

SECURING THE COUNTIES: OPTIONS FOR SECURITY AFTER DEVOLUTION IN KENYA

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Acronyms and Abbreviations

AP	Administration Police
CEO	Chief Executive Officer
CPA	County Police Authority
CSC	County Security Committee
CSO	Civil Society Organisation
EIA	Environmental Impact Assessment
FGD	Focus Group Discussion
GOK	Government of Kenya
IED	Improvised Explosive Devices
IFMIS	Integrated Financial Management Information System
IGP	Inspector General of Police
KDF	Kenya Defence Force
KPR	Kenya Police Reserve
LAPSSSET	Lamu Port South Sudan-Ethiopia Transport
MRC	Mombasa Republican Council
NACADA	National Authority for Campaign against Alcohol and Drug Abuse
NCIC	National Cohesion and Integration Commission
NGAO	National Government Administration Office
NGO	Non-Governmental Organisation
NIS	National Intelligence Service
NPS	National Police Service
NSAC	National Security Advisory Committee
NSC	National Security Council
NSIS	National Security Intelligence Service
NYS	National Youth Service
OCCPP	Officer in Charge of Police Post
OCPD	Officer in Charge of Police Division
OCPPB	Officer in Charge of Police Patrol Base
OCS	Officer in Charge of Station
PA	Provincial Administration

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Executive Summary

The March 2013 general elections brought into place the first devolved system of government as envisaged by the 2010 Constitution of Kenya, a popular move, for which Kenyans had voted, in the hope that it would correct regional economic and political marginalization and promote participation and accountability. Devolution handed the day to day running of counties to 47 elected county governors, each working alongside county assemblies, and a professional county bureaucracy. The national government retained control over certain core functions, including security and education. One year since the devolved system of governance came into place, it is evident that the system has precipitated changes in various sectors sometimes blurring the lines of the demarcations envisaged by the constitution or introducing new unanticipated dynamics. In particular, the constitution is explicit that security is the mandate of the national government. Nevertheless, devolution has introduced new variables to the processes that generate security and insecurity as well as to the management of security in general. It is also evident from the constitution, the county governments' legislation and practice, that while counties do not have a direct mandate to provide security, they have vital functions in priority setting and an important development mandate which impacts upon drivers of insecurity such as unemployment, inequality and disputes over land. Moreover, it is within counties that what are termed national security concerns emerge, crystallize and are ultimately resolved. Consequently, county governance is inextricably weaved with the national functions of security management and governance. Even in the absence of an explicit constitutional provision, in practice, security is emerging as a concurrent function with both the national and county governments co-financing security activities. This signals an important innovation with regard to security governance under the devolved system of government.

The extent of the link between county governance and processes of security and insecurity one year after the system came into place is a critical policy question. After all, it will be remembered that one of the uncertainties surrounding the question of devolution was the fear that it may lead to more conflicts, destabilization and national insecurity. This study, which comes one year after the country ushered in a new devolved system of governance, is an important opportunity to examine and assess the extent to which devolution has shaped, structured and transformed security management and governance in Kenya.

Specifically, the study, which was conducted over four months, set out to achieve the following: (i) To examine the architecture for security under the new constitutional order (ii) To map the key security actors and their roles under the new devolved governance system (iii) To explore the drivers of conflict and insecurity within the new system of county governance, and (iv) To inform various actors on the emerging potentials for addressing the new conflict and security dynamics.

Three major urban counties, Nairobi, Mombasa (incorporating other parts of the coast region), and Kisumu, and two rural counties, Garissa and Turkana, were visited to provide a broad perspective in terms of economic development, political, ethnic and religious affiliation and security challenges such as resource-based conflict, border management, terrorism, small arms and violent crime.

Management of security in devolved context

The new constitutional order has maintained certain core functions under the national government. It has also created or restructured key security institutions such as the renamed National Police Service (NPS), National Intelligence Service (NIS) and Kenya Defence Forces (KDF). The Provincial Administration made up of Provincial Commissioners, District Commissioners, District Officers and Chiefs that previously coordinated security at local levels is also undergoing restructuring as per the constitution and has been renamed the National Government Administration Office (NGAO). The position of County Commissioners was created to oversee security coordination in counties through their position as Chair on the County Security Committees (CSCs).¹

Whereas under the constitution, the core mandate of the counties is development, several roles with security implications have been allocated to the county governments. The control and regulation of alcohol, drugs, pornography, transport, public nuisances, trade development, traffic management, street lighting and health - all county roles-have an indirect, but nonetheless important implications and impact on security. County Policing Authorities (CPAs), which are created by the National Police Service Act, are part of the devolved structures of policing, and an important interface between counties, communities and the National Police Service. Chaired by the governors and incorporating community representatives, CPAs are responsible for monitoring trends and patterns of crime, developing proposals on security priorities, objectives and targets for police performance, monitoring progress and achievements, overseeing and promoting community policing initiatives, facilitating public participation and providing financial oversight for the budget for policing within their respective counties. Decisions of the CPAs are also expected to feed into the CSC, responsible for day to day management of security and deployment of police.²

Emerging issues

From the interviews and analysis, the study highlights the following issues that are relevant to security in the context of devolution:

Challenges posed by incomplete devolution

The process of devolution is far from complete. In many places, county governments are yet to recruit lower tiers of administrators, although top tiers of government and county assemblies are in place. Various structures that would address security issues and facilitate better coordination between the county and national governments are not yet in place in many counties. In addition, most counties are yet to build capacities to creatively address preventive aspects of security through targeted development investments. Moreover the devolution of available funds from the national level to counties has been a phased and also affected by some delays.

¹ The appointment of powerful county commanders by the President in May 2014 has raised concern, particularly within the opposition Coalition for Reforms and Democracy (CORD), that the national government seeks to undermine the process of devolution by creating a parallel system of government in counties. The Constitution Implementation Commission (CIC) has however advised that the creation of county commissioners is in line with the constitution.

² The County Security Committee is one of the committees of the National Security Council.

Coordination of security agencies

Overlapping roles, tensions and mistrust abound between various security players in counties, including county governments, NGAO, and the police, have created security gaps in some instances. CPAs are not up and running due to legal delays in setting them up, making it difficult for counties to articulate their role in planning for security. There are concerns that the CPAs and governors could easily be sidelined by the national government security actors, since they have an advisory rather than implementation role. In addition, no structures exist with regard to cross-county coordination on security issues within most county governments.

Youth unemployment

In both rural and urban counties, youth unemployment and lack of sustainable livelihood opportunities remains a serious challenge perceived to contribute to their recruitment into criminal activities such as drugs, gangs, banditry and terrorism. Some counties are rich in resources but longstanding marginalization, poor infrastructure investment, and insecurity concerns continue to dissuade investment. County governments are now facing the challenge of development as well as the pressure from unemployed youth.

Radicalization

Radicalization is a growing concern for Kenya's security agencies, as terror attacks increase on the country. Mombasa, Nairobi and Garissa counties are centres of radicalization, which is largely a youth phenomenon. Livelihood factors are a major driver towards recruitment into Al Shabaab, which reportedly offers money to those who join the group. Even the non-Muslim youths have been attracted by the financial offer and are converting to join Al Shabaab. Long-standing injustices such as unresolved land problems (most indigenous residents in coast region have no title to their land) and poor relations with police also fuel radicalization. Counties are directly affected by radicalization since insecurity has direct consequences for business and development.

Gang and militia culture and violence

Analysts have linked the gang and militia to unemployment and poverty, exclusion, a culture which legitimizes use of violence, poor relations with police and political patronage and mobilization. In many counties, the growing problem of organized crime poses challenges to plans and strategies for development.

Unresolved resource conflicts

Kenya's recent mineral and oil discoveries offer a chance to boost the economy. However, there are serious concerns over the nature and extent of benefits that will accrue to the local communities. Control over extraction of natural resources, such as oil, falls under the national government as per the Kenyan constitution. In Turkana County, there have been tensions between the local community and oil prospecting companies over employment, business opportunities and land. Unresolved land disputes and tenure in various counties are also feeding into intra-county and inter-county conflicts. Counties and

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county governments have emerged as new arenas for articulation of frustrations over unresolved conflicts over resources such as land and oil.

Ethnic exclusion in counties

Devolution has introduced counties as new arenas for political organizing. Almost all the counties are diverse; either they have residents of different ethnicities, or have clan or regional divides even where they are wholly inhabited by a single ethnic group. Counties have therefore introduced new minorities and new majorities (ethnic, clan or regional). In many counties across Kenya, there is some discrimination and in some cases outright hostility against those perceived as 'outsiders' (whatever this means is variable according to the context and the grievance raised). This 'indigenous' versus 'outsiders' divide poses the potential for conflict and also limits the field of available capacity and expertise in the counties.

Role of business actors in security

In the various counties, business actors have played a key role in supporting county investments in security processes. They have supported investment by providing equipment, such as vehicles to the police, and have driven the investment into technologies such as CCTVs.

Recommendations and options for the future

This study also reveals that considerable opportunities and capacities for improving security have emerged in the counties within the one year of devolution. This section highlights some of these opportunities and capacities.

Building on local good practices on community policing and community security initiatives

The assessment reveals some good practices in community security or community policing (as it is referred in some cases), and community-state partnership in security. Where successful, community policing has been well supported by civil society. These successful initiatives highlight the importance of mutual respect and collaboration between the police and community. County governments and authorities have more local knowledge on what is working and they also enjoy greater local legitimacy than the national government. Consequently, they are better placed to identify and strengthen local good practices of community-police partnerships and other promising initiatives in improving community safety and security. Counties are likely to be flexible and innovative in addressing security and conflict issues.

Strengthening peace and conflict resolution initiatives

There are already good initiatives that demonstrate the potential for county governments to play a key role in resolving conflicts and peace promotion. Since county governments have better local knowledge, as well as enjoy greater local legitimacy, they are well placed to address conflicts and promote peace.

Better coordination of security actors

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There is need to streamline the operations of security agencies and strengthen the cooperation between the police and provincial administration (NGAO) to ensure better collection of intelligence, better responses to insecurity and better long-term planning.

Improving police-community relations

Citizen participation in security remains weak in the counties assessed. Although devolution was intended to strengthen citizen participation in governance, the structures for facilitating that participation are weak or absent in some cases. Moreover, police approach to security, to a considerable extent, remains repressive with little attention to community confidence building. Fast-tracking the implementation of mechanisms, such as the CPAs, is critical to building this essential community trust in the police and security agencies.

Targeted investment in opportunities for the youth

Counties are now the development vehicles under the devolved system of governance. Unlike the national government, counties have a better understanding of the spread and distribution of unemployed youth, their potentials and vulnerability to recruitment into criminal activities and extremist groups. Consequently, counties have the opportunity to develop and invest in strategies as well as programmes which link these youth to training opportunities and potential employers. There is the opportunity to link the youth-focused livelihood opportunities promoted by the national government with the initiatives of the county governments. For instance, the proposed programme for youth training and skills placement proposed under the NYS can be linked with skills development under youth polytechnics that fall under the county governments' mandates. The 2013 regulations under the Public Procurement and Disposal Act reserving 30% public procurement for the youth, women and persons with disabilities (PWDs) are another area of innovation in addressing youth livelihoods.

Dealing with radicalization

Since all successful counter-radicalization and counter-extremist initiatives are local, there is an opportunity for county governments to address radicalization through preventive measures of livelihood investments in youth at risk. Counties can also creatively provide mentorship opportunities for young people who are at risk of radicalization. Governors and local leaders enjoy greater legitimacy on questions of radicalization and might be more trusted by the local populations than the national leaders. The county governments can therefore partner with the national government in its counter-radicalization initiatives.

Controlling gangs and militias

As with the case of radicalization, counties have the opportunity to use their development mandate to address the problem of youth unemployment that predisposes them to crime and gang activities. This is another area for partnership between the national government and county governments in terms of data collection and analysis of trends as well as harmonization of policies at both levels to ensure maximum returns.

Resolving resource and land conflicts

In many of the counties, long-standing resource conflicts- including those linked to land - are yet to be resolved. County governments and county leaders have critical roles in preventing these conflicts by facilitating inter and intra-community dispute resolution and strengthening mechanisms for protecting community interests, particularly where resource extraction is currently being expanded.

Preventing and addressing ethnic exclusion

Counties must reflect the broad ethnic diversity of the residents in positions of leadership at all levels and strive to ensure that these diversities are celebrated rather than discouraged. Counties should develop diversity policies and strategies as a statement of their commitment to the principle and also as part of their fulfilment of the constitutional obligation to ensure diversity. Collection of data on diversity should be initiated or strengthened where it has started.

As part of their development plans, county governments should be required to report on efforts to promote and ensure diversity. The area of ethnic exclusion and inclusion is another opportunity for county government-national government partnership. The National Cohesion and Integration Commission (NCIC) should partner with these mechanisms to promote diversity and national cohesion.

Investment in research and data collection

It is important that counties be encouraged to collect data on security and insecurity as an integral aspect of development planning. Frameworks for collection of data relevant to security planning and improvement should be developed and capacities strengthened in the various counties to collect and utilize this data.

Strengthening capacities for planning for security

A majority of counties continue to see security in terms of policing provisioning, and consequently, as a national government mandate. Whereas a number of counties have invested in security through financial allocations to support the purchase of policing equipment, only a few have made the obvious connection between their development mandate and the preventive aspect of security. Capacity for this form of analysis and consequent policy planning and resource allocations is urgently needed for the county executive and also the assemblies. This will allow counties to adopt a multi-actor approach to dealing with security challenges and logically incorporate the contributions of the business actors, civil society, and other concerned actors into their planning and development implementation processes.

1. Introduction

The shift to a devolved system of governance following the adoption of a new constitution in 2010 is considered as the most important legal regime change in the Kenyan governance architecture since the country became independent five decades ago. It is a dramatic transformation of governance, in which the Kenyan state now consists of the national government and 47 county governments (see map 1). Widespread optimism greeted the constitution, with the hope that it would enhance service delivery by allowing participation at the smallest devolved units (the village) in public policy making, resource accounting, development planning, and in fulfilling the desires and needs of local constituencies, thereby reducing inequalities and stemming the migration of both skilled and unskilled workers to Kenya's major cities.

levels. The constitution provides that the policing mandate remains under the national government, though counties will have some input into priority setting with regard to policing. However, in both policy and scholarly discussions, it is accepted that security is broader than just policing. Many of the roles that the constitution assigns to the county governments have both direct and indirect linkage with security. County governments, for instance, will be responsible for controlling drugs and alcohol use as well as the regulation of housing- all of which have a bearing on crime and security. Moreover, since the governance of security incorporates a multiplicity of actors, of which the police are just one, it is obvious that counties will be expected to contribute their expertise and knowledge to ensure sustainable security outcomes.³

This study principally seeks to understand how the new system of devolved governance in Kenya has changed the patterns of insecurity and security within the counties and the country as a whole, taking into account the new actors it has introduced, and the restructuring of national security infrastructure in line with the constitution. It also seeks to generate lessons for improvement of security within counties and in the country as a whole and to identify opportunities for better policy and programmatic engagement by various actors.

Objectives, scope and limitations of the study

This assessment set out:

- (i) To examine the architecture for security under the new constitutional order
- (ii) To map the key security actors and their roles under the new devolved governance system
- (iii) To explore the drivers of conflict and insecurity within the new system of county governance, and
- (iv) To inform various actors on the emerging potentials for addressing the new conflict and security dynamics.

The study considers security in the context of devolution just one year into the process. Whereas it has succeeded in generating a number of important and useful insights into the question of security, the conclusions are somewhat limited and guarded at this stage. Moreover, the study has not assessed the entire breadth of the various security providers in the country. If security is considered in its broadest sense then a vast number of actors from private and non-state sectors, as well as other government ministries should be included in the analysis. However, only a few non-state actors were specifically observed during the fieldwork, and instead much of the focus was mainly on the conventional providers of security and law and order. The study is conscious of this limitation in its scope.

Time constraints also limited the fieldwork in the study to five specific counties/areas. However, it is hoped that the issues of concern to other counties will be reflected in those chosen, and that attention to documentary sources, such as the media, brings other important county issues to light. Further limitations include the sensitive nature of some of the subject issues, especially radicalization and counter-terrorism strategies-which meant that a number of potential informants were reluctant to speak freely. However, existing good relationships with civil society organizations, and the trust vested in them by community members assisted in partly overcoming this problem. Lastly, there is limited data on crime and violence and insecurity, other than that which is collected by the police. Nevertheless, through the use of a variety of research methods and triangulation of findings the researchers have attempted to generate credible findings and conclusions.

³ Ruteere, M (2012) Letter to the Task Force of Devolved Government, 13 June.

Methodology

The study made use of a variety of sources, firstly, the existing expertise of the authors, in crime and violence prevention in Kenya. Documentary sources from government, police and civil society were used to understand the new security and development context. Media sources helped to highlight current issues in counties taking into account the limitations of bias and validity. Five counties were visited to gain a first-hand understanding of the security context, process and challenges facing county governments and people's experiences of devolution.

Nairobi was chosen, both as the capital and the financial and administrative hub, but also as a county in its own right, which faces great development and security challenges. The coastal area, encompassing Mombasa and Kwale counties, has a unique character as home to Kenya's second city, a site of much blending of peoples over the centuries. Mombasa is a strategic port through which flows most imports to East and Central Africa. The coastal region also has the twin challenges of the Mombasa Republican Council (MRC) secessionist movement, and Islamic radicalization of youths, both of which are highly relevant in the devolution context. A history of marginalization of coastal peoples and their squatter status on their own land continues to fuel the ideological struggles noted, and proves a great challenge to the new dispensation. Garissa County was chosen as a rural county, which borders Somalia, and whose people are majority Somali in ethnicity and Muslim in religion. Garissa County (along with other northeastern counties) also has a history of secessionist ambitions, along with successive and ruthless military operations to quell them. Therefore, devolution presents an interesting new dynamic for security governance and articulation of security needs for the county. The county is also home to Dadaab, the largest refugee camp in the region and numbers continue to grow. Garissa County is also one of the counties most affected by terrorist attacks by Al Shabaab from across the Somalia border.

On the western side of Kenya, Kisumu, Kenya's third city on the shore of Lake Victoria was chosen for study. While rich in natural resources, Kisumu has historically faced economic and political marginalization as the home of the political opposition, such that devolution was greeted with great optimism as a new chance for the development of its industries and the benefit of its people. High youth unemployment rates and reports of gang culture have been part of the public discussion on the challenges facing Kisumu County. Lastly, Turkana is a pastoral county which has also been historically marginalized with a high incidence of frequent cattle raiding activities. Over the years, its people have become militarized through its international borders with one in three men reportedly armed (Mkutu and Wandera, 2013). Turkana began to take on strategic importance around the same time as devolution, due to findings of crude oil and also a large aquifer beneath the surface. However, due to its history, there are fears that the oil industry may not benefit the residents raising threats of discontent and potential conflict.

A large number of in-depth interviews and focus group discussions with government ministry officials, civil society and faith based organization representatives, donor agencies and community members gave a broad based understanding. Counties studied were considered separately, according to their unique contexts, and then together, aiming to draw out cross-cutting themes. Findings were analyzed alongside other sources to ascertain how the new security arrangements will interact with existing security dynamics.

2. Background

An overview of Kenya's political governance system

At independence in 1963, Kenya had a devolved system of governance – a form of regionalism based on ethnicity (Majimbo) and which was favoured by the opposition Kenya African Democratic Union (KADU) and opposed by the Kenyan African Union (KANU), which won the elections and formed the government. KADU had promoted Majimbo as an antidote against the domination of smaller ethnic groups by the larger ethnic groups that formed the core support base for KANU. The independence constitution gave sovereign powers to parliament, but also included a regional system of seven provincial assemblies, designed to provide for power sharing, protect the minorities from abuse and ensure participation of citizens. Allocation of powers between the centre and the regions was provided in greater detail than in any other commonwealth constitution (Ghai and McAuslan, 1970:196-7). However, this was abolished by KANU under President Jomo Kenyatta shortly after independence and soon KADU dissolved to join KANU as Kenyatta consolidated his power. Schisms in KANU were followed by the formation of an opposition party by former Vice President Jaramogi Oginga Odinga in 1966, but this was to last only a brief time as increased repression forced the collapse of formal opposition. In practice, Kenya was governed as a single party state under KANU for 29 years, first under Kenyatta and then under President Daniel arap Moi.

The PA had been established under colonialism as the instrument for pacification and control of provinces by the colonial government. In the years following independence, Kenyatta chose to retain the strong PA as a tool for political control while politics became increasingly irrelevant in the governance of the provinces (Ghai and McAuslan, 1970). Over the years, the PA became increasingly associated with partisanship, corruption, unaccountable use of power and rudeness in its dealings with the public, as Provincial Commissioners, District Commissioners, Divisional Officers, Chiefs and their assistants, often perceived themselves to be above the law. In the 1990s, the PA was implicated in the ethnic clashes that targeted members of communities seen as opposition-supporting in Rift Valley and Coastal regions of the country. (GOK, 1992).

During the 1992 first multi-party elections in Kenya, President Moi effectively used his control over the government, the security agencies and the PA to frustrate opposition efforts and remain in power. The failure of the security agencies to prevent, control and adequately investigate the 1990s ethnic violence reflects the extent to which the security agencies as well as the PA became complicit in the politics of regime protection in Kenya under the leadership of President Moi. Like in the 1990s, the security agencies were yet again the subject of criticism for systematic failures to prevent and stop the 2007 post-election violence and also complicity in the violence (CIPEV Report).

The call for constitutional review heightened during the 1990s, amidst economic decline and much pressure from civil society and donors for good governance. The Constitution of Kenya Review Commission, created by the Constitution of Kenya Review Act n 1997, began the process of drafting a new constitution. The draft constitution of 2005 was rejected after referendum. The 2007 post-election violence accelerated the demands for a new constitution and finally, in 2010, a new constitution was adopted. The new constitution provided for the de-concentration and decentralization of power with the hope that it would assist in addressing corruption, inequality and ethnic discrimination and provide for better participation of the public in governance, including in the area of security.

Kenya's security system before the enactment of the Constitution of Kenya, 2010

During the colonial era, policing was a two tier affair: the Administration Police (AP) at that time was a rather more informal force based at the office of and mobilized by the chief, while the Kenya Police Force concentrated its efforts in urban areas and around settler property and interests (Waller, 2010). Certain frontier areas were completely 'un-policed' and the external rule of law was irrelevant; in such areas communities policed themselves (Waller, 2010:526). After independence, little changed and policing remained a tool of an increasingly authoritarian government under the first two governments. The force was known for its highly politicized nature in terms of recruitment and promotion, and its failure to provide security for citizens, as well as under-resourcing (Omeje& Githigaro, 2010; Ruteere and Pommerolle, 2003).

The PA has controversial beginnings as an instrument of colonial domination which advanced the interests of the settler economy.⁴ In the post-colonial period, it became the primary instrument for presidential governance. In the 1980s, it coordinated the District Focus for Rural Development (DFRD), which sought to "de-concentrate" development planning and implementation. Over the course of the two-decade long constitutional reform process (from about 1990-2010), the PA remained an important target for abolition, partly because of its historical role in authoritarian governance in Kenya.

Security sector reform efforts

An important first step in reforming the security sector came in 2003 with the Governance, Justice and Law and Order Sector (GJLOS) programme which aimed to reform police, the judiciary and the penal system. In terms of police reforms, GJLOS argued that policing needed to be effective, efficient, people oriented, human rights compliant and accountable. It prompted the formation of a Police Task Force to examine the issues raised. The Economic Recovery and Wealth Creation Strategy of 2003 similarly identified the importance of police reform (Ruteere, 2013). Following the 2007-2008 post-election violence in Kenya, the Report of the Commission of Inquiry into Post-Election Violence (CIPEV) cited police partisanship and involvement in crime and violence (GOK, 2008). An independent Task Force on Police Reforms, produced the Ransley Report (popularly referred to by the name of the Task Force's chair, retired Justice Philip Ransley) in 2009. The report made recommendations on three key areas: (i) improving police efficiency and effectiveness in securing the public (ii) restoring public confidence in the police (iii) improving police accountability (GOK, 2009). Following the Ransley Report, the Police Reforms Implementation Committee (PRIC) was formed to oversee the implementation of the recommendations. PRIC prepared the legislation that established the various new policing institutions, the development of a new curriculum for use in the training of the police and the preparation of a roadmap for the comprehensive reforms of the police (Ruteere, 2013). The recommendations of the Ransley Report fed into the new constitution which created the office of an independent Inspector General of Police to preside over both Kenya Police and AP, the creation of an independent National Police Service

⁴ In the colonial period, the PA was the preferred state organ that implemented the colonial government's policies at the regional and grassroots levels. It was a ubiquitous institution that had no particular attachment to any particular African community. At its pivot was the chief who did not draw his power and authority from traditions but was a servant of the colonial government. (See Ndemo, Salim (2007) *Epitome of State Power: The Provincial Administration in Kenya*. Nairobi. On the significance of the institution of the chief under colonialism, (see Mahmood Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*. Princeton University Press, Princeton, NJ, 1996).

Commission (NPSC) to oversee management issues, recruitment and promotion, and the formation of the Independent Police Oversight Authority (IPOA) to investigate serious offences by police.

Security and devolution – an overview

Devolution is often seen as desirable for its economic efficiency, responsiveness and improved equity, as centres of decision making are closer to the people, and more representative of local needs, cutting out expensive and unnecessary bureaucracy (Rodriguez-Pose & Gill, 2005) (Bogdanor, 2001). Devolution may also be a useful context for experimentation, allowing local governments to innovate new responses to local issues (Kirkham, 2010). However, improved efficiency may not always result, capacity at the local level may be a problem (Ghai, 2007) and institutional burdens may increase (Rodriguez-Pose & Gill, 2005, Ghai 2007). Inequality is not always addressed by devolution either, as some devolved authorities may have greater capacity, power and influence with central government and be favoured at the expense of others (Rodriguez-Pose & Gill, 2005). In the UK, the devolved regional government has been described as ‘uneven and faltering’ in its ability to address income inequality, social exclusion (Morelli & Seaman, 2007).

Devolution and insecurity

Importantly, devolution may have the potential to alter the balance of power in localized units, and raise the stakes in existing conflicts as players may now vie for political power previously beyond their reach. The ‘politics of belonging’ as some groups lay claim to areas which they have occupied for longer than those they view as ‘outsiders’ is a long running narrative in Kenyan politics (Lynch, 2011). This issue may become important in the devolution process as regional identities are strengthened, and local leaders may not represent minority groups, leading to potential conflict (Lynch, 2011).

An important question is whether devolution reinforces ethnic identities, fuels ethnic conflict and even the drive for secession. This might happen through reinforcement of regionally based ethnic identities, producing legislation that discriminates against certain ethnic or religious groups and providing resources to engage in ethnic conflict or secession.⁵ However, devolution has also been noted to be a helpful strategy for reducing the demand for secession, by accommodating distinctly different groups within a nation, that is, if there is mutual trust and equitable resource distribution (Guibernau, 2006). Indeed, Ghai (2007) has argued that in Kenya a sense of nationalism would be fostered rather than weakened, due to the addressing of regional disparities. In a detailed statistical analysis of 30 democracies, Brancati (2006) notes that decentralization is a useful tool for curbing ethnic conflict and secessionism in many countries, but in those countries where it has not worked, it is often because it is undermined by regional parties, which should be regulated.

Devolution, and which functions are devolved, is highly variable according to the socio-political context of a country. In the UK, while policing has not been one of the functions devolved to Wales or Scotland (Rummery & Greener, 2012), the devolution of policing was a central part of the 1998 Good Friday Agreement which devolved power to Northern Ireland (Perry, 2011). This was because policing had been experienced as repressive by those opposed to Westminster’s domination. In Pakistan, Musharraf’s 1999 ‘Devolution of Power Plan’ similarly deconstructed the military state and devolved policing to

⁵ Hardgrave, 1994; Kymlicka, 1998; Dikshit, 1975; Horowitz 1991, Lijphart et al 1993; Nordlinger 1972; Suberu 1994; Bunce 1999; Leff 1999; Snyder, 2000 and Roeder, 1991 all quoted in Brancati 2006.

District Mayors. However certain checks and balances were designed to ensure that neither police nor mayors abused their power, including that the District Chief of Police was answerable to his own hierarchy in certain functions.

Even if policing is not devolved, a variety of actors are involved in security provision at the local level and devolution may alter their relationships and dynamics. In Indonesia, while policing was not devolved, a lack of clarity over roles and responsibilities at the local level, weakened central control. The gap was filled by local security groups and vigilantes who were controlled by local authorities, and crime in general rose (Kristiansen & Tronjono, 2005). Further, local corruption can be worsened by devolution due to reduced vertical accountability (where horizontal accountability is also lacking). The Indonesian context is similar to Kenya, in that the devolution process took place at a time when crime was increasing due to economic crisis and high unemployment, and ethnicity played an important part in conflict. Kenya also has a prominent private security industry which is poorly controlled by the state (Mkutu & Sabala, 2007), a high number of gangs, some with political linkages and a culture of mob violence and mob justice. Mkutu & Wandera (2013) note that where the state control is weak, the Kenya Police Reserve is vulnerable to 'recruitment' by local elites and politicians for their own interests.

Devolution/decentralization can shift the geographical distribution of crime and affect areas with previously low rates. In terms of crime control, it can also provide an opportunity for innovation, increased organizational efficiency and adaptation of crime control measures to the local context and create healthy competition and sharing of strategies. This is important given the cross cutting nature of crime from county to county (Teichman, 2005). The impact of decentralization on transnational terrorism is an important consideration. In an analysis of 109 countries from 1976 to 2000, it has been observed that fiscal decentralization can reduce transnational terrorism. The reason for this is not evident, although it may be to do with increasing political stability or with improving provision of public safety. It was noted that political decentralization does not confer the same benefits. The money and capacity to act seems to be the most important benefit. (Dreher & Fischer, 2011)

Revisiting the concept of security

The term security is contested. Traditional concepts of security are state centric, involving formal security services such as police, military and intelligence. In more recent decades, with the end of the 'bipolar' world order, the concept has been 'broadened' to include a variety of actors and arenas and 'deepened' to cover the security of individuals and 'human security'. In the words of Thomas (1999:3), 'human security describes a condition of existence in which human material needs are met and in which human dignity, including meaningful participation in the life of the community, can be realized'. She also notes that 'The satisfaction of human needs is essential to establishing anything like a secure social order (1999:29). Thus the new security agenda encompasses a variety of 'new threats': political, environmental, economic and social which have present but not strictly conceptualized as security matters. These include refugee flows, international networks in trafficking in arms and conflict diamonds, environmental issues, climate change, crime, migration, insurgencies, the war on terror, cybercrime, religion, militias, and warlords and so on. The deepening of the concept of security makes management of threats more complex, requiring co-ordination by many actors above and beyond the level of the nation state as well as states themselves (Buzan, 1998). It allows for management of security through sustainable human development approaches, which require that organizations and individuals at all levels work collaboratively and be included in ensuring their security.

In short, the concept of security has been changing to incorporate much more than physical security, as captured by the notion of “human security”. This means that what would be considered developmental concerns should be seen as potentially contributing to security outcomes and possibly insecurities. In this study, the term ‘security’ is used principally with regard to physical security, in other words, crime, order and disorder and violence in the new devolved context. It however proceeds from an understanding that developmental concerns that fall under the mandate of the county governments, significantly shape physical security outcomes and also may be potential ‘drivers of insecurity’.

3. Patterns and Trends of Insecurity and Conflict in Kenya

Kenya’s 47 counties have varied security challenges and dynamics, relative to geography (position in relation to international borders and coastline), climate, natural resources, ethnicity and diversity, social and cultural characteristics, urban/rural characteristics and levels of economic development, amongst other factors.

Crime and armed violence are the subject of much media attention in Kenya and a source of great concern to the public. Dominant fears include carjacking at gunpoint or knifepoint, which have become commonplace in urban areas.⁶ As of mid- 2013, police sources indicate that Nairobi city is experiencing an average of five car hijackings every night.⁷ There are also considerable incidents of home invasions by armed criminals, particularly in Nairobi and its environs.

The number of vigilante groups has been rising in recent decades and new forms of gangster activities have been noted, such as the extortion, murders and beheadings associated with groups such as the Mungiki.⁸ Mob violence has also become widespread and Kenyans have witnessed episodes of stoning or burning individuals for petty thievery. This is, partly, a symptom of the lack of trust of ordinary people in the police and legal system. There is a suggestion of collaboration between security personnel and gangs.⁹

Rural areas are not spared crime and insecurity. Pastoral areas regularly experience high levels of inter-ethnic or inter-clan resource based conflict. In 2014 in Mandera County, several lives were lost in intra-clan conflict, said to be politically motivated.¹⁰ Also in June 2014, 65 lives were lost in a massacre in Mpeketoni, Lamu County.¹¹ In 2013, there was a massacre during the inter-ethnic violence in the Tana Delta which was attributed to the Mombasa Republican Council (MRC), and frequent incidents of violence associated with cattle rustling in Turkana.¹² Between April and July 2013, previously calm villages were struck by brutal killings. For instance, 12 people were killed in Mwingi, Kitui County, while in Bungoma County coordinated attacks on four villages left six dead and 125 others with machete

⁶ Zaddock, A (2013) ‘Car-jackings on the rise as criminals target motorists and buses’, *Daily Nation*, 11 July, 2013 pp10-11

⁷ Kiberenge, K (2013) ‘Why gangs are targeting private motorists’, *Daily Nation*, 5 July p8

⁸ The latest discovery of seven bodies in shallow mass graves on the outskirts of Nairobi has been linked to the Mungiki group. Githaiga, P and Odongo, P (2014) ‘Forensic experts exhume seven bodies from secret graves in Kitengela’, *Daily Nation*, 20 May p18

⁹ This was noted in field work in Kibera and Eastleigh by phase 2 participants

¹⁰ *Sunday Nation* (2013) ‘Four killed in renewed Mandera fighting’, *Sunday Nation*, 7 July p12; Zaddock, A (2013) ‘Car-jackings on the rise as criminals target motorists and buses’, *Daily Nation*, 11 July, 2013 p10-11

¹¹ *Daily Nation* (2014) ‘Driver of vehicle used in Mpeketoni attack charged with murder’ 2 July

¹² Warutomo, P and Kalama, M (2012) ‘Five killed as bandits raid village’, *Sunday Nation*, 2 June p52

wounds. Two others were killed and 20 injured in Busia County.¹³ These incidents in previously peaceful areas were said to be linked to election disputes. Politically motivated violence in Marsabit County has resulted in a steady death toll since March 2013.¹⁴

Since Kenya Defence Forces entered Somalia in October, 2011, to fight Al Shabaab, terrorist attacks have increased in Kenya, culminating in the infamous Westgate Mall attack in September 2013 in which at least 72 people were killed.¹⁵ Several other devastating attacks have taken place in Nairobi, coastal region, Garissa and Mandera counties.¹⁶ Kidnappings of tourists at the coast and workers in refugee camps have gained international attention, damaging Kenya's tourism industry.¹⁷ In April 2014, front pages images of baby Satrin, with a bullet lodged in his head after a terror attack on a church by hooded gunmen in Likoni in Mombasa County which killed six people and injured 17, became a new symbol of Kenya's problems with terrorism and radicalization at the domestic level.¹⁸ In a swift response, police arrested hundreds in Mombasa and Nairobi, targeting areas with high numbers of Muslims, to flush out illegal immigrants perceived to be linked to the Al Shabaab. Shortly after the church killings, a jihadist cleric Sheikh Abubakar Shariff (also known as Makaburi) was assassinated by unknown gunmen, leading to massive demonstrations by his supporters. The cleric had previously openly defended the Westgate attack as just revenge for Kenya's invasion of Somalia. State counter-terrorism measures have contributed to a feeling of persecution and stigmatization among Kenyan Muslims.

Garissa County has been targeted by Al Shabaab as a response to the recruitment of youths in 2006-2007 to help the Transitional Federal Government in the fight against Al Shabaab in Somalia, and the later deployment of KDF in 2011. Some devastating attacks on churches in Garissa were attributed to Al Shabaab, although the assertion of terrorism is difficult to substantiate in every instance. The issue of terrorism in Northeastern Kenya is complicated by the trade in guns, sugar and cooking fat, amongst other items. Trucks carry these goods from Somalia to Nairobi, passing through corrupt security officials and ultimately helping to fund Al Shabaab.

Organized crime, including drug trafficking, counterfeit goods and commodities, human trafficking, smuggling and money laundering, small arms trafficking and wildlife trafficking is an ongoing problem for Kenya (Gastrow, 2011) as well as newly emerging cybercrime. In a study by National Campaign against Drug Abuse (NACADA, 2007), around 39,000 Kenyans were found to abuse heroin with the

¹³ Kitavi, M (2013) 'Kitui killings mastermind still on the run', *Daily Nation*, 7 July, p6 ; Ngobilo, E and Barasa, L (2013) 'Western politicians threaten to name those behind attacks', *Daily Nation*, 19 May p24; Lungai, Erik (2014) 'State faulted as gang raid victims buried', *Sunday Standard*, 27 April ; Ngobilo, E and Mukinda, F (2013) 'Kimayo moves to stem insecurity in Western', *Daily Nation*, 6 May, p11

¹⁴ Barasa, L (2014) 'President Uhuru Kenyatta urged to help end Marsabit violence' <http://www.nation.co.ke/news/politics/President-Uhuru-Kenyatta-urged-to-help-end-Marsabit-violence/-/1064/2139078/-/bkrhlaz/-/index.html>

¹⁵ 'On the Heels of Terror' a documentary of the Kenya Broadcasting Corporation on 16 April, 2014 noted that between 1975-2005, there were six terrorist attacks on Kenyan soil as compared to 80 attacks from October 2011 to April 2014 that killed over 600 people and over 100 police officers. Nairobi, Mombasa and Garissa bore most of the attacks.

¹⁶ Kemei, K and Wasonga, D (2014) 'Kenyans come face to face with reality of terrorism, destruction'. *The Standard*, 18 May p3

¹⁷ Ni Chonghaile, C (2012) 'Judith Tebbutt kidnapping puts Kenya's tourism into decline', 21 March <http://www.theguardian.com/world/2012/mar/21/judith-tebbutt-kidnapping-tourism-decline>

¹⁸ Sum, A (2014) 'Celebration as baby Satrin leaves hospital', 11 April p8

highest consumption at the coast. Alcohol abuse is also a serious problem, particularly amongst males in the area formerly known as Central Province and is strongly linked to domestic violence and the disintegration of communities (NACADA, 2007) and has been suggested as a factor in several recent gruesome killings of spouses and children after domestic conflicts.

Firearms are a serious problem in Kenya. They are used in violent commercialized cattle raiding activities in pastoral areas and have fed into urban areas, where they are used in violent crimes. Kenya spends an estimated Kshs. 20 billion annually in attempting to pacify its remote pastoral regions. The flow of small arms in the country may be accounted for in part by regional civil wars and vast ungoverned porous borders through which arms feed into inter-communal resource based conflicts (Mkutu, 2008). Forced disarmament has failed to quell conflict and has been met with resistance from communities that perceive the state security as not protecting them from outside attackers. 75% of the country is protected by Kenya Police Reservists (KPRs), whose capacity is highly questionable.) Firearms have become a livelihood strategy and a necessity where state structures are thin on the ground (Mkutu & Wandera, 2013).

An increasing number of youth have moved into drug use and drug peddling. As one Christian minister in Mombasa County said, 'a large number of youths are drug takers and are paid by drugs.'¹⁹ As more young people become entangled, the drug issue becomes a major driver of crime. The addiction fuels crime and radicalization through the need for money. One interviewee in Mombasa County noted that, 'most of the youths are looking for drugs but have no money. This makes them steal to buy drugs.'²⁰ Local people confirmed a severe drug problem in Mombasa County.

4. Management of Security in Kenya after Devolution

According to the constitution, Kenya's core security organs consist of the Kenya Defence Forces, National Police Service and National Intelligence Service. The president's position as Head of State, Head of Government and Commander-in-Chief of the Kenya Defence Force remains unchanged. The police service, which previously consisted of the Kenya Police Force and AP, has been brought under one command and reconstituted into the National Police Service (NPS) under the Inspector General of Police (replacing the Commissioner of Police).²¹ The National Security Intelligence Service (NSIS) was reformed into National Intelligence Service while the Kenya Defence Forces (KDF) also now operates under a new legal framework as stipulated by the new constitution.

The National Police Service has also been restructured to conform to the devolved context. The former provincial police officers have now been redeployed as regional police coordinators. New positions of County Commanders have been established. Beneath this are the familiar tiers of Officers Commanding the Police Division (OCPD), Officers Commanding the Station (OCS) and servicemen and women.

Tenure issues have also been addressed by the new order. The Inspector-General of Police serves one term of four years and has a security of tenure because the president can only remove him or her on the

¹⁹ Interview, local church minister, Mombasa, 8 February, 2014

²⁰ Interview, Omari Change, Majengo, 7 February, 2014

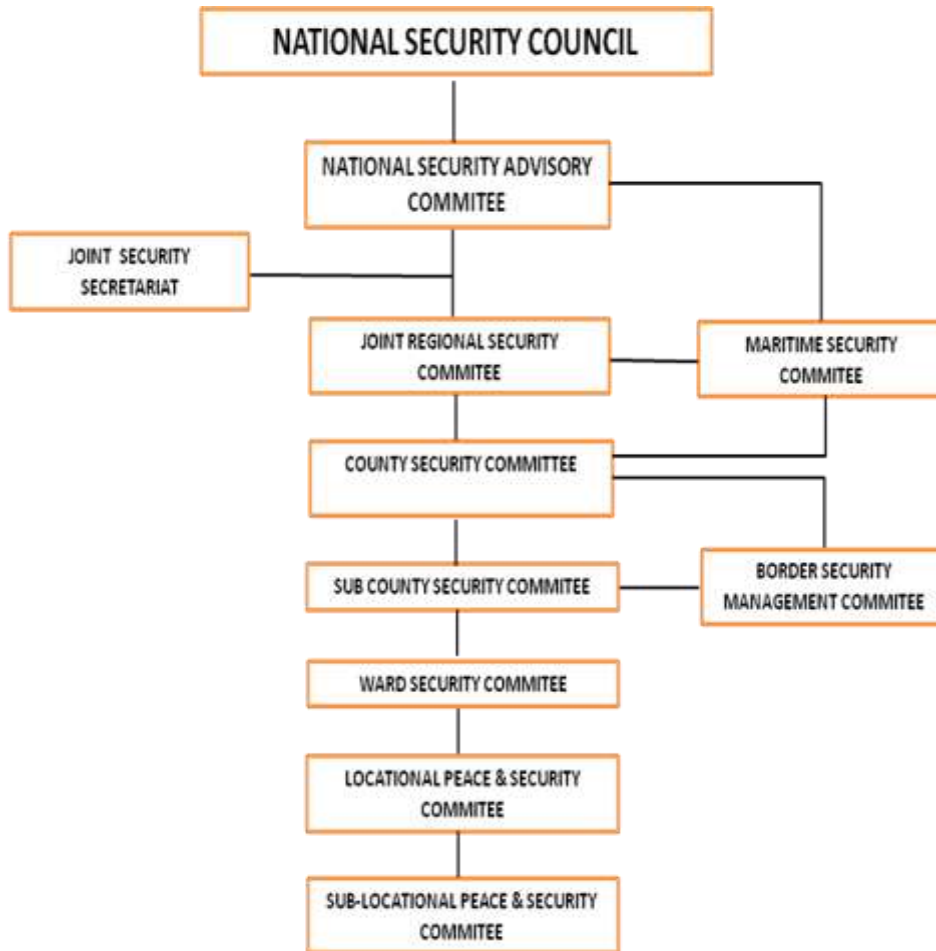
²¹ In old order, the regular police were under the command of the police commissioner while the administration police received instructions from the various PA heads. Both now receive instructions from the Inspector General of Police.

basis of the reasons stated in the 2010 constitution. The Director-General of the NIS can serve for one term of five years that is renewable once and can only be removed by the president on the grounds stated in the National Intelligence Service Act of 2012, thus giving the holder security of tenure. The Chief of Defence Forces (formerly known as the Chief of Staff) can only serve for a single term of four years and has no security of tenure.

The National Security Council (NSC) (see figure 1), which is chaired by the president, is responsible for policy direction and coordination of the three national security organs and reports to parliament about the state of security in the country. The functions of the NSC are twofold: “to integrate the domestic, foreign and military policies relating to national security in order to enable the national security organs to co-operate and function effectively; and to assess and appraise the objectives, commitments and risks to the Republic in respect of actual and potential national security capabilities”.²² The NSC is mandated by the NSC Act to establish various committees to effectively discharge its mandate (see figure 1 below):

²² Constitution of Kenya, Article 240 (6).

Figure 1: National Security Council and related structures²³



The National Security Advisory Committee (NSAC) is chaired by the Head of the Public Service and serves to advise NSC on key security policy decisions. All the administrative levels i.e. regions, counties, sub-counties, wards, locations and sub-locations have security committees that gather information which is eventually used by the NSAC. There are also specific security committees dealing with border issues and maritime issues. Within counties, security committees are headed by county commissioners and are responsible for day to day decisions on policing, amongst other functions.

The former PA, which was a key pillar in the administration of security, is in the process of restructuring to conform to the demands of devolved governance. In May 2014, the president rebranded the structure as the NGAO and conferred executive powers on county commissioners, to coordinate national security policies, chair CSCs (see figure 2) and coordinate disaster rescue operations in counties.²⁴ The NGAO retains its lower cadres, known as deputy and assistant commissioners, and

²³ Presentation by the Principal Secretary for Interior, Ministry of Interior and Coordination of National Government Mr. Mutea Iringo, at the governors’ meeting ‘Prevention in the Service of Citizens’ at Enashipai, Naivasha, On 23 May, 2014

²⁴ Maina, S and Mutambo, A (2014) ‘Uhuru hands more powers to county bosses, ministers as leaders protest’ *Daily Nation*, 16 May pp 4,5

chiefs. The new powerful county commissioners are expected to coordinate security within counties. This move has drawn criticism that it is likely to create a parallel governance structure within counties, undermine the role of elected governors as heads of counties and is contrary to the spirit of devolution. Concerns also exist about the overlapping of roles with National Police Service County Commanders.²⁵

Counties and policing

With regard to security, the constitution has retained a centralized structure of all security organs, including the two police forces-the Kenya Police and the AP. The National Police Service has been undergoing reforms and restructuring to reflect the realities of the new system of governance.

One area where policing has radically changed with devolution is with regard to the now abolished control and supervision that the PA exercised over the AP. In the past, the AP worked at local levels as part of the support to the PA - chiefs, district officers, district commissioners and provincial commissioners. The new constitution has now removed the command of the AP from the PA and placed it under the command of the Inspector General jointly with the Kenya Police. In the absence of the district commissioners, there have been reports in the last one year of poor coordination between the AP and Kenya Police Service commanders within counties. There is also confusion over rank. Regional Police Coordinators (RPCs) and County Police Commanders (CPCs) both report directly to the Deputy IGP, and some RPCs and CPCs are at the same rank,²⁶ as are some OCPDs and CPCs. As one retired police officer observed, 'it is not clear who should report to whom, which creates confusion'.²⁷ It was also noted that some officers are 'shooting to the top' yet they have less experience than those at lower levels, a situation that demoralizes other officers.²⁸ One governor noted that there is lack of coordination between the Kenya Police and AP. Moreover, the ongoing vetting of the police, which began in December 2013, has created uncertainty within the police service, further adversely affecting the performance of the police in addressing insecurity.

County governments' role as security players is embodied in the CPAs, headed by governors or their representatives. Other members are drawn from county security committees, the County Assembly, and six appointees from among county stakeholders including business community, youth, women, persons with special needs, religious organizations and community-based organizations (CBOs). CPAs are responsible for monitoring trends and patterns of crime, developing proposals on priorities, objectives and targets for police performance, monitoring progress and achievements, overseeing and promoting community policing initiatives, facilitating public participation and providing financial oversight for the budget for policing. CPAs are yet to be formed due to legal delays.²⁹ The CPA occupies an advisory role to the CSC and provides for civilian representation in security decision making, and a mechanism for accountability of police to the public. It is not clear how CPAs will coordinate with national government security structures in counties, and how the lower tiers will share information and collaborate for security (see Figure 2).

²⁵ Wesonga, M (2014) 'Cheboi faults Uhuru move on county officers', *The Standard*, 20 May p38

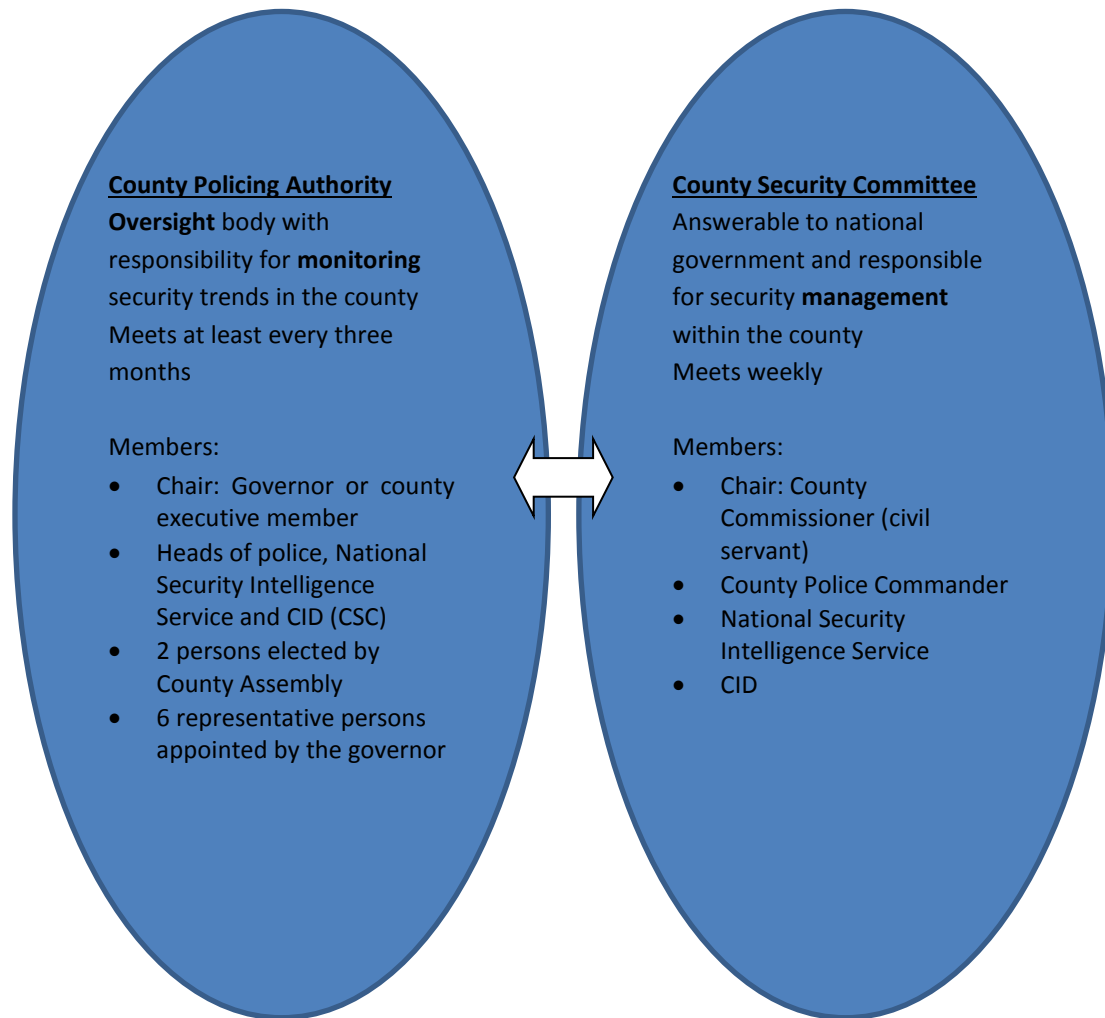
²⁶ Interview, retired police officer, Nairobi, 10 April, 2014

²⁷ Interview, retired police officer, Nairobi, 10 April, 2014

²⁸ Interviews with senior police officers, FGD with police and interviews with retired police, Nairobi, 8-11 April, 2014

²⁹ Keynote address 'Crime and Security' by Cabinet Secretary Joseph Ole Lenku, Ministry of Interior and National Coordination, at the governors' meeting 'Prevention in the Service of Citizens' held at Enashipai, Naivasha. 23 May, 2014

Figure 2: Security Structures at County Level³⁰



The operation of the Kenya Police Reserve (KPR) under devolution is also uncertain. Under the old governance system, the KPR was an auxiliary force, largely detached from the Kenya Police Service, and made up of volunteers, armed by the state to supplement the role of the police within their own localities. KPRs are the mainstay of security in many remote pastoral areas of Kenya. Under the new National Police Service Act, the KPRs are now effectively under the Inspector General. This centralization of KPRs raises an interesting question of their effectiveness- it was precisely because of the failures and ineffectiveness of the national police that KPRs were created. In the past however, there have been grave problems with resourcing and equipment for KPRs, recruitment practices are poorly regulated, training is scanty and KPRs are well known for misusing their guns in crime and banditry. Despite all this,

³⁰ Whereas the composition of the County Policing Authority is provided for in the National Police Service Act, the composition of the County Security Committee is an administrative provision and no official documents on its membership were available to the researchers. The presentation on its current composition is a result of interviews with security and administrative officials between February and June 2014.

KPRs remain the trusted providers of community security in many pastoral regions. They are accustomed to the terrain, respond more rapidly than police, and are more effective in tackling resource based conflicts. In some counties, leaders would like to transform the KPR into a county police force, a development that many people fear would result in their politicization and risk of misuse as an ethnic militia.³¹

Whereas policing and security are a national mandate as per the constitution, counties have been allocated development roles that provide them with the opportunities to significantly shape security outcomes. Looking at the constitution, there are several roles explicitly assigned to counties that will lead to security and safety outcomes. This means that by carrying out their roles and functions, counties will in reality be security actors. For instance, county governments are responsible for controlling drugs and alcohol use and the distribution of pornography. The relationship between alcohol and drug abuse has been established in crime studies all over the world. County governments are also responsible for issuing trade licenses and regulating housing, two functions which can be used effectively to curtail illegal and exploitative businesses and business practices and enhance the security and safety of residential neighbourhoods and their inhabitants. Another safety function assigned to the county governments is traffic control and regulation of transport. Transport may not seem as an obvious security matter but in reality operations of public transport-in terms of location and erection of bus stops for instance- have a direct impact on public security. Lighting of counties is another obvious intervention that has a clear and direct security and safety implication. Moreover, county authorities will have a role in the management of and health institutions, (hospitals, health clinics). Hospitals have crucial security and safety functions as they are for instance, the first line institutions in addressing domestic violence and violence against children.

5. Emerging Issues and Developments

Incomplete/ongoing transition to devolution

The Constitution of Kenya 2010 envisaged a transition period that would last three years during which devolved functions would be transferred from the centre to the counties, guided by a piece of legislation known as the Transition to Devolved Government Act No. 1 of 2012. One year into the process, county governments are in place, county assemblies are functioning and other functions are at varying stages of implementation and many practical uncertainties exist at present.

Moreover, budgetary challenges have hobbled many of the counties and consequently affected any of the plans they may have had to better invest in security. In April 2014 the Controller of Budgets gave a report to the Senate noting that the capacity in counties to draw up budgets was severely lacking, such that budgets had errors and inconsistencies, or did not meet targets and were rejected. This has severely limited the amount of money flowing to counties making it difficult for counties to make and execute plans.³²

Capacity within county governments was a concern in all counties, especially with regard to the MCAs' capacity to understand issues of governance and legislation. County administrators are facing challenges on understanding the issues on the ground, as well as how to address them. One county administrator

³¹ Interview, a county administrator, Lodwar, 24 February, 2014

³² Nation Reporter (2014) 'Counties lack trained staff, says budget chief' *Daily Nation*, 21 April

in Turkana County admitted he would need to learn from the local national government administration officials (NGAO) who had been there for longer.³³

Moreover, within county governments, there are several tensions emerging between governors and their deputies and between executive and legislative (County Assembly) arms of the government. Several governors (Kericho, Garissa, Embu, Machakos, Vihiga, Kitui, Nairobi, Tana River, Taita Taveta and Nyeri counties) are under the threat of impeachment by the MCAs for various reasons (two of them, Embu and Kericho county governors were impeached). They have been accused of incompetence in discharge of their duties, misappropriation of funds and mismanagement and failing to discharge their lawful duties.³⁴

In Mombasa County an interviewee noted that internal conflicts and personality wars which have arisen with devolution are hampering development projects.³⁵ Other conflicts are over the different cultures of personnel absorbed by counties from the public sector and those from the private sector. In Nairobi County it was noted that people who have been recruited from the private sector have different management styles from those who have served with the public sector, and that the latter are perceived by the former as being corrupt.

Tensions have also emerged with senators, who have recently pushed for a role in county committees on expenditure, a position that has been said that it would be in conflict with their legislative roles.³⁶

Governors and senators have frequently accused the national government of working to weaken county governments or to ensure that devolved governance fails. The president's move in May 2014 to rebrand the former PA as the NGAO and to give executive powers to county commissioners (heads of the NGAO in counties) has created some concern among governors. In addition, governors have accused the national government of under-allocation of funds to the counties.³⁷ Tensions on the ground are raised by the duplication of roles between the two parallel administrations, a recurring theme throughout the country, which is set to worsen as lower administrative tiers are instituted by counties. In Kisumu County it was noted that the duplication of roles and lack of clarity and that most of 2013 consisted of disputes between the two sectors.³⁸ To add to this, new county administrators are being paid at a significantly higher starting wage than NGAO who are well trained and experienced, creating envy and competition.

Several community members and others have maintained that the former PA officials are vital to management of local issues and security, having managed law and order at the local level for decades. Conversely, it is argued that the PA has been known for corruption and should be done away with given that roles are being duplicated in the new county dispensation, the wage bill is too large and that the national government is interfering with its non-elected executives in the affairs of counties, which is unconstitutional.

³³ Mark Loupe, Ward Administrator for Turkwell, Turkwell, 24 February, 2014

³⁴ Mkwale, S (2014) 'Kidero humbled, Ruto is back and 12 on removal list' *The Standard*, 9 May pp 1-2; Tanui, N and Mabtuk, V (2014) Kidero back as another governor is impeached. *The Standard*, 15 May pp 1,6

³⁵ Interview, civil society CEO, Mombasa, 7 February, 2014

³⁶ Momanyi, B (2014) 'Kenya: Governance row threatens devolution in Kenya' <http://allafrica.com/stories/201403110128.html>

³⁷ Otieno, R and Olick, F (2014) 'Echoes from the past' *The Standard*, 16 May pp 1,6

³⁸ Interview, Senior administrator with national government, Kisumu, 27 February, 2014

Police-community relations

Citizen participation in security is a vital tenet of the constitution and the National Police Service Act (2011). In all the counties studied, the relationship between the police and community remains poor and there is mistrust of the police. Devolution and restructuring of the police has not changed the situation on the ground significantly. As in the past, members of the public complained about failure of rapid response to crimes, continuing petty corruption, poor protection of witnesses and police brutality. Such fears continue to hamper intelligence gathering, exacerbate illegal forms of community 'security' such as vigilantism, and the practice of 'mob-justice' and create resentment.

In Kisumu County, police-community relations are also poor, partly due to long-standing grievances on the marginalization of the former Nyanza province and its poor relationship with the national government. According to youth leaders, during the 2007-8 post-election violence police came down heavily on Kisumu protesters, leading to the deaths of over 1,000 youths. Excessive force is still used on demonstrators. It was noted that the mistrust of the police is now institutionalized, 'police do not control people, and hence they have not penetrated society. People do anything they want in Kisumu.'³⁹ There is a lack of rapid response, and people are afraid to report in case they themselves would be arrested, or in case police do not reveal their identity. Boda-boda operators in Kisumu (who earn between Kshs. 700 and 1,000 per day) reported that police harass them daily and demand bribes of up to Kshs. 5,000. In the focus group discussion, one of the boda boda motorcyclists noted, 'now there is the mobile court which has increased corruption. You are charged there and arrested there. So bribery is high'. Some however observed that the devolved government had reduced arbitrary arrests.⁴⁰ The mistrust between the security and public, especially boda boda operators, was noted as being responsible for the increased insecurity. Due to fear, the boda boda operators are unwilling to report crime. The police need to also protect the security of those giving information. 'Mob violence is linked to slow response and corruption within the police'.⁴¹

In Nairobi County, trust in the police is low and this hampers information flow.⁴² In a study of Nairobi, 2011-12, it was noted that only 52% of respondents reported crime to the police. The reasons for this include the fear of victimization, inaction of police, and the fear that sensitive information may be leaked (SRIC, 2012). In Garissa County, the county government and the Office of the County Commissioner have been collaborating to cultivate a good rapport between citizens and security officers with the aim of ensuring smooth flow of security information in the county.⁴³

In Turkana County there is a historic rift between state and citizen from years of attempted settlement and containment of pastoral communities under the colonial government, to marginalization and forcible disarmament approaches by both colonial and post-colonial governments. The Turkana have little contact with the police, and have more trust in the KPR who are drawn from the community and

³⁹ Interview, Senior County administrator, Kisumu, 27 February, 2014

⁴⁰ FGD boda boda operators, Kondele, Kisumu, 28 February, 2014

⁴¹ FGD with boda boda operators, Kondele, Kisumu, 28 February, 2014

⁴² FGD, Safer Cities Team, Nairobi, 11 April, 2014

⁴³ Interview, senior official of Garissa county government, 21 March, 2014; Interview, senior officials of the County Assembly, 22 March, 2014

are the main providers of community security (see below). A very important priority for communities is livestock, and in cases of theft, the police, unlike the KPR, do not always see cattle recovery as priority.

Coordination of security agencies

Communication and coordination between security organs and the devolved government and the NGAO officers at the county level are essential for success since security and development are closely linked. The National Police Service Act provides for a mechanism for involvement of the county government as well as the community in policing through the CPA (see figure 4). In many counties however, the CPAs are not yet up and running due to legal delays.⁴⁴

Beyond the police and the CPA, roles and responsibilities of the state players at the county level were unclear in most of the counties visited, leading to confusion, tension and mistrust. In Kisumu County, for instance, senior security officers and county administrators felt that the governor was not working in collaboration with other security players. The county commissioner and security team took the step of removing the *boda-boda* from the CBD (due to crime), but they complained to the governor and were allowed to return. One administrator interviewed felt that the governor was yet to transition from his role as a politician to that of governor.⁴⁵ A suggestion was made that Kisumu County should designate a senior officer/secretary vetted and trained in security whose role would be to link the county and national roles.⁴⁶ This has been done in Nairobi, where a senior police officer has been seconded to the county to manage a number of functions and is answerable to the governor, but is at the same rank as the county commander and linked to the IGP also.⁴⁷ The Mombasa County Government has also created the position of Security Advisor to the Governor.

In Mombasa County a community peace monitor noted that there were problems in relationships involving all players: 'There is duplication of efforts as the national administrators still exist. Boundaries are not clear and everyone is his own boss. There are also conflicting roles between the county commissioner and the national police.'⁴⁸ With regard to civil society, he noted, that 'there is no collaboration between civil society (CSOs) and the security officials. In his assessment, when civil society officials point out the weaknesses, the county commissioner blames the police and the security officials see the CSOs as the enemy.'⁴⁹

In Turkana, a security officer noted that there are problems in the working relationship between the county government and the police and there is duplication of leadership and roles on the ground since the AP was merged with the regular police.⁵⁰ There is also confusion about the role of the former PA, which has traditionally been responsible for security management at the local level, including the

⁴⁴ Keynote address 'Crime and Development' by Cabinet Secretary Joseph Ole Lenku, Ministry of Interior and National Coordination, at the governors' meeting on 'Crime Prevention in the Service of Citizens' at Enashipai, Naivasha, 23 May, 2014

⁴⁵ Interview, senior administrator with national government, Kisumu, 27 February, 2014

⁴⁶ Interview, senior administrator with national government, Kisumu, 27 February, 2014

⁴⁷ FGD, Nairobi County Security Department, 4 April 2014

⁴⁸ Interview, peace monitor official, Likoni, 7 February, 2014

⁴⁹ Interview, peace monitor official, Likoni, 7 February, 2014

⁵⁰ Interview, senior security officer, name and place withheld 23 February, 2014

mobilizing of APs and KPRs. The new structure has removed arms from chiefs, which some see as a mistake, as they command KPRs who carry arms.⁵¹

The president's move in May 2014 to cement the county commissioners (and by extension, the lower tiers of NGAO) in counties has provided some certainty as to the future of the former PA. However, this is set to bring further disputes over the respective roles and responsibilities of two parallel administrations at county level. This assessment confirmed the findings of the Task Force on Devolved Government in 2011, that citizens had been concerned about the expected loss of chiefs and other cadres of the former PA who had been important in resolving disputes and mobilizing the former administration police to fight crime (GOK, 2011).

Garissa County offers a good example of coordination, as state security players responded to high levels of terrorist bombings of churches in 2013. The county commissioner gave out his number to the public to facilitate the flow of security information hampered by poor police/community relations, and worked with the governor, police and community to enforce a requirement for all tenants to produce ID cards. According to those interviewed, this led to a massive exodus of illegal immigrants from the town.⁵² Whether the exodus of those without identity cards led to an improvement in security is however debatable and the policy of seeing illegal migrants as potential terrorists is flawed in both legal and practical terms. Nevertheless, this form of cooperation may serve as a model for county and national government partnerships in addressing problems of security. The governor has also been supporting the police, supplying them with fuel and vehicles at times. The government of Garissa County has also proposed to work with the national government to screen refugees at border entry points instead of refugee camps.⁵³

The issue of CPAs is important because it is one of the formal areas where police and county governments meet and exchange ideas. It is also fundamental to the constitution in providing a forum for participation of the public in setting security priorities. However, CPAs are not up and running as noted. This leaves a gap at an important time when counties are trying to set development priorities and security considerations are important. Governors have not been able to carry out safety audits which would have assisted in planning. Inter-county cooperation on security issues such as cross border conflicts and land conflicts (Turkana-Pokot) and cattle raids (Kisumu, Nandi and Kericho counties) could have been done through CPAs of the two or more counties concerned.

The effectiveness of the CPA may be limited by a lack of legitimacy in the eyes of the national security officials (police, NIS, CID). Senior security officials noted the following problems: Given that the constitution places security under the national government, the national security officials may view the governors as strangers in the security world whom they find difficult to entrust with important and oftentimes sensitive security information. Notably, they are under no legal obligation to share any security information with governors even when they meet in the CPAs, and although the governors are the chairpersons of CPAs, the same governors do not sit in County Security Intelligence Committees

⁵¹ Interview, administrative officer, 24 February, 2014

⁵² Interview, senior official of Garissa county government, 21 March, 2014; Interview, senior officials of the County Assembly, 22 March, 2014

⁵³ See for example, Eleventh Parliament Proceedings: The Senate on 9th April 2014. A motion on 'Annual Report on the State of National Security' submitted by H.E. the President on Thursday 27 March, 2014 Pursuant to article 240(7) of the Constitution of Kenya and section 16 of the National Security Council Act, 2012.

(previously District Security Intelligence Committees, DSICs) and are not privy to proceedings of the CSICs, which make the most important security decisions with respect to counties. Moreover, the CPA is advisory in nature and its advice may be ignored. Lastly, it may be viewed by national security officials as a mere forum, not different from public forums in which members of the public share sentiments on security with the security officials. Security officials may be happy to be given information and ideas from CPA members, but refuse to divulge information in the other direction. Consequently, CPAs may die from one-sided information trains and mistrust, or conversely, develop into separate entities from the CSICs, duplicating efforts and limiting effectiveness.⁵⁴

With regard to community policing, according to the National Police Service Act of 2011, CPAs are responsible for overseeing and promoting community policing activities and are described as the 'primary supervisory structure for community policing'. Given that the CPA is under the county and policing is under the national government through the County Security Committees, mandates and operations may become confused as the CPA attempts to closely oversee community policing, without actually exercising much influence over the police.

Regional coordination between security players is important in managing crime, conflict and their drivers across county borders. In several counties, including Garissa and Turkana, the issue of conflict across international borders necessitates the involvement of all tiers of security, including the NGAO, and at the grassroots, communities and their representatives.

For counties with international borders, the porosity of borders is also a challenge for the coordination of all tiers and players in security. Families or clans may live on both sides of the border and criminals can cross unchecked, as well as large numbers of refugees who are increasing the numbers in Kakuma (Turkana) and Dadaab (Garissa) camps each day (Mkutu, 2014b).⁵⁵ This is a grave concern with the current wave of terrorist attacks in Kenya. While international border management is clearly an issue of national security, coordination with officials at the county and the community level is vital and needs to be part of the process of managing the problem. Moreover, cross-border movements of people are often related to issues of trade and transport and land use which fall under the county government.

In the various counties visited, there was an ongoing debate as to the role of the county governments in managing security. Some community members felt that a local police, under the governor, would be able to respond easily to local problems.⁵⁶ However, it was argued that this could result into various problems, including exacerbation of ethnic tensions.⁵⁷ Some counties such as Machakos have developed a mechanism of collaboration with the police and supporting the police with equipment. In this county, the governor has furnished the police with 120 cars, 40 dogs and 500 CCTV cameras.⁵⁸ The move will, undoubtedly, ensure the governor's inclusion in security decision making in the county.

⁵⁴ Interviews, senior security officers, Nairobi, 8 April, 2014

⁵⁵ Interviews, Turkana and Garissa, February-April 2014

⁵⁶ Interview, leader of one of Kisumu's prominent gangs, 1 March, 2014 (This was a different gang to the FGD); Interview, security expert, Lokichar, 23 February, 2014

⁵⁷ Interview, senior administrator with national government, Kisumu, 27 February, 2014; Interview, senior county administrator, Kisumu, 27 February, 2014

⁵⁸ Standard Digital Media (2014) 'Machakos County governor Dr. Alfred Mutua unveils 120 police cars to enhance security', <http://www.standardmedia.co.ke/mobile/ktn/watch/2000074563/machakos-county-governor-dr-alfred-mutua-unveils-120-police-cars-to-enhance-security>

Some governors have proposed the setting up of county police services. For instance, the Nairobi governor announced in 2013 that Nairobi County would look into the creation of Metropolitan Police Unit in the city⁵⁹ to support the operations of the regular police and to replace the City Inspectorate Department of the former city council, which controlled the approximately 1000 city askaris (guards).⁶⁰ As of mid-2014 however, the Metropolitan Police Unit was yet to be created. Moreover, since only parliament has the power to create new police services under the constitution, it is unlikely that the plan will come to fruition in the near future.

Planning for security

Some of the counties assessed have made the linkages between their development mandates and security in their plans. The Kisumu County Integrated Development Plan notes that that a growing population of unemployed youth poses a security threat. It also identifies environmental and infrastructure challenges, such as poor street lighting in towns, as contributors to insecurity.

Machakos County offers the most explicit linkage and commitment to addressing insecurity as part of development. The Machakos County Integrated Development Plan proposes a shift to crime prevention in dealing with security and an improvement of the coordination of security institutions. Elsewhere, the Garissa County Integrated Development Plan states that the county government will work with the national government towards preventive and proactive measures to guarantee safety and wellbeing of the residents.

Whereas the development functions allocated to counties provide the opportunity for county governments to integrate security in their development plans, there was limited explicit recognition of these opportunities in the counties assessed. In most cases, the counties' plans view security as synonymous with policing and their security roles therefore largely limited to support police institutions where possible.

Partnership with business and other non-state actors

In various counties, business actors are key in supporting county investments in security processes. They have supported investment by counties by providing equipment such as vehicles to the police as well as investment into technologies such as CCTVs. In Kisumu County, the need for a consultative forum for the private sector to contribute to security planning was raised. In Turkana County, the Minister for Decentralization, Devolution and Management is in the process of drafting a document to engage other stakeholders, such as private business and companies, in security and a preliminary report exists on this.

Various county development plans (e.g. Turkana and Garissa) acknowledge and list the many civil society partners, and also make mention of the indigenous players such as elders and local people in peace and security. In Mombasa and Garissa counties, inter-faith groups, clerics and others are very active in peace-building. In Kisumu County, the "Champions for Peace" carried out valuable work prior to the 2013 election and the National Council of Churches, through Diakonia, has been able to support youths and dissuade them from the gang culture. In Garissa County, a number of peace agreements created

⁵⁹ Sangira, S (2013) 'Metropolitan police to take over from city traffic officers' *The Star*, 13 November

⁶⁰ Kyenze V (2013) 'Metropolitan police boss picked'

<http://kenyanewsagency.go.ke/?p=2191> <http://kenyanewsagency.go.ke/?p=2191>

through community initiatives exist. They are recognized by the security actors, including county commissioners. In Turkana County, the post of Peace Ambassador has been created to assist in mapping security issues and bring them to the attention of the county government.

In addition, some counties have demonstrated creative partnerships with the private sector to enhance security. For instance, in Mombasa County, 26 vehicles were donated to the county government by the Mombasa Business Community to support police security patrols and efforts to combat crime. The vehicles were worth Kshs. 2.6 million each and equipment fitted worth Kshs. 0.5 million, including onboard computers.⁶¹ In Kisumu County, some of the members of the business community expressed interest in addressing the county security needs.⁶² The Turkana County is in the process of developing a report on how the county can collaborate with the private sector for security.⁶³

Youth unemployment

Kenyan youth (those between 18 and 34 according to the constitution) make up approximately a third of the Kenyan population. Around 80% of Kenya's 2.3 million unemployed are within the 15-34 age bracket (UNDP, 2013). Youths are often viewed as a liability, but they must be valued as an asset, and a valuable resource for the country.

Lack of opportunities for gainful economic engagement may lead to increased anti-social behaviour amongst youths, such as crime, violence, alcoholism, prostitution, drug trafficking and abuse (Ministry of Youth Affairs, 2006) (see figure 5). Moreover, discontented marginalized youths are vulnerable to recruitment into gangs, political mobilization to violence, and in some cases, religious extremism (Botha, 2013). Notably over 50% of the prison population in Kenya is between 16 and 25 years of age (National Steering Committee on Peace Building, 2011).

Counties assessed recognized youth unemployment as a key priority and some have attempted to initiate programmes to promote opportunities for employment, skills development and to promote access to finance youth enterprises. For instance, Garissa County has created scholarships scheme for technical courses, engineering and medicine.⁶⁴ Garissa County Government has also popularized a motto of 'Ugatuzi na Kazi' (devolution and work), which it has cascaded to the sub-counties and employed 100 youth in every sub-county. The employed youths are assigned tasks such as town clean-ups and are paid Kshs. 11, 000 per month.⁶⁵ A senior county administrator in Garissa County suggested that the high wage bill arising from devolution impedes the aim of creating jobs.

Youth unemployment was given as one of several factors contributing to the growth of radicalization in Garissa and Mombasa counties. Initiatives like Kazi kwa Vijana had only a temporary effect on youth unemployment in Garissa County. Unemployment has consequently made the youth vulnerable to recruitment by Al Shabaab, who promise attractive compensation. Some of those who joined Al Shabaab in Somalia found the going difficult and managed to escape, but upon arrival in Kenya, engaged

⁶¹ Facebook (2014) Hon. Ali Hassan , Unveiling the Mombasa Country police Vehicles

<https://www.facebook.com/media/set/?set=a.544667495591601.1073741911.215892765135744&type=1>

⁶² Phone correspondence with a businessman in Kisumu, 30 May 2014

⁶³ Phone correspondence with a private security expert in Turkana, 27 May 2014

⁶⁴ Interview, senior county administrator, Garissa, 20 March, 2014

⁶⁵ Interviews with Garissa county government officials 21 March, 2014

in crime as a source of livelihood.⁶⁶ In Mombasa, local people are often excluded from a key part of the local economy, the tourism industry. Those who are absorbed into the tourism industry have been facing severe challenges since May 2014 as several countries issue travel advisories warning against visiting the Kenyan coast,⁶⁷ leading to the closure of 25 hotels and redundancy of around 7,000 employees.⁶⁸ Here unemployment is at a figure of around 60%.⁶⁹

Additionally, high taxes in the CBD since devolution have affected many youths attempting to run small businesses. To assist in youth unemployment, Mombasa County acknowledges the need to improve the education sector in the county and has committed to improving the provision and quality of education, increasing investment by 55% annually.⁷⁰

The main employment options in Kisumu County for unskilled labourers are boda-boda (motorcycle and bicycle taxi), matatus, working as a manamba (touts – borrowing the bikes of others to earn a little money), and jua kali (casual work under the hot sun).⁷¹ Boda-boda business is of particular importance as there are around 20,000 motorcycles in the county and 6,000 in Kisumu town.⁷² Boda boda taxis have also been linked with waves of criminal activity, being a quick and convenient get-away.⁷³

The population of Nairobi city has grown from 800,000 in 1980 to 3.1 million in 2009 mainly due to economic migration from rural areas. A recent Nairobi city plan known as NIUPLAN formulated with the assistance of the Japanese International Cooperation Agency (JICA, 2013) noted the importance of the socio-economic conditions of unemployment and poverty, in-migration, high inequality and lack of hope among people in Nairobi. In the plan, the governor has committed to developing around 60 open spaces in the city managed by county, which may also provide employment opportunities for youths. Education and participation are also mentioned and have important security implications. In a public meeting responding to the Plan, representatives from each of the sub-counties noted their respective priorities concerning youth employment. They emphasised the need for vocational and other training for youths, the need to provide employment opportunities for younger people in county government and the need to allocate space for 'jua kali' (outdoor work under the hot sun).⁷⁴

In pastoral areas, many youths are facing a livelihood crisis. In the past the cattle economy absorbed most members of the pastoral community, but modernization and the market economy is bringing change to pastoral society. The need to obtain education, and to get school fees, drives some into banditry and raiding for quick sale and profit (Mkutu, 2010). Additionally, the market economy has led to the removal of cattle from circulation among pastoralist groups and depleted stocks (Mkutu, 2008), such that fewer youth are absorbed by the sector. Many now look for work as security guards and cattle traders, (Osterle, 2007). Cattle are now concentrated in the hands of a few who can afford to control the

⁶⁶ Interview, civil society official, 21 March 2014; Interviews, SUPKEM and CIPK officials, 21 March 2014; FGD with youth, 22 March 2014;

⁶⁷ Chanji, T and Mwakio, P (2014) 'Tourists leave Kenya over travel advisories' *The Standard*, 16 May pp1,4

⁶⁸ Sanga, B (2014) 'Terror alerts bite as 20 hotels close down at the Coast', *The Standard*. 28 May pp1,6

⁶⁹ Interview, LICODEP team, Likoni, 7 February, 2014

⁷⁰ <http://www.mombasagovernment.com/new/index.php/departments/education/strategic-objectives>

⁷¹ Interview, local Chief Onyina, Kisumu, 28 February, 2014

⁷² Interview, Chief Okoth, Kisumu Central 28 February, 2014

⁷³ In recent years, there has been an uproar from the public concerning crime by boda boda see Apolo, J. (2014) 'Police want to kill our business: Kenya boda boda operators', <http://www.iq4news.com>

⁷⁴ Interview, Elijah Agevi, Nairobi, 11 April, 2014

practice of raiding and hire out youths who would previously have built up their own stocks, to take risks on their behalf (Mkutu, 2010).

Radicalization and extremism

Recruitment of young people into radical and extremist religious and political movements is the leading security problem in Kenya at the moment. Radicalization and extremism pre-date the 2010 constitution and devolution. With devolution, county governments now find themselves confronted by the problems of radicalization and its consequences, particularly in the form of violence.

Radicalization has been linked to the secessionist movements such as the MRC as well as the recruitment of Kenyan youths into the Al Shabaab terrorist group. Governor Hussein Dado, who chairs the security committee of the Council of Governors, concurred that radicalization of youths has increased and any measure that does not address radicalization will not work.⁷⁵

In some counties, such as Mombasa, particular mosques have become centres for radicalization.⁷⁶ One of these was Musa Mosque, which was invaded by the police in early 2014, leading to the deaths of five community members and one police officer.^{77,78} It was noted that younger people are now being targeted, some as young as 12 years of age.⁷⁹ Several clerics and interfaith workers observed that some of the youths have turned against elders who do not support radical views: 'They have their own sheikhs who are young...youths have turned against elders to take over mosques and are now meeting together.'⁸⁰

Police response to extremism and radicalization has continued to worsen the situation. In Mombasa County, it was noted that the police approach is often reactive and fails to consider local sensibilities, which in terms of radicalization may serve to strengthen grievances and make martyrs and heroes of those who are detained. A local sheikh noted that a police raid on the Sakina mosque in Mombasa County could have been handled better and that since "you cannot fight ideology with the gun."⁸¹ Activists and local leaders in Mombasa County have condemned a shoot-to-kill policy for terror suspects, noting that it was unlawful and counterproductive to legitimate anti-terrorism measures.⁸² Moreover, the youth interviewed in places like Diani pointed out that the police often round up the youth principally to extort bribes from them⁸³

⁷⁵ Remarks by Hussein Dado, Governor for Taita Taveta, at the governors meeting on 'Prevention in the Service of Citizens' at Enashipai, Naivasha, 22-23 May, 2014

⁷⁶ Interview, senior security official, 8 February, 2014. It has now been renamed Masjid Shuhadaa or Martyrs' Mosque to honour the slain but also in defiance of the state by the radical clerics.

⁷⁷ Oketch, W and Kithi, N. (2014) 'Mosque raid unearths crucial documents' *The Standard*, 5 February pp 1,4

⁷⁸ Jumbe, I and Sanga, B. (2014) 'Now Muslim radicals rename Musa mosque in Mombasa' <http://www.TheStandardmedia.co.ke/thecounties/article/2000106223/now-muslim-radicals-rename-musa-mosque-in-mombasa>

⁷⁹ FGD with local Sheikhs, Mombasa, 7 February, 2014; Interview, local orphanage manager, 8 February, 2014

⁸⁰ FGD with local Sheikhs, Mombasa, 7 February, 2014

⁸¹ Interview, Sheikh Juma Ngoa, 7 February, 2014

⁸² Dolan, Gabriel (2014) 'Is Kenyan fast turning into a police state?' *The Standard*, 1 March p13; Mbaka, J (2014) 'Activists condemn shoot to kill order' *The Standard*, 27 March ; Ombati, C and Kamau, M (2014) 'Anti-terror measure scaled up; top officials given extra protection', *The Standard*, 8 April p1,4

⁸³ FGD with youths in Diani, 28 April, 2014

Poverty, exclusion, marginalization and lack of opportunity are well documented factors in radicalization of young people (Stekelenbuge & Oegema, 2010). In Mombasa, concerns about the welfare of family might also drive 'breadwinners' to join the jihadist cause for money.⁸⁴ Drug addiction is also a driver in radicalization when money is offered.⁸⁵ A lecturer in one of the local universities noted that the mosque is a platform for power and the only way for the youth to voice their issues on unemployment and discrimination.⁸⁶ It was also noted that Islamic radicalization is loosely linked to the discontent over land and the demands of the MRC (which is not exclusively Muslim).⁸⁷ As in Mombasa County, several youths in Garissa County have joined Al Shabaab for financial rewards.⁸⁸

There is a danger of retaliation by Christian youths in Mombasa County, if faith leaders do not handle the situation carefully. After explosives were detonated in Gikomba market in Nairobi on 16 May 2014 killing ten people, youths grouped and tried to march to Eastleigh to carry out a retaliatory attack against members of the Somali community who they assumed were the perpetrators.⁸⁹

The importance of the family dynamics was also raised in Mombasa County. A manager of an orphanage noted that the government was only looking at security and not the social side. Divorce and the failure by fathers to provide for their children were seen as some of the underlying drivers of youth deviance as the family structures have crumbled.

The problem of radicalization should not simply be seen as a Muslim issue, or a coast issue. It is witnessed in Nairobi and other parts of the country also and partly linked to poverty and lack of livelihood opportunities. Some reports have identified centres for radicalization in Nairobi such as Majengo, Shaurimoyo and to some extent Kibera. In Kibera, it was said that many youths live by the motto, 'Ni heri maisha mafupi ya raha kuliko marefu ya shida' (It is better to enjoy life for a short time than to live a long life of problems). A large number of youths who joined Al Shabaab in Somalia came from Majengo, Pumwani and Huruma, where socioeconomic conditions are poor.⁹⁰

Emerging gang/militia culture

Like radicalization and extremism, counties are now grappling with the challenges posed by the proliferation of criminal gangs and militias. These groups have a long history and are not a consequence of devolution. However, they are now part of the considerations that county governments have to factor into their planning on development.

In Mombasa County the 40 Brothers gang, which operates all over the city, is infamous for armed robbery, assassinations and protection of drug dealers. The well planned and organized gang has connections with senior politicians, business people and official security. A civil society officer claimed that the gang supplies police with information of their activities in advance so that the police ensure they are 'unreachable' in the event of receiving distress calls. In response to the 40 Brothers gang, a

⁸⁴ Interview, MRC official, 7 February, 2014

⁸⁵ Interview, local interfaith organization official, 8 February, 2014

⁸⁶ Interview, a local lecturer, JKUAT, Mombasa, 8 February, 2014

⁸⁷ Interview, local Sheikh, Mombasa, 8 February, 2014

⁸⁸ Interview, civil society official, 21 March, 2014; Interviews, SUPKEM and CIPK officials, 21 March, 2014; FGD with youth, 22 March, 2014;

⁸⁹ Mbaka, J. (2014) 'Pregnant woman among 10 killed in the blasts', *The Standard*, 17 May

⁹⁰ Zaddock, A. (2011) 'Police name 15 key Al-Shabaab fugitives', *Daily Nation*, 26 March p2-3

vigilante group known as 'Funga File' (close the file) was formed in Kisauni areas. The group saw themselves as a community policing initiative but was essentially a death squad to eliminate the members of the terror group. It was viewed to be very effective as opposed to the police who were perceived to release criminals back into the community. The police tolerated the vigilantism and obliged by collecting the bodies after Funga File had carried out their mission.⁹¹ Concerns now exist that the 40 Brothers have now been revived and networked with other gangs for the purposes of mobilization elsewhere.⁹²

In Kisumu County two major players exist: the American Marines and the China Squad. The two gangs are powerful, organized and easily contacted. They own several businesses and are available for hire for 'protection'. They currently express political affiliations; American Marines support the Orange Democratic Movement and the China support TNA, a pragmatic affiliation more than an ideological one, since this mobilizes people and attracts resources. The gangs protect politicians and rallies, and as a youth leader noted, 'they dismantle opponents before rallies start.'⁹³ Politicians in turn provide support and resources to the gangs.⁹⁴ A youth noted that the China gang is very rich and owns ten Toyota Prados. While not sworn enemies,⁹⁵ they frequently fight over economic interests, supremacy and resources.⁹⁶

A civil society member noted 'we need to ask ourselves if we can penetrate these leaders and use them for good'.⁹⁷ Related to gangs is the ease with which youths can be mobilized to take part in riots. Commenting on the riot over the unveiling of a Sikh monument, a chief said '200 youths were there...where did they come from?'⁹⁸ Political incitement is a factor here, 'Crime is petty, and the problem comes with political thugs, causing riots.'⁹⁹ A gang member concurred:

*"Politicians use the youths as goons. In the post-election violence (PEV) it was documented that 300 youths died, the real figure was around 1300. A poor person has nothing to lose and does not value himself. Most of the youths were looters. Any little problem that occurs is an opportunity to loot, and they come in masses."*¹⁰⁰

The phenomenon of youth gangs in Nairobi is well documented (Anderson, 2002). This work confirmed that in Kibera, the following gangs operate: Mungiki, the Nubian warriors, the Siafu (Luo), Youth Reform, Bukungu, Kamukunji (ODM) and the 12 Disciples.¹⁰¹ They are adept at theft, and carry out some of the car hijackings on Ngong Road. In Eastleigh, there is Super Power, Hapana Tambua and Sitaki Kujua gangs. Super Power operates on 6th-12th Street. It comprises of many youths deported from European

⁹¹ Interview, Muhuri former staff and human rights activist, Mombasa, 7 February 2014

⁹² Interview with a security official, Mombasa, 16 June, 2014

⁹³ Phone communication, Kisumu youth leader, 5 April 2014

⁹⁴ Interview, Betty Okore, Team leader, Civil Society Organization Network, Kisumu, 1 March, 2014

⁹⁵ Interview, leader of one of Kisumu's prominent gangs, 1 March, 2014

⁹⁶ Interview, Member Of County Assembly, Kisumu, 28 February, 2014

⁹⁷ Interview, Betty Okore, Team leader, Civil Society Organisation Network, Kisumu, 1 March, 2014

⁹⁸ Interview, Chief Okoth, Kisumu Central 28 February, 2014

⁹⁹ Interview, lecturer, member of peace organization and activist against police violence, Kisumu, 27 February, 2014

¹⁰⁰ Interview, prominent businessman, Chairman of Kisumu Association of Manufacturers and Chairman of Champions for Peace, 27 February, 2014

¹⁰¹ Interview, a peace monitor, Kibera, 11 April, 2014; Interview, a senior administrator, Kibera, 11 April, 2014

countries, some of whom are supported by affluent relatives. This gang is said to terrorize mainly wealthy Somalis for fun. Sitaki Kujua is made up of members born and bred in Eastleigh and often target women. Hapana Tambua is located in South Eastleigh California Estate. The members are fewer and have more sophisticated weapons, including guns. A Super Girls gang has recently emerged and needs further study.¹⁰² A new gang in the city, College Boys, carries bags as if the members are going to college but the bags often contain guns.¹⁰³The use of minors in crime by security officers was noted in Kibera.

In both Turkana and Garissa counties, gangs come in the form of road bandits. In Garissa County, it was noted that youths recruited to fight for the TFG in Somalia defected when their promised payment did not come through and risks were high. Once home and without meaningful employment many became bandits.¹⁰⁴ In Turkana County, many armed youths on the Kitale-Lokichoggio road attack motorists in an operation dubbed “kata hema” (cutting the ‘tent’ over the goods of trucks and removing everything). Security escorts must be hired, some of whom are complicit in the banditry (Mkutu and Wandera, 2013; Mkutu 2008).

The phenomenon of gangs and militias is linked in part to unemployment and poverty, exclusion, culture which legitimizes use of violence, poor relationship with official security and the political support for violence. Consequently, attempts to ‘clean up’ urban centres by devolved governments, without due attention to opportunities for youths, may serve to increase gang crime along with other forms of criminal activity.

Management of organized crime is a national issue, but NGAO and county administrators and police will need to work together in order to gather intelligence, work with community and reduce the incentives for ‘foot soldiers’ or players on the ground to become involved.

The political support for gangs is a worrying problem. Assistance for youths needs to be a neutral process, delinked from provision of ‘security’ to politicians. Devolution provides an opportunity for this but clannism, internal marginalization and ethnic intolerance currently evident in counties could serve to continue the problem of politicized gangs in different forms.

Unresolved resource conflicts

Kenya’s recent mineral and oil finds offer a chance to boost the economy. However, there are serious concerns with regard to the nature and extent of benefits that will accrue to the local communities. Control over exploitation of natural resources, such as oil, falls under the national government in accordance with the Kenyan constitution. Unresolved land disputes and tenure in various counties are also feeding into intra-county and inter-county conflicts. Counties and county governments have emerged as new arenas for articulation of frustrations over unresolved conflicts over resources such as land and oil.

In rural areas of northern Kenya, inhabited mainly by pastoralist communities, resource based conflict over pastoral resources such as land, and competition for water and pasture, and raiding of livestock is

¹⁰²Findings from a survey February-March, 2014 by research students at United States International University, in collaboration with Usalama Reforms Forum

¹⁰³ FGD with Safer cities team, Nairobi, 11 April, 2014

¹⁰⁴ Interview, elder and peace monitor, Garissa, 7 March, 2014

high¹⁰⁵. A raid in March 2014 in western Turkana resulted in the loss of 2,000 livestock, two deaths and four injuries. Following the raid the locals barricaded the Kitale-Lodwar road in a protest against constant attacks in the area. Climatic variability (drought) and the resultant mobility of pastoralists in search of pasture and water are important factors in resource conflict. Policies or land allocations which restrict pastoral movements may exacerbate this, and this is highly relevant to devolution, where inter-county coordination is required. The devolution of funds to Turkana could potentially assist in the search for alternative livelihoods for pastoralists.

The Turkana–Pokot border has become a hotspot of violence, with disputes over land, water sources and grazing rights having taken precedence over raiding conflict.¹⁰⁶ In November 2013, the Lorigon Siege involving Pokot militias who had denied Turkana families access to water from the River Kerio and access to neighbouring markets to purchase food and other essential commodities lasted six days.¹⁰⁷ The border dispute has been exacerbated by drought, the discovery of oil, and political incitement.¹⁰⁸ According to deputy county commissioner for Turkana South, the situation could have been sparked by the recent release of a map that revealed the boundary between West Pokot and Turkana counties. According to the map, River Turkwell has been placed in Turkana County but the raiders want the map to show that the river is in West Pokot.¹⁰⁹ Turkana residents voiced their feelings that the national government has failed to protect them, and has instead left them to manage their own security.¹¹⁰

Devolution has also coincided with the discovery of oil in Turkana County with prospecting also taking place in Kisumu and Garissa counties. This is likely to bring rapid change in pastoral areas of Kenya and the change the livelihood system. The planned LAPPSET corridor consisting of a road and oil pipeline will connect Uganda, Southern Sudan and Lamu port on the northern Kenya coast. An NGO worker noted that nearly 63,000 square miles (82% of Turkana’s 77,000 sq.km land mass) has been given out as blocks to oil prospectors.¹¹¹ Pastoral livelihoods which require large areas of land are likely to be disrupted by the oil industry.¹¹²

The deputy governor of Turkana County voiced concerns about how the county will manage the expectations of the community over oil and water, alongside the demands of devolution.¹¹³ Community dissatisfaction is high in both Turkana and Kisumu counties, where people feel excluded from decisions

¹⁰⁵ Kiplagat, R (2014) ‘Governor attributes insecurity to shortage of security personnel’, *The Standard*, 30 May p38

¹⁰⁶ Interview member of civil society for peace, Lodwar 24.2.2014 Also confirmed by several others

¹⁰⁷ See <http://reliefweb.int/report/kenya/health-risks-turkana-families-after-Posted> Sunday, November 24, 2013

¹⁰⁸ Referring to the Lorigon siege of November 2013, one respondent commented that incitement was as bad as a football game between Kenyan teams AFC and Gor Mahia.

¹⁰⁹ Mobile Nation (2013)

<http://mobile.nation.co.ke/News/Police-sent-to-end-Turkana-siege-/-/1950946/2086966/-/format/xhtml/-/14k5g5w/-/index.htm>;

https://www.kenyaredcross.org/index.php?option=com_content&view=article&id=527&Itemid=124

¹¹⁰ FGD with women, Lobei, 24 February, 2014 and security experts, Lodwar and Lokichar January-February, 2014

¹¹¹ Interview with a local NGO worker with several years of experience in Turkana, Lodwar, 29 August, 2012

¹¹² Interview, an Intelligence expert, Lokichar, 23 February, 2014. Prospecting leads to the fencing of around 13 acres at a time, with 300 such areas planned in and around Lokichar.¹¹² There is also as the environmental impact of noise and vibration of machinery and industrial waste.

¹¹³ Deputy Governor for Turkana in an opening speech to a workshop “Oil and development in Kenya: a conflict sensitive perspective” organized by Danish Demining Group, St Theresa Hotel, 27 March, 2014

about these matters which affect them. A well known *kraal* leader in Turkana, Emanman Kapase, was displaced by oil prospecting. He voiced his feelings:

“Oil installations are blocking paths, which should have been discussed with the community...In the future there should be areas reserved for animals and people. We are not eating oil but animals; what is the value of this discovery if we are sitting under the trees with nothing to eat? We do not have power and have been pushed away. If there is nothing for compensation, and if you can get nothing from ancestral land, what is good about that? They are coming from all over the world, whites and blacks, for what good are they coming? Are they just coming to take our oil? Why are you coming to talk to us? Our children have been finished in Turkana... the future is hunger, animals being finished, no rain and conflict (with Pokot). I see nothing good.”¹¹⁴

Residents are also demanding compensation, which is a right under the new Mining Act 2014, and should be given by the holder of the mining right (the company). However, this is a complex issue, given that the land is community land held in trust by the county it is not clear who should be consulted and as noted ‘only a few elites have access to this information.’¹¹⁵

In Lokichar, Turkana County, there has been tension over the issue of jobs and tenders for local people, who feel that they have been excluded from tenders to provide transport, and from meat and food tenders, despite being among the leading producers of cattle in the country. Gabriel Dolan, a Catholic priest who has previously worked in the region and is a regular newspaper columnist, noted that politicians have set up their own companies and acquired tenders.¹¹⁶ Under the Mining Act 2014, the only legal requirement is for jobs and tenders to be preferentially given to “Kenyan citizens”. The only obligation regarding the community is that the company should “where applicable and necessary, carry out social responsibility to the local communities and implement a community development agreement.” Such issues led to a demonstration in November 2013, and operations by the multi-national Tullow were closed down temporarily. The company responded by increasing employment for locals and currently around 70% of semi-skilled and unskilled jobs are now given to Turkana.¹¹⁷ In other companies allied to the oil industry, the same ratio is yet to be achieved.¹¹⁸ The issue has largely bypassed the county. According to Father Dolan, the terms between the oil company and the national government were agreed under a Production Sharing Contract which has been kept from the public and relevant parties.¹¹⁹ A senior county administrator concurred:

“As a county we are still grappling with a contract signed elsewhere and the county is expected to implement it. The Governor does not know what was signed in the contract, the MCA have no knowledge and we as a county have no documents.”¹²⁰

¹¹⁴ Emanman Kapase, Lokichar, 23 February, 2014

¹¹⁵ Interview Dr. Wafula, APAD, Lodwar, 24 February, 2014

¹¹⁶ Father Gabriel Dolan (2014) ‘Tullow must involve locals in its oil plans’ Letter to *The Saturday Nation*, 8 March, 2014

¹¹⁷ Elijah, DC Lokichar, Lokichar, 23 February 2014 (in Lokichar since 2012) and District Peace Committee Chair source 18

¹¹⁸ Interview, employee of Tullow, Lodwar, 24 February 2014

¹¹⁹ Father Gabriel Dolan (2014) ‘Tullow must involve locals in its oil plans’ Letter to *The Saturday Nation*, 8 March

¹²⁰ Senior county administrator, Turkana, Lodwar 27 February, 2014

Since devolution, a policy is yet to be developed at county levels on the extractive industries, which might address issues such as sharing of benefits, provision of services and employment of locals.¹²¹ However, at the national level, a Ministry for Energy, Environment and Natural Resources has been created and staffed at the county level and it is now planning the mapping of resources and legislation in the areas of oil, gas, solar and minerals. In terms of use of natural resources, the constitution notes that county governments are responsible for implementation of national policy on the same, but the Mining Act 2014 makes this the preserve of the national government. How this will practically work out remains to be seen.

Land conflicts

Land issues are important drivers of insecurity in all counties, and especially in Turkana and Mombasa counties. Recent media reports attest to this with headlines such as: 'Kibwana in a row over sand cartels', 'Kabogo vows to reclaim grabbed land', 'Governors vow to repossess public land' which together illustrate the challenges that governors are facing in dealing with this emotive issue. In Garissa and Turkana the vast majority of the land is designated as community land (99% and 98% respectively) (County Government of Garissa, 2014; County Government of Turkana, 2014). The Community Land Bill of 2013 currently pending in parliament is intended to safeguard community land rights and provide for the recognition, registration and protection of community land. It will provide for administration and management of community land and is supposed to vest legal rights directly in the community.¹²²

In Mombasa County, the vast majority of indigenous people are squatters on government or private land having been excluded by successive governments from the colonial times.¹²³ This renders them vulnerable. A senior security officer explained that 'the land issue is very complex, with crown land and communal land, and multiple conflicting claims and title deeds obtained through corruption.'¹²⁴

The MRC, a secessionist movement, cites long years of marginalization of the coastal region and land injustices against indigenous coastal peoples. They challenge the validity of the agreements of 1895 and 1963 leading to coast's incorporation into Kenya which were made without consultation. Their clarion call is 'Pwani si Kenya' (the Coast is not part of Kenya) (Mwandawiro, 2010). They also maintain that despite the area being a major contributor to the economy of Kenya (through tourism and the port of Mombasa) locals in the region remain the poorest in the country (GOK, 2013;101). The group, which has ran a low-level secession campaign for many years, claims not to be violent, although criminal activities have been attributed to them. Several people expressed worries about MRC and a civil society officer noted that 'the entire coast area could ally with MRC because their needs are not being met.'¹²⁵ A civil society officer also raised the concern that MRC and Islamic radicalization could converge due to some shared sentiments.¹²⁶

¹²¹ Interview, an administrator, Lodwar, 24 February, 2014

¹²² Waithaka, J. (2014) Kenya: 'Experts punch holes in Community Land Bill' *The Star*, 12 February <http://allafrica.com/stories/201402120854.html>

¹²³ See for example Beja, P (2014) 'Squatters invade prime land in Kilifi', *The Standard*, 18 March p5; Kithi, M (2014) 'Marwa: We will not honour eviction orders', *The Standard on Saturday*, 12 April

¹²⁴ Interview, senior security officer, Mombasa, 8 February, 2014

¹²⁵ Interview, local civil society officer, Likoni, 7 February, 2014

¹²⁶ Interview, civil society officer, Mombasa, 7 February, 2014

On a positive note, Mombasa County Commissioner Nelson Marwa has publicly stated that court orders to evict squatters from disputed land in Likoni will not be honoured as it would lead to chaos in the town. Instead, there are ongoing consultations for the government to buy off land to allow squatters to stay, which may significantly reduce tensions and grievances over land issues.¹²⁷ The Mombasa County Government website reports that a Mombasa Urban Citizen's Forum was held in March 2014, and provided citizens with the chance to meet with the County Department of Lands, Planning and Housing and discuss development plans.¹²⁸

In Turkana County, as noted, where oil has been discovered, mining laws seem to override land laws, threatening to dispossess communities, who may not benefit from the wealth under their feet, as has been seen so many times before. Even the matter of compensation does not guarantee benefit for the displaced communities. Livelihood needs of the people must be considered, and expectations managed with integrity. The risk of insecurity is great if this is not carefully managed, since the Turkana are well practiced fighters and armed. With oil prospecting on the increase, other counties such as Kisumu and Kwale counties will likely face similar challenges and a legal framework to deal with this complex issue is needed urgently.

In urban centres in Turkana County, the urban authority legally acquired land which has been allocated to people through allotment letters (which can be re-sold and from which application for title deeds for long leases will shortly be possible). However, as the centre expands, some community land has also been taken, causing conflict. As devolution is realized and as Turkana develops, land tenure is likely to become more of a challenge. More people will apply for long leases, to use as collateral for development, and fencing will increase, impacting on livelihoods and leading to conflict.¹²⁹

Ethnic exclusion

Devolution is partly meant to address problems of historical marginalization in Kenya. However, the risk is acknowledged that forms of internal marginalization may be exacerbated within counties. The IGP acknowledged that ethnic tensions created by the competition for resource, historical issues, economic factors and cultural practices were now a major issue in Kenya with devolution.¹³⁰ This problem is exacerbated by the culture of political patronage such that it is in the governors' interest to promote those who vote for him/her. There appears to be no legal safeguard against this, except for a non-specific reference in the County Governments Act (no 17) of 2012 (to the need for County Assembly and Executive representation to reflect the cultural diversity within the county and protect minorities. Devolution has changed the balance of power in counties allowing previously marginalized groups to dominate, however in several places there is now evidence of discrimination and even outright hostility against those perceived to be 'outsiders'.

Governors have been accused of skewed appointments to their governments leading to the marginalization of minorities within the county (who may have been born within that county and know

¹²⁷ Kithi, M (2014) 'Marwa: We will not honour eviction orders' *The Standard on Saturday*, 12 April

¹²⁸ <http://www.mombasagovernment.com/new/index.php/departments/planning-land-and-housing/plan-news>

¹²⁹ Interview, senior county administrator, Lodwar, 24 February, 2014

¹³⁰ Presentation by Inspector General of Police, David Kimaiyo, 'Strategies for Crime and Violence Prevention', at the governors' conference on 'Crime Prevention in the Service of Citizens' held at Enashipai, Naivasha. 23 May, 2014

no other) and the limitation of expertise and skills to address county needs. In Garissa County, there are reports that devolution had allowed the strengthening of existing clan divisions such that county appointments placed greater value on clannism than on meritocracy.¹³¹ One informant in the county noted that, 'devolution is local; the rest should go back where they are local'.¹³² A Somali elder interviewed was of the view that 'biological children, adopted children and foster children may all be the children of one man but they have different rights'.¹³³ In other words, migrant communities of Garissa County cannot enjoy the same rights as the indigenous people of Garissa.

In Turkana County it was noted that 'devolution has made people more aware, ethnically, and in terms of their identity, historical injustice and marginalization...patriotism and loyalty has gone to the county, sending away anyone who has been working in national government..¹³⁴There is a lack of diversity (less than a third non-Turkana) in county government and evidence that in certain ministries, non-Turkana have felt intimidated by the rhetoric of indigenous Turkana leaders.¹³⁵

Other leaders acknowledge Turkanas' need for outsiders with one noting that 'Turkana is so vast with the potential for agriculture along the Turkwell, but devolution is seeing the experts from outside being kicked out. What happens to food security?'¹³⁶

In such a context, the oil find brings a particularly heated debate about who 'belongs' in Turkana County. On 28th October, 2013 the community demonstrated against the oil company Tullow and invaded workers camps with pangas and spears. Following the invasion, a large number of workers boarded emergency flights out of the county.¹³⁷ These were both non-Kenyans and Kenyans from outside Turkana.¹³⁸

As noted, the issue of jobs in the oil industry has also increased tension between Turkana from different sub-counties, a problem which is heightened by politicians. Moreover, the oil find coming at the same time as devolution has created a situation of inter-county tension between Turkana and Pokot and changed the historical livestock raiding conflict to a border/land conflict. This is an area of challenge for the two devolved governments.

In the coast area, underlying frustrations exist over land injustices, which are turned against up-country people (known in Swahili as mwabara/wabara) many of whom have been able to acquire land titles where the locals do not. The perceived domination of up-country people is one of the drivers of the MRC (Goldsmith, 2010). A county administrator concurred that the perception that many job opportunities go to up-country people, coupled with the restrictions from accessing the beach that the locals encounter, fuels ethnic tension.¹³⁹ There is also some resentment locally against Somali

¹³¹Interview, civil society activist, Garissa, 21 March, 2014; FGD, youth, 22 March, 2014

¹³² Interview with a senior national government official 20 March, 2014. FGD, youth, 22 March, 2014; Interview with a church official, 22 March, 2014

¹³³ Interview with a Somali elder, 22 March, 2014

¹³⁴ Interview, a Turkana private security guard, Lodwar, 27 March, 2014

¹³⁵ Interviews, ministry staff, Lodwar, 26 February, 2014

¹³⁶ Interview, former security officer based in Kakuma, Lodwar, 23 February, 2014; Interviews, ministry staff, Lodwar, 26 February, 2014

¹³⁷ Interview, Atenyo, MCA Loima, Lodwar, 26 February, 2014

¹³⁸ This was also noted by an employee of Tullow, Lodwar, 24 February, 2014

¹³⁹ Interview, senior county administrator, Mombasa, 8 February, 2014

immigrants who have the means to purchase land and businesses, being able to offer higher prices, and are perceived to have dominated certain parts of the city.

Since devolution, discrimination against non-locals has now been reported in Mombasa. It was noted that jobs are being given to indigenous locals, to the extent that non-locals are changing their names to get opportunities.¹⁴⁰ Moreover there were allegations that business people from outside coastal area are taxed more heavily by city askaris. It is however not clear whether or not this is official policy and it was not possible to independently ascertain the truth of this allegation. Such sentiments however can be exploited by politicians to ignite conflict and violence.

As in the coast, resentment against the richer ‘outsiders’ in Kisumu County is high particularly the Kenyan Asian population that owns and manages the majority of industries in Kisumu County, such as factories and supermarkets. For a long time, the relations between the local ‘indigenous’ population and the Kenyan Asians has been strained, with the locals citing poor pay and working conditions.¹⁴¹ This resentment has culminated in attacks that target Asian shop owners by individuals and gangs.¹⁴² In February 2014, a Sikh Monument was unveiled in Kisumu town but was destroyed by African residents who protested against it. Factors in the riot included religious feeling as well as allegations of police partiality (payment to protect Asian interests).¹⁴³

The possibility that the Kenyan Asians are primarily targeted because they are perceived as wealthy cannot be discounted. As one chief interviewed noted, ‘if you get an Asian you will not miss 100,000, attack an African and you only get a phone’.¹⁴⁴

In managing historically marginalized areas it becomes evident that a fine balance is needed to allow for local people to benefit, while at the same time allowing non-locals to bring their expertise and capacity to the county. Ethnic exclusion could risk a new migration from counties to Nairobi, which would exacerbate the very problem that devolution was expected to address. Another issue that is directly linked to this is the issue of strategic institutions like Kenya Ports Authority (KPA). There is demand for employment of the locals, but such institutions need the best minds and professionals to run them in order for the entire nation to benefit.

6. Recommendations and Options for the Future

Strengthening community participation in security

Devolution was expected to improve citizen participation in all facets of governance- security included. The constitutional requirement that the PA be restructured to conform to the logic and principles of the

¹⁴⁰ Interview, businessman, Mombasa, 8 February, 2014

¹⁴¹ Interview, lecturer, member of peace organization and activist against police violence, Kisumu, 27 February, 2014: confirmed by several others including FGD with members of one of Kisumu’s prominent gangs, Kisumu 27 February, 2014

¹⁴² Interview, leader of one of Kisumu’s prominent gangs, 1 March, 2014 (This was a different gang to the FGD); Confirmed in an interview with senior county administrator, Kisumu, 27 February, 2014. However, it could be that Kenyan Asians are targeted because they are wealthy

¹⁴³ Interview, Dorothy Owino Juma Vice Chair of Champions for Peace Initiative, Kisumu, 1 March, 2014

¹⁴⁴ Interview, Chief Willis Ochieng Okoth, Kisumu Central 28 February, 2014

new constitution as well as the reforms of the police were all also aimed at improving the participation of communities in their own security and improving the efficient delivery of security services. Mechanisms for community participation such as the CPA need to be put in place and operationalized in all the counties as soon as possible.

Moreover, the county governments as well as national government can build on existing good models for community participation in security. In some of the counties, there exists an infrastructure for community/police and county government security partnerships. In Mombasa County, there already exists some community policing initiatives supported by civil society organizations. The Nyumba Kumi (ten homesteads) approach that has inspired official national government policy in policing has already been in operation in Likoni area of Mombasa for some time with the support of the Likoni Community Development Programme (LICODEP).¹⁴⁵ In responding to everyday crime in Likoni area, LICODEP has adopted an approach to crime and insecurity that is less focused on punishing individual offenders and more about improving the community as a whole. Working with the local communities, the group has promoted an approach to community security that enlists the community itself in identifying security threats and preventing crime. Pioneered in 2008, LICODEP's Nyumba Kumi initiative is a form of neighbourhood watch where everyone has a security function under a security coordinator.

Targeted investment in opportunities for the youth

Counties are now the development vehicles under the devolved system of governance. Since development is the core mandate of the county governments as per the constitution, job creation for the youth is an important aspect of county approach to crime and insecurity prevention. In all the counties assessed, the question of job creation is one that the counties have prioritized.

Unlike the national government, counties have a better understanding of the spread and distribution of unemployed youth, their potentials and vulnerability to recruitment into criminal activities and into extremist groups. Consequently, counties have new opportunities to develop and invest in programmes which link these youth with training opportunities and potential employers. There is the opportunity to link the youth livelihood opportunities promoted by the national government with the initiatives of the county governments. For instance the proposed programme for youth training and skills placement proposed under the National Youth Service (NYS) can be linked with skills development under youth polytechnics that fall under the county government's mandates.

In places like Mombasa, the youth should be stakeholders in the tourism industry by being offered apprenticeships (supported by tax break by counties). Mombasa youth could be assisted to source vegetables and animal products for hotels, or offered training as sailors as has been the case in the past.¹⁴⁶ In Kisumu County, more could be made of the airport and possibilities for horticulture which could be exported. Fish processing plants are a possibility for Kisumu County.

The recently launched Uwezo Fund should be managed to benefit those who need it. A role exists for civil society here. Therefore, the needs of youths should be addressed in partnership with civil society, the private sector, religious groups, community elders and academia. Places of worship could be used

¹⁴⁵ The Task Force on Community Policing was established by the president in November 2013 to oversee the implementation of Nyumba Kumi.

¹⁴⁶ Interview, Poverty Eradication Commissioner, 16 June, 2014

for youth capacity building activities (CV writing, business skills, adult education etc.) Some already have facilities for this.

Strengthening peace and conflict resolution initiatives

County governments are well placed to address conflicts and promote peace. There are already good initiatives that demonstrate the potential for county governments to play a key role in resolving conflicts and peace promotion. In Garissa County, the county governor has supported peace initiatives, and cooperated with other governors to resolve long-running conflicts with neighbouring counties of Isiolo, Wajir, and Lamu. As one source put it, 'he has been watering the peace tree'.¹⁴⁷ This illustrates how inter-county conflict resolution can be a role for county governments. The county government has also deployed sheikhs, elders, and peace committees to resolve or prevent insecurity situations in the county. Peace pacts and agreements that exist such as the Modogashe Declaration of 2001 on community conflict resolution in north-eastern Kenya, the 2010 Abdalla-Abudwak Accord -a peace accord between two Somali clans in Garissa County- and the Lokirama accord signed between the Turkana and the Karamojong are all structures that the county governments are best placed to strengthen and implement in partnership with the national government. In Turkana, a Peace Ambassador has been appointed with the responsibility to coordinate efforts by the various players, [including elders. Inter-faith dialogue has been valuable in reducing tensions in Mombasa County.

Better coordination of security actors

There is need to streamline the operations of security agencies and strengthen the cooperation between the police and NGAO to ensure better collection of intelligence, better response to insecurity and better long-term planning.

Conflicts and tensions between county governments, NGAO, police and civil society, have led to security gaps in some instances. CPAs are not up and running, due to legal delays, making it difficult for counties to articulate their role in planning for security. This needs to happen as soon as possible, as it is an area of collaboration between security players. Each county should develop security audits to enable them understand the security challenges in their counties. Concerns that the CPAs and governors could easily be sidelined by the core security actors, as they have an advisory rather than implementation role, should also be addressed.

There is a need to consider the evolving security architecture, and how it can respond to local needs. Good relations between police and community members are vital for information gathering and partnership, however, in some marginalized parts of Kenya, the police are seen as the repressive arm of government, or have little presence and are dismissed as irrelevant, while in other parts, a heavy handed anti-terrorism approach has served to increase radicalization of youths. Capacity building is therefore needed in the police in the areas of radicalization and terrorism, internet and cyber-crime, devolution and security. This could be an area for civil society and donor assistance. In terms of fighting terrorism, there is less need for new units/commissions and more need for building up the existing structures (fill the gaps in the wall). Village elders and other peace actors may also be a helpful cadre to assist in addressing crime and terrorism threats.

¹⁴⁷ Interview, former civil servant and elder in Garissa, 22 March 2014

Insecurity issues traverse inter-county and international borders, thus management of security issues requiring collaboration between counties requires a framework and could involve CPAs of two or more counties, to ensure valuable citizen participation.

Dealing with radicalization and extremism

Radicalization is a growing concern for Kenya's security agencies, as terror attacks increase on the country. Mombasa, Nairobi and Garissa counties are centres of radicalization, which is largely a youth phenomenon, not supported by most religious leaders. As noted, livelihood factors were a major driver towards recruitment into Al Shabaab, which reportedly offers recruits 1000 dollars (around Ksh. 89000). This is attractive, even to non-Muslim youths who are converting to join up. Felt injustices such as land issues (most indigenous residents in Coast region have no land of their own) and poor relations with police, the internet and family factors also serve to fuel radicalization. Once again, devolution offers a window of opportunity to address the drivers of this problem.

Current approaches to managing radicalization are likely to heighten mistrust and feelings of resentment amongst Muslim youths. A targeted, intelligence led approach is needed, including targeting internet based radicalization and corruption within security and immigration. Police-community relations must improve to foster trust as part of a holistic, multisystem approach that acknowledges the importance of family and environment and the vulnerability of young people. The national government should support inter-faith initiatives and encourage similar structures in Garissa County, where religious tensions have also been high.

Since all successful counter-radicalization and counter-extremist initiatives are local, there is an opportunity for county governments to address radicalization through preventive measures of livelihoods investments in youth at risk. Counties can also creatively provide mentorship opportunities for young people in their areas who might be at risk of radicalization. Governors and local leaders enjoy greater legitimacy on questions of radicalization and might be more trusted by the local populations than the national leaders. The area of radicalization is therefore one in which county governments can partner with the national government in its counter-radicalization initiatives.

Preventing gangs and militias

Like in the case of radicalization, counties have the opportunity to use their development mandate to address the problem of youth unemployment that predisposes them to crime and gang activities. This is another area for partnership between the national government and county governments in terms of data collection, analysis of trends as well as harmonization of policies at both levels to ensure maximum returns.

Analysis from the various counties studied demonstrates that the phenomenon of gangs and militias is partly linked to youth unemployment, lack of livelihood opportunities and vulnerability to political manipulation. As in radicalization, investment in youth livelihood opportunities is critical in preventing the recruitment of the youth into gangs and militias.

County governments should undertake mapping of patterns of crime, gang and militia activities in their area and design targeted interventions through their developmental mandates. Those youths most at risk of being recruited into gangs could therefore be targeted for skills development and linkage with

employment opportunities. Attempts to ‘clean up’ urban centres by devolved governments, without due attention to opportunities for youths may serve to increase gang crime along with other forms of criminal activity.

Resolving resource and land conflicts

In many of the counties, long-standing resource conflicts- including those linked to land - are yet to be resolved. County governments and county leaders have critical roles in preventing these conflicts by facilitating inter and intra-community dispute resolution and strengthening mechanisms for protecting community interests, particularly where resource extraction is currently being expanded.

Land is an important driver of insecurity. County governments have a vital role in protection of communities through proper holding of their land. The national government is responsible for agreements with investors but counties as custodians should not be bypassed. Proper handling of investors will avoid the current investor-community-national government conflict.

Preventing and addressing ethnic exclusion

Counties must reflect the broad ethnic diversity of the residents in positions of leadership at all levels and strive to ensure that these diversities are celebrated rather than discouraged. Counties should develop diversity strategies as a statement of their commitment to the principle and also as part of their fulfilment of the constitutional obligation to ensure diversity. County-level mechanisms for promoting diversity and addressing problems of ethnic/clan/regional exclusions should be promoted. Collection of data on diversity should be initiated and strengthened where it has started.

As part of their development plans, county governments should be required to report on efforts to promote and ensure diversity. The area of ethnic exclusion and inclusion is another opportunity for county government-national government partnership. The NCIC should partner with these mechanisms to promote diversity and national cohesion.

Investment in research and data collection

It is important that counties be encouraged to collect data on security and insecurity as an integral aspect of development planning. Frameworks for collection of data relevant to security planning and improvement should be developed and capacities strengthened in the various counties to collect and utilize this data.

Strengthening capacities for planning for security

Counties continue to see security in terms of policing provisioning and consequently as a national government mandate. Whereas a number of counties have invested in security through financial allocations to support the purchase of policing equipment, none have made the obvious connection between their development mandate and the preventive aspect of security. Capacity for this form of analysis and consequent policy planning and resource allocations is urgently needed for the county executive and also the assemblies. This will allow counties to adopt a multi-actor approach to dealing

with security challenges and logically incorporate the contributions of the business actors, civil society, and other concerned actors into their planning and development implementation processes.

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