networks	47
3.4 Failure of special branch during Mau Mau.....	49
3.5 British colonialists	50
CHAPTER FOUR : POST-COLONIAL KENYA, 1963-2002.....	53
4.0 Inherited Colonial Administration Structures.....	53
4.1 Components of arms of administration of justice.....	54
4.2 The Transition Years 1963-1969	54
4.3 Kenyatta’s Final Years, 1970-1978	56

4.4 The National Security Intelligence (NSIS) since 1998-2010	59
CHAPTER FIVE: THE KIBAKI SHIFT-2003-2012	64
5.0 Introduction to Kibaki Era	64
5.1 The Paradigm shift	65
5.2 Inter-agency cooperation	66
5.3 Paradigm from Realism to Liberalism	68
CHAPTER SIX : CONCLUSION: PARADIGM SHIFT	72
6.0 Introduction	72
6.1 Uncertain Role of Intelligence in National Security	72
6.2 Realism in relation to security concept	73
6.3 The Ideal Situation	74
6.4 Paradigm in the roles of the Analyst and the Consumer	75
BIBLIOGRAPHY	80

CHAPTER ONE

INTRODUCTION

1.0 Background of the study

Kenya as a country despite gaining its independence from Britain in 1963 and republican status in 1964, its citizens had always yearned for constitutional reforms. The long journey went through the repeal of section 2(A), the return of multiparty politics in Kenya in 1991, several drafts of the new constitution, and two referendums before attaining a land mark home grown hybrid Constitution with a two tier government in 2010. The country began with a quasi-federal system of constitution and also inherited three institutions from the colonial period which were Provincial Administration (PA) with provincial, district commissioners, district officers, and chiefs, a well-established network of selected local government bodies which despite racial divisions, was an important element within the government machinery; and a police service, with a network of formal and informal intelligence operators. The Provincial Administration and the police were transformed into instruments of ensuring security for the post- colonial governments. Gathering and acting on intelligence on perceived threats to state security became one of their main pre occupations. Of necessity, intelligence remained officially secret. Some of the challenges then that arise would.

1.1 Statement of the Problem

The role of Security Intelligence is paramount for the general national security of any state. It is one of the vital arms of the Administration of justice used in securing the nation for the attainment of suitable environment for social, political and economic progress. The need for attitude shift and the reasons for the seeming reluctance or the extent of the acceptance of change in intelligence are not clear. The second need for examining the paradigm is because there is need for the policy maker thoroughly to synthesize the intelligence especially if it has undergone the proper analysis stages so as to avoid any form of biasness. Yet in Kenya there is a feeling that intelligence institutions are not necessary. This calls for a paradigm shift in terms of the way intelligence is presented to the public and to the intelligence community. The need for attitude shift and the reasons for seeming reluctance or extent of change in intelligence operations are not clear. During crisis, it is not always clear who is to blame between the producer of intelligence and the policy maker. This needs an investigation.

1.2 Research Questions

- a. Why was there the need for intelligence paradigm shift in Kenya?
- b. What are the main issues that Kenyans would like the national intelligence agency to address?
- c. How have issues like end of the cold war and subsequent global changes including the role of the policy maker shaped changes in Security apparatus of Kenya, particularly its intelligence agency?

1.3 Hypothesis

- H₁: National Intelligence agencies are an important component for the security of the state as an inter agency outfit but is of no use to the nation particularly if its policymakers do not understand their role in the cycle
- H₂: There is need to include and induct policy makers or consumers of intelligence products to avoid possible fall out with the society besides equipping the analysts well in ever changing *modus operandi*
- H₃: Changes in global socio-economic, political, and environmental spheres influenced Kenya national intelligence reforms, resulting in paradigm shift..

1.4 Objectives

1. To highlight the concept of national intelligence , its evolution in Kenya through traditional, colonial and at independence but influenced by gradual democratic forces and recently under a two tier government
2. To examine the elements of Intelligence and anchor them to the link between its consumers and the analysts for sound policy implementation in the face of the threats emanating from state and non state actors
3. To argue in this analysis for the need for a deliberate policy to demystify the role of intelligence in Kenya through incorporating more stake holders like through curriculum like in the developed countries where intelligence is taught in most institutions

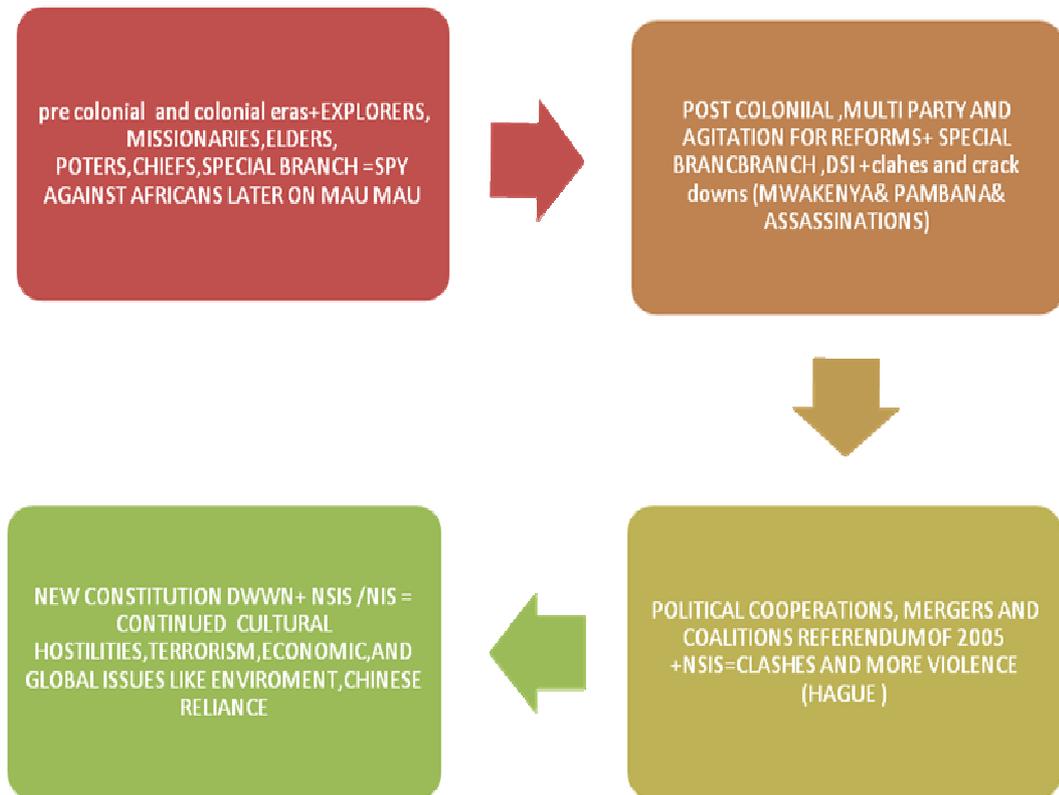
1.5 Justification of the Study

The justification of the study is based on the vacuum of the intelligence literature in Kenya due extreme secrecy surrounding it and the past excesses meted upon members the public. Very few people have attempted to grapple with the field of security intelligence nexus especially in Kenya. Besides mentioning the secrecy, the few writers who venture into the field cite the absence of conceptual clarity in its usage and contribution to the security of the states. Such an important concept should not suffer from shortage of valuable local reference while materials on the other intelligence communities especially those of the developed nations are spoilt for choice. National Intelligence ought to be anchored in Kenya schools' curriculum and demystified for acceptance in the public and private sectors. Increased need for transparency and accountability by the society has necessitated the demystifying of the organization through the gradual modernization in terms of human and material resources and enhanced inter agency cooperation among all stake holders, especially policy makers. This study therefore is essential in order to add more literature to the existing knowledge about the intelligence paradigm shift in Kenya (Warner, Michael. 2009).

1.6 Research Methodology

The study revolves around a wide variety of materials mainly journals, articles and books by people tortured during the quest for democratic reforms in Kenya as well as the pioneers who have ventured into writing books on this subject matter and to particularly discuss the Kenyan Case. Secondly, for the basic concepts of National Intelligence, books on this subject are very many especially those written by both serving and retired officers from the CIA and FBI whereby their agencies have vast experience in terms of both the threats and span of existence. Wilson Boinet who was a former Director General of NSIS however put forward a good discussion on the Kenyan National intelligence paradigm. The dynamism of times and transitions in the intelligence system show the need to keep updating researches through building of data bank on the same . Security Sector Reform and Transitional Justice in Kenya mainly built upon academic research in the field have a specific literature on the modern aspects of intelligence reforms. The study employed a narrative approach, but in theory, realism and liberalism explained the reason and mode of the paradigm shift, hence the traditional qualitative content analysis is mainly used.

1.7 Conceptual Frame Work Showing Paradigm Shift in Kenya Intelligence system



The conceptual framework of this thesis is a typical evolution of the Kenyan intelligence Agency through four phases. The paradigm shows the stages as pre-colonial, post colonial old and new constitution. Each phase is anchored on the variables that have affected the evolution for example the traditional elders, missionaries and porters in the first phase.

In the second phase the effects of the colonial occupation attracts the agitation for self determination by Kenyans hence their own need to form their networks like in the Mau Mau case. In the same phase due to the resistance and reluctance but the whites to grant Kenyans freedom intelligence is collected through pseudo gangs which led to establishment of the dreaded special branch.

In the third phase although Kenya was an independent country, the political status quo system of administration which concentrated a lot of powers on the executive presidency affected the way its intelligence organisation behaved. It was intolerant towards its citizens and was used to keep the regime in power through crushing of dissenting voice. This was during Jomo Kenyatta's time.

In phase four under the Moi regime the organization operated under the pressure of keeping Moi in power versus dealing with an enlightened population who exploited the end of the cold war to agitate for constitutional reforms and freedoms. It is in this fourth phase that the first constitutional changes were made but Kenyans wanted an overhaul in the imperial presidency and a devolved government a quest realised in 2010. This completed the paradigm shift but there is room for improvement in the intelligence profession to meet the ever changing global issues affecting the intelligence community worldwide.

1.8 Definition of key Terms

Security: Security may be defined as freedom from risk or danger, which means safety or assured freedom from poverty or want. It refers to a condition which results from establishment and maintenance of protective measures that ensure a state of

inviolability from hostile acts or influence. Many scholars have consensus that there is no single definition for this term.

Paradigm: The term paradigm is an accepted pattern of thinking model or frame work used to explain a phenomenon, interpret a reality or serve as an exemplary solution to a problem (Kuhn 1996).

Counterintelligence: Refers to the efforts made by intelligence organizations to deter other intelligence organizations from successfully gathering and collecting intelligence against them.

Counterterrorism: Refers to set of techniques, tactics, offensive measures and strategies that military groups, governments or police departments use to prevent terrorist attacks.

1.9 Chapter Outline

This dissertation is made up of six chapters; Chapter one addresses the introduction, background to the study, statement of the problem, literature review objectives, research questions, justification and an outline. Chapter two addresses the Intelligence and colonial state from 1890-1945. Chapters three discuss the impact of the Mau Mau between 1945-1964 on the Kenya Intelligence system. Chapter four discusses Post Colonial, Kenya from 1963-2002. During this period intelligence collection was under Jomo Kenyatta and Daniel Moi the first and second presidents respectively who inherited colonial structures of administration. The conduct of the security machinery, special branch and directorate of security intelligence under Moi regime between

1978-2002, was repressive. The period between 2003 and 2013 describes the beginning of enshrining the intelligence organization in the constitution due to continuous demand for transparency and accountability by the public after a period of torture. Chapter five marks the beginning of a paradigm shift in intelligence operations. The organization underwent changes among them being the enshrinement in the new constitution. National security intelligence service (NSIS) became NIS. Chapter six is the conclusion of the evolution of Kenya intelligence security service through all the phases of traditional, colonial, cold war, independent Kenya the old and new constitution.

2.0 Literature Review

Defining National Security

Article 238 of the constitution of Kenya 2010 defines National Security as the protection against internal and external threats of Kenya's territorial integrity, its people, their rights, freedoms, property, peace, stability, prosperity and other national resources. The national security organs as per article 239 are Kenya Defence forces; national intelligence service, and the national police service.

Taylor and Francis 2008 in their book *International Interaction Third World National Security toward a new conceptual framework* believed that there was need to re conceptualise the national security dimension of developing countries and made a departure from monolithic approach based on a military strategic orientation. Thus he reflected on economic vulnerabilities, ecological scarcity and ethnic fragmentation. This avoids the narrow misleading concept of military strategic approach to national

security and unravels the security dilemma focusing on non-military factors in the context or relevance to each country in the developing world¹.

This definition however apart from explaining the instruments does not differentiate clearly the dichotomy between the traditional and the evolving types of security, which is crucial in the paradigm of this thesis.

Clause 5 of the NIS Bill - provides that NIS shall be responsible for security intelligence and counter intelligence to enhance national security. Some of the duties of NIS are detecting and identifying any threat or potential threat to national security like political or ethnic violence. It also includes safeguarding and promoting national security, promotion of national interest, sovereignty and economic wellbeing of the republic and its citizen within and outside Kenya.

¹ Anorld Wolfes 1952 National Security as an ambiguous symbol" political science quarterly (December Vol. LXVII No. 4.), 481.

1.2.3 National security as an ambiguous symbol

Defining security is probably one of the most complicated tasks among *academus* in the international relations discipline and that the term is associated with the avoidance of danger and or fear. It encompassed the priorities and principles of the state to defend itself through the use of military force. Generally, national security may not mean the same thing to different people and depends on the approaches used to address a national issue whenever it arises and will result in a national policy or prioritization or securitization.

The definition of security intelligence therefore is a special bond of knowledge a specialized subset of information that has been put through a systematic analytical process in order to support a state's decision and policy makers. As much as others seek to discover hidden information by secret or covert means, it is also defined as "production of unbiased information about threats of the national vision and generally 3 things: a process of gathering and analysing information; an organization which undertakes the process and a refined product that is delivered to policy makers.

The above scenario abounds in the 1950's when the world was a bi-polar system entrenched in a cold war phenomenon. The second phase of national security was followed by the concept of Global changes in economic and human activities, massive movements of people, capital goods and services. The phase was also followed by the complex scenario of trans-national organized crimes, like smuggling of people, arms and drugs. Sabina Alkire 2003 *working Paper Two for Center for Research on Inequality and Ethnicity* proposed that, political changes in international environment

led to human rights violations, internal displacements, religious and ethnical turmoil being committed within the scope of security. This is the human security approach.²

While dwelling much on human security phrased it in terms of its objectives which generally protect vital core of all human lives which include to shield, guarantee, defend, maintain, uphold, preserve, secure from official pervasive threats to be consistent with long term human fulfillment. This was to guarantee a set of vital rights and freedoms to all people without compromising their ability to pursue other goals. It created political, economic, social cultural and environmental conditions, guaranteeing peoples vital rights and freedoms.

Another dimension to study national security would be to factor issues like climate change vulnerability and national security. The phenomenon includes events such as droughts, heat waves and extreme storms crop failures, disease outbreaks and fire outbreaks³.

Walter Lippmann in the document *US Foreign Policy (1952) Volume LX VII Number 4*⁴, defines national security as an ambiguous symbol and that scholars who are realists insist that their foreign policy is dictated by national interests as any reference to it attracts sympathy. This notion is termed vague as it does not direct the issue of nations versus individuals, sub groups or mankind.

² Sabina Alkire (2003) working paper two for centre for research on inequality and ethnicity, Queen Elizabeth House, University of Oxford.

³John D. Steinbruner et. All Climate Change and Social Stress implications for security analysis (2013) pp. 36 -National Research Commeh, National Academis press Washington DC .

⁴. Walter Lippmann in the document *US Foreign Policy. (1952) Volume LX VII Number 4*

Ronald Paris in his journal *International Security* issue number volume 26 issue 2 pp 87-102⁵ concurs with the realists but defines Human Security too, as so vague that it verges on meaninglessness and consequently offers little practice to those using it to apply the concept used as category of research in security studies . He goes ahead to doubt as to whether there is a paradigm shift or merely hot air. In addition there is need to underscore or understand the needs of policy makers. Intelligence therefore becomes a special bond of knowledge a specialised subset of information that has been put through a systematic analytical process in order to support a state's decision and policy makers. It is also defined as “production of unbiased information about threats of the national vision and generally a process of gathering and analyzing and disseminating information.

Peter Gill and Mark Phythian (2006), in his book *Intelligence in an Insecure World* pp 1-8 defines intelligence as an elusive as the daring fictional agents who are cemented in the popular imagination – partly because any worthwhile definition needs to embrace the full range of activities in which intelligence agencies engage and the purpose underpinning these. The starting point according to Gill is that intelligence is a means to an end⁶. He goes further to state that intelligence is a component of external environment feeds and the policy whereby changes are fed into the planning and direction of the collection and process methods. These components are subjected to a thorough analysis and then dissemination to the policy makers as an outcome. Taking the above into consideration, Gill redefines intelligence as an umbrella

⁵ Ronald Paris in his journal *International Security* issue number volume 26 issue 2 pp87-10

⁵ National Intelligence Council. Global Trends 2030; Alternative Worlds (Public Intelligence).

⁶ Peter Gill and Mark Phythian (2006). *Intelligence in an Insecure World* pp 1-8.

referring to the range of activities to encompass the whole process of the intelligence cycle. Intelligence therefore should be used to prevent more harm than good.

In the new paradigm, the analytical function raises similar practical issues. In theory, intelligence analysts take information provided by perhaps all three collection disciplines, combine it with information from publicly available sources, and produce "all source" analysis for the customer. Because the analysis contains information obtained by intelligence sources, it is typically classified.

Because intelligence analysts have ready access to information from a wide range of publicly available sources, the question arises whether they should provide analysis based exclusively on such open sources if no significant intelligence is available on the subject. Also, if the analyst knows in advance that information obtained through intelligence will provide little of relevance to the overall analysis of a subject, should he or she nevertheless attempt to satisfy the request of a customer for an "all source" analysis? If an analyst accepts a request but finds the information produced by intelligence sources is marginal and the request can be satisfied by publicly available information, should he or she still produce an analytical assessment, or advise the customer to go elsewhere? If produced, should the assessment be classified simply because it was done by an intelligence agency? The intelligence agencies find that in practice, these issues are worked out on an *ad hoc* basis between analysts and their customers.

Under modern circumstances it is apparent that the intelligence agencies should not satisfy requests for analysis when such analysis could be readily accomplished using

publicly available sources, unless for some reason the results of such analysis would require confidentiality or the specific expertise of the analyst would add significantly to the analysis of the open source material. For example, a personality profile prepared on a friendly foreign leader might be taken entirely from public sources but nonetheless require confidential handling.

The new intelligence paradigm shift holds that intelligence agencies should not accept requests for analysis when it is clear in advance that the information available from intelligence sources would have marginal impact on a particular analysis, unless there are special circumstances present that necessitate handling the request as an intelligence matter in general.

Mwendwa Njoka In an article *The Role of Intelligence in Human Development and Security* (Star Newspaper of 25th August 2012) opined that national security during the cold war era was narrowly defined as the exclusive protection of the nation state, without much consideration to human security. He also suggested that security intelligence should broaden the scope, capability and ability of the service almost exclusively to the preservation of national security⁷.

All countries have an intelligence apparatus of some scope and capability. The question for new democracies is, what kind of new intelligence structure do they need and how can it be controlled? While the challenge is especially cogent in the new democracies, democratic control of intelligence is a subject of intense debate

⁷ Mwendwa Njoka In an article *The Role of Intelligence in Human Development and Security* (Star Newspaper of 25th August 2012)

everywhere for at least four reasons. Secrecy is the enemy of democracy, because secrecy encourages abuse. If there is secrecy how can there be accountability, the operative mechanism of democracy, especially when both the purveyors and end-users of secret information mutually benefit from the exclusion of oversight? Because intelligence organizations operate in secrecy, they largely avoid the checks and balances on which democracy is based. Second, intelligence agencies collect and analyze information, and information means power. High-level officials in intelligence organizations can leverage access to information to promote agendas and purposes of their own, including benefit their “friends” in government, meaning those who will protect the organization’s prerogatives. Gill uses the metaphor of the “Gore-Tex” state to illustrate a high degree of domestic penetration by the security intelligence services. Information flows in one direction only: to the intelligence services, but not from them to state and society. Intelligence structures may be autonomous from state control and, through the use of information that others do not have, influence state policy. This underscores the need for intelligence organizations to share information with other relevant agencies.

1.2.4 The Internet and The Changing Nature of Intelligence.

Knowledge about the nature of intelligence in an age of technology helps developers to provide tools that effectively support activities related to national security intelligence and decision making for instance technologist community’s leadership. It also assists in engineering ethics and social responsibility, integrates social science knowledge into technological developments.

1.2.5 Changes of security within a new world order of new threats

Intelligence threats in the global era are very unique with no visible front, army, border or country to define in a map. This means that there are rapid changes in terms of the enemy, security and threat perception unlike in the cold war era subjecting the players to change.

Terrorism in a way is connected to human trafficking, illegal immigrants, drug trafficking and organised crime groups dealing with money laundering, are new threats with challenges in combating or limited operational capabilities. Inevitable consequences include new security organization systems, strategic and new intelligence tools and concepts. The risk of this paradigm shift in threats is that crimes like terrorism has no international front fighting them except international cooperation. There is also need to have suitable tools, methods, professionalism and to promote inter agency cooperation.

The intelligence profession continues to face challenges like vulnerability to nuclear threat and fewer reforms that define security intelligence understanding. There are also obstacles caused by the national borders with new tragedies, since the world in the 21st century involves a lot of human migrations and is conceptually borderless. In addition, there is need for widespread criminal intelligence requiring fast use of information flow, joint intervention teams and proper presentation of criminal evidence after the joint operations.

1.2.6 The Dimension of colonialist paradigm

The colonial administration in Kenya and its legacy ,security institutions and the impact it had on the new administration The period between 1963-2010 so as to reflect security structures after Kenya’s independence and administrations of former Presidents Jomo Kenyatta, Daniel Arap Moi and mention of the end of cold war. The paper will also discuss briefly the quest for and achievement of the new constitution, hence the period in question explains what Kenya was, has been, and is currently. To highlight authoritarianism oppression by suppression of political opponents, Elites and vocal student leaders, endangered Civil Society brain drain ,agitation of changing the constitution and the role of the government security machinery The second liberation wave in Kenya against dictatorship of Moi regime leading to introduction of multiparty, perennial land clashes and the triumph of National Rainbow coalition(NARC) Kenya under President Kibaki and the defeat of the first constitutional referendum, the 2008 Coalition government and the new constitution referendum and its promulgation on 27th August 2010.

Loch Johnson 2013 while introducing his book *National Security Intelligence*, concedes that National Security intelligence is a vast, complicated and important topic, made doubly hard for citizens to understand because of the thick veils of secrecy surrounding it⁸. It is the hidden side of government in explaining information collection, and analysis, counter-intelligence and covert action covering other dilemmas posed by the existence of secret government organization in democratic societies. Loch also asks questions like why intelligence organizations make mistakes

⁸ Ibid

in assessing events and why some intelligence officers decide to work against their countries on behalf of foreign regimes. He also wonders how agencies succumb to scandals including spying on the very citizens they are supposed to protect. This brings out clearly the need to continue to strive for safeguards to prevent the operations. In the same literature Loch states that much remains to be accomplished since national security imperatives will never permit transparency in this sensitive domain. In a democracy, Loch believes that people must have at least basic comprehension of all their government agencies even the Shadowy world of intelligence, while encouraging professionals and journalists to help citizens understand the hidden side of their governing institutions but within the maintenance of sanctity of properly classified information.

On the nexus between scholars and their governments, Loch (2013)⁹ conceded that the challenge is daunting because the two are at Loggerheads since while the government prefers secrecy, scholars hope for access to information or openness. The theory is that the more the public knows about intelligence, the more it is likely that its citizens will support the legitimate, vital protective services of those agencies as long as they operate within the boundaries of the law and accepted ethical probity. The important development in the study of National intelligence is that scholars have moved from spy memoirs towards a rigorous application of research standards that address very many questions like how nations gather and analyse information on threats and opportunities both internally and externally and among other things how to

⁹ Ibid

initiate controls to guard against the abuse of by secret agencies. This has been enabled through empirical data collection and interactions with people with experiences in the intelligence field as well as achieved declassified information. The opinion of Loch Johnson (2013) is that with the right spy in the right place, with surveillance satellites in the proper Orbit, or with reconnaissance aircraft that can penetrate the enemy airspace, a nation might be able to uncover secrets. Leaders accordingly must rely on the thoughtful assessments of intelligence analysts about the contours of a newer, based on empirical evidence that is found in either open sources or through espionage for beyond survival, humans are motivated by the sense of ambition. The intelligence agencies according to Loch can assist leaders in advance to know their threats they may face and also opportunities that may arise to advance national interests. The intelligence activities of intelligence agencies are hinged on the mission to collect reliable, timely information about threats and opportunities accurately. Equally, the meaning of the information must be accurately assessed to enable policy makers decide what direction to take or act effectively and efficiently on the final information, suggesting the possible scenarios and adoptions.

Using this theory as a springboard this paper picks and builds on the issue of the relationship between producers and consumers of security intelligence in order to avoid lapses that are otherwise preventable. While both overt and covert actions are elements of intelligence collection there is need to ensure that the analyst is equipped with knowledge skills attitude and relevant tools of trade. There is however the need also for the consumer of the correct information to have the capacity to comprehend,

the ability to internalize and actualize the actions required by such information¹⁰. In essence, in the security intelligence field there should be competency at production and consumption points.

¹⁰Ibid

CHAPTER TWO

INTELLIGENCE IN THE COLONIAL STATE 1890-1945

2.0 The Origins of Intelligence System of Kenya

This chapter is divided into three main sections, each addressing a specific phase of intelligence and state-building in Kenya. Each section begins by establishing the historical context, after which the history and role of the intelligence services during those specific time periods are explored.

2.1 History of Kenya

Direct contact of Kenya and Europe was in 15th century it has had influence of court of the Portuguese Arabs Spaniards but British colonisation started in 1895. Development like 1895 to 1901 was the construction of the Uganda railway as a link between the Country and interior but also led to influx in just of European settlers, later on resulting land alienation in Kenya from Africans, squatters problems, racial segregation forced labour. The oppression led to formation of tribal parties by African when in 1920, east Africa protectorate became Kenya colony.

Some of the characteristics of the colonial legacy included the fact that Africans opposed oppression and heavy taxing and forced labour as well as the use of Africans who were returning from Burma, Egypt and Palestine having participated in the Second World War. There also ensued an armed struggle between armed guards and Mau Mau fighters and their supporters.

2.2 The Whites, Murders and Happy Valley Intelligence

Richard Daven Port in 2003 in his book *Happy Valley*¹¹ describes the early caliber of the white security intelligence officers who were in the East African Protectorate which was renamed Kenya Colony in 1920 as people who had wanted to implant Anglo-Saxon values in a country that suffered from brutal barbarism, while the second wave of settlers were ex officers who arrived after the wave of the first world war. They coined the word Happy Valley which comprised of a few European Settlers, who lived around the modern day Keekopey near Lake Elementaita and around the slopes of the Aberdare Mountain. They were characterized as white people with notorious adulterous, alcoholic, violent lives and frequently eliminated their perceived enemies amongst themselves.

The Book Review of British Intelligence (March 2000) indicates that Muthaiga Club was once the Headquarters of the Happy valley and highlights some of the big events like the controversial murder of Lord Errol for allegedly selling British Secrets to Mussolini's forces but also alternatively a crime of passion , the main activity of the Happy Valley. This also led to another writer John Loch in 1984 to write the book *White Mischief* that in among other terms described the group as crooked British Aristocrats. The current Delamere family of Kenya whose grandson Thomas Cholmondley the 6th baron appeared to still harbor the happy valley attitude of endless fun and games and was reported by The Guardian Newspaper on 23rd September 2006 to still be wielding considerable influence, a tool he may have used to skip being

¹¹ Richard Daven Port (2003). *Happy Valley*.Introduction.

sentenced to hang twice in one year span for shooting two Africans while patrolling part of his 56,000 acre farm in Soysambu Farm in Naivasha.

Daniel Branch (2009) in his book *Defeating Mau Mau* discusses Mau Mau wars in 1950s, and concurs that the group had its own intelligence networks against fellow Mau Mau who were used by the British to hunt them down¹².

2.3 Use of Explorers and Missionaries in intelligence collection

Louis S .B Leakey in his book *the evidence* chapter 18, admits that in 1939, he was offered work in Kenya by the government as a policeman in the Intelligence where he created a clandestine network using his child hood friends among the kikuyu, apart from hunting fossils. He also used to conduct interrogations besides writing radio broadcasts and taking regular police investigations.

2.4 Beginnings

The first Kenyan intelligence service the Special Branch, was in the beginning a specialized section of the Criminal Investigations Department (CID) instituted in 1926. The need for a local independent intelligence service had been identified as early as 1945 by the various governors of Kenya, but no funds were allocated for the purpose. The establishment and upgrading of the Special Branch was a direct result of the Mau Mau war in Kenya, which necessitated serious investment in a local intelligence. At the declaration of the Mau Mau emergency in October 1952, the entire Special Branch consisted of only three Europeans, one Asian and a few Africans.

¹² Daniel Branch (2009). *Defeating Mau Mau*. Introduction.

A new head of the special Branch who arrived in 1952, described the organization as unable to handle even normal intelligence work. The situation was compounded by the attitude of the governor of Kenya then who believed that besides having a competent intelligence organisation, there would be no Kikuyu revolt in Kenya, only to spend considerable time developing the Special Branch¹³. The “Malayan model” was quickly adopted as it had been successful in defeating the communist rebellion in Malaysia. This system established stations spread throughout the country aimed at getting first hand tactical intelligence from the field. One of the main advantages of this system was the creation of a permanent presence in the field, allowing for establishment of local information and contacts. It took until 1954, when the police and had been developed to a degree that the tide in the struggle against the Mau Mau rebellion turned. A number of intelligence successes finally led to the defeat of the military wing of the Mau Mau rebellion.

2.5 Training of traditional intelligence agents

The law enforcement units beginning with regular police began as native police who reported to local Village Headman. In 1929 they were formalized by tribal police ordinance which provided for their training under the oversight of Regional agent who in turn also reported to Commissioner of police. Kenya police reservists still give a back up in the rural are sometimes called home guards. Administration police (AP) was previously called tribal police and reported to a local District Commissioner. The General Service Unit (GSU) was initially called Emergency Company, established by the colonial government to battle Mau Mau freedom fighters.

¹² Ibid

2.6 Kenyan Intelligence Service and the settlers

CJ Dude in his discussion in the journal *men of the officer class: the participants in the 1919 soldier settlement scheme in Kenya African affairs* vol. 92 No. 366 January 1993 pp 69-87 and Dave Kennedy. 1997. *Island of White Settler society and culture in Kenya and Southern Rhodesia, 1890 – 1939* both give an account to the effect that the whites that came to Kenya to settle after the First World War were those that had been enlisted hence rewarded together with veterans who were evading tax payment in Britain. Kenya was thus a settlement scheme and the exercised powers were by the Governor and had weak legislative and executive councils that later ensured that Africans interests were represented by Europeans. The settlers how ever did not find Africans devoid of methods of intelligence collection as they soon found out that there were links among communities that were cemented by well-organized intelligence systems. These local networks provided the first news that there were foreigners in the land, their level of danger posed to the community and the kind of arms they owned. . Response to this alien penetration was diverse and depended upon the perception of the individual community. African leaders had four choices.

First, they could meet directly with the aliens and try to discover what their intentions were and accommodate them. Second, they could send servants, tenants or other intermediaries to deal with them. Third, each clan could simply deal with the aliens in an individual and piecemeal fashion. The final strategy was overt opposition, especially if elders saw the possibility of spoils. Ndeda, (2006) in his book, “Secret

Servants: A History of Intelligence and Espionage in Kenya,)¹⁴ noted that the same was exemplified by the behaviour of the joUgenya and joUyoma in Nyanza Province. The Nandi clan did not allow foreigners to enter their territory without express permission. In 1895, they became aware of the British presence when traders Dick and West traversed that area; the Nandi immediately attacked them. (Even before this, the Nandi had become aware of the impending arrival of the foreigners through prophecy. Kimnyole, a 19th century Nandi seer, prophesied that a foreign people would come and rule the Nandi and that one day there would come a big snake from the eastern Lake (the Indian Ocean) belching fire and smoke and quenching its thirst in the Western lake (Lake Victoria). When in 1901 the railway “snake” reached Lake Victoria in 1901, the Nandi became acutely aware of the probability of their being ruled by a foreign people.)

The Kamba clan, on the other hand, were already traversing the central and coastal areas as long-distance traders and gathering information for their leaders. The Akamba maintained a strong hold on the trade routes between the coast and Ukambani. By the 1880s, the Kamba were confronted by a new group led by the Imperial British East African Company, whom they blamed for the calamities that befell them soon after. Some Kambas became sources of information for the British. There was no way the colonial government could have simply arrived and established its control over the indigenous people; they had to depend on some form of intelligence information by which to develop their system of control. Initially, the

¹⁴ Ndeda, (2006). *Secret Servants: A History of Intelligence and Espionage in Kenya*.

most useful sources of information for the British were the Swahili and Arabs, who had travelled upcountry before and had established links with local communities. They linked the British to the same people. After initial interaction, the British also established relations with porters and interpreters, who also became valuable sources of information. The British colonists hired a motley crowd of mercenaries who served as porters, guides or askaris.

They initially provided only information, but later served as chiefs in the local communities, where traditional leaders were simply ignored. This means that most of those who became chiefs were opportunists who were never a part of the time-honoured, traditional African community leadership structure. This pattern was evident among the Kikuyu, Embu and Kamba. Missionaries also became a significant source of intelligence information.

2.7 Collaboration as bait to give out secrets

Some communities that collaborated with the British actually initiated the contact. For example, the Mukseru Gusii sought the help of the British because the Kitutu were threatening their very existence. This persistent threat caused them to scatter between the Luo and other Gusii clans. When they heard of the British and their military strength, they appealed for help and sent a delegation to Kisumu in November 1900. This pattern of approaching the British for help in defending clans from others was replicated in many areas in Kenya.

The colonial system did not totally destroy existing networks; instead, it used them to construct a new intelligence system. Initially, the primary British security interest was

the Buganda road. By the 1880s, they established three food-buying stations – the Machakos, Fort Smith and Mumias – which became the bases of conquest or contracted friendships. Among the Kikuyu, the British depended on Waiyaki, and later Kinyanjui in the South, Karuri in the central region and Wangombe in the north. All had come to prominence due to their trade connections. The initial benefits of collaboration with the British were related to trade; however, the majority of these collaborators later assumed significant roles in the entrenchment of colonial rule. Thus, until the British could establish an effective intelligence system to protect its colonial rule, they had to depend on the pre-colonial intelligence gathering system. Initiation of this new system would also take some time, because the British were in the process of merging intelligence and police knowledge from Britain and India.

2.8 Development of Colonial Intelligence

The colonial government instituted some form of intelligence gathering system very early by developing a number of information sources - tourists, missionaries and adventurers, to name but a few. The information they gathered was on the type of people they were to colonise, whether these people could be administered peacefully or if there would be need for force to administer them. The colonial government employed their own intelligence gatherers, who could not divulge information to the Africans on their intentions. The number of Africans involved in this early quest for intelligence was very few. Also, very few Africans were aware of the existence of this emergent colonial intelligence system. After the British occupation of the East African Protectorate in 1895, the British chose to go to the local level to organise its information gathering about the African people. District Commissioners (DCs),

Provincial Commissioners and retainers were recruited in this effort. Sources of information varied from the missionaries and other white people to African allies and collaborators. At the local level, individuals who gathered information were referred to as “collectors”. Reports of all sorts abounded, but they were mostly from civil servants, such as C.W. Hobley, Mombasa’s Deputy Commissioner. As of 1906, intelligence reports were submitted to His Excellency the Commissioner and Commander in Chief of the East Africa Protectorate from the sub-commissioner’s office. These reports discussed administrative problems, politics and general society issues, native tribunals, civil and criminal cases, labour, public works and communications, agriculture, meteorology and military and other matters or events of importance. Before 1906 intelligence reports comprised descriptions of local communities, including information on tribal laws, chiefs, customs, boundaries, religion, food, villages, arms and weapons. Security was also a crucial factor for the colonists. The British East African Police was established in 1902; for the next 18 years the force was also used for intelligence and it was within the structure of the police that official intelligence would eventually be situated. Legislation governing the police up to 1906 had been taken from the Indian Police Act (1861) and the Indian Railway Act (1890).

There was a veritable spate of legislation enacted during 1906, the most important for the force being the Police Ordinance (No. 23 of 1906). The Police Ordinance of 1906 legally constituted the Kenya Police. Police duties involved all and sundry. A police officer was expected to be a jack-of-all-trades.

While intelligence was not yet well-organised, the police engaged in intelligence information gathering. It is difficult to isolate the police and the functions of policing from the broader fabric of colonial rule. Similarly, it is significant to fix the whole notion of the acquisition of intelligence information, as David Anderson argues, as within the rubric of policing the empire. Because of the political and economic requirements of colonial rule, all agents of colonialism were on some level involved in policing as well as intelligence information gathering. During World War I, there was a change of focus to gathering intelligence on Britain's enemy and its activities in neighbouring countries. An intelligence department was hastily organised in Nairobi. Its nucleus was the Game department, which already had staff of native spies (one of whom was normally attached to each safari to see that the game laws were not infringed) and a corps of informers to detect ivory poaching. With the formation of the war council in September 1915, the game department was closed. In fact, the game department had been transformed into an intelligence unit.

Sources of intelligence during the war years were intelligence officers, local chiefs, heads of all missions, scouts, intelligence agents, hunters, herdsman, guides, interpreters, messengers and reliable headmen, ex-police and missionaries. In some of the most volatile areas, code messages were wired -telegraphic communication was significant. African agents were recruited merely on the basis that they could gather intelligence information upon instruction; they were engaged in war espionage in Kenya and in neighbouring countries and used every means to get this information.

They tapped telegraphic information, tracked the enemy, especially ambassadors of other countries on their trips to their countries. They visited border points, beaches and hotels where cooks and other workers of African descent were contacted and relied on for information. There was also counter-intelligence, which occurred among coastal traders who sent news to the enemy and walked about the country pretending to engage in trade. The communities were warned that if they saw any such person, they had to capture and handed over to the colonial government. The War convinced the colonial government of the importance of good information that was reported to the right agencies for deciphering and requisite action. Because of the urgency of war, all and sundry joined the bandwagon - the military, the police and intelligence. World War I was also significant because it marked the emergence of a rudimentary system of military and police intelligence which was to develop over time. Soon after the war, it was clear that there was need for the reorganisation of the security apparatus to apply lessons learned in combat to intelligence gathering under conditions of relative peace. The important point to note is that there was no allegiance to the antiphon when Africans were forced to serve in the colonial intelligence.

2.9 Post-World War I Intelligence Reforms

In 1918, the police force under the continued command of Lieutenant-Colonel Notley was targeted for reorganisation. When Kenya became a protectorate and a colony in July 1920, the title of the force also changed from the British East African Police (BEA) to the Kenya Police. This marked the beginning of a new era for the force, as it had to cope with security issues caused by an ever-increasing influx of settlers, causing both expansion of the force and the building of new police stations.

(Foran,1962:53). The police also had to cope with emergent African nationalism throughout the colony.

In 1923, the settler community became incensed at the perceived intentions of the government regarding Asian immigration and land settlement in the white highlands. Such situations called for intensification of police surveillance and reorganisation to meet the needs of the times. Reorganisation entailed increasing personnel and creating better administrative and residential housing according to the suggestions of R.G.B Spicer, the new Kenya Police Commissioner (Kenya Police Annual Report, 1938:64). During the 1920s, measures were taken to create the Criminal Investigations Department (CID) within the police force. Requisite arrangements had already been made for an allotment of European, Asiatic and African personnel to form the nucleus of an efficient CID. The CID was formally instituted in 1926 (Ndeda, 2006:110)¹⁵. It was initially manned by whites; no intensive investigation courses for CID officers were offered, except for those who came from Britain already trained (Foran, 1961:61)¹⁶.

Originally a special branch of the CID criminal investigation department, the Director of Civil Intelligence (later known as the Director of Intelligence and Security) was responsible for the collecting and sifting of intelligence which emanated from local police formations and the administration. In 1945, an important change was made in the organisation of the Special Branch (SB) of the CID. Over time the SB was separated from the CID and became responsible for all matters pertaining to

¹⁵ Ibid

¹⁶ Robert Foran *'The Kenya Police'* (1962).

intelligence and security control (KNA, GO/3/2/ 73). During the 1930s, because of the volatile international and local situation, the intelligence required hinged on the security of the nation. The aim of intelligence in this period was: to convey to headquarters the situation on the frontiers, to give warning of changing conditions in foreign territories and to report even the smallest indication of incipient hostilities on foreign soil or British territory (Ndeda, 2006:137)¹⁷.

Hence, intelligence reports provided information on tribes, movement of Italian forces and supplies, transport communication, aerodromes and landing grounds, ammunition and explosives, hospitals, personalities and any other helpful materials. Apart from military concerns, the director of intelligence and security also observed the actions of growing number of independent churches as an area of internal security concern. In the post-World War II period until 1963, the focus of intelligence became the emergence of the Cold War, communism, trade unionism and labour unrests, political activism and religious 'atavism'. It is during this period that the SB began to assume a clear identity. Its activities expanded from collection of intelligence on criminal activities to investigation of citizens agitating for independence and the trade union movement. This expanded intelligence role on the road to independence included the monitoring of movements of prominent African personalities and submitting detailed reports to Nairobi. The SB also dealt with issues concerning the growing Mau Mau uprising against colonial rule. Organizational changes to security forces during this

¹⁷ Ibid

period included the introduction of the district formation, establishment of a central registry and file room, a modus operandi section and a crime reading section.

However, the department continued to experience a shortage of staff, office equipment and other technical aids and necessities during this period (Ndeda, 2006:185)¹⁸. In the early 1950s, the prosecution SB office in Nairobi was placed under the command of CID Headquarters. When it became apparent that the CID at its existing strength was unable to investigate adequately the heavy and increasing volume of serious crimes, certain highly and experienced CID officers were seconded to the Kenya Police Force to investigate serious crimes committed in various parts of the colony (Ibid, 189). The SB increased its efforts to combat the Mau Mau insurgency by expanding the force. The uniformed force and specialised units (including the SB) were increased; SB's centralised headquarters in Nairobi was enlarged and subordinate formations strengthened at provincial and divisional levels throughout the colony. Military intelligence was attached to all levels of the SB; intelligence officers were employed throughout the Kikuyu, Embu and Meru reserves and the Rift Valley Province. Many changes took place in the intelligence services during the Mau Mau period.

It was obvious that shortcomings in intelligence had contributed to the situation, as it had either failed to assess the true level of conflict that the Mau Mau uprising was generating or had failed to impress on the government the growing dangers to state stability. The immediate government response to the issue was to reorganise the

¹⁸ Ibid

intelligence service. Sir Percy Sillitoe, the Director General of Security Services in the United Kingdom, arrived in Kenya in November, accompanied by A. M. Macdonald of the Security Service, to review the machinery for the collection and processing of intelligence. Macdonald advised that a Kenya Intelligence Committee (KIC) should be established to provide direct advice, particularly on political security intelligence, to the governor. Members of this committee would include, among others, the intelligence advisor to the Governor, the SB, the Secretary of Law and Order, a member of African Affairs and the East African Command Security Liaison Officer. Macdonald also recommended that intelligence committees be constituted at provincial level. This reorganisation stood the strains of the Mau Mau emergency; the KIC and its dependent provincial and district intelligence committees became a permanent feature of government. The responsibilities of the SB extended beyond the gathering of intelligence; new provincial-level SB responsibilities ranged from guarding government buildings to advising the government on vetting staff members to ensure secrecy (Ndeda, 2006:230).

The role of intelligence on the road to independence was to monitor movements of prominent African personalities (such as Kenyatta), listen to what they said about the colonial administration and submit reports to Nairobi. The DICs constantly reviewed the district-level political situation and filed similar reports to the government. Suffice it to say that the police, SB and all other security agencies were used to hound those citizens and groups who were against the political status quo. Use of excessive force was an accepted modus operandi in order to ensure compliance. The operational

ethics of Kenya's colonial intelligence system, forged as they were in the turbulent years before independence, ensured that the post-independence government would inherit an entrenched colonial intelligence mentality that would continue to hold sway after independence was declared. After Kenya gained independence in 1963, changes were made to the administration of the police force, particularly the replacement of expatriate officers in the senior ranks by Africans.

Kenyatta and his associates preserved what they most needed from the colonial state, particularly important aspects of the law and order. Institutions such as provincial administration, police and army were taken over intact; Kenyatta even retained the services of many European officers (Ochieng, 1995:102). Under section 104 of the 1963 Constitution, each regional assembly was empowered to establish provincial and district security committees; it was presumed that in each region there would be a committee dealing with internal security and public order. The meetings held by these committees were attended by the regional SB Officer and a military representative, among others. The 1964 amendment to the Constitution abolished the Police Service Commission, the National Security Council and the post of Inspector General and placed the police force under a less powerful Commissioner of Police. Lamentably, constitutional safeguards of the police force were absolutely and senselessly destroyed by the Kenya Constitution (Amendment) Act of 1969, leaving only a skeleton, which permitted the appointment of the police officers below the sub-inspectors by the commissioner of police and those above by a weakened Public Service Commission.

The removal of all constitutional safeguards for the police force left the relevant Acts of Parliament, including the Police Act, suspended and without a constitutional base. The stipulation that the police force under the Police Act was placed under the Commissioner of Police was inadequate. The linking of the police force to the provincial level exposed the police force to manipulation and fragmentation by the provincial administration, which commanded the police force through unconstitutional security committees (Finance, 8/9/1997, Ndeda, 2006: 259)¹⁹. In 1965, James Kanyotu began his tenure as spy chief for 26 years until his retirement in 1991. All senior police officers reported to Kanyotu, who oversaw an era in which police and intelligence services were to become politicized and linked to particular individuals. This led to a wide range of nefarious activities, including political assassinations. At the same time the SB also carried out overseas intelligence gathering activities and liaison with other services on its own. After Moi took over the Government in 1978, he had to quickly take care of potential threats (Ogot, 1995). It could be said that the SB were caught napping during the 1982 coup attempt. A number of SB officers were transferred to uniformed duty while others were transferred to other departments. The coup also led to an unprecedented strengthening of the Presidency. By early 1982, the police force (SB included) had clearly emerged as a tool of repression (Ndeda, 2006:308). Scores of people were arraigned in court without legal representation and with evidence purportedly extracted through torture. Detention and political repression were used to good effect.

¹⁹ Ibid

2.10 The Kenyan Intelligence Services (1952–1963)

The first Kenyan intelligence service, the Special Branch, was in the beginning a specialised section of the Criminal Investigations Department (CID) instituted in 1926. The Special Branch, as an independent unit, was formally established in 1952 and operated under the commissioner of police. As elsewhere in the British Empire, the intelligence organization before 1952 was rudimentary at best. The need for a local independent intelligence service had been identified as early as 1945 by the various governors of Kenya, but no funds were allocated for the purpose.²⁰ The establishment, or rather upgrading, of the Special Branch was a direct result of the outbreak of the Mau Mau emergency in Kenya, which obviated the need for serious investment in a local intelligence service. However, at the official declaration of the Mau Mau emergency in October 1952, the entire Special Branch only consisted of three European, one Asian officer and a few Kenyans. A new head of the Special Branch, who arrived in 1952, described the organization as unable to handle even normal intelligence work. This situation was made acute by the governor of Kenya, who not only believed that his intelligence organization was competent and effective but did not believe that there would be a Kikuyu revolt in Kenya.²¹ In November 1952, after the emergency had become a fact the new governor spent considerable time developing the Special Branch.

The “Malayan model” was quickly adopted, as it had proven successful against the Communist rebellion in Malaysia. The Malayan model, or simply the Special Branch

²⁰ *ibid*

²¹ Boinett, Brigadier (rtd) Wilson.. The Origins of the Intelligence System of Kenya. In *Changing Intelligence Dynamics in Africa*, 15-40, 2009.

system, established intelligence stations spread throughout the country in order to get reliable first hand tactical intelligence from the field. One of the main advantages of this system was that it created a permanent presence in the field, allowing for the establishment of local information and contacts.²² It took until 1954, when the police and the Special Branch had been developed to a degree that the tide in the struggle against the Mau Mau rebellion turned. A number of intelligence successes eventually led to the defeat of the military wing of the Mau Mau rebellion.

2.11 Role of special branch in Mau Mau

Robert Foran in his book *'The Kenya Police'* (1962)²³ has argued that a number of stories could be told about the valor, determination, and skill of Special Branch officers in defeating the rebellion (Heather 1990, 78f; Foran 1962, 216ff). During the emergency years, the Kenya police and the colonial administration acted as one. These years were formative for the police and the Special Branch in developing torture and oppression as tools to support and uphold the ruling administration. After Kenya became independent in 1963, the police and intelligence structures put in place by the colonial administration remained, and the Kenya Intelligence Committee and the district and provincial intelligence committees became permanent features of the post-independence government.²⁴ The Kenya Human Rights Commission noted the following in a 2002 report:

²² Herman, Michael. 1996. *Intelligence Power in Peace and War*. 5th Printing. Cambridge: Cambridge University Press.

²³ Ibid

²⁴ Ibid

As the country moved quickly to self rule, having in place the same police units, the same police structures [to which the Special Branch belonged] and many of the same police officers made it inevitable that the same culture of supporting the regime in power would permeate the force and be carried over into the new post-independence era (Kagari and Thomas 2006, 5)²⁵.

Conclusion

Britain decolonized most successfully when they defeated the military insurgency first, using intelligence rather than force of arms, before negotiating a political solution based on the political leadership of the defeated insurgency movement, and with British force of arms to maintain the installed government. This is basically what happened in Malaysia and Kenya, and both these countries have survived intact.²⁶

Peter Wright (1978) in the book *Spy Catcher* s indicated that the role of intelligence in a time of decolonization merits some attention and argues that the successful deployment of intelligence (and force) went a long way towards defeating the Mau Mau insurgency. He also thought that the neglect of the Kenyan police and the Special Branch prior to the outbreak of the Mau Mau rebellion greatly prolonged the rebellion. The Mau Mau rebellion led to a state of emergency in Kenya that lasted from 1952 until 1960. During this period, the Kenyan police reserve, the Special Branch, and the Criminal Investigation Department (CID) conducted notorious

²⁵ *Kagari and Thomas (2006 5) Quote*

²⁶ Wright, Peter. 1987b. *Spy Catcher: The Candid Autobiography of a Senior Intelligence Officer*. New York, USA: Viking.

campaigns of torture and intimidation against members of the Mau Mau rebellion. Because of the roughness of the methods used, especially initially, the wrath of these organisations hit broadly and generally against the Kenyan population.

First, there was lack of preparedness which allowed the Mau Mau rebellion to gain in size, strength, and momentum in a way that it would not likely have done had the Kenyan police and intelligence services been well equipped and structured prior to 1952. Secondly, the slow response by the colonial government in building an adequate security service allowed for a number of wrongful turns, such as the arrest of Kenyatta and the widespread use of torture and detention camps, which galvanized Kikuyu resistance against the government.

Thirdly, the eventual rise of a capable police and intelligence force allowed the British to defeat the insurgency, without an all-out war, which in turn facilitated a smooth transition to independence. Maloba Wunyabar, (1990) in his discussion while quoting from Randal W. Heather, opined that it was reasonable to estimate that effective intelligence services provided for a smooth transition to independence. However, to fully understand the role of the intelligence services in the Kenyan move to independence, one must also appreciate that it was intelligence failures that both galvanized the opposition against the colonial government and sped up the Kenyan transition to independence.

Colonial rule in Kenya took about 70 years and John Mwaruvia in a lecture delivered on review 632 (*Reviews in History Mau Mau liberalist movement*)²⁷ enumerated some of the Mau Mau consequences like the vulnerability of white settlers, British government spending a lot of money, high tides for colonial resistance as witnessed in Trade Unions, movements by Africans Legislature council formation pressure from US and Soviet Union and Incorporation of Africans in Administration.

²⁷ John Mwaruvia in a lecture delivered on review 632 (*Reviews in History Mau Mau liberalist movement*)

CHAPTER THREE

IMPACT OF THE MAU MAU 1945-1964

3.0 The Impact of Mau Mau Intelligence (1945 - 1964)

David A. Charters in the Journal of African Studies vol.29/2009 states that before 1945, The British only fought “small wars” mainly on rural guerrillas and victory was determined by local conditions using police as a lead agency for intelligence. The British Intelligence therefore had been concerned only with collection of intelligence during the cold war with the Soviet Union; hence what used to be in place was a counter insurgency situation. It basically means that there was no single entity directing intelligence collection effort or collating and analyzing. In 1949 how ever an internal security manual placed emphasis on the need for accurate and timely intelligence, using all sources approach which means the use of human and Signals methods as well as holding of frequent Security intelligence conferences.

The capture and interrogation of Mau Mau deputy commander ‘General China’ and the search of Nairobi in *Operation Anvil* (both in 1954) generated a great deal of intelligence. ‘China’ provided considerable detail about the forces under his command and forced Special Branch to dramatically revise upwards their estimates of the size of the gangs in his area. Although that came as a surprise, he also revealed that his forces were very poorly armed. Likewise, the Nairobi search led to the breakup of the Mau Mau support infrastructure, dealing "the movement a blow from which it never recovered. Together, these actions probably constituted major "turning points" in the campaign.

But the Kenya Emergency was also notable for an innovation in intelligence collection and exploitation: the 'pseudo-gang' or 'counter-gang'. While not invented in Kenya, the concept was tried with unintended, disastrous results in Palestine, it was refined to an art form in the African campaign. Special Branch was becoming more proficient, and the flow of information was increasing from a population, now concentrated in protected villages, that no longer feared retribution from the gangs. Heather in his book, "*Intelligence and Counter-Intelligence in Kenya*," pp. 74-78 and in a note to the author, Huw Bennett points out that there is some evidence to suggest the Kenya Regiment may have invented the pseudo-gang before Kitson first tried the concept.²⁸ The war was effectively over by 1956.

3.1 Inherited Colonial Administration Structures

Charles Hornsby (1998) Kenya; *A History since independence*²⁹, says that for almost five decades of functioning nation –state with regular elections and its borders intact Kenya has not been able to transcend its colonial past, with the government not able to fulfill most of the policies envisaged for instance in session paper number ten of 1965.³⁰ The policy envisaged the eradication of poverty, diseases ignorance or illiteracy. Hornsby believes that the key issues of conflicts in Kenya remain land (main resource for wealth), money power, national autonomy and distribution of resources.³¹ The elites have continued to plunder national resources and the struggle for the nation is to deliver security, impartiality, efficiency and economic growth

²⁹ Charles Hornsby (1998) Kenya; *A History since independence*

³⁰ Sorrenson, M. P. K. *Origins of European Settlement in Kenya*, Nairobi: Oxford University Press, (1965).

³¹ Leys, C.: *Underdevelopment in Kenya: The Political Economy of Neo-Colonialism*, London: Heinemann, 1975.

since the future of Kenya is uncertain. At the attaining of independence, colonial Administration structure was retained principally. The law enforcement units beginning with regular police began as native police who reported to local Village Headman. In 1929 they were formalized by tribal police ordinance which provided for their training under the oversight of Regional agents who in turn also reported to commissioner of police. Kenya police reservists still give a backup in rural areas.

They are sometimes called Home Guards. Administration police (AP) was formerly called tribal police and reported to a local District Commissioner, who in turn reported to office of the president. The General Service Unit (GSU) were initially called Emergency Company established by the colonial government to battle Mau Mau freedom fighters. They are now paramilitary unit with the officers seconded to special duties like Presidential guards, VIP and Diplomatic protection. This is the unit that is called Recce and mainly takes some of their operational courses from Israel.

3.2 The Kenyan intelligence services (1952–1963)

The first Kenyan intelligence service, the Special Branch, was in the beginning a specialized section of the Criminal Investigations Department (CID) instituted in 1926. The Special Branch, as an independent unit, was formally established in 1952 and operated under the commissioner of police. As elsewhere in the British Empire, the intelligence organization before 1952 was rudimentary at best. The need for a local independent intelligence service had been identified as early as 1945 by the

various governors of Kenya, but no funds were allocated for the purpose.³² The establishment, or rather upgrading, of the Special Branch was a direct result of the outbreak of the Mau Mau emergency in Kenya, which obviated the need for serious investment in a local intelligence service.

However, at the official declaration of the Mau Mau emergency in October 1952, the entire Special Branch only consisted of three European, one Asian officer and a few Kenyans. A new head of the Special Branch, who arrived in 1952, described the organization as unable to handle even normal intelligence work. This situation was made acute by the governor of Kenya, who not only believed that his intelligence organization was competent and effective but did not believe that there would be a Kikuyu revolt in Kenya.³³

3.3 Establishment of local networks

In November 1952, after the emergency had become a fact the new governor spent considerable time developing the Special Branch. The “Malayan model” was quickly adopted, as it had proven successful against the Communist rebellion in Malaysia. The Malayan model, or simply the Special Branch system, established intelligence stations spread throughout the country in order to get reliable first hand tactical intelligence from the field. One of the main advantages of this system was that it created a permanent presence in the field, allowing for the establishment of local

³² Johnson, L. K.. Preface to a theory of strategic intelligence. *International Journal of Intelligence and Counter Intelligence*, 16 (4), 638-663, 2003.

³³ Boinett, Brigadier (rtd) Wilson.. The Origins of the Intelligence System of Kenya. In *Changing Intelligence Dynamics in Africa*, 15-40, 2009.

information and contacts.³⁴ It took until 1954, when the police and the Special Branch had been developed to a degree that the tide in the struggle against the Mau Mau rebellion turned.

A number of intelligence successes eventually led to the defeat of the military wing of the Mau Mau rebellion. Robert Foran (1962) has argued that a number of stories could be told about the valor, determination, and skill of Special Branch officers in defeating the rebellion (Heather 1990, 78f; Foran 1962, 216ff). During the emergency years, the Kenya police and the colonial administration acted as one. These years were formative for the police and the Special Branch in developing torture and oppression as tools to support and uphold the ruling administration. After Kenya became independent in 1963, the police and intelligence structures put in place by the colonial administration remained, and the Kenya Intelligence Committee and the district and provincial intelligence committees became permanent features of the post-independence government.³⁵ The Kenya Human Rights Commission noted the following in a 2002 report:

As the country moved quickly to self rule, having in place the same police units, the same police structures [to which the Special Branch belonged] and many of the same police officers made it inevitable that the same culture of supporting the regime in power would permeate the force and be carried over into the new post-independence era (Kagari and Thomas 2006, 5).

³⁴ Herman, Michael, *Intelligence Power in Peace and War*. 5th Printing. Cambridge: Cambridge University Press, 1996.

³⁵ Laqueur, W. *The uses and limits of intelligence*. New Brunswick, NJ: Transaction Publishers, 1993.

Britain decolonized most successfully when we defeated the military insurgency first, using intelligence rather than force of arms, before negotiating a political solution based on the political leadership of the defeated insurgency movement, and with British force of arms to maintain the installed government. This is basically what happened in Malaysia and Kenya, and both these countries have survived intact.³⁶

3.4 Failure of special branch during Mau Mau

Peter Wright's perception of the role of intelligence in a time of decolonization merits some attention. While it can be argued that the successful deployment of intelligence (and force) went a long way towards defeating the Mau Mau insurgency, the neglect of the Kenyan police and the Special Branch prior to the outbreak of the Mau Mau rebellion greatly prolonged the rebellion. Randall W. Heather argues that the failure of the Special Branch to accurately identify the leaders of the militant wing of the Mau Mau rebellion led to the arrest and trial of Jomo Kenyatta. Kenyatta was clearly a political figure and his imprisonment contributed to galvanizing the Kikuyu resistance against the colonial government.³⁷ The Mau Mau rebellion led to a state of emergency in Kenya that lasted from 1952 until 1960.

During this period, the Kenyan police reserve, the Special Branch, and the Criminal Investigation Department (CID) conducted a notorious campaign of torture and intimidation against members of the Mau Mau rebellion. Because of the roughness of

³⁶ Wright, Peter. 1987b. *Spy Catcher: The Candid Autobiography of a Senior Intelligence Officer*. New York, USA: Viking.

³⁷ Maloba, Wunyabari O. 1994. *Mau Mau and Kenya: An Analysis of a Peasant Revolt*. Nairobi, Kenya: East African Educational publishers.

the methods used, especially initially, the wrath of these organizations hit broadly and generally against the Kenyan population (Kagari and Thomas 2006, 4ff). The role of the intelligence services in the Mau Mau rebellion should be considered from at least three different perspectives. First, the lack of preparedness allowed the Mau Mau rebellion to gain in size, strength, and momentum in a way that it would not likely have done had the Kenyan police and intelligence services been well equipped and structured prior to 1952.

Second, the slow response by the colonial government in building an adequate security service allowed for a number of wrongful turns, such as the arrest of Kenyatta and the widespread use of torture and detention camps, which galvanized Kikuyu resistance against the government. Third, the eventual rise of a capable police and intelligence forces allowed the British to defeat the insurgency, without an all-out war, which in turn facilitated a smooth transition to independence. It is reasonable to say that Wright is correct in his estimate that effective intelligence services provided for a smooth transition to independence. However, to fully understand the role of the intelligence services in the Kenyan move to independence, one must also appreciate that it was intelligence failures that both galvanized the opposition against the colonial government and sped up the Kenyan transition to independence.

3.5 British colonialists

It is imperative that the colonial administration in Kenya was British and its governance was through indirect rule. In order to practice their continuity, they ensured that they recruited mercenaries as porters and guides, chiefs displaced

traditional elders, who later on became opportunists. Although they did not destroy existing network, they build a new intelligence system. Initially, colonialists gathered information from tourists (explorers), Christians and traders but later on after 1985 through commissioners and retainers including African allies and collaborators.

From 1906, intelligence reports were checked through commissioners and retainers. From 1906, intelligence reports were submitted to commissioner of East Africa Protectorate. The British east African police was established in 1892 and for 18 years gathered intelligence. During world war one, the focus of intelligence gathering shifted from African affairs to information on enemy activities in neighboring countries. African agents were recruited and tapped telegraphic communications tracked the enemy, and visited other African workers to gather information coastal traders engaged in counter intelligence. In 1926, a criminal investigations department was created and staffed by the colonialists and involved a special branch responsible for gathering intelligence.

After the Second World War until 1963, special Branch activities expanded from collection of intelligence on criminal activities investigation of citizens agitating for independence and the trade union movement. Special branch was also recruited to combat Mau Mau insurgency but was re- organized following intelligence failures. Post-independence government of Kenya inherited an intelligence mentality that used force to ensure compliance. After 1965, police and intelligence services became politicized and linked to individuals. The beginning of By 1982, the police force

including the Special Branch had become a tool of oppression, systematically abusing the law and disregarding the constitution.

In 1998, the National Security Intelligence Service (NIS) was created and over 170 Special Branch officers from Special Branch were purged from NIS. In 1999, the police and NIS were separated, arrest authority with drawn from NIS and a tribunal was established for complaints against the intelligence service.³⁸

³⁸ Brigadier (Rtd) Wilson Bionett Source Boinett W. 2009 “ *The Origins Of The Intelligence System Of Kenya* ; In Changing Intelligence Dynamics in Africa , Africa a J. Kwadjo: GFN –SSR and ASSN, Birmingham, UK Pp 15-40 Size 25 Pages (773 2008 global facilitation network for security sector reform.

CHAPTER FOUR

POST-COLONIAL KENYA, 1963-2002

4.0 Inherited Colonial Administration Structures

Charles Hornsby (Kenya; *A History since independence*) says that for almost five decades of functioning nation –state with regular elections and its borders intact Kenya has not been able to transcend its colonial past, with the government not able to fulfill most of the policies envisaged for instance in session paper number ten of 1965³⁹ The policy envisaged the eradication of poverty, diseases ignorance or illiteracy. Hornsby believes that the key issues of conflicts in Kenya remain land (main resource for wealth), money power, national autonomy and distribution of resources.⁴⁰ The elites have continued to plunder national resources and the struggle for the nation is to deliver security, impartiality, efficiency and economic growth since the future of Kenya is uncertain. At the attaining of independence, colonial Administration structure was retained principally.

The law enforcement units beginning with regular police began as native police who reported to local Village Headman. In 1929 they were formalized by tribal police ordinance which provided for their training under the oversight of Regional agents who in turn also reported to commissioner of police. Kenya police reservists still give a backup in rural areas .They are sometimes called Home Guards. Administration police (AP) was formerly called tribal police and reported to a local District

³⁹ Sorrenson, M. P. K. *Origins of European Settlement in Kenya*, Nairobi: Oxford University Press, (1965).

⁴⁰ Leys, C.: *Underdevelopment in Kenya: The Political Economy of Neo-Colonialism*, London: Heinemann, 1975.

Commissioner, who in turn reported to office of the president .The General Service Unit (GSU) were initially called Emergency Company established by the colonial government to battle Mau Mau freedom fighters. They are now paramilitary unit with the officers seconded to special duties like Presidential guards, VIP and Diplomatic protection. This is the unit that is called Recce and mainly takes some of their operational courses from Israel.

4.1 Components of arms of administration of justice.

Other departments that are law enforces are The prisons, Kenya Wild life Service (KWS) ,Kenya Forest Service (KFS), The National Youth Service(NYS) and National Intelligence Service (NSIS) formerly Special Branch (SB),Directorate of Security Intelligence and recently National Security Intelligence Service(NSIS).

James Kanyotu spent more than a third of his life in Special Branch, more than any other law enforcement officer and shaped the history of the country under both Presidents Jomo Kenyatta and Daniel Arap Moi. The special Branch was created in 1952 under British Administration to collect intelligence on Mau Mau. It also became instrumental in infiltration of Military officers who had mutinied over pay at Lanet in Nakuru.

4.2 The Transition Years 1963-1969

During this period, the Kenyatta regime was put to test militarily and politically before the heady celebrations had completely died away. Violence erupted on Kenya's North, Eastern borders and quickly escalated into a major crisis. Ethnic Somalis who had asked repeatedly during independence negotiations to have their grazing lands

annexed to Somalia began launching guerrilla attacks on Kenyan police posts and trading centers. Initially these attacks were attributed to lawless Somali bandits called 'shifita' but it became clear that they were getting support from the Somali government. Kenyatta finally declared a state of emergency in the north and began the process of securing the area, militarily. The guerilla war lasted 3 years but the insecurity that prevails in the northern part of Kenya has the genesis from this shift a insurgency. Politically, as soon as Kenya gained internal self-government on June 1, 1963 with Jomo Kenyatta as the prime minister, KANU started dismantling the *Majimbo* structure.

September 1963, Kenyatta went to London to work on the final documents and succeeded in removing some powers previously reserved to the regions and in There were serious security implications of Kenyatta's style of leadership. Opposition, whether it surfaced within the kikuyu land or elsewhere was not tolerated. Opponents were either integrated into the system or dispatched by economic intimidation, threats, denunciation or occasionally by detention.

Student relations with the Kenyatta government were markedly more contentious after the Mboya assassination. A series of student protests followed the Mboya assassination particularly centering on the refusal for Oginga Odinga to address students at the University of Nairobi. The University was closed, students sent home and prominent student leaders not readmitted until they agreed to abandon their protest. Protests were contained by Kenyatta's willingness to use force. The biggest challenges in Kenyatta's first decade were issues of land. Though the land policies had

been a political success in that many landless had obtained farms, economically the breaking up of the big European farms for African settlers had caused declines in agricultural production.

The original plan for the transfer of the 2750 large European farms had proceeded quite peacefully though the costs were high. The government purchase of European farms totaled \$28 million of which \$25 million departed from Kenya. The cost of converting estates to African ownership was an additional \$30 million.⁸² .2.1.3 1974-1978.

4.3 Kenyatta's Final Years, 1970-1978

The last four years of the Kenyatta reign were characterized by the entrenchment of the Kenyatta family as a potent political force. The state system drew closer to that of a monarchy and nepotism became commonplace, with kinship ties to the king as the most important single factor. Also, Kenyatta's age and health were topical issues and there were concerns that he had not groomed a heir.

During 1974, criticism of Kenyatta's style, involving nepotism, favoritism and in-group corruption became more open due to the growing economic hardship. The oil-based recession and drought beginning in 1973-1974 curtailed growth and cut severely into the governments \promise to improve the standard of living of the *mwananchi*.

One of the main critics of the emerging disparity between the rich and poor was the flamboyant MP for Nyandarua Josiah Mwangi Kariuki, popularly called JM. An ex-Mau Mau detainee and populist of considerable wealth, JM had risen to become a powerful MP and eventually leader of the unofficial opposition in parliament. One of his famous assertions was that 'Kenya was becoming a country of ten millionaires and ten million in summary during Kenyatta's reign one must underscore pragmatism as the essence of this era. Inequities, unemployment and corruption were part of it.

Aggressive black capitalism left many victimized; alliance with international business helped establish an enormous advantage for the economic elite. Simultaneously, however, economic stability and growth occurred; most Kenyans improved their life styles, and a multiracial society continued to operate. Kenyatta balanced a tough, ruthless, sometimes corrupt system to keep freedoms alive, to keep peaceful and to avoid military rule.

Kenyatta's era was a kind of democratic monarchy that faded with age and the 'mzee (Old Man) was venerated despite the last years of turmoil and heavy. The Rise of a party state in Kenya: from Harambee to Nyayo in her introduction Jennifer states that compared to most newly independent African countries, Kenya in 1960's and 1970's evolved relatively lowly towards full blown autocracy even though its identity as a defacto one party state. Only in 1980s were party, government and civil service essentially fused into a single hierarchical structure of power under personal control of a president determined to thwart all real or imagined opposition. This behaviour marked the gradual shrinking of the Kenya political arena, with shifting incentives on

the behaviour of political players. David Throup, Charles Hornsby 1998.⁴¹ The main issues the broadening of political and social freedoms in Kenya.

Kenyatta's health was always kept secret in what Macharia Munene in an article to the African intelligence media posted on 14th August 2013 in South Africa opined that many a power transition in Africa has been messed up because of needless secrecy about a leader's health creating a dangerous power vacuum when the potentate dies without warning.⁴²

In a lecture delivered by John Mwaruvie (In history review 632), it is evident that Moi era was typically the Kenyatta continuation of administration characterised by the fact that this was a time for transitional politics and challenges to nationhood, the second in an independent Kenya. Moi used peace love and unity slogan, to bring a sense of cohesion to the county just as his predecessor had used harambee notion to hold Kenyans together. In 1982, Moi faced an attempted coup and subsequent repercussions of having to behave defensively through the crackdown of any subsequent dissenting voices. During his reign, he embraced one party dictatorship and detention without trial and other forms of oppression, while strengthening KANU party the then ruling party through forced membership contribution. Decline in the economy was experienced in the country due to poor governance and plundering of state resources through corrupt deals like the Goldenberg scandals that involved the misappropriation of billions of money.

⁴¹ Multiparty politics in Kenya: the Kenyatta and Moi States and the triumph of the system in 1992 elections – Ohio University Press.

⁴² African intelligence media posted on 14th August 2013

Ethnic and class related interest groups violence, caused perennial tribal clashes and related security challenges always marred presidential elections and the role of Security apparatus was often abused by executive incumbent during elections.

4.4 The National Security Intelligence (NSIS) since 1998-2010

According to Boinett (2009) the spy agency in Kenya is described as one that appears to have transformed to meet the aspirations of Kenyans. He describes the sector like one that is supposed to be panacea for anyone looking for constitutional conformities and filed the following narrative accepting that he was at the helm then. It was clear that the SB needed to be replaced with an intelligence service based on democratic principles.

The days of the old SB and its crude and inhuman methods to extort information from suspects was over. To replace the SB and modernize the service, the National Security Intelligence Service (NSIS) was created by the National Security Intelligence Act of 1998. Chapter 2 Section 5 (1) of the Act of Parliament states the objectives of the service to investigate, gather, evaluate, correlate, interpret, disseminate and store information whether inside or outside Kenya for the purpose of:

- a) Detecting and identifying any threat or potential threat to Kenya.
- b) Advising the President and the Government of any threat or potential threat to the security of Kenya;
- c) Taking steps to protect the security interest of Kenya whether political military or economic.

- d) Security vetting for persons who hold or may hold positions that require security clearance.

The NSIS began its operations in 1998 with Brigadier (Rtd) Wilson Boinnett as Director General. His period of Office coincided with the reinvention of intelligence services in Kenya. He assumed his position in January 1999; more than 170 former SB officers were judged unfit for the NSIS and relocated to the police. As a former chief of military intelligence corps with training in local and overseas institutions, Boinnett was able, professional understood the core intelligence and institutional issues and enjoyed sufficient mandate to carry out necessary actions.

In 1999, Parliament passed laws that separated the organization from the police and removed arrest authority from the NSIS. Under this new legislation, NSIS officers can arrest citizens only with direct authorization by the Director General, only after investigative procedures had been exhausted and only where the case for arrest is very strong. For example, an individual would be considered a threat to national security if he was involved in act such as espionage and organized crime and/or if his actions were intended to undermine parliamentary democracy.

In addition, for the first time, there would also be a complaints tribunal where citizens could complain about the activities and abuses of intelligence officers. This tribunal would be headed by a Chairman appointed by the president but with required qualifications that would allow them to be considered for position of judge or the chief Kadhi. This was a major departure from the history of the SB.

It was significant that while the intelligence service became accountable under the enabling legislation, it maintained its secret character. It was also significant that the Director General was authorized to make staff appointments.

Despite these sweeping changes in laws governing intelligence, the need to improve the term service of the Intelligence personnel in order to attract service of well – trained and technical staff from other professions would remain a continuing issue. Poorly paid intelligence officers can remain vulnerable to corruption and espionage.

Separate from the police department, NSIS was now defined as a “civil Intelligence Service” with advisory, but no executive powers. NSIS officials are not allowed to use any force or inhuman and degrading treatment on suspects. NSIS functions include investigating, gathering, evaluating, collating, interpreting, dissemination and storing information from domestic and foreign sources and detecting and identifying any potential threat to national security. It advises the President and the Government on steps to be taken to protect political, military and economic security interests deemed of national importance.

The NSIS Act did not discuss the continuity or transfer of officers from SB to the NSIS. This allowed the NSIS to make a clean break with the past and begin a clean political slate. While in the past, intelligence officers were recruited only from the police service, NSIS recruited officers from both the private and public sector. When the Directorate of Security Intelligence (DSI) was disbanded, all its officers had to resign in order to allow the new service to recruit from scratch. Some of these officers

were later re- employed by NSIS. Those who did not qualify for the new intelligence service were returned to the police force. The NSIS used the interlude between demobilization of DSI and its own formation as an opportunity to off load most of the intelligence officers whose track records were unacceptable. At the same time, it was redefined its priorities to emphasize gathering industrial and economic intelligence as opposed to political intelligence. Thus, the process of constituting the NSIS became a comprehensive program to rid itself of its tainted past and adopt a clean image, complete with new a new recruitment process targeting some of the most talented graduates from local and foreign universities.

These changes brought challenges. The NSIS operations style needed to reflect service provision, not coercion. Expectations were high for the new service; officers were expected to be credible, proficient, above board, reliable and readily available. The NSIS needed to strengthen its capacity to undertake expert research in crime such as banditry and ethnic warfare. It also needed the intellectual and material resource capacity to unravel sophisticated forms of crimes such as money laundering, narcotics, economic crime, and sabotage high tech fraud.

In 2003, four years after its inception, NSIS conducted internal restructuring, abolished one division and created the analysis and production division which took over most research analysis, production and dissemination from the operational division. It initially had three departments, (Political, Economic, Security and Diplomacy). These were reorganized into Democratic, Economics and Foreign and Diplomacy, all headed by Assistant Directors. Previously, preparation of key products

such as brief for the Head of State and key government departments was shared between the aforementioned three divisions. For the purpose of harmonizing of service delivery and products a brainstorming center was opened and Analysis and a Production Division created.

Recruitment for the NSIS now targets university graduates and those with post – graduate qualifications for one year course at its training academy in Nairobi. Entrants are introduced to the world intelligence and study human psychology, sociology, counter –intelligence, structure and the science of ballistics and narcotics. After this through training, training usually conducted by Kenya instructors in collaboration with other experts trainers from the United States of America (US), Great Britain and other friendly services, the trainees are evaluated and deployed to the appropriate service branch.

CHAPTER FIVE

THE KIBAKI SHIFT-2003-2012

5.0 Introduction to Kibaki Era

Mwai Kibaki was the third president of the republic of Kenya and is synonymous with both constitutional and economical reforms. He was voted through coalition by various political parties National Alliance Rainbow Coalition (NARC) and National Alliance of Kenya (NAK) Through a Memorandum of understanding that split the movement in 2004. There was the first referendum on the new constitution 2005 and defeat of government supported institution or camp. However, the second referendum succeeded.

Although in 2007 there was post election violence in Kenya which hit mainly Rift valley and some areas of Nairobi like Kibera and Kasarani. His legacy was not tainted like the ones of his predecessors. His governance was ideally a hybrid or modification of the previous two regimes he was the real political paradigm leader who steered the country into the new constitution that he promulgated on 27th August 2012. There were challenges faced by grand coalition government in the process of giving the country a new constitution. Among other constitutional reforms included formation of truth and reconciliation committee, trial of perpetrators of post election violence by ICC at The Hague, formation of a Local tribunal that failed hence Kenya opted for Hague, later creating national a controversy by when the suspects became the chief executives of Kenya, the president and the deputy. The politicians opted for remedies that included pulling out of the Rome statute. Finally, there was the formation of independent electoral commission; the interim electoral and boundary commission

which prepared the country for 2013 elections (were supposed to have been done in 2012).

5.1 The Paradigm shift

The term paradigm is a widely accepted pattern of thinking model or frame work used to explain phenomena and interpret a reality or serves as an exemplary solution to a problem Thomas Kuhn (1962), the structure of scientific revolutions⁴³. Although the word paradigm was used in the 1960's as a fashion to inventions in science fields, Kuhn the inventor of the idea used a drawing of a duck and a rabbit joined together are the head but facing different directions while depicting in every way the idea the reader makes of the diagram. He meant to suggest that time had come in which issues must be looked at differently without necessarily altering their meaning. The concept is largely used in science but may be used also interdisciplinary to describe a new way of doing things which could be translated to mean moving from business as usual to business un usual. Since 9/11, a paradigm shift in all the intelligence communities of the world have also changed and this thesis tried to examine if it so with the Kenya's situation other than probably to shift to suit the interests of regimes at given times.

The end of the cold war has brought about significant changes in political, economic, social and cultural structure in the international system. makers increasingly find themselves in the middle of decision making process that require them to devise strategies that provide for shifting security needs including political demands and accelerating social and technological changes that characterize an even more complex

⁴³Thomas Kuhn (1962). *The structure of scientific revolutions*.

security environment. This calls for a total paradigm shift in carrying out of security operations by individuals charged with the responsibilities of maintaining and enhancing National Security.

5.2 Inter-agency cooperation

Other departments could be allowed to collect intelligence of any kind and then be compared for operations where possible to avoid conflict. It is believed that for example the provincial administration should constantly compare notes with the national security intelligence service.

In the face of more serious threats to the Nation and the World, Private sector should be encouraged to form intelligence networks and collaborate with the government so as to combat issues like terrorism which are battles with neither war fronts nor visible combatants. Threat assessments should be a collective venture for safer nations. This means however that the government agency more resources to effectively do collection of intelligence.

This thesis persuades that in Kenya and indeed most African states, most of their Intelligence organizations are entities shrouded in unnecessary mysteries. The Canadian Security Intelligence Service (CSIS) is a good example of a transparent system especially when it comes to use of funds for whatever reason. This is a major point of departure from their African counterparts.

During Kibaki's tenure, the legacy left for the Security Machinery in Kenya was a total shift. This includes the era of reforms in the Police to change from Kenya Police

force to Kenya Police service, the aim being to try and redeem the previously tainted image.

The National Security Intelligence Service was also anchored in the new constitution and had a parliamentary oversight. This contrasts the previous regimes where the service operated under a presidential charter hence operated at the whims of the Executive.

In the new constitution NIS operates within its prescribed limits and members of the public for the first time in its history, frequently question its essence especially when there are security lapses, for example the Westgate terrorist attack in Nairobi on 21st September 2013.

There were various reactions from security experts, professionals and members of the public who questioned the inter agency coordinating system during disasters of such magnitude.

In 2003, President Kibaki grounded NSIS even more firmly in the country's effort to respond to modern security challenges. He unveiled new priorities for the service, including the responsibility to provide early warning on matters of national interest, with an emphasis on security, terrorism and involvement in the campaign against corruption.

In the past ten years, NSIS managed to establish itself as a professional intelligence agency. Its focus and identity are clear and included. Its vision, mission, goals and objective, commitment, motto and credo support an organization that is accountable,

founded on good ethics, values and culture. It is designed to stand the test of time with well developed policies with the law and with profound understanding of Kenya's aspirations and national interests.

At the same time, the public needs to have confidence and trust in NSIS in order to cooperate with and respect the service. Citizens need to know that if and when they volunteer information on any organized crime, their identities will be protected. Since secrecy is the hallmark of NIS, this concern maybe unwarranted. However, when all the public hears regarding NIS is what they fail to do or what they undertake poorly, citizens are understandably wary of involving themselves by providing information. Kenyans need to know that NIS, even if it is shrouded in secrecy at times, is their tool and useful for their well being. Despite this and other challenges, the NIS is one of the most advanced intelligence organizations in the region.

5.3 Paradigm from Realism to Liberalism

Conclusion

Signs of security failure leads to reason for extra-judicial killings (not making use of the judicial system that is meanwhile embroiled in equables over leadership and plundering of public resources. Freezing their accounts, Alshabaab could turn to poaching, piracy and kidnapping as well as enhancing terrorist attacks, hence

affecting tourism industry. Even with NIS warning on time the leadership is likely to fail if not involved in the whole cycle and process of intelligence operations.

Commenting on the events after the Westgate Mall Terrorist attack of September 21st 2013, in the Standard Newspaper of 5th October 2013, Lieutenant – General (retired) Humphrey Njoroge said that the first hard question is what is the chain of command and termed the incident as a display of planning and execution lapses by security forces that almost turned tragic-comic. The first police at the scene had been on patrol and thought they were dealing – with an armed robbery, then Recce, the paramilitary GSU was called in, this is the most elite squad of police unit. When the Kenya Defense Forces and the Police did not coordinate effectively, Njoroge believes that the chain of command was not clear and gave the enemy the chance to recover the ground lost. Using his vast experience, he stated that there is military training done in peace time so as to react effectively during war time.

The second lapse, according to him, was the handling of the people coming out of the building, whereby survivors saw some terrorists change their clothes and mingle with police who ignored the reports on the same while ordering everyone to get out. This portends a future threat of another probable attack, describing a meticulous method of military operational operation of releasing prisoners. A bit of this drill includes taking the hostages to a safe area, separate officers and civilians and then do a thorough unhurried screening.

He lamented that the National Intelligence Service as presently constituted under the law does not have arresting powers. Unlike other intelligence services such as Israel's

Mossad, Russia's KGB and America's CIA, which are mandated to act on the intelligence they gather, the Kenya spying body can only pass on that information to another authority. Whether that authority chooses to act on it or not is beyond NIS. He recommended that NIS should be given arresting powers, which requires a great shift in the psyche of Kenyans, more so, those old enough to remember the KANU era's special Branch, which was the most notorious security arm of the Government, making dissidents disappear either to their graves or to exile. This was the reason that the Committee of Experts, while drafting the constitution made the intelligence agency as unthreatening as possible and Njoroge concludes that it may be prudent for the organization to make a U-turn.

Equally the army has to be trained to fight urban warfare. After worrying about the intelligence agency, Njoroge is worried because of corruption and the idle and highly trained soldiers and policemen. In this case he may have been alluding to immigration department to suggest the solution to be rearmament of Kenya's moral fabric and engagement of retired military and police.

The article commented on contributions by a panel of experts after the death of more than seventy people, injury of well over 175 and destruction of huge properties shrouded in controversial debates on the conduct and ethics of the forces involved. There was a general consensus by security experts among scholars a push by the parliamentary committee on administration and national security to reform police and national intelligence agencies. The article further concluded that there is no functional policy on disaster management program and that security agencies require reforms

and improved funding to contain terrorism recommendations were also made to have reforms in intelligence system despite acceptance that several attacks had been foiled. While most experts suspected lack of communication between the police, intelligence and the executive to be major cause of the lapse.

There was however objective criticism and the need for remedy in security remedies, lamenting that all these security agencies use a lot of money. Most experts blamed the intelligence outfit over intelligence failure before, the attack. This may however not be true judging from their earlier remarks by the president that many foils based on intelligence reports had been done. At the end of it, there are many gaps that security needs to address like communication technology, disaster preparedness and more cooperation by the citizens like embracing nyumba kumi (Ten houses security programme) of security policing with others toying with the idea of increasing the number of guns in civilian hands like in Uganda. The gist of the matter however is that the outfit of national intelligence is largely unknown due to the scarcity of literature on it unlike the CIA, Mossad and many other intelligence agencies in the developed societies⁴⁴.

⁴⁴ Ibid

CHAPTER SIX

CONCLUSION: PARADIGM SHIFT

6.0 Introduction

According to Fred Jonyo and Philip Brightone in the book of *The changing Nature of Security and Intelligence in Africa* pg. 53-54. To the realists then, national security was seen in state centric and Militaristic terms. This then made security to be Eurocentric, and narrowly conceptualized to exclude individuals but focus on the state. They were also very pessimistic about human beings. The fact of this results into the narrow focus of security sector reforms and heavily delves into issues of the civil-military relations and hence budget at the exclusion of critical normative issues.

Liberalists and Neo Liberalists held the opposite view from the realists and views man optimistically as being rational and capable of cooperating to ensure their own security. Their main argument was the creation and institutionalization of bodies to regulate cooperation among states with the object of enhancing security.

The liberalist thinking affects focuses issues regional security frameworks like Economic Community of West African States (ECOWAS), Southern Africa Development Community (SADC), and the East African Community (EAC). Indeed the partnerships that dominate SSR discourse such as European Union, OECD, ASEAN and African Union.

6.1 Uncertain Role of Intelligence in National Security.

Joshua Rovner (2011) in the book *Fixing the Facts: National Security and Politics of Intelligence*, discusses how policymakers use or misuse intelligence estimates and

how intelligence policy failures, influence threat assessment of military strategy and foreign policy for example in Vietnam war the American September 9/11, and Iraq alleged weapons of mass destruction, all of them with disastrous consequences. He also blamed policy makers for failure in correct assessment on matters of routine miscalculation of every threat or causes of politicization, forcing intelligence to change its conclusions when they can simply ignore and risking domestic scandal by 'cooking the books' when they have no legal or procedural obligation to pay attention to intelligence in the first place. Policy makers are also at times blamed for coming to power with their own information network that provides information and advice, if they are unsatisfied with intelligence, why not trust own sources.

Equally, Intelligence agencies which are close to policy makers tend to produce analysis that is useful for the improving decision making but potentially distorted due to the incorporation of policy biases and preferences. Intelligence agencies that are distant from policy makers tend to produce 'objective analyses containing little distortion but of little use in improving policy maker judgment.

6.2 Realism in relation to security concept

In discussions of security, realism has privileged the ontological supremacy of the state and the state system. The state is assumed to be a unitary rational actor primarily motivated by the ceaseless pursuit of power. Power is largely a function of military power. This is because states exist in an anarchic international system due to the lack of an overarching central authority in which self help is the only option for the survival of individual states. This leads to systemic equilibrium which is maintained

through the balance of power. It is a situation in which a preponderant power does not exist to dominate other states. The anarchic system also means that states are ever faced with security dilemma, a condition in which internal security adjustments in one state is perceived by another state as threatening so that it engenders a similar reciprocal move by another state.

6.3 The Ideal Situation

Mwendwa Njoka (in the star magazine in 2012) while discussing Role of intelligence in Human development and security, Suggested that the traditional intelligence operations and its target if they are to reflect the aspiration of Kenyans in the 21st century have to drastically change to include; environmental security to protect citizens from ravages of nature and manmade calamities like environmental degradation water scarcity to avoid clashes in downstream communities, community security because people tend to think behind a community security to protect loss of traditional relationship, values and culture hence threats to community security are threats to national security. Another dimension of security is health security - so as to advise the government on good health not to undermine national security. Personal security guarantees citizens to live free of fear from violence or threat to their personal security from either state or non state actors or criminals; in order to maximize potential as long as it does not lead to threatening national security. Economic security accords citizens especially the vulnerable ones an economic safety net, by creating ideal environment for economic growth through productive and rewarding work of citizens; leading to employments, curbing insecurity and attaining national security.

Food security is crucial for human survival to always ensure access to basic food and prevent civic unrests. Political security entails freedom from torture by both state or non state actors and demands respect for human rights which is basic for its citizens to freely express themselves within confines of law. The above measures are changes to ensure that the citizens do not resort to unlawful underground means (subversion) of changing government hence national security ensured.

In the new constitution the national intelligence service becomes more accountable to the people than ever despite the fact that Kenyans are still demanding more transparency and accountability from the organisation. It is also prudent to conclude that the end of the cold war and constitutional reforms will not assist an intelligence organisation whose challenges will be dictated by changing priorities in the New World order. These changes have accommodated adjustments from focusing state actors.

6.4 Paradigm in the roles of the Analyst and the Consumer

Macharia Munene, a renowned scholar in *The Star Newspaper* on 29/08/2009 while contributing an expert opinion concurs with Njoya's observation⁴⁵ by discussing the envisaged national intelligence, but goes to the issue of what constitutes intelligence, the role of the analyst in intelligence and most importantly, Consumers of the processed intelligence. Ideally this is in order to help decision maker and policy

⁴⁵ *The star News Paper 29/8/2009 article by Macharia Munene*

implementers to act properly from positions of strength based on knowledge rather than ignorance, in the interest of the state.

For intelligence to be of a credible process in every way, it involves categories of competent and loyal officers operating at the level of Intellectual and emotional competence in order to comprehend and internalize the importance of the intelligence. They should also possess the ability to act decisively, to document properly is necessary to deflect the perceived danger to society and to do so with clear conscience.

When competences of officers pose serious challenges to state, there is need for them to be re-evaluated regularly to stop creeping inertia and political commotion. Failure to focus on the efficiency of intelligence apparatus is to blame for security lapses. According to Macharia Munene quality and competence of the two are complementary forces and those are producers and the consumers of intelligence. He observed that when things go wrong, it is often the producers leaving out the consumer which leads to interagency blame game.

In recommending the production of intelligence processing Macharia Munene recommended the steps of gathering, sifting and analysing information.

The first level involves trained officers with uncommon skills in noticing the unusual, capturing ears, and noses that capture "credible threats" using assorted techniques and facilities. Quality gatherers are critical and may not even be aware of each other. The second level consists of analysing, interpreting and responding option setting. They

ought to have analytical minds that link up and give meaning to different bits of information and to be versed with local and other affairs both in theory and practice. Analysts are also supposed to predict conceivable scenario. Another crucial element is competence and loyalty to the office is involved because if any is in doubt, then the whole intelligence becomes questionable. Once intelligence is processed then the competence of the consumer is vital so as to act appropriately depending on the level of threat. Good intelligence may be mishandled by incompetent consumer, decision makers and policy implementers who somehow landed in lucrative positions like politicians, judicial officers, or people of influence in various institutions⁴⁶.

The intelligence service needs to be capacitated both in terms of human resource and equipments in order to meet their daily challenges. In addition the policy makers also ought to have the ability to synthesize the intelligence products since a good analyst and a good policy maker, make a good product which is actionable and devoid of unnecessary security lapses.

There is need for further research on how NIS will cope with the 21st security challenges, key among them in terrorism and to get out of cradling with inter-agency communication and probably prove that their consumers understand the products in order to fore-stall as per their mandate any threats emanating from within or without the country. This now confirms hypothesis number one which is;

⁴⁶ Ibid

National Intelligence agencies are an important component for the security of the state as an inter agency outfit but is of no use to the nation particularly if its policymakers do not understand their role in the cycle.

More research also needs to be done in order to increase the scope of literature available to avoid Eurocentric intelligence literature which currently dominates both soft and hard copies.

It is in this discourse that the intelligence agency of Kenya has undergone drastic changes through realism and liberal stages and become more adaptive to changing social –political, economic and environmental changes in its paradigm, proving the hypothesis. *There is need to include and induct policy makers or consumers of intelligence products to avoid possible fall out with the society besides equipping the analysts well in ever changing modus operandi.*

This was proved in the discussions in every main topic since the challenges faced in structural dynamics caused the intelligence system to shift in order to meet the demands. The early chapters cover the cold era up to the 21st century right through clamour for constitutional reforms in Kenya dictated the level of adjustment and demystification by the agency. Since societies are dynamic with own challenges the agency keeps improving.

Although, the entire hypothesis has been proved in this paper, more research is needed in NIS to account for its relevance and structuring to meet demands at county level due to devolution process as per the new constitution. Besides the above

arguments, we also propose that more research be done in order to bring NIS to bear the greatest responsibility in case of security lapses since being purely advisory means that all the other departments of administration of justice and otherwise, are mandated to initiate action informed by NIS due to its privileged position of intelligence collection capability.

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