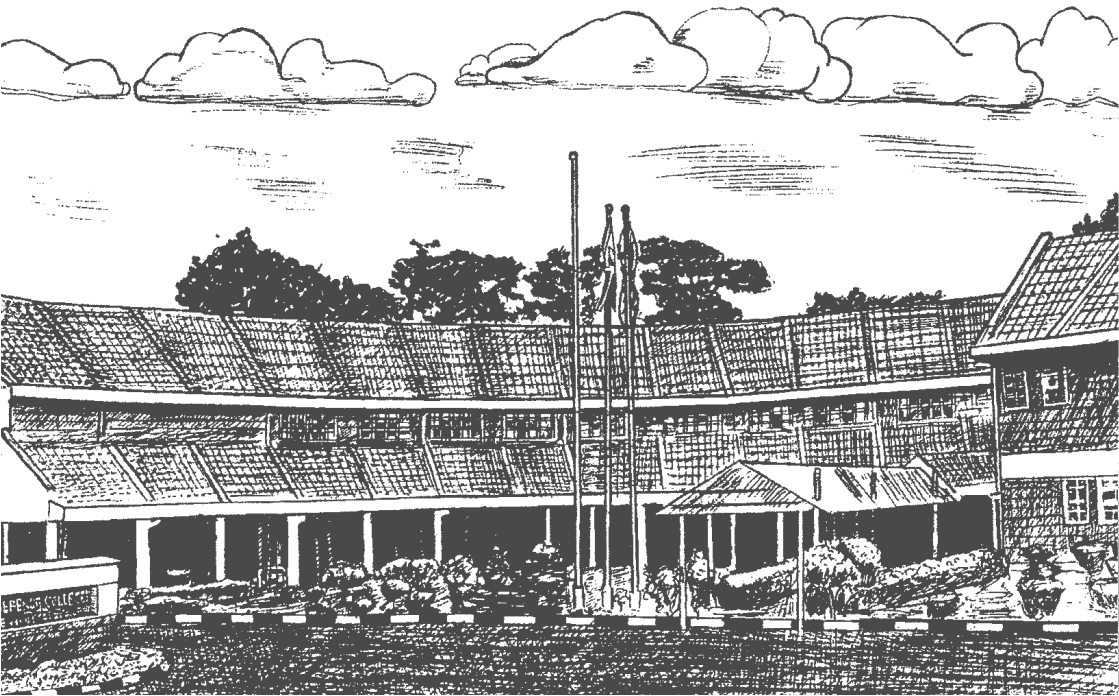




# Contemporary Security in Africa

Journal of the National Defence College, Kenya



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# **National Defence College, Kenya**

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**Journal of the National Defence College, Kenya**

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# New Wine in Old Wineskins? Renegotiation of Peace Agreements in Post-Conflict Environments in Africa

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## Abstract

This article enters the debate about what renegotiation of peace agreements means for conflict managers in Africa's peace processes. Its basis is that every peace process has a distinct life cycle. When peace agreements are signed they symbolise both an end and a beginning: an end of armed conflict and a beginning of the period of peace. The possibility of peace agreements to create peace depends on the willingness of the parties implement the provisions they voluntarily negotiated. During the implementation phase, the provisions of peace agreements are sometimes contested. If this happens, the parties can renegotiate certain aspects to remove the contentions. Ideally, agreements fully serve their purpose once the parties have fully implemented them. However, when parties call for renegotiation of certain aspects of their peace agreement several years after implementation and the agreement has become history, it creates conceptual problems. This article concerns the calls for the renegotiation of the 1992 Mozambican General Peace Agreement made by Dhlakama (RENAMO's leader and one of the principals of the agreement.) These calls came 19 years after the signing of the GPA generating many questions about the life cycle of conflicts. It concludes that calls for renegotiation are a sign of transformation of conflict, and that mechanisms must be found to keep track of former belligerents even after a peace agreement has been implemented.

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## Introduction

There is no doubt that conflict (violent or non-violent) is a major security challenge for Africa. Conflict is an endemic condition in human existence. For scholars like Galtung, there is no country in the world that is entirely conflict-free.<sup>1</sup> Since conflict is endemic, there have been conflict management efforts by a multiplicity of actors singly or in groups. Also, a variety of methods have been proposed to manage or resolve conflict. According to Article 33(1) of the UN Charter, these methods include "negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means." Of the recommended methods, mediation is the most

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<sup>1</sup> Galtung, Johan. "Violence, Peace, and Peace Research" *Journal of Peace Research*, Vol. 6, No. 3 (1969), pp. 167-191.

commonly used. It has been observed that mediation is actually as common as conflict itself.<sup>2</sup> It has “been used everywhere and has been in existence for millennia.”<sup>3</sup> Mediation is the process by which a third party enters a conflict and helps the parties to find a mutually agreeable solution to their problem. When a peace process is initiated, the parties to a conflict sit down (with the help of the mediator) to negotiate with each other. When they are satisfied with their negotiations, they sign a peace agreement. This document henceforth defines the nature of their relationship. Afterwards, the parties to the conflict embark on the implementation process where they carry out provisions of the agreement.

However, this is a rectilinear view of things. No peace process is ever that simple or predictable, and no conflict is an exact replica of another. Bercovitch cautions against such simplistic assumptions, since mediation is “context and mode specific.”<sup>4</sup> There are often differences in issues, goals, actors, interests, and even methods of management. There are also variances in duration of conflict, intensity, and resources. Additionally, some peace processes take place in a relatively short time while others are extended. An appropriate example of this case is the Kenya Peace process that only took about three months;<sup>5</sup> in contrast the Mozambican peace process took approximately two years.<sup>6</sup> During the implementation phase, certain differences emerge. For instance, some peace agreements are implemented in a relatively peaceful and timely manner while others face a lot of turbulence and delays.

In other settings, the parties ask for certain areas of the peace agreement to be renegotiated. They might feel that certain clauses put them at a disadvantage, or no longer reflect certain realities in their relationship. This article is concerned with the issue of renegotiation of peace agreements and how it affects the understanding of conflict and peace processes. Its case study is the Mozambique peace process, where in 2011, Alfonso Dhlakama of Mozambique called for the renegotiation of the General Peace Agreement of Mozambique of 1992.<sup>7</sup> The calls were initially dismissed by many people including Dhlakama’s

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<sup>2</sup> Bercovitch, Jacob, and Richard Jackson. 2009. *Conflict Resolution in the Twenty-First Century: Principles, Methods, and Approaches*, Ann Arbor: University of Michigan Press. p.32.

<sup>3</sup> Bercovitch, Jacob. “International Mediation” *Journal of Peace Research* 28, no. 1 (1991): 3-6. Accessed April 1, 2020. [www.jstor.org/stable/424189](http://www.jstor.org/stable/424189).

<sup>4</sup> Ibid.

<sup>5</sup> See Makumi Mwangi (2008) *The Water’s Edge: Mediation of Violent Electoral Conflict in Kenya*, Nairobi: Institute of Diplomacy and International Studies.

<sup>6</sup> Rosemary Anyona, *Conflict and Mediation in Mozambique and Angola* (Nairobi: Three Legs Consortium, 2019).

<sup>7</sup> Rosemary M. Anyona, “Implementation of Peace Agreements in Africa: A Comparative Study of Mozambique and Angola” PhD Thesis, Institute of Diplomacy and International Studies, University



former allies. However, when they led to low-level violence in the country in 2013,<sup>8</sup> they opened up certain difficult questions about the life cycle of conflict and peace agreements.

## 2013 Low-Level Violence in Mozambique

The theatre of conflict in Mozambique has always revolved around two main actors: the Mozambican National Resistance (RENAMO) and the Mozambique Liberation Front (FRELIMO). The civil war in Mozambique began in 1977, about two years after the country's independence, and lasted for about 15 years. After several attempts by a multiplicity of actors to find a negotiated solution to the conflict failed, the Community of Sant'Egidio managed to convene negotiations in Rome in 1990. RENAMO and FRELIMO underwent an intense two-year negotiation period that led to the General Agreement for Mozambique (GPA) in 1992. After the signing of the GPA, the parties embarked on a period of implementation that lasted roughly five years, before proceeding to engage each other more constructively. There was no return to war nor were there threats of war for about 18 years.

In 2011, Dhlakama's silence ended with spirited press conferences calling for a renegotiation of the 1992 GPA. At first, the government brushed off these calls as baseless and utopic. But it was later forced to pay attention when RENAMO began launching anti-government attacks. Some of the effects of the 2013 RENAMO insurrections included killings and displacement of civilians, and destruction of foreign businesses.<sup>9</sup> In September 2014 a "cessation of hostilities" agreement was signed to allow RENAMO candidates to run in the elections in October of that year.<sup>10</sup> After the elections, more violence erupted with RENAMO claiming electoral fraud.<sup>11</sup> The government was forced to negotiate with RENAMO giving rise to a ceasefire agreement in 2016. Dhlakama insisted that the second Mozambican conflict was inspired by certain unfairness in the implementation of the 1992 GPA that disadvantaged his supporters economically and politically. He however died in 2018 and was replaced by Ossufo Momade. In 2019 President Felipe Nyusi negotiated a secret deal with Momade to stop the violence.

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of Nairobi, 2013.

<sup>8</sup> Stephanie Regalia, *The Resurgence of Conflict in Mozambique: Ghosts from the Past and Brakes to Peaceful Democracy*, <https://www.ifri.org/fr/publications/notes-de-lifri>, accessed on 3<sup>rd</sup> April 2020.

<sup>9</sup> Ibid.

<sup>10</sup> Colin Darch, *A Success Story Gone Wrong? The Mozambican Conflict and the Peace Process in Historical Perspective* (Maputo: Friedrich-Ebert-Stiftung Mozambique, 2018).

<sup>11</sup> Ibid.

## Lifespan of a Peace Agreement

Conflict is often viewed as a living organism with “a life of its own.”<sup>12</sup> In the same way that a butterfly’s life begins as an egg, grows into a larva, a pupa and an adult butterfly, conflict has often been thought of as having a beginning, middle and an end. Each conflict has its own unique life cycle. Therefore, understanding and analysing the life expectancy of a peace agreement is inextricably interlinked with discourses on the conflict cycle.<sup>13</sup> There are roughly eight stages that make up the life cycle of a conflict. These include the latent, emergence, escalation, stalemate, de-escalation, negotiation, settlement/outcome, and post-conflict peace-building stages.<sup>14</sup>

The life of a peace agreement begins at the negotiation phase in the conflict cycle. The negotiation phase is commonly divided into three phases. Many earlier “analyses of international negotiation begin at the table.”<sup>15</sup> But in truth that is preceded by a pre-negotiation stage that is important for the success of a peace process. At the pre-negotiation stage, the parties to the conflict agree on whether they will sit down at table to negotiate or not. This is why pre-negotiation is often said to be about negotiations about negotiation. There is a lot of uncertainty at this stage since it is not yet known if the parties will agree to negotiate with each other.<sup>16</sup> While at this stage, the peace agreement is yet in the distant future, certain things are agreed upon. These include dates and venues for the negotiations, and other procedural matters that pave way for the second phase of the negotiation process.

The second phase of the negotiation process contains the negotiations proper. At this stage, the parties have agreed that they will manage their differences through negotiation. A peace agreement becomes a real possibility as the parties to the conflict negotiate about the substantive issues of their conflict.<sup>17</sup> At the end of the negotiations, there are expectations that the process will yield a mutual agreement that will define their future relationship more constructively. The last stage of the negotiation process is known as the post-

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<sup>12</sup> See Makumi Mwagiru, *Peace and Conflict Management in Kenya*, (Nairobi: CCR, 2003), p.44.

<sup>13</sup> Louis Kriesberg, *Constructive Conflicts: from Escalation to Resolution*, (Rowman & Littlefield: Oxford, 2007).

<sup>14</sup> Ibid.

<sup>15</sup> Stein, Janice Gross. “Getting to the Table: Processes of International Prenegotiation.” *International Journal* 44, no. 2 (1989): 231-36. Accessed April 1, 2020. doi:10.2307/40202596.

<sup>16</sup> Fen Osler Hampson, *Nurturing Peace: Why Peace Settlements Succeed or Fail* (Washington D.C.: United States Institute of Peace Press, 1996), p.25.

<sup>17</sup> Fen Osler Hampson, *Nurturing Peace*, op. cit.; See also Makumi Mwagiru, *The Water’s Edge: Mediation of Violent Electoral Conflict in Kenya* (IDIS: Nairobi, 2008).

negotiation phase where the peace agreement that the parties have concluded is implemented.<sup>18</sup> At this stage, the parties are expected in good faith to carry out their obligations in the peace agreements that they voluntarily concluded.

## Termination of the Conflict and Implementation of Agreements

The signing of an agreement marks the theoretical termination of the conflict and the beginning of implementation and peace-building activities. The terms ‘implementation’ ‘peacebuilding’ must however not be confused for each other. The ambitions of the implementation process are much narrower than those of peace-building. Implementation takes place for “only the weeks, months and years after the signing of a peace agreement, in which the focus is on the implementation of tasks that were, or should have been, laid down in the agreement, and on creating the necessary conditions allowing for the long-term undertaking of peace-building, that is of building a lasting peace within a conflicted society, which is a very long process, perhaps taking decades, or, more likely, generations.”<sup>19</sup>

Therefore, once the parties perceive that the short-term provisions have been fully implemented, the agreement should die.<sup>20</sup> Once the terms of the new relationship between the parties to the conflict have been constitutionalised, and plans drawn on how to deal with the society’s structural inequalities, the peace agreement should ideally cease to be the reference point for future relationships between the former adversaries. The parties are expected to follow the rule of law and the constitution of the country. Therefore, the agreement ends up being relegated to the annals of history. This is the ideal trajectory that a peace agreement should follow.

A peace agreement is meant to “end” conflict between parties.<sup>21</sup> If it is perceived as having been satisfactorily implemented, it is meant to dictate how the parties engage each other thereafter. However, the implementation phase of peace agreements is usually difficult and often riddled with disagreements between the parties. There are a number of reasons why disagreements between the parties may arise in the post-agreement phase. Von Hehn points out that one of the causes of strife during the implementation phase derives from the very structure and detail of the documents, since “peace agreements rarely address all the issues at stake and all the tasks that need to be undertaken to

<sup>18</sup> Ibid.

<sup>19</sup> Arist von Hehn, *The Internal Implementation of Peace Agreements after Violent Intrastate Conflict* (Leiden, The Netherlands: Brill | Nijhoff, 2011) doi: <https://doi.org/10.1163/9789004215894>.

<sup>20</sup> See for example Section 8 of Kenya’s *The National Accord and Reconciliation Act*, No. 4 of 2008.

<sup>21</sup> Arist von Hehn, *The Internal Implementation of Peace Agreements* op.cit.

move towards a more peaceful society.”<sup>22</sup> Due to this limitation, the parties will always likely perceive that certain things have not been addressed or have not been properly accomplished. Von Hen further clarifies that “even the aspects that have been addressed may and often will remain unclear and/or contested.”<sup>23</sup> Furthermore, “being static documents, [peace agreements] lack the capacity to address ongoing developments. Not only do agreements address the future only in very general terms, they will typically only deal summarily with the past, lacking the detail necessary to create an understanding for the origins of the conflict.”<sup>24</sup> Due to this structural weakness - intended or unintended - peace agreements have had to be renegotiated in several cases and contexts.

Due to the ambiguity that is associated with provisions of peace agreements, they are often prone to divergent views by the parties. As each party strives to interpret the obligations and responsibilities spelt out in the agreements in a way that is advantageous to themselves, conflict will often arise between them. This why the mediation continues even after the signing of peace agreements, and often explains a need for renegotiation. According to Papagianni, “[f]ierce political disputes persist after the signing of agreements and peacebuilders routinely use the tool of mediation to assist their resolution.”<sup>25</sup>

Another reason why there is often a need to renegotiate a concluded agreement is where one of the parties perceives that the provisions of the agreement have not been properly implemented.<sup>26</sup> This for example, was the main reason why Afonso Dhlakama of Mozambique insisted that the General Peace Agreement of Mozambique needed to be renegotiated.<sup>27</sup> He believed that there were certain provisions of the GPA that were not implemented fully by the ruling FRELIMO government. The main complaint was that RENAMO faced continuous marginalisation as far as democracy, elections and the composition of the joint army outlined in Protocol IV of the GPA were concerned.<sup>28</sup>

## **Idea of Re-Negotiation of Peace Agreements**

Peace agreements can be amended with the consent of the parties. The

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<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> Papagianni, Katia. “Mediation, Political Engagement, and Peacebuilding.” *Global Governance* 16, no. 2 (2010): 243-63. Accessed April 1, 2020. [www.jstor.org/stable/27800805](http://www.jstor.org/stable/27800805).

<sup>26</sup> Rosemary Anyona, *Conflict and Mediation in Mozambique and Angola*, op.cit.

<sup>27</sup> Interview, Afonso Marceta Macacho Dhlakama, RENAMO leader, Nampula, 18 February 2011.

<sup>28</sup> Ibid.

question and process of amendments is catered for in some agreements.<sup>29</sup> In certain agreements, the issue of amendment is left out.<sup>30</sup> Whatever the case, for any part of an agreement to be amended, some form of renegotiation must take place between the parties. Amendments to peace agreements last as long as the peace agreements last. In essence, once the peace agreement has been incorporated into a country's constitution, it becomes part of the law of that country and therefore any future amendment is not about the peace agreement *per se* but is rather an amendment of the constitution. This is why von Hehn insists that peace agreements are transitional documents while constitutions are permanent.<sup>31</sup>

Renegotiation refers to discussing an already existing peace agreement by the parties in order to completely change or modify it to a certain degree. The renegotiation of peace agreements during the implementation phase has been examined by a number of scholars, most notably Hampson and Sisk. While Sisk argues that the parties can decide to not only revisit peace agreements but at times even negotiate new ones,<sup>32</sup> Hampson maintains that “the terms of a settlement are constantly being renegotiated during its implementation.”<sup>33</sup> In support of these views, Bell states that the reason why renegotiation is often necessary in peace processes is because “parties (can) explicitly renege on earlier commitments or more subtly try to reshape the agreement in their own image.”<sup>34</sup> From these views, two schools of thought emerge. The first one supports the renegotiation of only certain portions of a peace agreement that parties may have found to be problematic. The second school of thought suggests that renegotiation can also refer to a complete overhaul of a concluded peace agreement leading to a brand new one.

Whether it involves merely making small changes to an already existing document or a total overhaul, some scholars believe that parties in post-agreement environments should engage in repeated renegotiation in order to

<sup>29</sup> See for example Chapter VIII (11, 2 a & b) of the 1997 Sudan Peace Agreement

<sup>30</sup> See for example the *General Agreement of Mozambique (GPA)*, 1994. See also Kenya's The National Accord and Reconciliation Act, No. 4 of 2008

<sup>31</sup> Von Hehn, Arist. 2011. *The Internal Implementation of Peace Agreements after Violent Intrastate Conflict: Guidance for Internal Actors Responsible For Implementation*. Boston: Martinus Nijhoff Publishers, p. 52

<sup>32</sup> Timothy D. Sisk, “Sustaining Peace: Renegotiating Postwar Settlements” in Matthew Hoddie, Caroline A. Hartzell (eds), *Strengthening Peace in Post-civil War States: Transforming Spoilers into Stakeholders* (Chicago: Chicago University Press, 2010), p. 105.

<sup>33</sup> Fen Osler Hampson, *Nurturing Peace: Why Peace Settlements Succeed or Fail* (Washington D.C.: United States Institute of Peace Press, 1996), p. 227.

<sup>34</sup> Christine Bell, “Human Rights and Minority Protection” in John Darby and Roger MacGinty (eds.), *Contemporary Peacemaking: Conflict, Violence and Peace Processes* (London: Palgrave Macmillan, 2003), p. 170.

ensure enduring peace.<sup>35</sup> Thompson, Nadler and Lount, Jr. refer to the idea of renegotiating a concluded agreement as “post-settlement settlement.”<sup>36</sup> They argue that renegotiation is a useful tool that can actually help the parties feel more secure in the implementation phase. They emphasize that:

“the strategy of post-settlement settlements is remarkably effective in improving the quality of negotiated agreements. Negotiators using this strategy agree to explore other options, mindful that the goal is to find another agreement that both prefer to the current one—with the understanding that they are bound by the initial agreement if another is not found. The post-settlement settlement strategy allows both parties to reveal their preferences without fear of exploitation, because they can safely revert to their previous agreement”<sup>37</sup>

While there seems to be plenty of support for the practice of renegotiation, Sisk warns that “revisiting the terms of war-ending pacts is akin to reopening Pandora’s Box, since doing so raises anew fundamental questions about the relative balance of power among parties.”<sup>38</sup> In other words, calls for renegotiation further complicate the relationship between former adversaries as there are definitely certain things that will be required of each of them, and there is no guarantee that either party has room for more concessions. Despite the uncertainties and confusion that renegotiation engenders, Sisk insists that international mediators and parties to agreements must incorporate clauses in them that will allow for continuous renegotiation outside the rather “rigid” peace agreement format.<sup>39</sup>

Renegotiating certain provisions of a peace agreement or even an entire document arises because peace agreements are rarely explicit and detailed enough to factor in everything in the new relationship between the parties.<sup>40</sup> Also, because each party often wishes to interpret things in its own way, there are bound to be conflicts arising in the implementation phase. These conflicts often need the intervention of mediators.

<sup>35</sup> Timothy D. Sisk, “Sustaining Peace: Renegotiating Postwar Settlements” op.cit., p.112.

<sup>36</sup> Leigh Thompson, Janice Nadler, Robert B. Lount, Jr., “Judgmental Biases in Conflict Resolution and How to Overcome Them” in Morton Deutsch, Peter T Coleman and Eric C Marcus (eds), *The Handbook of Conflict Resolution: Theory and Practice*, Second Edition (New York, NY John Wiley & Sons 2011), p.264.

<sup>37</sup> Ibid.

<sup>38</sup> Timothy D. Sisk, “Sustaining Peace: Renegotiating Postwar Settlements” in Matthew Hoddie, Caroline A. Hartzell (eds), *Strengthening Peace in Post-civil War States: Transforming Spoilers into Stakeholders* (Chicago: Chicago University Press, 2010), p.112.

<sup>39</sup> Ibid.

<sup>40</sup> Arist von Hehn, *The Internal Implementation of Peace Agreements after Violent Intrastate Conflict* (Leiden, The Netherlands: Brill | Nijhoff, 2011) doi: <https://doi.org/10.1163/9789004215894>.

## Implications of Renegotiation of Peace Agreements

Renegotiation implies going over certain provisions of an already concluded peace agreement in order to change or modify them in some way. It can also refer to the creation of a totally new peace agreement. Calls for renegotiation are an indication that one or all of the parties are dissatisfied with certain provisions they perceive to be prejudicial to them. No party wants to find itself in a position of weakness after the conclusion of a peace agreement. Hence renegotiation can be considered a more appealing strategy to try and enhance a party's position *vis-à-vis* the other rather than outright violence. However, a party sometimes resorts to violence as a way of forcing its adversary to agree to a renegotiation. Renegotiating in the immediate post-agreement phase is imaginable because the mediators and guarantors are still in touch with the conflict. Also the composition of the parties to the conflict remains almost the same as it was during the negotiation period. Complexity arises when calls for renegotiation are made decades after an agreement is concluded, as occurred in Mozambique 19 years after the signing of the General Peace Agreement for Mozambique.

The passage of too much time between conclusion and renegotiation of agreements creates a number of conceptual problems. It especially raises the difficulty of reconciling the relationship of the past with the present. To begin with, an agreement normally only binds certain specific parties who had certain incompatible goals that led to armed conflict. There is no doubt that a lot of things change in 19 years. For example, the parties have metamorphosed in innumerable ways. Some members may have left the initial group they supported. Others could have formed their own parties, while others – like presidents who failed to be re-elected – could have retired. Sometimes also, principals die, thus changing the composition of one side significantly. Besides, as they are wont to, even supporters can change loyalties depending on their assessment of their personal needs relative to the existing power structure. In essence, the conflict and the parties undergo a transformation. In short, actors, issues, patrons, supporters, resources, stakes and interests change. These transformations create problems for the theory of conflict management because they touch on the very character of conflict. When certain changes take place in the conflict environment, the line is blurred. This makes it hard to discern whether one is dealing with the “old” conflict or a “new” and totally different one.

A demand for the renegotiation of an agreement concluded one score years' earlier calls into question the authenticity of the whole negotiation process. It also raises issues regarding the phases of the negotiation process.



It raises problems about whether there was a real end to negotiation by the former adversaries. If they have to keep talking about their issues during the implementation stage and even beyond, as in the case of Mozambique, it means that the negotiation process never actually stops. It implies that peace agreements are the beginning of the beginning rather than the beginning of the end. It also means that peace agreements are not meant to terminate conflict but to open room for continuous negotiation among former adversaries. This line of reasoning essentially makes nonsense of the conflict cycle that assumes that conflicts have a beginning and an end. It is as if the parties are caught up in a never-ending vicious cycle of interaction after they conclude an agreement.

Yet practice has from time to time demonstrated the contrary to be true. In the Kenya peace process of 2007/8, for all intents and purposes, Mwai Kibaki and Raila Odinga had no more need to renegotiate. For one, Mwai Kibaki retired as president and is therefore no longer able to make any promises on behalf of the government of Kenya. Also, Raila Odinga is no longer a Prime Minister of the country. Besides, the original Party of National Unity (PNU) no longer exists. This means that if either of the 2007/8 parties called for renegotiation, they would clearly engender confusion especially on the configuration of their delegations. In sum, conflicts and conflict environments are dynamic rather than static. This makes renegotiation complex and complicated especially when plenty of time has elapsed since the conclusion of a peace agreement. There is further the problem of the difficulty of getting parties to return the table to renegotiate. The party that feels comfortable with the agreement would not want to risk a renegotiation because of fears that its gains could be lost. This is exactly what happened when Dhlakama of Mozambique first called for the renegotiation of the GPA in 2011.<sup>41</sup> The government side dismissed the claims and refused to sit down with RENAMO.

A lot had changed in Mozambique since the signing of the GPA in 1992 between Afonso Dhlakama of RENAMO and Joaquim Chissano of FRELIMO. One of the parties to the conflict, Joaquim Chissano, was no longer the leader of FRELIMO and the government side since his presidency ended in 2005. The term of a new president and leader of FRELIMO Armando Guebuza similarly expired in 2015. From 2015, Filipe Nyusi became president of Mozambique and therefore leader of the government. This meant that although Dhlakama had negotiated the 1992 GPA with Chissano, he asked for a renegotiation of the agreement when the country was being run by Armando Guebuza in 2011.

By the time of his death, Dhlakama was dealing with Nyusi. This complicated

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<sup>41</sup> Rosemary Anyona, *The Implementation of Peace Agreements in Africa: A Comparative Study of Mozambique and Angola*, PhD Thesis, University of Nairobi, 2013.



the call for renegotiation immensely. Questions arise whether Dhlakama's situation qualified as a renegotiation or a fresh call for negotiation. If it was a renegotiation, it is hard to envisage a useful outcome given the fact that Dhlakama was dealing with actors other than Chissano with whom he had negotiated the GPA in 1992. This is why the question of timing of renegotiation calls is an important. Dhlakama's push for renegotiation of the GPA many years after Chissano had retired and leadership taken over by Armando Guebuza (president from 2005 to 2015) is difficult to comprehend. The signing of a Cessation of Hostilities Agreement in September 2014, did not quell the tensions between the government and RENAMO. But it raises the question whether Dhlakama would have had more success dealing with Chissano with whom he had negotiated the GPA in 1992.

The opposition side led by Dhlakama had also undergone changes in terms of composition and even conviction. Some members of RENAMO like Raul Domingos (head of the RENAMO delegation in Rome, 1992) and Davis Simango had left the party to form their own parties. Domingos formed the Party for Peace, Democracy and Development (PDD) in 2003, while Simango formed the Democratic Movement of Mozambique (MDM) in 2009. Other former RENAMO members are reported to have defected to FRELIMO.<sup>42</sup> These changes made it hard to even envisage a renegotiation exercise. The greatest change that occurred in the course of the renegotiation calls by RENAMO took place in May 2018 when party leader Afonso Dhlakama died. This effectively left the 'struggle' in the hands of Ossufo Momade. This was a huge change that effectively affected the constituents and the government-RENAMO power balance. Indeed, Momade signed a secret agreement with Nyusi in 2019.

It is therefore apparent that the issue of renegotiation of peace agreements needs to be taken seriously in the overall conceptualisation of peace processes. When it is omitted in the texts of a peace agreement, it creates confusion, should it arise later. The kind of turbulence created by calls for renegotiation has the potential to jeopardise existing peace among former belligerents. The low-key 2013 violence instigated by RENAMO clearly demonstrates this. Proper modalities need to be created to handle the issue of renegotiation. In Mozambique, the texts of the GPA, the mediators and the guarantors did not make room for the possibility of renegotiation. Therefore when the calls for renegotiation were made, it caught a number of stakeholders off-guard. Peace Agreements should even specify the time-limit for any revisions that might arise.

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<sup>42</sup> Tom Lansford, *Political Handbook of the World 2012* (Thousand Oaks, Calif. : CQ Press, 2012), p. 958.

## Renegotiation of Peace Agreements in Africa

The issue of renegotiation can no longer remain a footnote in a few scholarly works. It is happening more than mediators and parties admit. In Africa, renegotiation calls have been made in different contexts sometimes even by people who were not part of the initial agreements. A good example is the case in the Republic of South Sudan where General Paul Malong of the National Democratic Movement in 2019 asked for the renegotiation of the September 2018 *Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan* (R-ARCSS).<sup>43</sup> Malong was not part of the agreement in the first place. Malong's case further sheds light on how complex peace processes can be. It also adds weight on the matter of renegotiation. Malong's calls support the view that peace agreements need to create room for renegotiation. They need to specify whether a party that was not involved in the initial negotiations can validly ask for a renegotiation.

Peace processes and the ensuing peace agreements should expressly have provisions addressing the issue of renegotiation should it arise. All peace agreements should have modalities for dealing with renegotiation with clear timelines of when renegotiation rights can be exercised by either party. Also, clauses on renegotiation should pre-empt the issue of transformation of conflict by offering guidelines on the way forward should the conflict transform significantly. Peace agreements can no longer remain mute on these issues because they later complicate conflict management as they did in Mozambique.

One of the major challenges of peace agreements as formulas for peace relates to their legal standing. Mediation is a voluntary process. Hence the implementation of peace agreements has traditionally depended on the good will of the parties following the principle of *pacta sunt servanda*, rather than coercion by powerful internal or external actors. Especially for internal conflicts, the parties cannot be incarcerated for failure to honour the provisions of an agreement they concluded. This freedom is what makes mediation an extremely popular mode of conflict management. Often, provisions of peace agreements become part of the constitution of a country. In such cases, their amendment, revision or renegotiation would actually mean the amendment of a country's constitution. In practice this process is nearly impossible especially for a weak opposition with few numbers in parliament.

Krisberg insists that "an agreement to settle a conflict may put the fire out for good but too often it only suppresses the flames and leaves smouldering ashes

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<sup>43</sup> APA News, "Rebel group demands South Sudan peace deal renegotiated", <http://apanews.net/en/pays/sud-soudan-south-sudan/news>, Mar 09, 2019 to 11:14.

that later burst into flames.”<sup>44</sup> These sentiments could be ascribed to mediators and the parties failing to understand the need to comprehensively anticipate matters likely to arise in the post-agreement phase. Such matters include calls for renegotiation. If the peace process leaves no room for renegotiation, there is a likelihood that the party with the most uncertainty may resort to violence as a rational coping mechanism. This is exactly what happened in Mozambique from 2013 onwards. When Dhlakama’s calls for the renegotiation of the 1992 GPA were ignored, he authorised his supporters to use violence to force the government to the negotiation table. This tactic seemed to work as it is reported that Guebuza and Dhlakama signed a peace deal (whose provisions are largely secret) in 2014.<sup>45</sup>

Another theoretical problem created by calls for renegotiation is how to distinguish a new conflict from an old one. A number of countries have returned to war after the conclusion of peace agreements. Sometimes, the intensity of the violence that erupts after the signing of an agreement is worse than the initial violence. When violence erupts, say 5, 10 or more years after the signing of an agreement, it becomes hard to know whether it is a new war or a resurgence of old grudges that were not completely quelled by the peace agreement. If the violence is linked to an earlier conflict, then questions arise of whether the conflicts can be resolved, and whether resolution of the conflict is possible at all. If it is a totally new conflict, then questions such as why, how and when transformation of conflict takes place must be re-explored.

In Mozambique, the RENAMO party leader claimed that his calls for renegotiation of the GPA and the resultant low-intensity waves of violence in the country were squarely linked to certain flaws in the content of the GPA of 1992, and the manner in which the agreement was implemented by the government. But there is no sure way of telling whether the 2013 RENAMO insurgency was a new conflict or a continuation of the old one that supposedly ended in 1992. A review of post-1992 evidence, leads to the conclusion that Dhlakama had amassed other grievances besides the ones he had articulated in Rome. For instance, there is evidence that he had continuously decried massive election irregularities. This was not part of the issues discussed in Rome in 1992. An in-depth analysis of this matter leads to the conclusion that even though Dhlakama called for the renegotiation of the GPA, he also desired an opportunity to bring up other newer issues that cropped up after the implementation of the GPA. This creates confusion for the whole concept

<sup>44</sup> Louis Kriesberg, *Constructive Conflicts: From Escalation to Resolution*, (Rowman & Littlefield: Oxford, 2007), p.294.

<sup>45</sup> Aljazeera, “Mozambique Rivals Sign Peace Deal”, <https://www.aljazeera.com/news/africa/2014/09/> Accessed on 2nd April 2020.

of renegotiation because new agenda items outside the original agenda are difficult to discuss under the rubric ‘renegotiation’.

Conflict managers can learn some lessons from Dhlakama’s renegotiation calls. Firstly, renegotiation can be initiated by parties several years after a peace agreement has been concluded. Conflict managers must however meticulously review such calls to determine whether they are truly dealing with the earlier issues already outlined in the peace agreement or a combination of both new and old questions. In other words, there is a need to separate the old from the new, and if need be have negotiations for each. Dhlakama’s calls come off as incoherent because he seemed to hide behind renegotiation of the 1992 GPA in order to sneak in other grievances accumulated in the post-agreement phase. Most of the time, mediators and guarantors only factor in renegotiation in the immediate post-agreement phase. Mozambique has therefore taught mediators to think in the long-term regarding this issue.

Secondly, conflict managers must be on the lookout for the transformation of the conflicts they have been managing, so that they are not caught off-guard. It is important for them to know the exact changes that have taken place in the specific conflict environment, and how they are likely to affect the positions and goals of all the principal actors. Dhlakama still had grievances 19 years after the signing of the GPA and yet no one perceived them until violence broke out in 2013. If conflict managers had continued to monitor the situation a bit more closely, they would likely have suggested renegotiation earlier on in the conflict. Catching such grievances earlier on would have prevented the violence that broke out in 2013.

Thirdly, another lesson from Mozambique’s situation relates to the issue of the conflict cycle. Theorists are convinced that conflicts have a beginning, middle and an end. Calls for renegotiation made several years after the conclusion of a peace agreement automatically complicate the understanding of the concept of the conflict cycle. It also makes it hard for optimists to convince the world that conflicts do end.

## **Conclusions**

Although the issue of renegotiation of peace agreements is a difficult one, it is not uncommon in African conflict settings. On the basis of Mozambique’s experience, it is clear that peace agreements are not magical wands that make conflicts disappear. They are subject to the interpretation and perception of the parties. Some parties to the conflict will keep referring to the peace agreements even well-past their “sell by” date. This means that such parties do not perceive such agreements as having an expiry date. Clinging to such past documents

suggests that they have not really considered their issues resolved. Conflict resolution involves dealing with the root causes of conflict rather than merely settling differences. Calls for renegotiation imply that one party feels that their issues were never really resolved but merely settled. While these calls can appear vexing to the other party, they can actually be a useful tool for re-evaluation of the relationship between former adversaries. On the other hand, calls for renegotiation of past agreements raise stakes in a peace process if one party feels that they are malicious and self-seeking. A party would like to enter negotiations and come out of them believing that everything that needed saying was said and dealt with. The possibility of future renegotiation puts the parties in abeyance. They never quite know when the pressure to change certain aspects or overhaul the entire agreement will emerge.

The recurrence of conflict is a function of a breakdown of dialogue between two or more parties. Renegotiation must be normalised in post-conflict societies as one way of preventing a return to violence. Peace agreements do not spell out everything that needs doing to mend a broken relationship. They merely outline how best to live with each other. For this reason, parties to a conflict need to keep talking after conclusion of their agreement. They need to keep accommodating and making concessions in certain areas to keep their country from going back to war. Sustainable peace is a long-term process and so parties in conflict, mediators and scholars must also think in the long-term. Constant dialogue is good for all parties because it not only allows them to iron out their differences relating a past conflict: it also allow them to foresee strains in their future interactions.

# Not Yet Out of the Woods: Complexity, Chaos and Securitization of Kenya's Border Security

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## Abstract

This article inspects the theory of complexity and chaos, and argues that it is a useful framework for analysis in the management of the territorial border between Kenya and Somalia. The article uses this theory to examine the relationship between Kenya's war on terror and its strategies as they affect border security of Kenya. It maintains that the strategies adopted by Kenya have not ultimately addressed the problems and issues arising from the border communities along the Kenya-Somalia border. It concludes that the time is ripe for a re-examination of these strategies, using the theory of complexity and chaos that is emerging as a powerful tool for strategic analyses and national security.

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## Introduction

Although there is a global effort to ease the movement of people many states have recently been concerned about border security. The basis of the concern is that states are grappling with national security issues at border points. However this concern is not informed by security *per se* but rather with the politics of security. Such politics are not new. They were for example used by Italy's former Prime Minister Silvio Berlusconi to win elections. In his campaign on a platform of nationalistic sentiments, he created a wedge of suspicion about migrants on the basis of national security.<sup>1</sup> The Italian case did not affect many states. The entry of USA president Donald Trump in presidential politics unduly hyped the nationalistic wave with his clarion call of "America First." Later, right wing governments in Europe interpreted this as a nationalistic feeling and it impacted directly on border security. The explanation for such thinking is not informed by the traditional perception of borders as part of sovereignty and territorial integrity, but rather explained by the perception of

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<sup>1</sup> David A. Baldwin, "Thinking About Threats," *The Journal of Conflict Resolution*. Vol. 15, no.1 (1971) pp.71-78.

borders as part of the self-assurance of state security. This trend of thought has increased the securitization of borders especially with emerging rightist governments promoting nationalism. For Cuita securitization provides a yardstick for estimating whether a given policy is or is not about security.<sup>2</sup> This is because security is what creates the criteria for state activities at the border.

The success of securitization theory however rests on its partial ability to overcome the divide between the broad and traditional views on security by identifying a logic common to both. This understanding helps to clarify the epistemological and methodological proposition of the new approaches to security as opposed to the traditional state-centric and militaristic interpretations.<sup>3</sup> Of greater importance, securitization sets up critical debates on the application of the most adequate strategies for implementing border security.<sup>4</sup> Critics of securitization contend that the object of securitizing is not the movement of people in totality but the more circumscribed aspects of migration: illegal/irregular migration and refugees. Two issues emerge from this. One is that state authorities define what constitutes an irregular or illegal migrant. Secondly, states differ in their description of irregular or illegal.<sup>5</sup> As Monie and Rodier note, classifying migrants and refugees creates a harmful distinction in a state's attempts to control migratory movement under the guise of national security.<sup>6</sup> The classification is not neutral. This pattern makes states sensitive to immigrants, and uses it as an excuse to implement stringent measures in border areas. Whereas the USA and some European states have been on the forefront in this issue, African states have followed suit albeit for different reasons. Securitization theory to some extent may be used to explain some of these general actions that states have resorted to.

## Kenya Defence Forces Incursion into Somalia

The primary objective of the Kenya Defense Forces incursion into Somalia in 2011 was border security. It was assumed that the incursion would securitize the border and neutralize the enemy by creating a buffer zone along Kenya's frontier. It was also assumed that it would cushion it against *Al Shabaab* attacks by denying the latter crucial space to operate, organize and launch attacks. There was a quick series of success stories. They ranged from ground coverage

<sup>2</sup>Felix Cuita, "Security and the Problem of Context: A Hermeneutical Critique of Securitization Theory," *Review of International Studies*, Vol. 35, No.2 (2009) pp. 301-326.

<sup>3</sup>Ibid.

<sup>4</sup>Ibid.

<sup>5</sup>Philippe Bourdeu., *The Securitization of Migration: A Study of Movement and Order*. (London: Routledge, 2011) p.6.

<sup>6</sup>Ibid.

from Gedo to Ras Kamboni. This was accompanied by a pushback of the enemy and a grand entry into *Al Shabaab's* stronghold and operational nerve center of Kismayu. The fall of Kismayu is considered the greatest gain in the war against terror in this region. Kenya achieved a fete that no one else had ever accomplished. Indeed for the first time a foreign military outfit had taken this city and uprooted the terrorists from their source of funding and trade. History is replete with military efforts to clear this high value target without success. For instance, Ethiopia's attempt ended around Ras Kamboni before turning back.

The second aspect of this military success emerged from the strategic importance of Kismayu as commercial hub, coordination and nerve center for *Al Shabaab* activities. For all purposes, *Al Shabaab* lost a critical center in its logistic chain of operations. Kismayu actually provided the necessary linkage to the rest of the world through its port. In addition, the port is useful as a business and commercial hub that generates revenue used to fund activities. Lastly Kismayu, provided an easy environment for the operations with a dense forested hinterland that makes it easy to disappear.

The second objective of Kenya's mission of creating a buffer zone falls within the theory of securitization of the border. The understanding of a border as frontier explains the idea that Jubaland is still within the borders of Kenya. Kenya's effort towards the realization of Jubaland as an autonomous region bore fruits after the creation of Jubaland authority under its ally Madobe. Teaming up with Ethiopia, Madobe was installed as the political leader of Jubaland through an election. The role of Madobe as an ally of Kenya was to help neutralize enemy forces especially the *Al Shabaab* before they reach Kenya. Along this thinking it was thought that the government of Jubaland would deny *Al Shabaab* a way through, and provide information of impending attacks so that Kenya could neutralize or prevent them.

However all the gains that Kenya achieved were lost because *Al Shabaab* is still a threat to Kenya's border security and national interests. Recent events provide evidence that Kenya is not yet out of the woods. This article analyzes the problem with the border security strategy adopted. It will suggest a way forward to maximize the military gains and sustainability of the success, rather than returning Kenya to where it started in 2011. This article is divided into three sections. Section one provides the analytical framework; section two examines the events and puts them into perspective, while section three provides conclusions and lessons for the future.



## Complexity and Chaos Theory: A Framework for Analysis

Complexity and chaos theory is one of the current frameworks used to provide plausible explanations of events as they occur. Although rooted in the pure sciences, the theory is finding its way in social sciences as an analytical framework at the strategic level.<sup>7</sup> Complexity and chaos theories are part of systems sub-theories. In systems theory complexity is engrained in systems because of the various components within the system.<sup>8</sup> The interactions of the many components either independently or interdependently result in complexity within a system.<sup>9</sup> From this perspective the theory indicates that the modern world is complex and cannot be understood - let alone be explained adequately in any other way. In a complex world, there is a need not only to capture the interactions, but also the interconnectedness of events as a way of offering better understanding. Modern times are complex because of the availability of information, the rate of increased exponential impact of decisions made, technological speed and the paucity of time required for reflection.

Chaos theory argues that systems can be predicted because they are cyclic.<sup>10</sup> However, every system experiences periodic instability. This means that something out of the ordinary happens to disturb smooth systemic operation. It is this disturbance that creates chaos in the system. The Chaos theory hence offers an important explanatory framework for a system destabilized from its normal operation.<sup>11</sup> It thus challenges the linear-causal explanation of events. It paints a picture of little things that can happen to change the way things are seen, and even planned. Complexity and chaos theory is thus critical to decision makers who are involved in strategic planning.

In terms of strategic thinking, complexity and chaos theory helps in three important components of issues or events. These are hindsight or the whole past, insight or the present conditions, and foresight or the future of the issue or event. Appropriate response to any issue is important to policy and decision makers. Unfortunately, many policies and decisions still revolve around hindsight informed by linear-causal analysis. Foresight built on a linear-causal effect is defective because it does not take into account many elements arising. Little things can happen whose impact can change things drastically. If social sciences are to predict the future accurately then it is important to

<sup>7</sup> John Gleick, *Chaos Making a New Science* (New York: Viking Books, 1987).

<sup>8</sup> Phillip Galanter & Ellen K. Levey, "Complexity," *Leonardo*. Vol.36, no.4 (2003) pp. 259-267.

<sup>9</sup> Ibid.

<sup>10</sup> Dean Rickels et.al, "A Simple Guide to Chaos and Complexity," *Journal of Epidemiology and Community Health*. Vol.61, no. 11 (2007) pp. 933-937.

<sup>11</sup> James P. Crutchfield et.al, "Chaos," *Scientific America*, Vo. 255, no. 6 (1986) pp. 46-57.

factor in the strategies, policies and decisions elements of chaos. Early warning mechanisms must for instance consider complexity and chaos. This implies that those unknown things that can emerge should be part and parcel of planning, strategy and decisions taken. When it informs foresight, such a framework provides for better analysis and response.

If the future is perceived from the basis that past and current data are simply extrapolated, then such a future is being forecast. A forecasted future does not take into account emergent and unpredictable events. Indeed such a forecast may be wrong since something unexpected can disturb and distort the pattern or cyclic character of the event. It is on this basis that unpredictable events can be factored into every step of planning, strategy and decision making. This direction of thinking builds a future based on foresight rather a forecast. The strength of foresight is the consideration of emergent factors and using them to predict. Foresight requires a critical examination of the system and a better way of determining the areas to which greater attention should be paid. Better decisions, policies and strategies arise out of foresight rather than forecast. This appreciates the idea that there is a need for deeper examination of events or the system, the exploration of different alternatives, and above all reflections on the unexpected. This means ultimately addressing the vulnerability of the system.

## **Border Security Strategy from a Complexity Perspective**

The events leading to the rise of the *Al Shabaab* have been analyzed for nearly four decades. From these analyses emerges a clear picture of many issues, actors and dynamics that interact to create a complex system. Historically, the war in Somalia from 1991 was a struggle to oust the dictator Siad Barre. The success of the struggle did not give way to peace. It mutated into a fierce supremacy battle between different clans and sub-clans led by warlords. This made things worse. This complexity affected not only the actors but also the issues involved in the conflict. Above all, the evolving character of the conflict and its dynamics defied numerous efforts to resolve it. The dynamics of the conflict became even more complicated after the entry of the regional and international community. Each of these levels complicated the efforts towards attaining a long term solution to the conflict.

Although different Somali governments have been installed since 2000, none has succeeded in bringing peace to the southern and central parts of Somalia. The 2000 Arta government met with internal resistance from the armed groups based in Mogadishu. The 2004 government of Abdullahi Yusuf met with similar opposition and *Al Shabaab*. Successive governments including the

current Farmajo one continue to fight with *Al Shabaab*. Regional interventions to deal with the problem of Somalia were militarily undertaken by Ethiopia several times between 2005 and 2006. This was followed by an African Union - UN force operating in Somalia and which is will downgrade in 2021. Kenya unilaterally intervened militarily through an incursion in 2011. This unilateral incursion later re-hatted into AMISOM. Clearly all the efforts to address the *Al Shabaab* menace have not fully succeeded.

The implication of all these efforts is the emergence of complexity into the conflict system in Somalia. The involvement of all these actors has brought the actors own issues and national interests into the Somali conflict. This further complicates the issue. The character of complexity in Somalia is not entirely explained by regional actors and their interests. It is also explained by the regional dynamics. Outside the region are other multiple actors. For example, some actors that entered to fight piracy in the Indian Ocean decided to remain, and set up bases in the Horn of Africa. These military bases have become part of the conflict system of Somalia. Of interest are key actors like China, USA, Turkey, France, and the Middle East states like Qatar, Yemen, Saudi Arabia and Egypt. As these different actors interact, tensions arise between and amongst them. This mix of actors makes it difficult to focus on the war against *Al Shabaab*. This complexity touches on border security by making the relationships that have developed between the different actors difficult. Indeed there are allegations that countries like Qatar support the *Al Shabaab*.

Some of actors, not necessarily be interested in downgrading the terrorist problem have become financiers. In this regard *Al Shabaab* thrives from this complexity because it has sympathizers within the complex array of actors. This makes it difficult for Kenya's strategy to work. For instance when Kenya supported the creation of the Jubaland administration, the Somalia central government accused it of internal interference. This was followed by other accusations about Kenya's military involvement in charcoal export at Kismayu. Tensions arising out of such exchanges jeopardize the peace efforts. *Al Shabaab* on its own also gets support from other quarters that have an interest in the Somali conflict or its outcome. For example Eritrea is said to have created *Al Shabaab*, and is accused of arming it. On its own accord *Al Shabaab* also developed affiliations to *Al Qaeda* and later to the ISIS. All these groups have conducted business through the port of Kismayu for some time. This means that *Al Shabaab* conducts some unknown businesses with these partners. This implies that it could be running a network of businesses managed by others on its behalf. The downgrading of *Al Shabaab* in this case is still an unfinished business. Although it ceded ground and even the port of Kismayu,

it still conducts attacks on Kenya and then disappears. This is of great concern. Decision makers, strategists and policy makers must reflect deeply and try to find answers.

## **Border Security Strategy from a Chaos Perspective**

Somalia presents a chaotic scenario. Although it appears to be normal and operational, *Al Shabaab* occasionally hits a target either through an explosion or shooting gunmen. These occasional attacks are not restricted to Mogadishu; they also extend into Kenya. They disrupt an otherwise quiet environment, and cause disturbance in the system. This disturbance is the essence of chaos. *Al Shabaab* is still capable of attacks even though it lost its control of Kismayu as a nerve center and hub for commerce. Equally disturbing is that the incursions occur despite the reelection of Madobe and the existence of Jubaland.

This raises a number of issues related to Kenya's border security strategy. The first is the illusion that the strategy to create Jubaland and its authority should be revisited. The basis for this suggestion is that the rationale behind creating Jubaland is not helping Kenya's border security. The second is that the attacks are not confined only to the border areas. This can only mean several things. It can mean that *Al Shabaab* had earlier penetrated into Kenya. Or it can mean that it is able to penetrate the country, thus nullifying the idea of creating a buffer zone as part of a border security strategy. To supplement the idea of buffer zone Kenya has added the erection of a border fence. This idea is informed by the American strategy of bolstering its border management through the putting up of a fence between its border with Mexico.

This line of thinking ignored the chaos component. The border fence has been resisted around Mandera and other parts. This has led to either consistent destruction of materials or the fence itself. It is the latter activities that are captured and explained by the chaos theory. The strategy thus did not anticipate the chaos that would emerge as a result of this resistance, or as a result of continued sabotage. The chaos that have followed are slowing down the works, endangering the workers, and above all increasing the cost of putting up such a fence.

## **Re-Thinking Border Security**

The difference between borders and boundaries has been distinguished. Boundaries are the physical line between states, while borders are adjacent areas lining the boundary. The answer for the failure of the three strategies to downgrade the *Al shabaab* problem lies in understanding the issues raised

by complexity and chaos theory. The theory is pegged on three important components that clearly inform decisions and policy. It is these that help to create functional strategies. The three are hindsight, insight and foresight.

Hindsight is based on an examination of the past. The hindsight in this case is that the strategy of an incursion into Somalia was built on the assumption that certain spaces were strategically important for Kenya's border security. This is the case for Kismayu and Jubaland. Kismayu as a strategic space was considered to help *Al Shabaab* raise critical funds and provide the logistics through its forested hinterland. The assumption was that taking over this space would deprive *Al Shabaab* of operational capacity. To a certain extent this was the case when the strategy was deployed. However this strategy ignored some crucial issues. One issue was the critical component of a network of relationships that *Al Shabaab* had built over time. The linear-causal relationship that this strategy created between the operations of *Al Shabaab* and spaces was a big omission. It is on this basis that cutting off this space did not impede *Al Shabaab's* operations. Clearly, the failure to completely demobilize *Al Shabaab* was because it had other linkages outside the occupied spaces. Such linkages were virtual and did not require territory. The need to address the virtual operational space in modern warfare cannot be gainsaid. It is a critical strategic consideration that dealing with an enemy is no longer physical and does not require physical spaces to control.

The second ingredient of the strategy was the buffer zone concept. The assumption was that creating some governable space between Kenya and Somalia would act as a preventive measure: that it would either reduce *Al Shabaab* considerably or completely extenuate it. This assumption was productive in the short term since it dislocated the operational lines of *Al Shabaab*. For the short term it worked however, it also suffered the same fate in the long run. *Al Shabaab* transcended the buffer zone space either by trans-locating its operations inside Kenya or outside the jurisdiction of the buffer zone. This made it capable of infringing on Kenyan territory. Above all however, both strategic options failed to appreciate a second aspect of the complexity and chaos theory of the insight conditions.

Insights are the prevailing circumstances that influence an event or issue. In this case the strategies ignored the fact that *Al Shabaab* not only operates a network in Somalia, but was also actively radicalizing Kenyans and therefore had a presence there. In this case a buffer zone or occupation of territory outside is immaterial. The radicalized Kenyans do not really need to traverse any territory since they are already located *in situ*. This means that decision and policy makers reliance on earlier data sets that indicated that the threat was

coming from outside was already overtaken by events. *Al Shabaab*, in this case is feasting on the vulnerable Kenyans to operationalize its plans. Strategy must therefore be directed towards examining carefully Kenya's vulnerabilities to curtail any recruitment.

## **Border Barriers in the War on Terror**

Border barriers are a culmination of a multitude of changes in security and defense practices emerging as part of the global war on terror. In terms of impact, border security is the most profound and longest lasting policy change in the global war on terror.<sup>12</sup> The creation of a fence between the Kenya-Somalia border was influenced by the USA's determination to use such a strategy. It was also influenced by the perception that creating official exit and entry points would help curb *Al Shabaab* movements and operations. It was an idea of deterrence. While this idea looked good on paper, it encountered certain challenges on the ground. Barrier construction affects borders by legitimizing them and creating exclusionary practices. Through having a barrier the state reifies authority over territory, and defines the limits of people that belong.<sup>13</sup> This means that there are perceptual differences between those who belong and those who do not. In the Kenyan case this is very difficult because those who occupy the border area are the same people. Unlike the USA, India and Israel where the occupants are Americans and Mexicans, Bangladeshis and Indians, or Palestinians and Israelis, the Kenyan case they are all Somalis of the Marehan clan. Differentiating them is almost impossible.

All this indicates that foresight should have informed the strategy. Foresight is a critical element of any strategy. It takes into consideration both the hindsight (past) and insight (present) into consideration. However foresight that is created through a linear-causal effect is defective and may not help. It factors in emergent issues that could disrupt the ease with which strategies work. Disruptions of any kind are those things that happen but were not anticipated, thus causing instability in the system.

Kenya's border security plan for a fence was disrupted by saboteurs and those opposed to its whole idea. Amongst the challenges were resistance by locals, and the destruction of materials and constructed fences. Above all was the danger posed by *Al Shabaab* and others for the construction workers. To date the construction continues but under strenuous circumstances.

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<sup>12</sup> Reece Jones, *Border Walls: Security and the War on Terror in USA, India and Israel* (London: Zed Books, 2012).

<sup>13</sup> Ibid.

## Complexity, Chaos and Border Security

The incursion into Kenya by the Somali National Army and its rival in 2020 is a wakeup call for more robust border security management. The explanation given for the entry by the Somali government was that its forces were in pursuit of fugitives who escaped from a Mogadishu jail and were believed to be holed up somewhere in Mandera.<sup>14</sup> The rivals of the Somali National Army - Jubaland Forces - were believed to be protecting Mr. Jalan a former Minister of the Jubaland government.<sup>15</sup> Whereas all these could be factual, the issue at hand is the implication of these actions around Mandera town. The conduct of this battle between foreign rival forces in Kenya was in breach of its territorial integrity and sovereignty. The Kenya government explained that it restrained itself from this provocation by Mogadishu.<sup>16</sup> The action of the foreign militias was a breach of international law. It also points to problems of border security management.

This breach strongly indicated the problem of chaos in system theory. No one anticipated that the two armies would stage their battle in Kenya. The result of this engagement is chaos along the borders of the two countries; and this explains the disruptions caused by the event itself. The action portends further complications in border management for Kenya, since the rival armies are still lined up for battle. Kenyan border management which normally does not anticipate such events was caught unprepared by the actions of both the Somali National Army and Jubaland forces. The implication of the whole action is complexity. The chaos affected the normal operations of the border which will take some time to restore.

The starting point for a good strategy is to consider circumstances that help think out the best solution to a problem. Faced with continued attacks from *Al Shabaab* there is a need to reconsider the approach and strategy to the Somali border with Kenya. In so doing it is incumbent on decision makers and policy drivers to take into account the key elements that determine the border and its environment. First is the perception of the communities who live around the border and how they view it. The borders of Kenya and Somalia are occupied by the Darood and Hawiye clans of the Somali society. Both clans occupy the two sides. Essentially they consider the border area to belong to them on either side. They are not different from each other. For that reason those around the

<sup>14</sup> "Uproar as Jubaland Soldiers Cross into Mandera, Fearful Residents Flee their Homes," *The Star*, (Nairobi) 6-8th March 2020.

<sup>15</sup> Ibid.

<sup>16</sup> Manase Otsialo and Aggrey Mutambo, "Uhuru Warns Somalia against Provocation," *Daily Nation*, (Nairobi) 5th March, 2020.



border view it as an obstruction to their everyday lives especially whenever control measures introduced. In this respect there are no boundaries and borders for all practical purposes, and individuals cross at will. The basis for this is the argument that people with the same affiliations straddle the border region and do not consider themselves as distinct Kenyans or Somalis. What defines them is their clan, and not the international boundary. The implication of this thinking is that any structures created are viewed as an attempt to prevent interaction and divide the people. Being closely knit, Somali clan affiliation completely rejects any attempts to disorient any clan. The clan is the single most important social structure to which individual loyalty is derived. It provides the mechanism for protection and justice to the individual, and actions that divide it must be resisted by all means. This is the basic explanation behind the emergence of what may be called saboteurs who try to jeopardize the efforts of erecting a fence along the common border. The fence in this case is a barrier to the movements of people and their animals. No member of the local community is happy with being subjected to designated crossing points because they may not necessarily be located within their reach, and may require travelling certain distances. This is compounded by businessmen and women who also actively make a living by moving goods through the borders and not paying taxes. The business groups would be unhappy about designated crossing points because those imply that they would be subjected to tax. As such they may sponsor and drive campaigns against the fence.

The other issue of contention is the meaning of borders from the community perspective. For the communities occupying these regions, the border is actually a frontier determined by the practice of transhumance. Being pastoralists the Somalis move with their animals following weather patterns. When the rains come to the Kenyan side they are able to move here and graze and water their animals while sheltering amongst members of their clans. The same is true when it is wet on the Somalia side, since the Kenyan clans end up taking shelter in Somalia. The idea of border exits gets marred by such movements that do not recognize the international boundary but rely heavily on affiliations on both sides. From a government perspective, the barrier substantiates the imagined line of state sovereignty. The problem with this view is that it creates a site for contestation in territorial control, separation, identity, insecurity and resistance.<sup>17</sup> Contestation arises because the border in this case marks the grazing rights, and not along any international longitude or latitude. It distorts the popular understanding and definition through

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<sup>17</sup> John A. Winterdy and S.K Sundberg (eds) *Border Security in the Al-Qaeda Era* (London, Taylor and Francis, 2010).



inclusion and exclusion. This differentiation and new border definition thus ends up undermining border security. Attempts to control or interfere with the locally embraced meaning creates a misunderstanding and may be viewed as an effort to undermine rights of access, control and use of resources. This is what explains the resistance and opposition. It is on this basis that the Somali Somalis have encroached on no man's land on the Kenyan side as evidenced around Mandera town. The encroachment is largely informed by the belief that the land is within their clan's frontier and is not a border zone. Hence the resistance to the erection of a barrier.

These ideas inform the locals' understanding, and influence their attitude towards border security in the form of barriers. It then becomes incumbent on the border security strategists to create awareness of any departures from what is locally perceived and believed to be the meaning of a border. Without education and awareness creation, the border security strategy based on a barrier is met by resistance and becomes un-implementable. The result is insecurity, thus defeating the purpose of any border security. Above all, it is these communities who should enjoy the objectives and gains of border barriers as a form of security. But if it does not make sense to the border communities then it is a defeatist programme. An effective border security strategy should build on the existing local structures and support systems. The support systems may include the perception, definition and language used to describe a border. Different groups have a language to describe things. How something is described and defined determines the attitude and posture taken towards it. Where something lacks a local description of appropriate language it is considered alien and therefore of no use to the locals.

Besides, no security unit can police the approximately 700 km long border with Somalia. It is indeed the locals who can supplement government efforts. But this can only happen if the local communities integrate with the security plan. Support from the local community only comes if they see value in the plan, or are involved in its initiation and development. In both cases Kenya's strategies are driven by government agencies, without local input or with very little or no consultation. The reason behind the lack of consultation or local input is largely the thin line drawn between locals of good will and the enemy. According to the government, border security is still viewed as part of state security. It is informed by the belief that it is at the very core of territorial integrity and sovereignty. Throughout the ages such matters have been handled secretly and may only involve relevant government agencies. However this thinking completely ignores the community's role in border security. Along the same lines, Kenya's border is porous and the locals are part of the groups

encouraging activities that the government may want to discourage.

## Conclusions

Kenya continues to be threatened despite the initial belief that the Somali border insecurity would be managed through creating a buffer zone by propping up Jubaland authority, ensuring that the *Al Shabaab* was downgraded through capturing Kismayu, and building a border fence. These strategies were well thought out at the time. What lacked was taking into account the complexity and chaos in strategy formulation. Yet chaos can occur at any time and disrupt the system and its operations. This view requires all strategists to factor in elements of complexity and chaos. Strategy makers must always think through the three elements of strategy, hindsight, insight and foresight. These would enable them to consider the importance of complexity and chaos during the strategy making process.

Unfortunately in trying to undertake certain actions the state only ends hardening the border. Hardening the border affects only the poor and allows cartels to be the primary actors in cross-border activities. This does not mean that border security has improved: it just changes the actors and the *modus operandi*. The entry of cartels further complicates border security management. It is also important to consider different ways to take into consideration the welfare and well-being of the poor who are the majority in cross-border activities. The securitization of borders as such affect the poor more than others groups in society. It only criminalizes the majority, while only a few of them could be criminals. The real criminals or the cartels normally get away with their actions without any interference. In this way border insecurity continues.

The issue around border security strategies and their implementation must revolve around securitization of the border. However securitization as a concept is informed by a state centric understanding of the idea of security. Border security also has critical components of human security. Largely most borders have very strong relationship issues. For example some borders like the Somalia-Kenya one, essentially separate not only the same people but even more closely the same clans with high levels of affinity. To securitize such a border requires sensitivity to these relationships. State centric securitization clearly ignores this idea. This makes it difficult to implement without creating reaction. Securitization in this case clearly zones different people into Kenyans and Somalis. This is not tenable because there is no clear distinction between the members of the two states. In addition this sort of securitization discriminates among the different peoples. Above all securitization imports the idea of discriminating the migrant and even more criminalizing migration.

Essentially this fails to make sense within communities that are related and know each other.

Finally, securitization imports the issue of territoriality. In territorial perspectives, there is a clear distinction between the territory of Kenya and that of Somalia. Yet within the communities there is a different conceptualization of land ownership. The idea of community land ownership negates the idea of territoriality. The land owned straddles the two states and therefore may not be demarcated along the lines of Kenya and Somalia. These are some of the issues raising concerns about border security and calling for new thinking and strategies on border security between Kenya and Somalia. Despite securitization being important to realize national security needs, it is affected by complexity and chaos. Complexity and chaos ultimately diminish the effect of securitization. And ultimately they may undermine the very outcome expected.

# **The Ethical Minimum: Human Rights Foundations of National Security**

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## **Abstract**

The corporeal universe confronts multiple problems, leading to the question whether it requires more values or laws. There is competition between these two realms of human existence. Justice is one of the cardinal virtues, that some consider a general virtue. Many societies have enacted laws that do not address the problems of justice. The solution lies in values, since human beings are primarily prompted by values not law. The relation between values and law is “ought,” the quintessence of ethics or moral philosophy. The relationship between law and ethics leads to the metaphysics of law, concerned with its anchoring tenets. Ethics, plays a guiding role. Hence, issues like inequality, poverty, human dignity and human rights call for an ethical minimum. These issues must be addressed by an ought-psycho-social-legal approach. The article argues that social institutions must create an environment that inculcates values through a multi-institution approach. In this perspective the family is a prime venue of instruction. Supporting it infuses values to younger generations, who may later be espouse it. It concludes that one tragedy of contemporary society is expecting people to give what they do not have.

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## **Introduction**

Although many societies have enacted transformative laws, contemporary social challenges have continued to bedevil humanity. The nagging problem is why the continued frustrations of certain social ills like inequity, poverty, war, terror and violence continue unabated. This article argues that there is lacuna of values. There should be an ethical minimum that would resolving the challenges that interfered with the realization of the common good. A society cannot flourish in a milieu of injustices which fuel insecurity for the former is the bedrock of the latter.

## **Debates on the Ethical Minimum**

Anke Graness notes that for Odera Oruka justice connotes equal distribution of the wealth of the world and the exclusion of all inequities.<sup>1</sup> He notes that the

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<sup>1</sup> Anke Graness, “From Socrates to Odera Oruka: Wisdom and Ethical Commitment, Institute of Philosophy, University of Vienna, Austria and Polylog: Journal of Intercultural Philosophy, Thought and Practice,” *A Journal of the Philosophical Association of Kenya (PAK) New Series*, Vol. 4, No.2(December

right to an ethical minimum is instituted by the non-defeasible right to self-preservation. Subsequently, the self-preservation of a person is the first and fundamental necessity to making use of all other rights, and its denial causes the loss of indispensable functions of a human person:

“For all human beings to function with a significant degree of rationality and self-awareness, they need a certain minimum amount of physical security, health care, and subsistence ... Below this minimum one may still be human and alive. But one cannot successfully carry out the functions of a moral agent or engage in creative activity. Access to at least the human minimum is necessary (even if not sufficient) for one to be rational and self-conscious. Without it, man is either a brute or a human vegetable. Man loses the very minimum necessary for a decent definition of human being.”<sup>2</sup>

A denial of the ethical minimum implies that the affected individual is incapable of exercising the essential functions of a person. A *person* is defined by Oruka as a rational, self-confident, morally acting being, who is in a position to achieve a fair deal. This means that for any person to live and act as a human person, their acts ought to carry the elements of rationality, newness, self-consciousness, liberty and self-awareness. These define a person as a moral agent and not moral patient. The term *person* comprises self-determination and the self-design of one's life. It thus consists of qualities transcending the mere belonging to the *homo sapiens* species. People who do not obtain the status of a person are no longer able to act ethically, and hence drop out of the ethical community. They are no longer subject to the community's rubrics or are responsible for their actions.

Core to Oruka's ethical theory is the concept of ethical minimum. This minimum benchmark is indispensable for any human being to live a decent, honourable and well-intentioned life, aimed at ensuring the quality and security of human life.<sup>3</sup> For him, the dignity, security and preservation of human life is anchored on the quality and security of individual and collective existence or lifestyle in the community through the communal value. Communal values express and appreciate the worth and importance of community. They underpin and guide the type of social relations, attitudes and behavior that ought to exist between individuals in a community, sharing social life and having a sense of common good.<sup>4</sup>

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<sup>2</sup> Henry O. Oruka, “The Philosophy of Foreign Aid: A Question of the Right to a Human Minimum,” in A. Graness and K. Kresse (Frankfurt am Main: Peter Lang, 1997), 48.

<sup>3</sup> Henry O. Oruka, *Practical Philosophy: In Search for an Ethical Minimum* (Nairobi: East African Educational Publishers, 1997), 38.

<sup>4</sup> Kwame Gyekye, *African Cultural Values* (Accra: Sankofa Publishing Company, 1996), 35.

The concept of ethical minimum is “the highest ‘ethics of humanism.’”<sup>5</sup> Its ultimate goal is to establish a more humanized society to safeguard and promote “moral good” that would lead to a more humanized society where people love and care for each other. On this basis Oruka contends that society has the ethical duty for everybody to live a decent, respected and standard humanly dignified lifestyle as the minimum basis for achieving justice and equality in the society. It is the, “the very minimum a human being demands from the world so that s/he may be in a position to fathom and recognize the rights of others.”<sup>6</sup> It is anchored on the issue of human rights, and is a strong foundation for them.<sup>7</sup> Oruka wanted to develop an ethical tenet aimed at equitable distribution of resources in the sense of depicting responsibility in the wellbeing of each other through equitable sharing of resources, and encouraging the underprivileged and the youth to live a better life by empowering them to realize their potentialities.

Oruka envisioned a situation where everyone has equal ability and opportunity to satisfy at least their most basic human needs like physical security, subsistence and health care in order to live a decent life in the society. For those lacking that capability and opportunity, the society is duty-bound to make arrangements about how their needs ought to be met.<sup>8</sup> Kwame Nkrumah refers to the interaction between the individual and the community or group as a basic facet to the development of individual’s personality and overall success and well-being of the community.<sup>9</sup> There is thus a need to strike a balance between communal and individualistic values. The issue is to recognize the dual claims of the communality and individuality, and integrate desires and the social ideals in addition to demands. Balancing the two systems of values entails the dual responsibility to oneself as an individual and to the group.<sup>10</sup> The basis of this is that all individuals are members of the society, and have some obligations to fulfil what in principle every member is entitled to.<sup>11</sup> Through this the majority if not all members of the society are able to enjoy their right to an ethical minimum. As Nkrumah aptly noted:

“in the light of the relentless concern among the African people for the welfare of each member of the communal society, it would be appropriate to expect the ethics espoused in African societies to be social ethics. Such maxims, already referred to as “a man must

<sup>5</sup> Oruka, *Practical Philosophy*, 139.

<sup>6</sup> Oruka, *Practical Philosophy*, 147.

<sup>7</sup> Henry O. Oruka, *The Philosophy of Liberty* (Nairobi: Standard Textbooks Graphics, 1990), 55.

<sup>8</sup> Oruka, *Practical Philosophy*, 85.

<sup>9</sup> Gyekye, *African Cultural Values*, 50.

<sup>10</sup> Gyekye, *African Cultural Values*, 50.

<sup>11</sup> Oruka, *The Philosophy of Liberty*, 55.

depend for his well-being on his fellow man; a human being needs help, that is to say, he merits, for that reason, ought to be rallied round, and life is mutual aid.”<sup>12</sup>

Therefore, the ethical minimum should correspond to all. It is a standard below which no human being would be allowed. It permits the human being to at least enjoy the basic needs. It is an ethically irresponsible form of inequality for some people to have excess while the poor suffer without even the rudimentary needs. Global justice in these terms implies hoisting the context of doctrines of justice to a global level, and linking them to the ethical responsibility that every capable moral agent has to enforce impartiality on a worldwide scale.<sup>13</sup> John Rawls, referred to this as egalitarian fairness.<sup>14</sup> He argued that:

It must not be forgotten that the principle of fairness has two parts: one which states how we acquire obligations, namely, by doing various things voluntarily; and another which lays down the condition that the institution in question be just, if not perfectly just, at least as just as it is reasonable to expect under the circumstances. The purpose of this second clause is to ensure that obligations arise only if certain background conditions are satisfied. Acquiescence in, or even consent to, clearly unjust institutions does not give rise to obligations. It is generally agreed that extorted promises are void ab initio. But similarly, unjust social arrangements are themselves a kind of extortion, even violence, and consent to them does not bind. The reason for this condition is that the parties in the original position would insist upon it.<sup>15</sup>

## Contextualizing Justice and Economic and Social Inequalities

While justice as fairness is an egalitarian view, the issue still needs to be debated about in what way it is so. There are various categories of equality and many reasons for being concerned with it. Several the reasons for regulating economic and social inequalities have been advanced. It has been argued that in the absence of special circumstances, it gives the wrong impression that some or the majority of society should be copiously provided for, while many or even a few, suffer adversities like hunger and treatable illness. In this perspective, urgent needs and wants go unfulfilled, while the less urgent ones of others are satiated. However, it may not be inequality of income and wealth as such that is the issue. Instead it can be maintained that unless there is real

<sup>12</sup> Gyekye, *African Cultural Values*, 58.

<sup>13</sup> Anke Graness, “Is the debate on ‘Global Justice’ a global one? Some Considerations in View of Modern Philosophy in Africa,” *Journal of Global Ethics* (2015):126-140.

<sup>14</sup> Cf. John Rawls, *Justice as Fairness*, ed. Erin Kelly (Cambridge: Belknap Press, 2001); John Rawls, *A Theory of Justice* (Cambridge: Belknap Press, Harvard University, 1999).

<sup>15</sup> Rawls, *A Theory of Justice*, 301.

scarcity, all should have at least enough to meet their basic needs.<sup>16</sup>

A view has also emerged that controlling economic and social inequalities prevents one part of society from dominating the rest. When those two kinds of inequalities are large, they tend to support political inequality. As John Stuart Mill observed, the bases of political power are intelligence, property, and the power of combination, by which he meant the ability to cooperate in pursuing one's political interests.<sup>17</sup> The power permits a few, by virtue of their control over the machinery of the state to enact a system of law and property that ensures their dominant position in the economy as a whole. This ascendance is understood to be bad because it makes many peoples' lives less good than they might otherwise be. But the issue still arises about the effects of economic and social inequality.<sup>18</sup>

Another view maintains that significant political and economic inequalities are often associated with disparities of social status that encourage those of lower standing to be viewed both by themselves and by others as inferior. This could arouse widespread attitudes of deference and servility on one side, and a will to dominate and arrogance on the other. These effects of social and economic inequalities can be serious evils while the attitudes engender great vices.<sup>19</sup> Inequality is unjust in itself, thus Rousseau's solution, of justice as fairness. The fundamental status in political society is equal citizenship, which all have as free and equal persons. It is as equal citizens that individuals have fair access to the fair procedures on which the basic structure relies. The idea of equality is then imported at the highest level. It is about whether political society itself is conceived as a fair system of social cooperation over time, between persons perceived as free and equal or in some other way. It is from the point of view of equal citizens that the justification of other inequalities is construed.<sup>20</sup>

The concept of the appropriate minimum is not conferred by the psychological or biological basic needs of human nature seen apart from the social world. Rather, it depends on the fundamental intuitive ideas of person and society in terms of which justice as fairness is laid out.<sup>21</sup> Rawls argues that we have duties of justice in the society by ensuring what is fairly due to others belongs to them. Hence the duty to meet or facilitate enjoyment of the basic

<sup>16</sup> Rawls, *Justice as Fairness*, 130.

<sup>17</sup> See John Stuart Mill, "De Tocqueville on Democracy in America [I]" *London Review* (October 1835), in *Collected Works of John Stuart Mill*, Vol. XVIII, *Essays on Politics and Society*, ed. J.M. Robson (Toronto: University of Toronto Press, 1977), 18.

<sup>18</sup> Rawls, *Justice as Fairness*.

<sup>19</sup> Rawls, *Justice as Fairness*, 131.

<sup>20</sup> Rawls, *Justice as Fairness*, 132.

<sup>21</sup> Rawls, *Justice as Fairness*, 133.



human needs to help promote and improve their social life in the society so that rights may not be infringed.<sup>22</sup>

Oruka felt that this problem has not been solved properly since it can best be solved at international level. As he aptly notes, “I do not pretend to believe that we have anything in the world today that can significantly be treated as global justice. Global justice is still only an ideal as far as nations are concerned.”<sup>23</sup> Oruka was much concerned with the connotation of human life in the society: how to improve and preserve it from rational consciousness manner so that everyone if not all can live at least a happy affordable life in the society. Schumacher, like the traditional African, was concerned with the sense of life and man’s existence: the gist and purpose of man’s existence in this world, and about what man’s absolute rights and duties are. He ponders this question further:

Questions like, “What should I do?” or “what must I do be saved” are strange questions because they relate to ends, not simply to the means. No technical answer will do, such as, “tell me precisely what you want and I shall tell you how to get it,” the whole point is the I do not know what I want. May be what I want is to be happy. But the answer, “tell me what you need for happiness, and then I shall be able to advise you what to do.” This answer, again, will not do because I do not know what I need for happiness. Perhaps someone say, “for happiness you need wisdom.” Nonetheless, what is wisdom? “for happiness you need truth that makes us free?” However, what is the truth that makes you free? Who will tell me where to find it? Who can guide me to it or at least point out the direction in which I have to proceed?<sup>24</sup>

Oruka provides direction to Schumacher’s quest by using sagacity to attain this happiness through being considerate to others as moral agents. The value of human life was fundamentally anchored on communalism as an African spirit, which Oruka in one way or another tried to propagate. As Joy Adamson observes, “African philosophy or African values focus on man himself,”<sup>25</sup> and how man’s life could be uplifted to greater standards for the sake and furtherance of human life.

## Moral Minimum and Fairness

As emphasized earlier, the ethical minimum is the all-encompassing way for attaining some basic needs so that a human being can adequately enjoy life and

<sup>22</sup> Rawls, *Justice as Fairness*, 70-74.

<sup>23</sup> Oruka, *Practical Philosophy*, 84.

<sup>24</sup> E. F., Schumacher, *A Guide for The Perplexed* (New York: Harper Perennial, 1997), 68.

<sup>25</sup> Joy Adamson, *The people of Kenya* (London: Collins and Harvill Press, 1967), 232.

other fundamental freedoms and rights. It is the right that others depart from for establishing a more humanized life on earth.<sup>26</sup> For Oruka this would enable the achievement of the goals of other human rights of having an egalitarian society. It is the rational foundation for a defensible demand of something that is equally due to someone. Therefore, for other rights to be practical in terms of utility the right to an ethical minimum must take priority for their enjoyment. This is the case because that particular person must first of all be alive and healthy, and their security guaranteed.

The three basic requirements that sustain, promote and preserve life - physical security, sustenance and health care - must be fully guaranteed before other elements of rights are considered. The basic human requirements ensure a person's subsistence through preservation of the value of humanity in the universe.<sup>27</sup> Consequently, the idea of an ethical minimum is the foundation for a justified minimum demand of the three basic needs of security, subsistence and health care. Besides, no self-respecting human being can reasonably be expected to accept the denial of these.<sup>28</sup> The ethical minimum is the most essential means for a person to live at least a well-meaning humanly dignified life. Although it might not be sufficient, human beings are indebted to each other as a right and duty in terms of the ethical minimum at the social level. Hence Oruka defined the ethical minimum as, "the very minimum a human being can demand from the world so that one may be in a position to understand, recognize and fulfil the rights of others."<sup>29</sup>

Oruka reiterates that those three basic rights are also human rights because everyone in society is entitled to them. They should therefore be applied to everyone as universal rights because their realization is imperative for the preservation and promotion of human life and dignity, and enable a person to function as a capable moral agent. As he observes:

"I wish to refer to the three basic rights: the rights to physical security; health; and subsistence as the inherent rights of persons. They are *inherent* since, for any individual to be able to exercise the function of a person, the function of being a capable moral agent, s/he needs at least the fulfilment of these rights as a necessary condition."<sup>30</sup>

The three basic rights are rights, duties and entitlements. They ensure that at least all people are capable of enjoying or living a life standard of a human person. For all human beings to function with rationality and self-awareness,

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<sup>26</sup> Oruka, *Practical Philosophy*, 85.

<sup>27</sup> Oruka, *Practical Philosophy*, 85.

<sup>28</sup> Oruka, *Practical Philosophy*, 85.

<sup>29</sup> Oruka, *Practical Philosophy*, 147.

<sup>30</sup> Oruka, *Practical Philosophy*, 86.

they need a certain amount of physical security, health care and subsistence.

Basic rights are a protection from economic and political forces that would otherwise be too strong to be resisted. They are social guarantees against actual and threatened deprivations of basic needs. Fundamental rights are an attempt to give to the powerless a veto over some of the forces that would otherwise harm them most.<sup>31</sup> A moral right provides the rational basis for a justified demand, its actual enjoyment, and is social guarantee against standard threats.<sup>32</sup> A right offers the rational basis for a justified demand. If a person has a particular right, the demand that the enjoyment of the substance of the right be socially guaranteed is justified; and the assurances ought, therefore, to be engendered.<sup>33</sup> Its guarantee is the most central aspect of a right, because it demands correlative duties.<sup>34</sup> This is part of the reason why basic rights are tied so closely to self-respect.<sup>35</sup>

Basic rights are everyone's minimum reasonable demands upon the rest of humanity.<sup>36</sup> The reason is that rights are basic only if enjoyment of them is essential to the enjoyment of all other rights.<sup>37</sup> As Shue observes:

"No one can fully enjoy any right that is supposedly protected by society if someone can credibly threaten him or her with murder, rape, beating, among others, when he or she tries to enjoy the alleged right. Such threats to physical security are among the most serious and in much of the world the utmost widespread hindrances to the enjoyment of any right. If any right is to be exercised except at great risk, physical security must be protected. In the absence of physical security people are unable to use any other rights that society may be said to be protecting without being liable to encounter many of the worst dangers they would encounter if society were not protecting the rights."<sup>38</sup>

Indeed, prevention of deficiencies in the essentials for survival is, if anything, more basic than prevention of violations of physical security. People who lack protection against violations of their physical security can, if they are free,

<sup>31</sup> Henry Shue, *Basic Rights Subsistence, Affluence, And U.S. Foreign Policy* (New Jersey: Princeton University Press Princeton, 1980), 18.

<sup>32</sup> Warren Christopher, *Human Rights: Principle and Realism* (Washington: Office of Media Services, Bureau of Public Affairs, Department of State, 1977), 1.

<sup>33</sup> Shue, *Basic Rights Subsistence, Affluence, And U.S. Foreign Policy*, 13.

<sup>34</sup> Cf. Graham Allison and Peter Szanton, *Remaking Foreign Policy: The Organizational Connection* (New York: Basic Books, 1976).

<sup>35</sup> Fein Berg, *The Terminology of "claim-rights"* is of course from Wesley Hohfeld, *Fundamental Legal Conceptions* (New Haven: Yale University Press, 1923), 58-59.

<sup>36</sup> See United States, Department of State, *Background Notes: Mexico*, Revised February- 1979 (Washington: Government Printing Office, 1979), 1.

<sup>37</sup> Shue, *Basic Rights Subsistence, Affluence, And U.S. Foreign Policy*, 19.

<sup>38</sup> Shue, *Basic Rights Subsistence, Affluence, And U.S. Foreign Policy*, 19.

fight back against their attackers or flee, but people who lack essentials, such as food, because of forces beyond their control, often can do nothing and are on their own utterly helpless.<sup>39</sup>

So, anyone who is entitled to anything as a right must be entitled to physical security as a basic right so that threats to their physical security and subsistence cannot be used to frustrate the enjoyment of the other rights and fundamental freedoms. The argument has two critical premises. Firstly, everyone is entitled to enjoy something as a right.<sup>40</sup> Secondly, everyone is entitled to the removal of the most serious and general conditions that would prevent or severely interfere with the exercise of whatever rights the person has.<sup>41</sup>

If the need for a guaranteed minimum is a powerful motive in peasant life, one would expect to find institutionalized patterns in peasant communities which provide for this need. It is in the village in the patterns of social control and reciprocity that structure daily conduct where the subsistence ethic finds social expression. The principle which appears to unify a wide array of behaviour is that of, all village families will be guaranteed a minimal subsistence niche insofar as the resources controlled by villagers make this possible. Village egalitarianism in this sense is conservative not radical, for it claims that all should have a place and a living, but not that all should be equal.

The position of the better-off appears to be legitimized only to the extent that their resources are employed in ways which meet the broadly defined welfare needs of villagers.<sup>42</sup> Benedict J. Kerkvliet put this in the context of Asian traditional societies; "A strong patron-client relationship was a kind of all-encompassing insurance policy whose coverage, although not total and infinitely reliable, was as comprehensive as a poor family could get."<sup>43</sup>

This analysis of an ethical minimum leads to an exciting but important discourse on the ethical human minimum in relation to enhancing the human aptitude and functionality of an individual person in the community in the light of the concept of *Ubuntu*, for instance, from an African stance.

## Poverty and Human Dignity

There is no dignity in poverty for the latter attritions the former. The first

<sup>39</sup> John Stuart Mill, *Utilitarianism* (Indianapolis: Bobbs-Merrill Co., 1957), 67.

<sup>40</sup> H.L.A. Hart's classic, "Are There Any Natural Rights?" *Philosophical Review*, 64:2 (April 1955), 175-191.

<sup>41</sup> Shoe, *Basic Rights Subsistence, Affluence, And U.S. Foreign Policy*, 22.

<sup>42</sup> James C. Scott, *The Moral Economy of the Peasant: Rebellion and Subsistence in Southeast Asia* (New Haven: Yale University Press, 1976), 40-41.

<sup>43</sup> Benedict J. Kerkvliet, *The Huk Rebellion. A Study of Peasant Revolt in the Philippines* (Berkeley: University of California Press, 1977), p. 252.

sentence of the preamble to the *Universal Declaration of Human Rights*, 1948 states that the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. The requirement for the protection of human dignity has pride of place in several national and international documents which purport to protect the rights of man. Very often it is spotted next to the proclamation of the equality of all human beings.<sup>44</sup> According to Immanuel Kant, dignity renders human beings to be ends in themselves as opposed to means for the achievement of other aims. It thereby grants them unconditional and incomparable worth and brings them to the core of the categorical imperative that permeates his kingdom of ends.<sup>45</sup> In a very basic sense, the notion of dignity encapsulates the intrinsic worth of all human beings by virtue of their common humanity. The very fact of being human creates an entitlement to have this intrinsic human worth recognized and respected.<sup>46</sup> The fundamental urge stems directly from the fact that personal development is inextricably linked to the attitudes of others towards the person.

All humans are entitled to respect for their dignity since they all desire to be recognized as possessing equal intrinsic human worth. It is in this sense of treating everybody with 'equal respect' for their common humanity that the notion of human dignity closely interacts with the value of equality.<sup>47</sup> As is made clear by the preamble to the UDHR, human rights protects this inherent, precisely enunciated worth and dignity of every individual. Nevertheless, human dignity is best appreciated as a value which by its very nature is incapable of concrete delineation. It represents the moral absolute which the ever-developing human rights system aims to define and safeguard, having regard to the morality prevailing in a given society at a certain time.<sup>48</sup>

David Feldman has argued that it is wrong to talk of a 'right to dignity' since the very notion of dignity refers to an aspect of every man's personality which cannot be separated from the person.<sup>49</sup> Instead, Feldman suggests, people have

<sup>44</sup> Cf. Charilaos Nikolaidis, *The Right to Equality in European Human Rights Law The quest for substance in the jurisprudence of the European Court* (New York: Routledge, 2015).

<sup>45</sup> See Immanuel Kant, *The Moral Law: Groundwork of the Metaphysic of Morals*, trans. H.J. Paton, (New York: Routledge Classics, 2005), pp. 104–115.

<sup>46</sup> Christopher McCrudden, "Human Dignity and Judicial Interpretation of Human Rights," *The European Journal of International Law*, Vol. 19, no. 4(2008):655–724 at 723.

<sup>47</sup> See, for instance, Bernard Williams, 'The Idea of Equality', in Peter Laslett and W.G. Runciman (eds.), *Philosophy, Politics and Society* (second series), Basil Blackwell, 1962, 110–131 where the author refers to this 'desire for self-respect' as an important element of the common humanity which equality aims to affirm.

<sup>48</sup> Christine Synowich, *The Concept of Socialist Law* (London: Oxford University Press, 1990), Chap. 4.

<sup>49</sup> David Feldman, "Human Dignity as a Legal Value: Part 1," *Public Law*, (Winter 1999), 682–702 at 689–691.

rights which promote respect for human dignity. Thus, while dignity itself is not a right, all human rights are somehow linked to the protection of the dignity of individuals.<sup>50</sup> In this sense, the affirmation of human dignity can be perceived as the basis of fundamental rights.

Oscar Schachter makes an interesting distinction between the historical and philosophical conception of dignity.<sup>51</sup> For him, the former defines dignity as merely a value which reflects the socio-historical conceptions of basic rights rather than generating them; the latter, which is preferable, maintains that rights are generated by the inherent dignity of people.<sup>52</sup> According to another proposition, the concept of human dignity flows from rights in the sense that what is called human dignity may simply be the capacity to assert claims.<sup>53</sup> The approach affirms the primary role of dignity since it is only natural that dignity, being the foundational value of rights, will be impaired when somebody is excluded for no good reason from making use of their rights. It follows that the affirmation of human dignity is, like equality, a fundamental moral value informing the structure of democratic legal systems.

Both dignity and equality are inseparable because they share a common link. The link is the idea of individual autonomy, which means the capacity to be one's own person, to live one's life according to reasons and motives that are taken as one's own and not the product of manipulative or distorting external forces. All individuals should be able to develop themselves freely as rational beings. Oruka maintains that below this minimum a person may still be alive, but cannot successfully carry out the functions of a moral agent or engage in creative activity because of the failure to meet certain for the standards of living.<sup>54</sup> This failure can be defined as poverty. According to Hazzilt, poverty is used mostly to identify those who are known to be living in a state of deprivation,<sup>55</sup> since the destitute are taken as individuals who cannot meet the required standards of living or the ethical minimum. What is considered to be a humane standard of living of a human being is relative to every individual.<sup>56</sup>

People may be poor, because they are disadvantaged in contrast to others in society. Governments should take measures to minimize this gap through equitable allocation of resources like good health care, in order to avoid the

<sup>50</sup> Feldman, 'Human Dignity as a Legal Value: Part 1.'

<sup>51</sup> Oscar Schachter, "Human Dignity as a Normative Concept," *The American Journal of International Law*, Vol. 77, No. 4 (1983):848–854 at 853.

<sup>52</sup> Schachter, "Human Dignity as a Normative Concept."

<sup>53</sup> Joel Feinberg, 'The Nature and Value of Rights,' *The Journal of Value Inquiry*, Vol. 4, (1970):243 at 252.

<sup>54</sup> Georg Simmel & Claire Jacobson, *The Poor: Social Problems*: Vol, 13, No. 2 (autumn 1965):118-140.

<sup>55</sup> Henry Hazlitt, *The Conquest of Poverty* (New York: Cataloguing in Publication, 1946).

<sup>56</sup> Simmel & Jacobson, *The Poor: Social Problems*.

class levels in the society. It cannot be argued that nature predestined some to be poor. The issue is rather how resources are managed. This is what leads to inequality, rendering some individuals are poor, and causing segregation in the socio-economic order.

## Poverty and Moral Obligation

Equality provides the groundwork for the right to equality. Once it is appreciated that equality should prevail in a society as a matter of principle, it remains to be realized how this is to be guaranteed as a right for every individual in the face of opposing forces. Joseph Raz maintains that rights are based on interests that are so essential that they create a duty for other people to protect or even promote them. When such duties prove to be vital for the protection and promotion of the interest, the interest gives birth to a right.<sup>57</sup> In this sense, if the doctrine of equality is seen as the interest to be protected, a right to equality describes the correlative duties of the state and individuals in upholding it.

Morality and obligation are related. When things are done rightly it fulfils the moral obligation to make right judgments about what is morally right or wrong. Obligation is a moral commitment to an action; it entails the obligation to do something which might promote a good action. The deontologists maintain that obligation depend on certain actions that people are duty bound to carry out. Hart insists that it makes no sense to talk about having a moral obligation to do something unless it is accepted by the rule of morality.<sup>58</sup> Thus, moral obligation suggests that one has a duty towards a fellow human person, law or social institution to make right ethical decisions. This implies there is an ethical duty to help the poor people. Equally it implies that wealthy societies have a duty to assist poor countries. The rich should sacrifice part of their lifestyle and expenditures on unnecessary things to the poor. This will result in a more egalitarian state of affairs as outlined in Rawls' doctrine of justice as fairness.

It has been argued that the rich consider whatever they care about to be vital to them. Conversely they care about anything which gives the impression that the rich helping the poor out of poverty is connected to the needs of the poor.<sup>59</sup> Simmel thinks that this should be conceived on the basis of rights as

<sup>57</sup> Joseph Raz, *The Morality of Freedom* (London: Oxford University Press, 1986), 183.

<sup>58</sup> H. L.A Hart, "Legal and Moral Obligation," *Michigan Law Review*, Vol 73, No. 2(December 1974):443-458.

<sup>59</sup> Yitzhak Benbaji, "The Moral, the Personal, and The Importance of What We care about," *Journal of Philosophy*, Vol. 76, No. 297(July, 2001):415-433.



obligations, since every person with duties also possesses rights. This implies that right is the primary element that leads to moral obligation, since rights create moral obligations for others. Simmel argues that the poor are not only poor: they are also human beings. Based on Kant's categorical imperative persons should not be treated as mere means but always as ends in themselves. Hence the rich should offer assistance to those who are poor to pull them away from poverty. For Wilde, it is in the state that individual duty is perceived as the necessary counterpart of providing assistance to the poor.<sup>60</sup> He thinks it is the philosophical and practical way which will reduce poverty in the society. Hence the obligation to support the poor: society would be a better place where care, unity, love, and kindness prevail if at all we supported the less privileged.

This support does not entail financial support alone, since money is not a *panacea* for everything. Those that have can lift every living person above the ethical minimum. Indeed anybody in a position to improve a fellow human being's condition is ethically obliged to do so.<sup>61</sup> This must start this now because "[w]e are all the descendants of thieves, and the world's resources are inequitably distributed, but we must begin the journey of tomorrow from the point where we are today."<sup>62</sup> There should be empathy and sympathy for poor people not only from a monetary perspective but from other dimensions. After all the repercussions of poverty mean "not having enough to eat, a high rate of infant mortality, a low level of life expectancy, low educational opportunities, poor water, inadequate health care, unfit housing and a lack of active participation in the decision making process."<sup>63</sup>

Further, poverty could create a situation in which the individual, under unpalatable economic conditions, lacks sufficient income to obtain the minimum necessities of life. In such conditions, living becomes devoid of motivation and expectations. Poverty reflects a state of despondency in which life assumes survival without meaning, realistic construction of goals and the wherewithal to actualize them. In such a situation, people struggle to stay alive rather than to live in pursuit of any propelling purpose.<sup>64</sup> Poverty manifests itself in diverse forms depending on the nature of the human deprivation.

<sup>60</sup> Oscar Wilde, *The soul of Man under Socialism* (New York: University of Michigan, 1915).

<sup>61</sup> Henry O. Oruka, "The Philosophy of Foreign Aid: A Question of the Right to a Human Minimum," *Praxis International Issue*(1988):474-475.

<sup>62</sup> Raziel Abelson & Marie-Louise Friquegnon. *Ethics for Modern Life* (New York: Library of Congress Catalog, 1991), 55, 90.

<sup>63</sup> The German Government, *Annual Report of the German Ministry of Economic Cooperation and Development* (Bonn: German Ministry of Economic Cooperation and Development, 1992).

<sup>64</sup> Oyekan Adeolu Oluwaseyi, "Poverty and the Philosophy of Aid in Africa: Beyond Odera Oruka's Theory of the Right to a Human Minimum. Thought and Practice," *A Journal of the Philosophical Association of Kenya (PAK)* New Series, Vol.5 No. 2(December 2013):19-37.



There are several physiognomies of poverty such as structural, economic, social and political deprivation. The structural dimension appears more permanent and manifests a vicious cycle, reflecting limited productive resources, lack of skills for gainful employment, professional disadvantage, malnutrition and inadequate income,<sup>65</sup> because of lack of access to health, education and welfare facilities.

Philanthropic people may be benevolent enough to help even those who are responsible for their poverty. But such actions are not based on the call of duty. There is no justification for seeing it as a moral requirement.<sup>66</sup> Oruka's ideas of an ethical minimum is a fundamental tool to be human as echoed and insisted by Kant in his deontological accentuating on promoting human dignity as each other's obligation. Oruka recommended that this could be achieved through making ethically appropriate actions and the rational reorganization and redistribution of resources.<sup>67</sup> Rights are moral if they ought to be enforced by an ethics arising from the prevailing moral system. And moral rights are universal if the obligation to ensure their fulfilment is a duty of every person, regardless of race, country or beliefs.<sup>68</sup>

Oruka argues that there has been failure to observe this. Currently states which contribute aid to others do so as a matter of supererogatory action, that is, as an altruistic self-sacrifice on their part. But states that receive aid or loans, especially the technologically underdeveloped ones, often feel or are made to feel a sense of self-pity. The humiliation is psychologically typified by certain feelings: if aid is a form of international trade, why poor countries come out on the disadvantaged side of unequal exchange; and why, if on the other hand they are the rectification of historical mistakes, they so weak as to allow such mistakes. If, however, aid is a form of international charity, then the world returns to the position where donors are protected by the principle of national supererogation.<sup>69</sup> Jeffrey Sachs argues that:

The new Sustainable Development Goals will not only set the goal of ending poverty but provide a general framework for doing it as well... Success in ending Africa's extreme poverty can be summarized in four broad categories: infrastructure, social services, industrialization, and environmental sustainability.<sup>70</sup> Similarly, the *United Nations Millennium Development*

<sup>65</sup> Oyekan Adeolu Oluwaseyi, "Poverty and the Philosophy of Aid in Africa: Beyond Odera Oruka's Theory of the Right to a Human Minimum. Thought and Practice," 4.

<sup>66</sup> John Kekes, "Against Egalitarianism," Royal Institute of Philosophy Supplements, Vol. 81 No.58 (2006):154.

<sup>67</sup> Oruka, "The Philosophy of Foreign Aid: A Question of the Right to a Human Minimum," 465.

<sup>68</sup> Oruka, "The Philosophy of Foreign Aid: A Question of the Right to a Human Minimum," 470.

<sup>69</sup> Oruka, "The Philosophy of Foreign Aid: A Question of the Right to a Human Minimum," 468.

<sup>70</sup> Jeffrey D. Sachs, *The End of Poverty: Economic Possibilities for Our Time* (New York, NY: Penguin

*Account*, 1997 suggested that poverty in the least developed countries could be eradicated if poor countries establish good policies and if the rich ones increased aid flows to the poor countries.<sup>71</sup>

## Conclusions

This article has examined the feasibility of utilization of ethical minimum as an antidote to the prevailing contemporary moral issues which have been categorized as human rights. Contemporary developing societies pride themselves in having transformative laws and constitutions. Yet they still face an ethical challenge which they have not addressed. There is still a lack of appropriate solution to those challenges. The bases of those challenges are values rather than laws. A majority of these societies yearn for more values to address their multifaceted contemporary challenges. The problems of poverty, war, terrorism and violence which threaten the security and well-being of their citizens could be effectively addressed by primarily by values. Laws can only be secondary. This is the theme and rationale for the ethical minimum that this article proposes as a response to these challenges.

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Books, 2015), xi.

<sup>71</sup> UN Millennium Project, *Investing in Development*, 2005.

# Operationalising National Security in Border Management: Perspectives on the Kenya-Somalia Border

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## Abstract

This article explores some perspectives of Kenya's porous border with Somalia. It argues that the porous 700 km border constitutes a major source of Kenya's security concerns and contributes to cross-border terrorist attacks, recruitment, radicalisation, terrorist training, and other terrorist related illegal business in contraband goods. It argues that despite measures to prevent, detect and mitigate terrorism and related activities, terrorists continue to exploit border vulnerabilities to execute their acts, raising concerns about the viability of existing strategies and the efficacy of law enforcement along the country's borders. The article concludes that robust and innovative strategies to harden Kenyan borders including e-border technologies, multi-agency approach and the decisive combating of corruption are core to mitigating cross-border terrorism across the porous Kenya-Somalia border.

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## Introduction

Like others in Africa, the Kenya-Somalia border is undeniably porous. This raises serious concern for the Kenyan government, citizens, and the international community. The porous Kenya-Somalia border has contributed to easy movement and crossing by terrorists. Indeed, any discussion on border security elicits discussion of the terrorism threat and leads to a larger national debate of protecting citizens from terrorist attacks. Hence, illegal border crossing concerns must be seen in the broader context of the range of impacts that terrorism has on Kenya's core national security interests.

*Al-Shabaab*, began launching trans-border attacks soon after its inception in 2006 as an autonomous militant wing of the Somali Council of Islamic Courts (CIC) and its subsequent loss of Mogadishu in 2007.<sup>1</sup> While Somalia was initially the primary geographical focus of *Al-Shabaab* attacks, the

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<sup>1</sup> Cedric Barnes and Harun Hassan, "The Rise and Fall of Mogadishu's Islamic Courts," *Journal of Eastern African Studies* 1, no. 2 (2017): 154.

organization also perpetrated attacks against neighbouring states in eastern Africa like Djibouti (2009), Ethiopia (2007), and Uganda (2009), with Kenya first being attacked in 2008. The frequency of *Al-Shabaab* attacks in Kenya rose following its entry in Somalis in 2010 in pursuit of *al-Shabaab* terrorists. Kenya has since borne the brunt of these attacks. Of the 302 trans-border terror attacks perpetrated by *Al-Shabaab* from 2008–2016 4 occurred in Ethiopia, 5 in Uganda, 2 in Djibouti, and 291 in Kenya.<sup>2</sup>

Kenya faces serious terrorism challenges within its own borders. Terrorists continue to mount cross-border attacks on civilian institutions like schools, residential areas, installations like telecommunication masts, and security bases. Porous borders are easily exploited by terrorists to evade detection and detention in crossing into Kenya before and after commission of attacks. In April 2015, *al-Shabaab* attack on Garissa University College killed at least 147, mostly students. In Nairobi and elsewhere, there were other fatal attacks, particularly in Mandera, Garissa, and Lamu counties near the border with Somalia. The common denominator about these regions of Kenya is their closeness to the porous border with Somalia.

Enhancing national security is a fundamental obligation of all governments in the world. Article 238(1) of the Kenyan Constitution (2010) provides that “national security is the protection against internal and external threats to Kenya’s territorial integrity and sovereignty, its people, their rights, freedoms, property, peace, stability and prosperity, and other national interests.” Article 238(2) of the Constitution states that Kenya’s national security shall be promoted and guaranteed in accordance with established principles, including pursuance of national security in compliance with the law and with the utmost respect for the rule of law, democracy, human rights, and fundamental freedoms. In order to realize this constitutional provision, the legislature has enacted a number of relevant legislation and established various agencies to oversee the implementation of the laws. Key laws that are relevant to the prevention and management of terrorist activities in Kenya are the Kenya Citizenship and Immigration Act (2011), the Kenya Citizens and Foreign Nationals Management Service Act (2011), the Prevention of Terrorism Act (2012), The Security Laws (Amendment) Act (2014), and the Prevention of Terrorism (Implementation of the UN Security Council Resolutions on Suppression of Terrorism) Regulations (2013).

The *Al shabaab* terrorist group with its roots in Somalia, poses potential security danger to Somalia and beyond its country’s borders to Kenya. The

<sup>2</sup> Figures for 2017 were unavailable. National Consortium for the Study of Terrorism and Responses to Terrorism (START), “Global Terrorism Database.”

risks presented by the terrorist group are amplified primarily through the prevalence of nearly 700 km porous border between Kenya and Somalia. The problem is heightened by the two neighbour states' demographics and their socio-economic realities. Somalia offers fertile ground for terrorist activity due to its weak government and socio-economic challenges.

## Rationalising Territorial Borders

In the context of this article, the concept of border means a line describing the boundary of the territory occupied by the state, over which it exercises sovereignty. The functionality of an international boundary is multi-dimensional.<sup>3</sup> It can play a critical role in determining relations between neighbouring states. It can also be exclusionary by defining an area from which other authorities and peoples will be excluded, unless they have the permission of government. A modern international boundary also has external dimensions, as it delimits the state's jurisdiction, its political space and the territory within which it acts as it pleases. Boundaries have also been established, maintained, and administered for security purposes to curb illegal activities. In Africa, as elsewhere, an international boundary may serve a negative function because it partitions people. The Kenya-Somalia border partitions Somali people who speak the same language and practice the same culture, into separate political units with different national orientations.

Borders generate interactions across all its sides. Each side of an international border has advantages and disadvantages that attract or generate cross-border activities that offer opportunity and challenges for neighbouring states. It has been argued that all boundaries are leaky or porous no matter how well they are fenced and patrolled by the police and military.<sup>4</sup> This is illustrated by how easily criminals like terrorists, smugglers, spies and refugees and even goods pass through some of the most heavily militarised zones of the world. Restriction or curtailment of these opportunities could generate resentment toward the government that imposes them. Borders therefore should function as a filter that permits certain chemicals in solution to pass through but restrains others.<sup>5</sup> Thus it is a restrictor of undesirable and illegal activities and an encourager legal and activities that boost human wellbeing. In this sense, borders should be soft rather than hard. This is particularly necessary in the contemporary globalising and integrating world. In this situation, the advocacy of border

<sup>3</sup>Judgement of the International Court of Justice (ICJ) of 03 February 1994 in relation to the territorial dispute between the Libyan Arab Jamahiriya and Chad, recommendation,

<sup>4</sup>Bradshaw, R. (2005), Re-defining the Nature and Function of Boundaries source???

<sup>5</sup>Bradshaw, R. (2005), Re-defining the Nature and Function of Boundaries

demarcation is tending towards soft borders that include open and regulated and controlled frontiers. Hard borders which refer to fortified borders using all manner of equipment, personnel and materials or even militarized ones are being discouraged by advocates of integration and good neighbourliness. Regardless of the kind of border adopted for use, it has to fulfil the function of filtering movement of people and goods to avoid raising security concerns for policy makers, practitioners and citizens.

## Centrality of State Security

As a sovereign state, Kenya is empowered to exercise its authority within its defined boundaries and geographical limits to forestall any threats, ensure security and guarantee peace and tranquillity at all the time. Threats to national security mean “an action or sequence of events that (1) threatens drastically, and over a relatively brief span of time, to degrade the quality of life for the inhabitants of a state, or (2) threatens significantly to narrow the range of policy choices available to the government of a state or to private, nongovernmental entities (persons, groups, corporations) within the state.”<sup>6</sup> This perspective gives a broader meaning of threat than that the narrow, state-centric one popularised during the Cold War to a more expanded human security one.

The human rights based approach to the meaning of security is defined as freedom from fear (of violence and conflict) and freedom from want (from hunger and deprivation).<sup>7</sup> It combines the state-centric and human security approaches to security.<sup>8</sup> The spirit of this approach is articulated in Chapter 14 of the Constitution of Kenya. Article 238 (1) defines national security, and article 238 (2) outlines the mechanisms of promoting national security. The Constitution hence requires the government to protect the country. This means that even if the government exercises no other power, it must, under the Constitution, provide for common security. Thus the provision of national security is a mandatory function of the national government.

The role of the state in providing requisite security cannot be delegated. The state must take all necessary action to ensure security guaranties. There are also no reliable alternatives that could substitute the authority of the state and its organizational role.<sup>9</sup> Indeed among state institutions are those

<sup>6</sup> Ullman, R. 1983. “Redefining Security.” *International Security*, Vol. 8, No. 1, pp. 129-153.

<sup>7</sup> Omeje, Kenneth & Githigaro, John Mwangi. (2012). *Peace and Conflict Review* · Vol.7 Issue 1, p. 3.

<sup>8</sup> *ibid*

<sup>9</sup> Chappuis, F. (2011) ‘Human security and security sector reform: conceptual convergences in theory and practice’, in Benedek, W., Kettemann, M. C., Mostl, M. (eds) *Mainstreaming Human Security in Peace Operations and Crisis Management*, Abingdon: Routledge. 99-122.

that manage the “monopoly of the legitimate use of physical force’ like the police and the military. Effective state sovereignty entails the responsibility to provide security for citizens and to keep them safe from internal and external threats. However, the concept of state security remains both ambiguous and problematic, particularly in developing states. As a result, there exist multiple and competing networks of non-state actors like terrorists vying to regulate and organise the instruments of violence along and beyond territorial borders.

## **Explanations for the Porous Kenya-Somalia Border**

An insecure border is a vulnerability that can be exploited by terrorists and other criminals. Because of the development of technology and the rate and speed of information flow, terrorist groups and individuals are aware of the porous Kenya-Somalia border. The porosity of national borders should not be seen as a one point gap border line or situational phenomenon. It is rather, a condition resulting from immediate gaps and also commissions and omissions in far off regions of both sides of the border. Porosity should be conceived as a product from two sources: the Kenyan and Somalia’s sides of the border. Hence terrorists would look for opportunities to take advantage of security gaps along both sides of the border.

Porous borders refer to conditions or situations where borders are unprotected, or legal agents are unable to conduct surveillance and ensure control. These make it easy for unauthorised individuals and goods to cross the border. Criminal and terrorist groups and their networks operating across the border are highly organized, technologically advanced, with full intelligence of the situation, besides being sustainably financed. These dimensions allow for such networks to evade the authorities and expand operations on both sides of the border.

Border porosity between Kenya and Somalia is further compounded by the marginal development of Kenya’s north-eastern borderlands. These regions lag in development, due to limited public and private investment. This has given rise to feelings of marginalisation among the locals, and created tension and instability. For instance, the region has less than 100 miles of tarmacked roads. This has been associated with Kenyan-Somali border region clan conflicts and banditry activities in the past including the 1980 Garissa massacre and the 1984 Wagalla massacre resulting many deaths of ethnic Somalis. Also the lack of effective border security management and adequate resources to carry out counterterrorism offensive makes Kenya more susceptible terrorist attacks. The terror groups operating in Somalia gain easy entry and exit Kenya unimpeded

after hitting the country's soft targets.

Besides, the porosity of the Kenya-Somalia border is aggravated by commonalities among the Somali communities living along the common border. These are exploited to create necessary conditions to facilitate cross border movement of terrorists, conveyance and safe places to hide, thus making management of the terrorism difficult. It is believed that factors like identical ethnic affiliation, monetary requirements, fear of life, lack of education, and dissatisfaction from present governance system further complicate the problem. Other factors include corrupt officials who allow entry of illegal migrants whose identities and backgrounds are little known. These channels provide the scope for criminal elements to cross over into Kenyan territory undeterred. This is underlined by the understanding that, although international borders divide states, borderland communities may remain unified culturally through ethnicity, language, and religion or even by the nature of local political institutions. Culture among the border communities between Kenya and Somalia plays an important role to the understanding of border porosity. The literature including Brown,<sup>10</sup> Meinhof,<sup>11</sup> and Pavlakovich-Kochi, Morehouse, and Wastl-Walter<sup>12</sup> points to borderland communities as cultural communities and organized polities.

Besides, these regions tend to be marginalised and underdeveloped; they develop socio-economic malaise and dissatisfaction with the governments. If left unchecked, the combination of these elements could allow for a fundamentalist ideology to thrive, resulting in the sprouting of terrorist activities in the region. These regions also depend on cross border trade and other economic activities both legal and illegal for survival, the same of which may be exploited by terrorists to advance their cause.

The Kenya-Somalia border like many others in Africa was drawn following the Berlin Conference of 1884-5. The borders created between neighbour states did not strictly follow the nations' boundaries. The result was the disruption of existing socio-cultural and political systems of the Somali ethnic group divided into territorial borders of Kenya, Somalia and Ethiopia. The border lands therefore became home to a people of a common socio-cultural identity but different political identities. Although an international border divides the two states, the Somali communities in the two states have largely remained

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<sup>10</sup> Brown, Chris. 2001. "Border and Identity in International Political Theory," *Identities, Borders, Orders: Rethinking International Relations Theory*, eds.

<sup>11</sup> Meinhof, Ulrike, ed. 2004. *Living (with) Border: Identity Discourses on East-West Borders in Europe*. Aldershot, UK: Ashgate.

<sup>12</sup> Pavlakovich-Kochi, Vera, Barbara Morehouse, and Doris Wastl-Walter. 2004. *Challenged Borderlands: Transcending Political and Cultural Boundaries*. Aldershot, UK: Ashgate.



unified by ethnicity, clan-ism, language, religion or by the operation of local political institutions.<sup>13</sup> It can thus be argued that culture is structuring borders and borderlands more effectively than has been earlier perceived. It is therefore a catalyst in defeating the border-security policies of Kenya.

The cultural influence of Somali border communities, to a large extent influenced the political orientation of the region. This resulted from local political activism and organizational capacity. Underpinning this political organisation is the existence of tensions or strong linkages straddling the border. Such tensions may lead some sections of the community to forge linkages with, cooperate and support terrorism for their own expedience. This has led to emergence identity politics within the Somali ethnic group, and this ethnic identity has been exploited by terrorists and contributed to conflicts.<sup>14</sup>

The weakness of the Somalia state also explains why the Kenya-Somalia border is porous. There is no consensus about the precise number of weak states. This is because of different criteria used to define state weakness, the indicators used to gauge it, and the relative weighting of various aspects of governance.<sup>15</sup> But there is no doubt that Somalia is one. From the security perspective, a state's strength is relative and can be estimated by its ability and willingness to provide the fundamental political goods that accompany statehood. These include physical security, legitimate political institutions, economic management, and general social welfare.

Being a weak state, Somalia has experienced critical gaps in one or more of these areas of governance. In the security domain, the country is struggling to maintain a monopoly on the use of force, control borders and territory, ensuring public order, and providing safety for its citizens. The need for a state's security against modern day terrorism and ensuring that it is not exported to neighbours is crucial. As Kofi Annan told the Council on Foreign Relations in New York in 2004: "[w]hether the threat is terror or AIDS, a threat to one is a threat to all.... Our defences are only as strong as their weakest link."<sup>16</sup>

There is general agreement that weak states are at greater risks of generating and serving as hosts of international terrorist organizations. This is because "[f]ailed states that cannot provide jobs and food for their people, that have lost chunks of territory to warlords, and that can no longer track or control their

<sup>13</sup> Emmanuel Brunet-Jailly (2007). Ed. *Borderlands: Comparing Border Security in North America and Europe*. Les Presses de l'Université d'Ottawa | University of Ottawa Press

<sup>14</sup> Carolynne M. Mutisya (2014). *Conflict in Time, Petrified In Space: Kenya–Somalia Border Geopolitical Conflicts*. Naval Postgraduate School. Monterey, California. 2017.

<sup>15</sup> Stewart Patrick. "Weak States and Global Threats: Fact or Fiction?" *The Washington Quarterly* 29:2 pp. 27–53. Spring 2006.

<sup>16</sup> Ibid.

borders, send an invitation to terrorists.”<sup>17</sup> This view has been collaborated by data showing that that between 2003–2005 most foreign terrorist organizations used weak and failing states as their primary bases of operations.<sup>18</sup> The main reasons for this state of affairs is because weak states offer safe havens, conflict experience, ideal spaces for training and radicalisation, easy access to weapons and equipment, easy funding and resources, staging grounds and transit zones, and large pools of recruits. With regards to Somalia, it simply lacks the capacity to police the black market and to control flows of weapons and the materials used to manufacture IEDs across its borders.

## **Effects of the Porous Kenya-Somalia Border**

As global threats of transnational terrorism keep changing, the trends, patterns and tools used by terrorists equally keep mutating. The use of biological weapons is increasingly considered as a weapon of choice. Analysts fear there is high potentiality for terrorists to use Emergency Infection Diseases (EIDS) like Ebola, Anthrax, Influenza ‘A’ (HINI), and Zika amongst others. The ease of transmission of the pathogens as bioterrorism agents across national borders confirms that infectious diseases pose an existential contemporary threat. The potential of ‘weaponization’ of pathogens is of particular concern because most of the recorded outbreaks have occurred in ‘hot spots’ not so far away from Kenya. Also, Kenya’s and its neighbours’ state of preparedness is not optimal. This is compounded by the fact that Kenya lacks robust health as facilities needed for the effective containment of EID outbreaks.

The threat of bioterrorism is of great concern for Kenya, given the pastoral life-style of the communities along the Kenya-Somalia border. The livestock herds and wildlife that dominate the region are a source of worry since 80% of agents with potential for bio-terrorism are zoonotic. The herds and wildlife could be infected intentionally with pathogens and released across the border with fatal consequences for Kenya. Likewise some terrorist elements could choose opt for human munition, infect themselves with EIDs and easily mingle with an unsuspecting public to spread the virus. Such groups could even include terrorist returnees who could cause devastation to the general public.

In addition, terrorist groups target the gaps of weak border infrastructure which they continue to exploit since the borders are porous and uncontrolled. The groups illegally cross the borders to conduct businesses in contraband to

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<sup>17</sup> *New York Times* argued in July 2005.

<sup>18</sup> *Patterns of Global Terrorism* (Washington, D.C.: U.S. Department of State, 2003); *Country Reports on Terrorism* (Washington, D.C.: U.S. Department of State, 2005).

raise funds. The funds are used to radicalise and train targeted groups, carry out surveillance on potential targets and to conduct attacks. Some of the funds are used to procure forged travel documents and visas to facilitate movement cross international borders to conduct attacks or join extremist groups elsewhere. The attacks have negative impacts including socio-political (disruption of social order, cohesion, and displacement of populations); economic (loss of revenue, declining investor confidence, destruction of infrastructure, and destruction of property); environmental degradation (destruction of terrain, poaching, use of landmines and IEDs) and diplomacy (souring state relations). The result of these is to undermine states' efforts to counter terrorism, and increase the vulnerability of citizens in ways that adversely affect national peace and security.

Furthermore, terrorism leads to the creation of contraband business economy. Whereas the 2<sup>nd</sup> and 3<sup>rd</sup> schedule of EACCMA outline prohibited and restricted imports and exports respectively, there is no specific definition of contraband. Although what initiates and maintains contraband business could be contentious, the menace along the border thrives due to poor coordination of border management. These include duplication of efforts due to working in silos, which leads to the waste of national resources, different work cultures of the various agencies, lack of cohesiveness among agents due to variance in terms of service, lack of checks and balances among different actors, mistrust among agencies, and poor service delivery by those concerned.

The effects of contraband business on the economy are enormous. Its proceeds are used to finance terrorism activities. The business also impedes tax collection since no records are kept or are physically accessible. Contraband trade further distorts market forces and creates trade imbalances. Besides these, the illegal business cripples local industries creating unemployment which leads to poverty, which may eventually lead to radicalisation. Other social evils associated with the illicit business are prostitution, expansion of the grey economy (black market), unfair local competition, encouraging the infiltration of substandard and harmful goods into the local market, which affects the general wellbeing of the citizens, eroding investor confidence, and hampering the ease of doing business. Because of these effects, states have found it necessary to harden the borders to enhance security.

The challenges of contraband along the border can be mitigated through technology, preventive measures, surveillance, a multi-agency approach and publicity. Technologically, the use of scanners would enhance detection of contraband. Monitoring technologies can be used for the movement of cargo through RECTS to prevent dumping in Kenya, and to create a Single Customs

Territory. Intervention through surveillance by conducting regular joint patrols and raids would deter smugglers. The provision of adequate resources (staff, systems, infrastructure and tools), sharing of information and intelligence on contraband, the promotion of structured engagements for example joint meetings with other government agencies involved in border control and management, and cross border cooperation on intelligence, enforcement would significantly address contraband business menace at the common border. These initiatives would take away opportunities that encourage terrorism by increasing the visibility of law enforcers and enhancing their capability.

## **Strengthening Borders through Hardening**

The reality of terrorism has made states realise the need to strengthen their borders. The contemporary clamour for hardened borders in the continent can be attributed to the arbitrary manner in which the continent's international borders were drawn during the Berlin Conference of 1884 and 1885. The Conference partitioned the continent into what has now become 54 sovereign states divided by over 165 borders. This makes it one of the most bisected continents in the world. The division of Africa's geographical, sociological and political space at the Berlin Conference, has had implications for inter-state relations and security. It has also been the focus of emotive debates in the continent for decades.

Currently in north Africa Tunisia and Libya are working to heavily fortify their borders. A 200-kilometer trench running between the two states has been constructed. Another twelve hundred kilometres wall has been built between Morocco and Algeria. These barriers are symptomatic and symbolic of a new desire to securitize borders in areas that have historically been culturally and economically linked. The same approach is replicated in the Horn of Africa in the plan to construct a wall along the border between Kenya and Somalia.

The decision to construct a security wall along the Kenya-Somalia border occurred against a backdrop of the public rage felt in Kenya following repeated terror attacks by *Al-Shabaab* in the country since 2008. Following the intensification of cross border attacks on Kenya by *Al shabaab* who are mainly based in Somalia, Kenya viewed its border with that country as a security challenge. The weak Somalia state opened space for *Al shabaab* to flourish and stage attacks targeting Kenya, especially its incursion into Somalia in pursuit of the terrorists. The porous border came to be seen as a cause and an indication of state weakness, and as a source of instability and vulnerability.

Kenya responded by abandoning old ways of border management in favour of physical barrier building, the use of force, and aggressive responses to deal

with the menace. Critics maintain that rather than making the border safer, the approach taken to securitizing border has raised the risk of instability along the frontiers, where communities depend cheap smuggled goods for survival. Moreover, it is argued that such barriers are dividers in areas that have historically been culturally and economically linked. It has also been observed that for a long time, the border area between Kenya and Somalia has been neglected and marginalized, and hence that its' main economic lifeline is smuggling. Both states have largely tolerated alternative illegal forms of income generation in the borderlands, particularly smuggling. Tolerating these activities also provided a cheap form of economic development. The community of businessmen and women along the border also play an important role in the state's border security architecture. These groups provide information to security officers regarding border activities, and are essentially the guardians of the border.

The 700-kilometre-long wall proposed along the Kenya-Somalia was intended to put an end to the infiltration of the *Al-Shabaab*. The group has conducted incursions and terrorist attacks on Kenyan targets including citizens and caused hundreds of deaths. Some analysts however believe that the wall meant to satisfy the desire of the government to keep out illegal immigrants and the flow of refugees. These, and *Al Shabaab* militants have been fleeing Somalia for the past 10 years. It is believed that the wall would solve the intractable problem of the Dadaab refugee camp along the Somali border.

## **The Way Forward in Kenya-Somalia Border Security**

Border security remains one of the key determinants to Kenya's national security. It is the obligation of the government to ensure that security within their jurisdiction is at the optimal level by instituting the necessary security controls to prevent such groups from exploiting the vulnerabilities within its borders. Border demarcation and delimitation are prerequisites for border security and management (BSM) related issues. Exercising sovereign jurisdiction through routine border operations

Kenya's border with Somalia has seven gazetted (official) border crossing (posts) along the border with Somalia at Mandera, Diff, Liboi, Elwak, Gherille, Amuma and kiunga Kobio. The posts (border crossing points) yet to be gazetted include, Finno, Damasa, Dadaj Bula and Kolbio. (See map). Despite the existing designated crossing points, the reality on the ground is that there are numerous points of border crossing exploited by smugglers, terrorists, criminals, and illegal immigrants who simply walk into the country with little or no detection. This calls for the use of technology to police the country's

borders particularly through the deployment of various border technologies across the entire border with Somalia using “e-border” (electronic border). Using e-borders would eliminate the need for physical structures like fences and physical walls to control movement of into and out of territory, which are outmoded.

Kenya’s contemporary national security threats require fast interdiction achieved through a large variety of sensors, platforms and agencies. Border management in Kenya is undertaken by the Border Protection Unit, Customs, Immigration Coast Guard, and some military units. This raises the need for shared intelligence at all levels through real-time networks, advanced communications systems, and artificial intelligence (AI).

The rising threat of terrorism along the Kenya-Somalia border poses a huge challenge to border agencies’ ability to secure the border and allow for the swift movement of people and goods across the border. At the same time, emerging technologies like the Internet of Things have introduced new risks and opportunities, requiring a rapid and innovative response by those concerned. The Internet of Things creates an enabling platform that allows Kenya to achieve a form of Supervisory Control and Data Acquisition (SCAD) in a cheaper way. Thus, using a single on-board computer, engineers could control things by connecting the little devices in any given physical space and monitor them using smart phones or hand-held devices.<sup>19</sup> However, at most basic, proper border management would aid to anticipate crime trends enabling the agencies concerned to take preventive measures to intervene or mitigate the impact of those crimes.

The adopted border management technology solutions would include the use of drones, underground sensors, heat sensors, long range surveillance cameras, among others. On the whole, these technologies can help reduce risk and improve border security, while enhancing customer service delivery.

Corruption within border agencies undermines efforts to counter cross-border organized crime and terrorism; and it poses a risk to public safety and security. The first step is to root out corruption among border officials. Effective anti-corruption legislation and mechanisms are required to prevent and combat this threat. In addition, an effective reform programme that addresses, among other things, corruption in the security services is needed so that these organisations can pre-empt any terrorist activities. This can be done by improving the infrastructure for border officers. The government should also focus on upgrading human and institutional capacity while investing in

<sup>19</sup> Rayes, A., & Salam, S. (2019). *Internet of Things From Hype to Reality: The Road to Digitization*. Switzerland: Springer International Publishing.

automation and computerisation. Finally improved salaries and improved oversight are needed. Besides, anti-corruption measures like the development and provision of basic and managerial training courses, protection of whistle-blowers, the elaboration of mechanisms to report corruption related to BSM, developing codes of conduct and ethics should be implemented.

Border control systems built on trust and cordial relations between border security officials and local border communities for intelligence information gathering purposes need to be enhanced. Given the unique challenges posed by the porous Kenya-Somalia border, Kenya should recognize the importance of securing this border, and the need for cross-border cooperation that allows interagency and neighbouring border security agencies and border communities to collaborate with one another in a holistic way. The initiative would involve establishing a clear understanding by the public on the types of information it can share and the processes for doing so, including necessary levels of authorisation, points of contact, and protocols for handling sensitive information, such as call data and financial records.

Finally, there is a need for stakeholders to understand, appreciate and embrace multi-agency approach to deal at both lateral and horizontal dimensions. Such coordinated approach to border management is integral to addressing the myriad of threats caused by terrorism and other challenges at the border.

## Conclusions

The responsibility of providing security for citizens and securing other national interests against terrorism lies squarely on the state. This is despite changes in the contemporary environment where borders are becoming increasingly fluid in the face of terrorism. This article has argued that the porous Kenya-Somali border results from a variety of many interrelated issues. The current challenges of the porous border can be managed through an approach that reduces the opportunity of terrorists to conduct attacks and conduct illegal business that fund terrorism. This requires enhancing border guardianship, its controlling and management.

There are several strategies being used to secure the border. Many of them require multi- agency implementation. Border fencing adopted by Kenya is a legitimate tool to prevent people from entering illegally. However it poses a challenge in management particularly among common border communities. For border fencing to be effective, citizens must buy-in to the idea through sensitisation about its benefits for the community.

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## Research Notes

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### Re-Assessing Conflict Resolution in Central Somalia: A Hybrid Approach

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#### Abstract

*Al Shabaab* that thrives on a narrative of Islamic *jihād* and an Islamic caliphate expansion ideology, has made Somalia a haven of perennial and incessant conflict. The stem of conflict can be traced to the poor governance of President Barres' regime that culminated in his overthrow and the subsequent collapse of the state. Despite numerous political, diplomatic, and military efforts to resolve the conflict in South and Central regions of Somalia, there is no proper outcome yet. This Research Note analyzes the causes of the Somali conflict. It argues that the Somalia problem is a function of a multiplicity of political, economic, religious and environmental causes that resulted in spiralling of the conflict. It concludes that there is a need for an overhaul of the existing peace processes, and strengthening those emerging from the grassroots as a means of ensuring lasting peace in Somalia.

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#### Introduction

The Siad Barre regime in Somalia focused more on defence and security expenditure at the expense of civil sector needs. This made Somalia one of the most heavily militarized states in Africa. The unsustainable military size forced the government to divert financial resources from essential functions. The perceived military superiority propelled Siad Barre to attempt a war with Ethiopia to annex the Ogaden region. The defeat of Somalia in the Ogaden war



was the beginning of Somalia's current problems.

The subsequent fall of Siad Barre's regime in 1991 led to anarchy, lawlessness and competition for resources. Warlords fought for control of Mogadishu and Kismayo ports to access resources. The major clans - Darood and Hawiye - fought for domination and control of the major rivers of Juba and Shabelle, and the main supply routes running along them. The clan conflicts led by warlords led to countrywide civil war which generated millions of refugees, who fled to the neighboring and further off countries.

Somalia had received sustained international conflict resolution intervention but to no avail. The conflict resolution approach did not to address the root causes. Therefore the numerous political, diplomatic, and military efforts were wasted. Symptoms of state collapse kept resurfacing. These included clan rivalry, insurgency, political instability, economic collapse, and environmental degradation. This Research Note uses the Marxian conflict theory model that espouses the society as a collection of competing interest groups and individuals, each with their own motives and expectations.

## **Governance as a Cause of the Somalia Conflict**

The struggle for control of the state which brings political and economic power had been a major cause of conflict. Further, the absence of good governance made the Somalis lack trust with any form of government. While a strong confederate state may be able to stabilize Somalia, the interests of external actors including neighboring Kenya and Ethiopia have played a big role in derailing the peace process.

There are incessant struggles for control of the state as a means to use political power to harness economic powers. Furthermore, the conflict is fuelled by the hangovers of the Somalis from decades of repressive governance under the autocratic leadership of Siad Barre. This is supported by Collier's assertion that conflicts are bound to emerge in situations where the struggle for control of the state and the process of state-building consistently seems to exacerbate instability and armed conflict. In Somalia, the revival of a centralized state structure tends to be viewed as a zero-sum game, creating winners and losers over potentially high stakes. Control over government by special clan groups would offer them opportunities to accrue economic resources at the expense of other groups, and to use the law and security forces to gain political dominance.

## **Economic Causes of the Somalia Conflict**

One of the leading causes of conflict in Somalia was the fight over control of

sea ports and the main supply routes. Further, the diaspora money transfer system (*hawala*) funded warlords and fuelled conflict. Private sector activities protected by armed groups cut across all clans as they were mutually beneficial.

Prior to the civil war that broke out in 1991, Somalia was one of the poorest countries in the world with a high level of dependence on foreign aid. Its Gross National Product (GNP) per capita was US \$170 and its life expectancy was 47 years. Because of Somalia's strategic importance, it received foreign assistance alternately from the Soviet Union and the United States of America. This enabled Siad Barre to build a bloated bureaucracy and military, which could not be sustained after the end of the cold war. Indeed, it precipitated the collapse of the Somali State in 1991. The immediate aftermath of state collapse was a rise in the economy of plunder and the emergence of warlords struggling for control of power and resources. A key outcome of the looting militia was violent conflict and entrenchment of vested economic interests that benefited from the lawlessness.

Economic factors contribute much of the conflict in Somalia. Rival factions continually struggle to control land, natural resources and trade which generates revenue. Before its collapse, the Siad Barre regime had used a combination of socialist-style legislation, international military and relief assistance, and political nepotism in an effort to capture the country's major economic assets and concentrate economic power at the centre. Clearly, the issue of centralized power and resources must be addressed, and a concept of devolving power to the federal states adopted.

After 1991, victorious factions competed to take control of urban and rural assets that had enriched the supporters of the old regime. Different militia seized key ports and airstrips and imposed tributary regimes over many of the productive districts. All assets that were seized by military and clan groups need to be reviewed; and those that belong to the government should be surrendered and distributed to the appropriate devolved units.

The centre of commercial arteries like seaports and key roads controlled by warlords, business groups and clans is a source of conflict. The control of commercial arteries (ports) in Somalia is a huge source of revenue. Those in control levy duties and struggle to control the seaports. This has led to recurring conflicts between warlords and armed groups. The revenue collected is also used to buy arms and further escalate the conflict. The conflict in Somalia has had a negative impact on the traditional modes of production like livestock farming which is the mainstay of a pastoral economy. Coupled with environmental degradation and drought, the fragility of the economy increased sharply, creating large scale poverty, with long-term detrimental

consequences.

Remittances from Somalis in the diaspora play a significant role in propping up the Somali economy. A significant portion of the remittances is used to support relatives. However, while these remittances play an important role in sustaining a large population, they are sometimes used to sponsor conflict and promote warlords, particularly when the clan is under threat or attack. Diaspora elite and their local supporters may not want to support conflict. But many seem content with the privileges accorded to them by the civil war, like the misappropriation of properties.

In addition, the consumption of *Khat*, a stimulant hallucinating plant, has increased after the outbreak of the civil war. This is largely because militia combatants resort to its use to reduce battle fatigue and fear. Others, like non-combatants chew the twigs to stay calm in the face of violent conflict and uncertainty. Over time it became a widespread addictive habit. Warlords have an incentive to keep the population addicted to this drug because it presents a huge source of revenue for them. It is estimated by The World Bank that flights carrying *Khat* shipments to Mogadishu generated monthly revenues in excess of US\$ 170,000 which was shared among owners, airstrip authorities and warlords.

Conflict entrepreneurs who engage in the illicit trade of small arms and light weapons, and smuggling goods into neighbouring countries are also a significant cause of the Somali conflict, and have contributed to its being protracted. Furthermore, foreign companies benefit from the absence of a functional central government since they have an easy and uncontrolled access to Somalia resources and never pay taxes. These companies are part of the problem as they always fund spoilers and regional administrations to rubber-stamp their selfish interests.

## **Social Causes of the Somalia Conflict**

Somali women suffered more than men during the conflict. They however played a big role in promoting peace and reconciliation in the conflict. Their role was limited when it came to bringing unity beyond the clan lines. Education opportunities have empowered women in playing peace-making leadership roles in Somalia. Cross-clan marriages have further reduced conflict in Somali society. Women have also been effective in influencing elders and other actors to intervene in conflict since they mobilized resources to finance peace meetings and support demobilization.

While men typically focus on achieving a political settlement with the assumption that peace will succeed, women's vision of peace exceeds this. It

includes sustainable livelihoods, education, truth and reconciliation. With the collapse of the Somalia state, women lost the legal status and equal rights they had enjoyed previously. While women actually engaged in peace-activities, the gendered nature of clan based politics means that women are typically mostly excluded from full participation in peace negotiations.

There is a fundamental difference between “Islam” and “Political Islam”. The training of Somalis in foreign religious institutions created a social transformation founded on Islam and Political Islam. In this transformation, Islamic courts while they lasted were useful in bringing some peace and order in Somalia. However, the categorization of political Islamic extremism is unnecessarily distorting the true nature of Islam. And at the same time, various armed groups in Somalia have turned religion into a tool for propagating power by urging *Jihad*.

Religion is a significant contributor to the Somalia conflict. It also plays an important role in Somali society. Islam is the main religion in Somalia, and it is widely recognized that Islamic leaders contributed a lot to the peace building and reconciliation efforts in the country. However, the existence of religious groups with competing ideologies is one of the factors contributing to conflict in Somalia today. These radical groups have tried to impose their radical religious ideology on society. Religious ideology in the Somali conflict is mainly emphasized where *Al-Shabaab* and other extremist groups are dominant. The *Al-Shabaab* - and by extension the *Al-Qaeda* - want to enforce a foreign brand of Islam and to rule the country. Religious fundamentalism has taken root in the country due to the lack of alternative societal guiding principles and values resulting from the conflict,. These ideologies have connections with foreign actors in the Middle Eastern countries.

Nearly all conflicts in Somalia today break out along clan lines. Indeed it is their manipulation rather than clan identities that creates and drives conflict. Clan identities and flexibility can be used by leaders to control power and resources, and clan groups can serve as destructive forces but also as traditional conflict mediators. It is felt that cross-clan partnerships through civil society organization and local initiatives can lead to development and trusted peace building.

According to some analysts, the anarchy that ensued in the wake of the Somalia civil war resulted in clan warlords fighting over the control of key positions in government. Such positions are considered to be strategic in minting revenue for them. They are also important for ensuring their access to the virgin and unexploited resources in Somalia like the cities and towns of Mogadishu, Kismayo and Baidoa. The conflict over resources is epitomized by

the conflict between the Hawiye and Darood over the control of the Juba and Shabelle river valleys.

The system of governance that the Somalis have adopted and the management of the ever divisive group identities has been a major challenge for peace-builders. The clan seemingly overrides everything else. It is above political parties, religion and any ideology. Somalis are divided along clan families and sub-clans that are based on patrilineal segmentary lineage. As Lewis observed in 1961, clan identity is fluid, and a person's identity depends on whom one is communicating with at the time. Clan identity is so important for Somalis, since it functions as an insurance system, and fulfils a psychological and emotional need for belonging. In the Somalia civil war, clan identity acts as a mobilization instrument, one that negatively affects the effort of building durable peace.

Somali people consider the clan to be the centre of their relationships. They use it as the basis of recognition. Since all Somalis are Muslims, they generally believe that clan identity is what defines an individual in society. This is traced to the Holy Koran which proclaims: "We made you into nations and tribes so you can recognize each other" (Surah 49:11). Identity is a human need, and among the Somalis it is crucial for the individual. It is similar to life insurance. Members of clans come together during both happy and difficult times. When one of their members is getting married, they provide assistance. Similarly, when one of them is killed or injured or dies from a natural cause, members of their clan come together and support each other. Most problems are addressed within the clan organization.

Traditionally, nomadic contests like the one in Somalia lack an authority that can enforce agreed-upon laws or common-sense requirements. This makes clan identity the last refuge that a person uses to safeguard life and property. After the state collapse in 1991, the use of clan identity as an insurance policy became even more important. Many Somalis were forced to leave their home cities that had been claimed by other clans. Those Somalis who left had to move to areas where members of their own clan had settled. The clan does not only come together when a member of a given group kills a person or one of them is killed. They will help each other in a variety of ways. They collaborate when watering large numbers of livestock in supporting a poor member, or when a group needs to dig a well.

The clan therefore continues to play a formal and informal role in governance. The governance structure should ideally therefore be hybrid. This would ensure that there are not too many bureaucratic government structures at the grassroots level.

## Conclusions

The collapse of the Somalia state, and the subsequent civil war and anarchy resulted in incessant struggles for control of the state as a means of using political power to harness economic powers. Furthermore, the repressive governance and autocratic leadership of Siad Barre was the trigger of the decades' long conflict. The collapse of the state and the resultant anarchy created non-securitized spaces for terrorists. The fight for resources by rival factions as different militias control or fight for control of key ports and airstrips has also fuelled conflict in Somalia. Religion and clan-ism are also significant contributors to conflict in Somalia because they have been manipulated by religious and clan groups with competing ideologies.

Despite the multiple setbacks suffered in the earlier political reconciliation efforts in Somalia, there is a need for peace processes emerging from the grassroots to ensure peace in Somalia. The ownership of the peace process by Somalis is critical. Such a peace process should tap into traditional Somalia reconciliation processes and practices, especially the essential practices of having negotiators extensively vet positions with their constituents. At the national level, the reconciliation process in Somalia should combine the most effective traditional mechanisms, conventional conflict resolution processes and contemporary peace initiatives. The representation of parties to the conflict in negotiation processes will always be deeply contested. As such, the most practically inclusive representation system must be adopted.

While Somalis appreciate good governance, they mostly prefer to be left alone. As a result, too much government at the grassroots level will always be vehemently resisted. A hybrid system of governance in Somalia is the most ideal. In such a system, the central government should not go below the district level. Below that, clan dynamics should be supported and allowed to govern.

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## Commentaries

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### **Diplomacy and Intelligence in States’ Responses to Asymmetric Warfare**

Mwotia Makumi

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#### **Abstract**

This commentary highlights the challenges for diplomacy and intelligence arising from terrorism’s use of asymmetric warfare. Terrorists use asymmetric warfare as a tool to further their ideological and geopolitical aspirations and goals. The threats they pose weigh down individual countries but also challenge states to make optimal use of the tools at their disposal, especially of diplomacy and intelligence. It argues that asymmetric wars cannot be fought militarily alone, and require the concerted effort of intelligence and diplomacy, which complement each other. It also argues that the role of these individually and collectively require greater clarity and increased support. It concludes that there is an inconspicuous nexus between intelligence and diplomacy, and illustrates their interdependence.

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#### **Introduction**

Asymmetric warfare presents serious challenges to states. The use of asymmetric warfare by terrorist groups in the contemporary international environment is pronounced. It has been a thorn in the strategic flesh for many countries. Asymmetric warfare is protracted and also has other implications, from financial ones, to how actors engage with one another. The sources of national power - diplomacy, the economy and the military - have adopted their

own approaches in dealing with terrorism. While the military has been used extensively, it is not able to subdue the threats alone. Numerous cases show that all the sources of national power must support each other to address the threat.

Geopolitical conflicts suggest the desire of states to revise international and regional norms and systems of alliance. This has become more urgent than it was during the cold war.<sup>1</sup> Religion has also been used to mobilize irregular warfare. Together with ostracism, political ideology and poverty it has driven asymmetric warfare. Since asymmetric warfare across territorial borders and thus generates more support, addressing it is even more complex.<sup>2</sup>

## Changing Face of Warfare

The most dominant form of globally conflict is intra-state.<sup>3</sup> The dominant actors in the violent conflicts that states engage in are non-state.<sup>4</sup> The challenges of Irregular Warfare (IW) have increased since the latter part of the 20<sup>th</sup> century. The trans-national engagement of non-state actors has forced states to focus on this threat. As a result states have created strategic initiatives to address the problem. The attention given to this threat has been evident in policy and strategic initiatives to address this challenge.<sup>5</sup>

While the definition of irregular warfare has been contentious, its challenges will not go away. However, all the points of view agree that its operating environment differs from that of conventional warfare.<sup>6</sup> It is also conceded by all that this form of warfare includes Counter Terrorism (CT), Counter Insurgency (COIN) and insurgency. This complex approach accounts for the definitional challenges.<sup>7</sup> Nevertheless because irregular warfare presents perpetual challenges for states, it must not be dismissed as a lesser form of warfare.

The end of the 20<sup>th</sup> century marked an increase in technologies that benefit militaries. These technologies influenced combat that reduced ground troops.

<sup>1</sup> Carment, David, Milana Nikolko, and Dani Belo. "War's Future: The Risks and Rewards of Grey-Zone Conflict and Hybrid Warfare." Canadian Global Affairs Institute. Last modified October 2018. [https://www.cgai.ca/wars\\_future\\_the\\_risks\\_and\\_rewards\\_of\\_grey\\_zone\\_conflict\\_and\\_hybrid\\_warfare](https://www.cgai.ca/wars_future_the_risks_and_rewards_of_grey_zone_conflict_and_hybrid_warfare).

<sup>2</sup> Ferreira, Rialize. "Irregular Warfare in African Conflicts." *Scientia Militaria - South African Journal of Military Studies* 38, no. 1 (2011), 47. doi:10.5787/38-1-79.

<sup>3</sup> Eric V. Larson, Derek Eaton, Brian Nichiporuk, Thomas S. Szayna - *Assessing Irregular Warfare: A Framework for Intelligence Analysis* (2009), p.7

<sup>4</sup> Rid Thomas, and Marc Hecker. "Introduction." In *War 2.0: Irregular Warfare in the Information Age: Irregular Warfare in the Information Age*, 1. Santa Barbara: ABC-CLIO, 2009.

<sup>5</sup> Ibid., p.8

<sup>6</sup> Ibid., p.11.

<sup>7</sup> Ibid., p.9.



Thus a transformation agenda emerged, intended to supplant a heavy military presence. It augmented concentrated ground combat in order to achieve greater success in precision strikes. Its premise was the dissolution of the fog of war, and avoiding prolonged ground combat. It essentially introduced a novel style of warfare.<sup>8</sup> Although the use of technology in militaries will continue to increase, terrorists will still pose a big challenge.

Non-state belligerents acknowledge the superiority of national armed forces in conventional warfare. They have adapted to these challenges by resort to asymmetric warfare. Their intention is to functionally dilute the conventional war approaches. Operationally, non-state actors incorporate the use of locations that make conventional combat ineffective. In essence they adopt environments of engagement that are incompatible with the conventional superiority of the traditional state military. Contemporary non-state actors – like *al-Qaeda*<sup>9</sup> and *Al Shabaab* – adopt this approach.

The environment of conflict presents its own sets of other challenges. In the early years of the 21<sup>st</sup> century, conventional military planners did not realize the challenges of irregular warfare. They relied on the dominance of information and a superior surveillance. They however faced difficult and deadly operations in urban environments. They confronted asymmetrical adversaries not intimidated by the highly developed capabilities of modern militaries.<sup>10</sup>

The expansion of technologies and their access by non-state actors ensures the continued predominance of asymmetric conflict. Because of this, non-state actors create a perpetual state of insecurity in the territories of states. They also increasingly have access to damaging weapons and technologies. The challenge for states is thus to protect their national interests by dissolving such threats.<sup>11</sup> This is indeed the essence of the Global War on Terror (GWOt).

Asymmetric conflict is politically difficult to resolve. Its actors are the traditionally strong actors i.e. states, and the “weaker” non-state actors. The state actors consider the non-state actors to be criminals. The non-state actors see the states actors as oppressors. The states challenge the ideology of the non-state actors; and the non-state actors strategically propagate the ideology in their fighters.<sup>12</sup>

<sup>8</sup> “Complex Irregular Warfare: The Face of Contemporary Conflict.” *The Military Balance* 105, no. 1 (2005), 411. doi:10.1080/04597220500387712.

<sup>9</sup> *Ibid.*, p.411.

<sup>10</sup> *Ibid.*, p.411.

<sup>11</sup> Benvenisti, Eyal. “The legal battle to define the law on transnational asymmetric warfare.” *Duke J. Comp. & Int’l L.* 20 (2009): 339.

<sup>12</sup> *Ibid.*, p.339

Asymmetric conflicts are inevitably protracted. Because of this, the non-state actors consider the conflicts a success. In their view, the prolongation is an important strategy. This strategy is often effective where states' military capacity is weak. Such states thus adopt the strategies of the non-state actors. They sometimes even support these groups and militias. In so doing they turn their forces into either terrorist units or guerrilla units.<sup>13</sup> This has happened in the Middle East. In the 2003 invasion of Iraq by the USA, Iraqi forces resorted to guerrilla tactics, and Syria and Iran supported the Hezbollah in Lebanon.

Analyses and contemporary experience suggest that many future wars will be asymmetric. The protagonists in these wars will continue to be states and non-state actors. This is a challenge for international law among others. It has led some to argue that if wars between states are on their way out, the international laws regulating them may also become obsolete. There is therefore a big challenge for international law to respond to the changing norms of wars.<sup>14</sup>

Diplomacy is also being challenged by these developments. Since it is one of the sources of national power its role is important. It is required to help to address the challenges resulting from terrorist activity, domestically and internationally. Both these dimensions of terrorism operate beyond the borders of individual states. This makes ministries of foreign affairs relevant and important in securing national interests in the face of terrorism.

## **Diplomacy and Terrorism**

The asymmetric threat cannot be resolved by any country on its own. The trans-national scope and international reach of asymmetric warfare make it an international security threat, especially in the 21st century. This is an even bigger challenge because this type of warfare is now a strategy of choice for groups like terrorists.

The role of diplomacy is sharpened by the reality of this kind of warfare. Diplomacy is expected to spearhead the pursuit and maintenance of bilateral and multilateral relationships with others. It must also support cooperation with international and regional bodies, and create consensus. This is vital in the environment of asymmetric warfare, since the threats it carries pose a challenge for all countries.<sup>15</sup>

Diplomacy plays an essential role in the continued fight against terrorism. It

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<sup>13</sup> Ibid., p.340

<sup>14</sup> Ibid., p.340

<sup>15</sup> Long, David E. (2008) "Countering Asymmetrical Warfare in the 21st Century: A Grand Strategic Vision": *Strategic Insights*, v. 7 issue 3 (July 2008). Dudley Knox Library / Naval Postgraduate School, Monterey, California, USA.

has unique methods of response. Indeed, its role in responding to terrorism is inherent since it is one of the sources of national power. The role of diplomacy has evolved continually. It involves more and more actors, including emerging ones. This makes diplomacy an important tool. It emphasizes that it is a complex occupation requiring greater skill, knowledge and a wide perspective on matters beyond individual states.

Historically diplomacy was engaged in negotiations in the peaceful management of international relations. In this role it contributing to the avoidance of war, but also frequently preceded them.<sup>16</sup> Historically the most important activities of diplomacy were the advancement or promotion of state positions, preventing war, and developing and enhancing international relations.

The multiplicity of actors in international relations has meant more complexities for diplomacy. While older diplomacy tended to be more focused on bilateral relations, modern diplomacy involves the multilateral engagement of states. It involves state actors engaging in multi-track diplomacy. This involves engagement with international organizations, regional organizations, informal institutions, non-government institutions, intellectuals, analysts, and researchers.<sup>17</sup>

Diplomacy has been challenged to adapt its traditional practices in engaging with non-state actors in the international system. Traditional practices considered the interests of states as being the only ones that diplomacy should take into account. Contemporary engagement with the new actors requires diplomacy not to ignore that these also pursue their own ideas, methodologies and interests.<sup>18</sup>

The activities of diplomacy cut across borders. A country's interests are never always concerned with its internal environment. In reality, the emergence of contemporary globalization essentially disregards borders. Economically and politically globalization also involves international financial markets and multinational corporations. These are distributed in specific environments from which they best thrive and benefit. These cross-border transactions cannot be controlled by states. Hence the permeability of state borders has substantially increased. It has also been argued that globalization has had a negative effect on border permeability, rendering territory less important.<sup>19</sup>

<sup>16</sup> Pesto, Haris. "The Role of Diplomacy in the Fight Against Terrorism." *Connections: The Quarterly Journal* 10, no. 1 (Winter 2010), 64. doi:10.11610/connections.10.1.04.

<sup>17</sup> Ibid., p.65.

<sup>18</sup> Ibid., p.65.

<sup>19</sup> Kleiner, Juergen. "The Inertia of Diplomacy." *Diplomacy & Statecraft* 19, no. 2 (2008), 334-335. doi:10.1080/09592290802096380.

These have in turn affected diplomacy and its practices.<sup>20</sup>

The management of foreign policy of a state is one of the principle roles of diplomacy. It customarily does this through the implementation of foreign policy goals, and through spearheading foreign policy decisions. The diplomatic institution embraces behaviour based on existing and evolving practices and rules in which it uses for its engagement.<sup>21</sup>

Since communication is an important aspect of diplomacy and its functions, it is inextricably a tool of the state. In this way it is used for expressing and promoting the state's interests in the external environment. This is where its concerns with terrorism arise. Terrorism challenges and hinders states in the pursuit and promotion of national interests. It is thus said to postpone the attainment of states' interests. This has brought diplomacy to an important juncture in its functions in the contemporary environment where asymmetric warfare and the mitigation of this threat are involved.

Asymmetric warfare introduces difficulties for states. Some of its aspects like the fight against terrorism [or the war on terror] have been conducted more or less as a military conflict instigated by non-state actors.<sup>22</sup> In counter-terrorism intelligence agencies are the point institutions for this. These both add to responsibilities of diplomacy.<sup>23</sup>

Diplomacy facilitates and articulates the national interests of the various states. In does this through negotiating agendas like the United Nations Global Counter Terrorism Strategy (2006). Through such multilateral engagements, diplomacy will continue to play a crucial role in mitigating asymmetric threats arising from terrorism. The implementation of the outputs of diplomacy depends on the region and country involved. But it leads to the international adoption of strategies like the UN Global Counter Terrorism Strategy. For example that strategy has been adopted in diverse places like West Africa,<sup>24</sup> Latin America, the Caribbean region,<sup>25</sup> and the Asia Pacific.<sup>26</sup>

In order to implement such strategies state require adequate financial

<sup>20</sup> Ibid., p.335.

<sup>21</sup> Ibid., p.322.

<sup>22</sup> Leibfried, Stephan, and Michael Zürn. "A New Perspective on the State." *Transformations of the State?*, 17-20. Cambridge: Cambridge University Press, 2005.

<sup>23</sup> Kleiner, Juergen. "The Inertia of Diplomacy." *Diplomacy & Statecraft* 19, no. 2 (2008), 337. doi:10.1080/09592290802096380.

<sup>24</sup> Ipe, Jason, James Cockayne, and Alistair Millar. "Implementing the UN Global Counter-Terrorism Strategy in West Africa." *New York: Center on Global Counterterrorism Cooperation, September* (2010).

<sup>25</sup> Rosand, Eric, Alistair Millar, and Jason Ipe. *Implementing the UN Global Counter-Terrorism Strategy in the Latin America and Caribbean Region*. Center on Global Counterterrorism Cooperation, 2008.

<sup>26</sup> Millar, Alistair, and Eric Rosand. "Implementing the UN General Assembly's Global Counter-Terrorism Strategy in the Asia-Pacific." *Asian Security* 3, no. 3 (2007): 181-203.

capability. This is sourced either through funding, or through access to funding allocated by international organizations like the United Nations, or from states with similar interests. Implementing international strategies contributes much to the international community. States implement such strategies through a large network of communication, maintained to a large extent by institutions of diplomacy.

Issues sometimes are raised about the commonalities of ideas that drive diplomacy.<sup>27</sup> There is however consensus that contemporary diplomacy adapts dynamically to new environments and actors.<sup>28</sup> Nevertheless, there are those who still wrongly question the role of diplomacy in the contemporary environment. Indeed there are some who argues that the role of diplomacy is declining. However, it is true that the persistence of diplomatic activity increases support, and sympathy for its role in the war on terror. This support in turn leads towards the reduction of support for terrorist groups.<sup>29</sup>

## Intelligence and Terrorism

Since asymmetric operations are clandestine, there is a demand for intelligence agencies to produce quality intelligence that is timely and shared at various levels. Identifying asymmetric adversaries, and assessing their capabilities, targets and intentions, is the business of intelligence. Intelligence in asymmetric warfare environments is important, and indeed critical. Asymmetric threats like terrorism also require the sharing of information and the cooperation of other agencies like law enforcement and the military.<sup>30</sup>

Good and sound intelligence is core in the fight against terrorism:

“...The issue of how terrorist actions and government responses intersect to produce future resources and support for terrorists is one that is receiving increasing attention. The idea that a government response may generate a backlash against the government itself is embedded within a signaling game, where the government has incomplete information about the terrorists’ intent. When combined with the previously unexplored idea that terrorist spectacles that produce collateral damage may erode support for the terrorists, a trade-

<sup>27</sup> Jönsson, Christer, and Martin Hall. “Diplomatic Representation.” In *Essence of Diplomacy*, 116. Basingstoke: Springer, 2005.

<sup>28</sup> Jönsson, Christer, and Martin Hall. “Introduction.” In *Essence of Diplomacy*, 2. Basingstoke: Springer, 2005.

<sup>29</sup> Pesto, Haris. “The Role of Diplomacy in the Fight Against Terrorism.” *Connections: The Quarterly Journal* 10, no. 1 (Winter 2010), 67. doi:10.11610/connections.10.1.04.

<sup>30</sup> Long, David E. (2008) “Countering Asymmetrical Warfare in the 21st Century: A Grand Strategic Vision”. *Strategic Insights*, v. 7 issue 3 (July 2008). Dudley Knox Library / Naval Postgraduate School, Monterey, California, USA.

off is identified in which spectacular attacks occur only when government reactions produce the requisite backlash. This suggests that counterterrorism policy and intelligence should judiciously account for the net effects of backlash and erosion..."<sup>31</sup>

The various challenges for different actors show the relationship between a state and its people. They also account for the actions and reactions by both states and terrorists, since actions of one causes a reaction of some kind from the other.

The general consensus among analysts and scholars is that the role intelligence is crucial in dealing with terrorism. The National Commission on Terrorism highlighted that intelligence is the most significant contributor to the pre-emption, prevention and response to terrorism.<sup>32</sup>

The intelligence community faces demanding challenges as a result of terrorism. Based on past experiences, analysts of intelligence maintain that improving human intelligence (HUMINT) capabilities is key to meeting these challenges. Traditionally, intelligence is considered to be limited, especially from academic perspectives. It is argued that it is limited in anticipating strategic surprise; and that it tends to blame policy makers for not heeding intelligence warnings.<sup>33</sup>

International terrorism has highlighted the importance of intelligence agencies to increase and expand their cooperative engagements with other countries in the fight against terrorism. While this is true, attention should still be placed on intelligence necessities for gathering, processing and sharing intelligence products and the ratification and enforcement of treaties.<sup>34</sup> This view illustrates one of the primary linkages between intelligence and diplomacy. It further demonstrates the inter-dependence of the two in carrying out their various institutional mandates. Intelligence also plays a role in support for other government departments in their collective or individual capacities in dealing with terrorism.

Intelligence also plays a significant role in assisting to decision makers. It does so by warning about potential threats, assistance in the mitigation of potential threats. In doing so it aids in the improvement of decision making. Intelligence for instance provides for better threat response capabilities during

<sup>31</sup> Arce, D. G., & Sandler, T. (2009). Strategic Analysis of Terrorism, "Mathematical Methods in Counterterrorism," 347.

<sup>32</sup> Dahl, Erik J. "Warning of Terror: Explaining the Failure of Intelligence Against Terrorism." *Journal of Strategic Studies* 28, no. 1 (February 2005), 35. doi:10.1080/01402390500032005.

<sup>33</sup> Ibid., p.32.

<sup>34</sup> Sulc, Lawrence. "Terrorism and the Importance of Intelligence." *Terrorism* 10, no. 2 (1987), 134-135. doi:10.1080/10576108708435655.

crucial decision making in crisis management. Since different incidences and threats are not the same, governments' responses may differ depending on necessity and need. This provides standards and criteria for the action plans for government response.<sup>35</sup>

Long term intelligence programmes involve the collection and analysis of contextual factors like politics, psychology, culture, regional history, law enforcement, security environment, diplomatic relationships, and the relationship of all these with each other. Therefore the accurate analysis of long term threat assessments is crucial. They are required in order to offer policy makers with intelligence to aid in their decision making process.<sup>36</sup>

The relationship between policy makers and the intelligence community is however often difficult. Both tend to blame the other for failures. Intelligence failures are natural and inevitable.<sup>37</sup> The profession of intelligence is fundamentally difficult, and the blame for failures has been attributed to policy makers not acting on intelligence.<sup>38</sup> There is however consensus on the challenge to the intelligence community in contemporary terrorist threats. These challenges exist both at the operational and the policy levels of intelligence. Gaining insight into the capabilities and intentions of terrorist using the traditional tools and techniques of intelligence limits its ability to do this.

It is believed that a major constraint for intelligence is its HUMINT capabilities. Over the years, the intelligence community has shifted towards technical intelligence as opposed to HUMINT. In this shift, the role of HUMINT has been understated, and its vital role in the fight against terrorism demeaned.<sup>39</sup> However some intelligence analysts like Pillar and Betts argues for the continued importance of HUMINT. Pillar maintains that a key intelligence asset for intelligence counterterrorism is a well-placed human source.<sup>40</sup> Betts argues that human intelligence is primary because terrorist's capability and ability to conspire is a core requirement of the terrorist threat. It is considered to be one of the best methods in the penetration and disruption of terrorist

<sup>35</sup> Sulc, Lawrence. "Terrorism and the Importance of Intelligence." *Terrorism* 10, no. 2 (1987), 135. doi:10.1080/10576108708435655.

<sup>36</sup> *Ibid.*, p.134.

<sup>37</sup> Richard K. Betts, 'Analysis, War, and Decision: Why Intelligence Failures Are Inevitable', *World Politics* 31/1 (Oct. 1978) p.88.

<sup>38</sup> Dahl, Erik J. "Warning of Terror: Explaining the Failure of Intelligence Against Terrorism." *Journal of Strategic Studies* 28, no. 1 (February 2005), 34. doi:10.1080/01402390500032005

<sup>39</sup> *Ibid.*, p.36.

<sup>40</sup> Pillar, Paul R. "Counterterrorist Instruments." *Terrorism and U.S. Foreign Policy*, 11. Washington: Brookings Institution Press, 2001.

threats.<sup>41</sup>

It is very unlikely for terrorist attacks to be preceded by tactical warning. In the bombings of the USA embassies in Kenya and the Tanzania for example, part of the criticism was about the reliance of tactical intelligence in determining threat levels by the policy and intelligence community.<sup>42</sup> It was argued that human intelligence was virtually ignored and its importance disregarded. The focus since then has been on collection mainly from human intelligence sources, clandestine actions and the increase in covert action and counter intelligence as part of counter terrorism operations.<sup>43</sup>

## Relationship between Diplomacy and Intelligence

Although diplomacy and intelligence appear to be independent, in reality neither of them can exist without the other. Intelligence community analyses serve not just the community, but also support policy makers in decision making. They also assist in the implementation of policies, and in securing national interests.

Intelligence and diplomacy compete but are also complementary. The IC is independent and is not allied to competing government institutions.<sup>44</sup> Indeed historically some states like the USA and UK spent more on intelligence than on diplomacy.<sup>45</sup> This was especially the case during the Cold War. During that period, as now, diplomatic missions provided cover for intelligence representatives. In more contemporary times, while the same cover is provided, the diplomatic missions are themselves targets of foreign intelligence agencies. They therefore require support from the IC in terms of defensive intelligence.<sup>46</sup> In this way their relations are mutual. The one key difference between them is that diplomatic information gathering must be done through overt and not covert sources.<sup>47</sup>

Historically, diplomacy had a monopoly as the sole source of information about foreign entities. This has changed significantly in contemporary times. Others are now engaged in collecting and analysing information about foreign states. These others include intelligence communities and the media.

<sup>41</sup> Betts, Richard K. "Fixing Intelligence." *Foreign Affairs* 81, no. 1 (January/February 2002), 46.

<sup>42</sup> Dahl, Erik J. "Warning of Terror: Explaining the Failure of Intelligence Against Terrorism." *Journal of Strategic Studies* 28, no. 1 (February 2005), 36. doi:10.1080/01402390500032005

<sup>43</sup> Ibid., p.36.

<sup>44</sup> Jönsson, Christer, and Martin Hall. "Communication." In *Essence of Diplomacy*, 74. Basingstoke: Springer, 2005.

<sup>45</sup> Herman, Michael. "Diplomacy and Intelligence." *Diplomacy & Statecraft* 9, no. 2 (1998), 4.

<sup>46</sup> Ibid., p. 18.

<sup>47</sup> Herman, Michael. "Diplomacy and Intelligence." *Diplomacy & Statecraft* 9, no. 2 (1998), 7.



Indeed, now unlike in the past, governments source a lot of information from the media.<sup>48</sup> It has been argued that the importance of the diplomats' role in information gathering has diminished. This is said to be as a result of intelligence communities which are also engaged in a similar task. In particular, intelligence agencies provide their respective governments with secretly acquired information.

Issues of integrity and exactitude also inform the nexus between intelligence and diplomacy. Experiences like the intelligence provided and the conclusions reached on the status of the Iraq weapons programme highlighted this nexus. It was found that the intelligence provided was false, and was done to align with policy preferences at the time. Colin Powell, the then USA Secretary of State worsened the situation by asserting that had he prior knowledge of the false intelligence presented to him, he would not have pursued the request to place sanctions on Iraq and the approval for the resulting war.<sup>49</sup> The linkage between intelligence and diplomacy further exemplifies their complementary role. But the Iraq case also highlights serious consequences of politicization of intelligence on national security and national interest decisions and their pursuit.

The challenges to both diplomacy and intelligence existed prior to the 9/11 attacks. But these attacks and the ensuing war on terror emphasized the challenges of the relationship between the diplomatic system and intelligence community. These challenges especially arise when they are confronted with strategic issues about how the system will adapt itself in the face of terrorism. This is the essence of the contemporary relationship among intelligence, diplomacy and terrorism.<sup>50</sup>

States are reluctant to sever diplomatic ties with others especially this age of terrorism. Severance of diplomatic ties suggests hostility to the other regime. It also creates a vacuum of official representation, and highly disadvantages the severing state's capabilities. Besides, information which is key to counterterrorism efforts is greatly diminished when there is no diplomatic mission whose core role is the collection of information in the receiving state.<sup>51</sup>

The absence of a diplomatic mission also affects the intelligence community because it can no longer use that mission as official cover for its presence in

<sup>48</sup> Jönsson, Christer, and Martin Hall. "Communication ."In *Essence of Diplomacy*, 96. Basingstoke: Springer, 2005.

<sup>49</sup> Stempel, John D. "Diplomacy and Intelligence." *Oxford Research Encyclopedia of International Studies*, November 2017, 6.

<sup>50</sup> Ibid., p.6.

<sup>51</sup> Maller, Tara. "The Dangers of Diplomatic Disengagement in Counterterrorism." *Studies in Conflict & Terrorism* 32, no. 6 (May 2009), 516.doi:10.1080/10576100902888479.

the receiving state. This hampers its intelligence collection capabilities. As a result it puts stress on the ability of the intelligence community to support decision makers in making more informed policy decisions about the country with which diplomatic relations have been severed. It essentially hampers a country's ability to fully shape and actualize its foreign policy towards that state.<sup>52</sup>

Equally importantly, the severing of diplomatic relations decreases the state's ability to shape and project perceptions about it in the country it has severed diplomatic relations with. These involve perceptions of that country's leaders, and also those of its citizens. The severance of diplomatic relations also disengages diplomatic representation from using public diplomacy to project its views on important matters like its policy on terrorism.<sup>53</sup>

## Conclusions

The adaptive nature of terrorism makes it an increasingly difficult problem to deal with. One of the ways of dealing with this is to remove state weaknesses that non-state actors like terrorists take advantage of. Disruption happens through various means like the use of intelligence and diplomacy. These try and get consensus and support from other states in dealing with the threat of terrorism. State to state relationships through diplomacy help in dealing with terrorism and its asymmetric warfare, and to disable its principle goals of expansion. There have been arguments that the role of diplomacy is slowly dying. Others argue however that diplomacy is adaptive and is doing so in the fast changing global environment.

In the contemporary global environment, Intelligence and diplomacy are important institutions. The two depend on each other and their functions are complementary. The relationship is not always smooth; being governmental institutions there will always be bureaucratic squabbles and turf wars. Diplomacy will remain a powerful tool for countries globally in addressing the threat of terrorism. This is especially so because contemporary terrorism presents an essentially a borderless challenge, requiring states to respond to the problem beyond their territorial boundaries.<sup>54</sup>

Diplomacy provides a platform for states facing similar challenges like terrorism to collectively address the issue. These collective responses involve for example aligning counterterrorism initiatives like policies. The basis of

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<sup>52</sup> Ibid.

<sup>53</sup> Ibid., 516-517.

<sup>54</sup> Pesto, Haris. "The Role of Diplomacy in the Fight Against Terrorism." *Connections: The Quarterly Journal* 10, no. 1 (Winter 2010), 80. doi:10.11610/connections.10.1.04.

collective action is that it is in a state's interest to get multilateral support for its responses to the challenge. Small countries like Kenya for example do not have the ability to maintain protracted wars unilaterally. However it can manage the economic and military strains of the war on terror through engagement in multilateral initiatives like AMISOM.

The roles of intelligence, unlike diplomacy involve clandestine engagements. Even with such engagements however a key role is to support the overt activities carried out by diplomacy. Diplomatic missions also serve as intelligence footprints in foreign countries, and in that way support intelligence activities. In that setting, intelligence has the role of aiding the implementation and evaluating attitudes towards the policies, and their reception in other states. The overarching role of intelligence is to support the policy decision making process. This means that it has a wide intelligence customer base. That is often understated because intelligence rarely advertises its successes.

Strategically intelligence and diplomacy cannot successfully carry out their mandates without mutual assistance and increased collaboration. They have not always had a smooth working relationship especially in the external environment. Although turf wars and bureaucratic wars are a permanent feature in governments, the working relationships between specialized government departments need not be like that. The relationship between diplomacy and intelligence must be anchored within these professional and specialized terms, especially in addressing the growing threat of terrorism.

# AU-USA Counter Terrorism Relations in Africa: A Comment

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## Abstract

This commentary argues that terrorism continues to rise internationally with escalating challenges to international and regional peace and security. It is loosely organized, and self-financed, and has international networks with religious and ideological motivations. In Africa, governments are being impaired in terms of capacity to fight terrorism. At the same time, the war on terrorism in Africa needs to be driven by Africans. However, national interests of the USA and others have driven their engagement the fight against terrorism in Africa. While African Union strategies and instruments have not yet been ratified by African governments, the USA has created the African Command that is driving counter-terrorism strategies in Africa. The article concludes that this development highlights the weaknesses of the AU approach, including its lack of capacity.

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## Introduction

Terrorism is an elusive and ambiguous concept with no universally acceptable understanding. The view that “one man’s terrorist is another man’s freedom fighter,”<sup>1</sup> only complicates matters. Indeed, there are many definitions as there are terror attacks worldwide. Terrorism has different meanings to different people in different time periods: for authorities, academia, journalists, onlookers and spectators, victims or relatives to victims, and for the terrorists themselves. Hoffman identifies certain characteristics associated with terrorism: its aims and motives are political, using violence or threats to use violence, perpetrated by sub-national groups who have distinct chain of command, intended to create fear on a wider target audience beyond the immediate victims. He thus

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<sup>1</sup> Boaz Ganor (Prof), Defining Terrorism: <https://www.ict.org.il/Article/1123/Defining-Terrorism-Is-One-Mans-Terrorist-Another-Mans-Freedom-Fighter>

defines terrorism as the “deliberate creation and exploitation of fear through violence or threat of violence in pursuit of political change.”<sup>2</sup>

This article defines terrorism as the premeditated use of violence or its threat to purposefully create fear for political, ideological or religious reasons. Its cardinal aim is to achieve maximum publicity for the group, individual or cause.<sup>3</sup> From this definition, the media, though it may not be responsible for terrorism occurrences, plays a critical role in publicizing the terrorist groups’ agenda. It provides the medium of drawing attention and diffusing the message of the group. Essentially, the central aim of terrorism is to disseminate terror and uncertainty among a population and not so much the act of violence or the killing of a target.<sup>4</sup> Terrorist attacks are in most cases choreographed to attract media attention.

## Contemporary Terrorism in Africa

There has emerged a new type of terrorism that is not only a non-hierarchical network comprising family members, but also involves home grown individuals. Recruitment is also becoming more unstructured, and potential members are attracted through exposure to social media. Indeed, some individuals also act alone because of dissatisfaction. Further, the use of microcell systems to avoid detection is the norm in the contemporary terror organizations.<sup>5</sup>

Cases of transnational terrorist organizations were not prevalent in Sub-Saharan Africa until two decades ago. However there have been several rebel movements across the continent that are basically domestic dissident or insurgent groups. Over the last few years, there has been an intensification of terrorist activities especially in Nigeria, Niger, Mali, Chad Cameroon, Somalia, Sudan, Uganda and Kenya.<sup>6</sup> In the East African region, rural Somalia is ungoverned and is under the control of the militant group, *Al Shabaab*. This group is responsible for violent terror activities in Somalia and neighbouring countries like Kenya and Uganda.<sup>7</sup>

<sup>2</sup> Ibid, pp. 42–44.

<sup>3</sup> Matusitz, J.A., *Terrorism and Communication: A Critical Introduction* (Sage Publications Inc., 2013), p.4.

<sup>4</sup> Alexander Spencer, “Lessons Learnt: Media and Terrorism”, Arts and Humanities Research Council, AHRC Public Policy Series, No.4, 2012 <http://www.ahrc.ac.uk/documents/project-reports-and-reviews/ahrc-public-policy-series/terrorism-and-the-media/>, accessed on 22/08/17

<sup>5</sup> Khalidi, Deconstructing Terrorism: A Holistic Approach, <http://www.academia.edu/1261394>

<sup>6</sup> Kweku Ortsin, Nana Amisah Mensah-Dadziebo, Terrorism in Sub-Saharan Africa: Causes and Possible Solutions, Ghana Growth and Development Platform Current Issue Note 11, August 25, 2015, [http://ghanagdp.org/wp-content/uploads/2015/09/GGDP\\_CIN11\\_Growing-Terrorism-In\\_Africa\\_Final.pdf](http://ghanagdp.org/wp-content/uploads/2015/09/GGDP_CIN11_Growing-Terrorism-In_Africa_Final.pdf), accessed on 20/02/18

<sup>7</sup> Ruchita Beri, Rise of Terrorism in Africa, Institute of Defence Studies and Analysis, 2017, [https://idsa.in/idsacomments/rise-of-terrorism-in-africa\\_eberi\\_130417](https://idsa.in/idsacomments/rise-of-terrorism-in-africa_eberi_130417), accessed on 11/11/17

In a bid to achieve targeted objectives, the terrorists execute planned attacks which have serious consequences not only on the people but the economy of the targeted country. In this respect many targeted states have suffered fatal civilian casualties and destruction of critical national infrastructure like airports, bus stations, bridges, train stations, water supply points, telecommunication equipment, financial services facilities and electricity generation services. This creates anxiety and also disrupts the economy. The terrorist believe that economic costs associated with a combination of loss of human lives and massive destruction of property will compel the government to accede to their political demands.<sup>8</sup> Basically, the terror attacks have the potential of engendering uncertainty, undermining investment, and diverting foreign direct investment. It also increases the cost of doing business through high insurance premiums and payment for security agents.<sup>9</sup> The new terrorism uses communication technology and extensive networks that prefer to attack soft civilian targets that are lightly or not defended. Suicide bombing has also become a weapon of choice because it is inexpensive, more effective, less complicated and compromising than other terrorist methods.

## Counter Terrorism in Africa

Counter-terrorism refers to practices, techniques and strategies that governments and other<sup>9</sup> stakeholders adopt in responding to real or perceived terror activities. Essentially, counter terrorism entails proactive measures, policies and strategies which seek to eliminate terrorist environments and groups. Counterterrorism is a highly state-centric activity since the state is the main actor and guarantor of national security. Traditionally, it is a militaristic affair that entails technical, political, economic and human intelligence to forestall terror attacks.<sup>10</sup> Efforts have been made towards coordination of counter terrorism among and between states in Africa, and regional, continental and international organizations. Counter terrorism approaches comprise partnering on border security, intelligence sharing, and the development of strategies and frameworks, like the African Union's (AU) Counter Terrorism Framework and the United Nation's (UN) Global Counter-terrorism Strategy.<sup>11</sup>

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<sup>8</sup> Gaibulloev, Khusrav, and Todd Sandler. "The Adverse Effect of Transnational and Domestic and Domestic Terrorism on Growth in Africa". *Journal Research* 48, no. 3 (2011): pp.355-356. <http://www.jstor.org/stable/23035432>. Accessed on 13/02/18

<sup>9</sup> Ibid.,

<sup>10</sup> NzauMumo, "Civil Society and Eastern Africa Counterterrorism Agenda: A Critical Account" *Africa Amani Journal*, Vol. 1 Issue. 4, pp. 41-51.

<sup>11</sup> 11 Marisha Ramdeen, "Countering Terrorism and Violent Extremism in Africa", Africa Centre for the

Counter terrorism entails proactive measures, policies and strategies which seek to eliminate terrorist environments and groups. African counter terrorism choices have ranged from use of force to operations other than war like repression, conciliation and legal options. The use of force encompasses use of military strikes against terrorist targets and the attendant covert operations. Non-military options entail use of intelligence, applying economic sanctions, diplomacy and concessionary means. Legal responses promote rule of law using law enforcement and legislating counter terrorism laws to criminalize terrorist activities.<sup>12</sup>

The landscape for countering domestic and international terrorism in Africa has changed. But many African governments are impaired in terms of capacity to fight terrorism. For instance, in Somalia large swathes of the area are ungoverned and are a fertile ground for *Al-Shabaab* breeding. In the post 9/11 period, the USA and other western countries have been more willing to collaborate with Africa to counter terrorism in terms of training and funding pf counter terrorism initiatives. The United Nations has also assisted African states to develop appropriate legal frameworks and institutional capacity building to address key aspects related to counter terrorism like terrorist financing and money laundering.<sup>13</sup>

These responses to terror threats notwithstanding, Africa is still faces many security challenges ranging from intra and inter-state conflicts, rising radicalization, to competing priorities to political sensitivity of the concept of counter terrorism. Consequently, the vulnerability of the region to terrorism is attributed *inter alia* to weak governance, porous borders which facilitate movement of undesirable people and illegal weapons, extremist religious ideology, radicalization of the vulnerable sections of the society and harsh socio-economic conditions providing a fertile infrastructure for thriving of terrorism.<sup>14</sup> In some countries, counter terrorism strategies and measures employed have resulted in some semblance of peace and security in the international system. For instance, in Ethiopia, counter terrorism strategies have succeeded since there are no cases of terrorism against its people despite having its troops in Somalia. This is different from Kenya where the *Al Shabaab*

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Reconstructive Resolution of Disputes, 2017, <http://www.accord.org.za/conflict-trends/countering-terrorism-violent-extremism-africa/>, accessed on 22/05/18

<sup>12</sup> Guy Martin, *Essentials of Terrorism: Concepts and Controversies*, Sage Publications Inc., Los Angeles, 3<sup>rd</sup> Ed. 2014 pp. 208-209.

<sup>13</sup> James J. F. Forest and Jennifer Giroux, "Terrorism and Political Violence in Africa: Contemporary Trends in a Shifting Terrain", *Perspectives of Terrorism*, Vol. 5, 3-4, pp. 12-13.

<sup>14</sup> Patrick Kimunguni, *Terrorism and Counter Terrorism in East Africa*, ResearchGate, 2015, [https://www.researchgate.net/publication/267265383\\_Terrorism\\_and\\_Counter\\_Terrorism\\_in\\_East\\_Africa](https://www.researchgate.net/publication/267265383_Terrorism_and_Counter_Terrorism_in_East_Africa)

has targeted Kenyan interests, citing the presence of Kenya troops in Somalia.

It has been argued that the Ethiopian Doctrine on Counter Terrorism (CT) and Counterinsurgency (COIN) differs from other countries strategies in many ways: in Ethiopia politics is supreme over the military components of the CT and COIN strategies.<sup>15</sup> In other words, politics precedes the military and criminal justice systems as far as CT strategies are concerned. The Ethiopian Doctrine focuses on liberating areas for local communities, thus enabling them to fight back against terrorists. This approach focuses on the government building trust, understanding fears, and sharing a common vision with the local communities. This strategy “helps to build close-knit neighbour-hood watch associations that provide community-based peace and security with effective oversight by the state.” This strategy makes it very difficult for both foreign and domestic terror groups to establish themselves and operate discreetly amongst communities. Above all, a single agency alone cannot manage to effectively fight terrorism. It requires teamwork and involvement and participation from a wide range of national and international organizations; the key to success is organization, cooperation and coordination.

### **African Union (AU) Counter Terrorism Efforts in Africa**

The AU framework for counter-terrorism comprises the 1999 Organization of African Unity (OAU) Convention on the Prevention and Combating of Terrorism, the AU Action Plan for the Prevention and Combating of Terrorism, and the mandate of the AU Special Representative for Counter-Terrorism Cooperation that was established in 2010. As a sign of commitment to combat terrorism in African, the Africa Heads of States meeting in Dakar in 2001 adopted the Dakar Declaration Against Terrorism which recognized the growing threat of terrorism in the continent and its nexus with other organized crimes like money laundering, drug trafficking, transnational crimes and the proliferation of small and light weapons. The AU also held a high level Inter-Governmental meeting in Algiers in 2002 on prevention and combating of terrorism in Africa. The meeting adopted the AU Plan of Action on Prevention and Combating of Terrorism which stipulated measures including legislative, border control, judicial, exchange of information and financing of terrorism. The African Centre for Study and Research of Terrorism (ACSRT) was established in 2004 in Algiers as an implementation strategy of the 2002 Plan of Action on Preventing and Combating terrorism in Africa. The ACSRT

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is not only mandated to research on terrorism and develop strategies for capacity building on combating terrorism but is also forum for coordination of counter terrorism efforts among member states in collaboration with regional and international partners.<sup>16</sup> The 15<sup>th</sup> Ordinary Session of the Assembly of the Union held in Kampala in 2010, understood the need to intensify efforts to combat the increasing scourge of terrorism. It stressed the need for member states to renew efforts to combat increasing threats of terrorism, increase mobilization, work closely together to fight terror in the continent that is posing serious threat to security, peace and stability in Africa.<sup>17</sup> The African Model Law on Counter Terrorism adopted during 17<sup>th</sup> Ordinary Session of the Assembly of the Union, held in Malabo in 2011 urged member states use the Model Law not only to improve their national legislations but also to implement provisions contained in the various continental and international counter-terrorism instruments, particularly the Protocol to the OAU 1999 Convention on Terrorism.

However, the AU counter terrorism initiatives and strategies have not been effective in mitigating against the threat of terrorism as manifested by increasing terror incidents in Africa like *Al-Shabaab* terror attacks in Kenya at the Westgate Mall in 2013 and Garissa University in 2015. There was also the massacre of thousands of people by Boko Haram in Baga village in Nigeria in 2015, the siege at Radisson Blu hotel in Nairobi, the mass shooting in Sousse in Tunisia, the suicide bomber in Mogadishu in Somalia, and the attack in Burkina Faso in 2015. The arguments advanced that controlling terrorism takes time, and is not a short time phenomenon and also that Africa is not immune to international terrorism are neither here nor there. Africa has not effectively implemented a raft of initiatives and strategies by the AU. For instance, the 2002 Algiers Plan of Action which offers comprehensive counter terrorism strategies is yet to be ratified by key states like Kenya, Somalia and Nigeria.<sup>18</sup>

Fundamentally, the main challenge to the implementation of the 1999 OAU Convention of the Prevention and Combating of Terrorism, which deals with counter terrorism strategies at state level and the need for inter-state cooperation on terrorism, is its non-ratification by member states. In spite of the AU Commission using formal and informal diplomatic channels

<sup>16</sup> African Peace and Security Website, The African Union Counter Terrorism Framework <https://www.peaceau.org/en/page/64-counter-terrorism-ct>

<sup>17</sup> Assembly/AU/Dec.311 (XV), Decision on the Prevention and Combating of Terrorism, <https://www.peaceau.org/uploads/assembly-au-dec-311-xv-e.pdf>

<sup>18</sup> Allison Simon, 26th AU Summit: Why isn't the AU's counter-terrorism strategy working? Institute for Security Studies, 2016, <https://issafrica.org/iss-today/26th-au-summit-why-isn't-the-aus-counter-terrorism-strategy-working>

to implore member states to ratify the Convention, many member states have neither signed nor ratified the treaty.<sup>19</sup> This is because states prefer pursuing national interests at the expense of continental interest. Member states are quick to invoke the preservation of sovereignty and independence. For the AU member states to succeed in combating international terror, they must embrace international cooperation and set aside their national interests in favour of continental interests. It is also noticeable that only a small fraction of the AU's budget is funded by member states. Pledges by member states to support AU operations are unpredictable. There is also the fact that the African Standby Force's lacks its own financial and other resources. These developments suggest a low level of interest by African states to use the AU as a vehicle to combat terror in the continent.<sup>20</sup> Internationally, the assistance to the AU from the west and the international community has been slow, as has been the response to the AU's pleas for technical assistance and capacity building.<sup>21</sup> As a result the UN and western powers still dominate in the war on terror internationally.

## **Entry of the African Command (AFRICOM)**

In 2007, the USA announced its intention to create a single command to consolidate all its security programmes, especially counter terrorism in Africa. The AFRICOM became a new, autonomous and fully operational command in October, 2008. Prior to that, USA defence operations for Africa were divided among the European Command which covered West, Central, and Southern Africa; the Central Command, which covered the Horn of Africa; and the Pacific Command, which covers the island base at Diego Garcia and maritime programmes related to the Middle East.<sup>22</sup> President George W. Bush argued that the new command would fortify security cooperation with Africa, help to create new opportunities and enhance efforts to bring peace and security in Africa.<sup>23</sup>

The formation of the Unified Combatant Command sparked controversial debates over lack of consultations on the conceptualization of the AFRICOM

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<sup>19</sup> Sam Moki, *The Role of African Union: Integration, Leadership and Opportunity*, in John Davis (Ed.), *Africa and the War on Terrorism*, Ashgate Publishing Ltd., 2007, pp. 123-3

<sup>20</sup> Hennie Strydom, *The African Union lacks a coherent plan to fight terrorism*, *The Conversation*, 2015, <https://theconversation.com/the-african-union-lacks-a-coherent-plan-to-fight-terrorism-41394>, accessed on 12-11-2017

<sup>21</sup> Sam Moki, *The Role of African Union: Integration, Leadership and Opportunity*, in John Davis (Ed.), *Africa and the War on Terrorism*, Ashgate Publishing Ltd., 2007, pp. 122-3

<sup>22</sup> Princeton N. Lyman, *The War on Terrorism in Africa*, in Harbeson John, *Africa in World Politics*

<sup>23</sup> Theresa Whelan, Deputy Assistant Secretary of Defense for Africa, Department of Defense: Why AFRICOM?, August 2007, <https://blackboard.angelo.edu/bbcswebda/institution/LFA/CSS/Course%20Material/CCSS2323/Reading/Whelan.Pdf>

with African partners, the location of the AFRICOM headquarters in Africa, and about the true intent, purpose and objectives of the command. Whereas the President of Liberia, Ellen Johnson Sirleaf welcomed the move and was willing and keen to host the AFRICOM headquarters, many Africa leaders were suspicious, unwelcoming and apprehensive of USA motives.<sup>24</sup> Nigeria was outspoken on its disapproval for establishing a military base in the ECOWAS region; and South Africa strongly felt that the USA was not welcome to establish AFRICOM anywhere in Africa; and Botswana, though reluctant, expressed interests in hosting the Command's headquarters.<sup>25</sup>

Rather than being seen as an initiative to expand war on terrorism in Africa, AFRICOM created discontent, fear and despondence arising from concerns that: "the unified Command amounts to militarization of the US foreign policy in Africa, that the Command will be used as a 'Trojan horse' to achieve US strategic interests and objectives in the continent, in particular, the possibility of using the AFRICOM as an instrument to effect regime changes and/or prop up brutal dictatorships and unpopular regimes, amenable to US strategic interests in Africa".

There were also fears that the USA would use AFRICOM to militarily impose policies in Africa including the American version of democracy in the continent in pursuance of its strategic interests.<sup>26</sup> This resonates with Mile's assertion that creation of the regional military Command for Africa was primarily tied to the pursuance of the USA strategic national interest in Africa, including access to oil supplies and combating terrorism, aroused by the terrorist attack on the World Trade Centre and the Pentagon on September 11, 2001.<sup>27</sup> Some have also emphasized that AFRICOM's prospects of bringing any meaningful peace and security in Africa is remote because its intervention largely protects unpopular regimes supporting the USA in pursuit of its selfish interests. This is worsened by the observation that the unpopular leaders use the pretext of the combating global terrorism to suppress the opposition

<sup>24</sup> Daniel Volman, AFRICOM: What is it for and what will it do?, in David J. Francis (Ed.), *US Strategy in Africa: AFRICOM, Terrorism and Security Challenges*, Routledge publishers, 2010, New York, pp.56-7

<sup>25</sup> Christopher Daniels, *United States Military Policy Towards Africa*, Mosaic African Studies E-Journal, Vol. 1, No. 1, (Winter 2010), [https://coas.howard.edu/africanstudies/mosaic/index\\_34\\_3922998599.pdf](https://coas.howard.edu/africanstudies/mosaic/index_34_3922998599.pdf), accessed on 19-11-2017

<sup>26</sup> David J. Francis, *AFRICOM – US Strategic Interests and African Security*, in David J. Francis (Ed.) *US Strategy in Africa: AFRICOM, Terrorism and Security Challenges*, Routledge publishers, 2010, New York, P. 1-5

<sup>27</sup> Miles, William F. S. "Deploying Development to Counter Terrorism: Post-9/11 Transformation of U.S. Foreign Aid to Africa". *African Studies Review* 55, Bo. 3 (2012): p. 33-34. <https://www.jstor.org/stable/43904847>.

by linking them to trumped-up charges of terrorism.<sup>28</sup> Clearly the need to establish AFRICOM was nuanced to serve selfish national interests, regardless of the negative impact it would have in Africa. Volman's view that the creation of AFRICOM allows the USA to expand security assistance to Africa regimes willing to act as 'surrogates', particularly for African states with oil and natural gas, and also as a grand strategy to contain China's growing influence in Africa is persuasive.<sup>29</sup> Furthermore, the creation of AFRICOM did not take into account the AU Peace and Security Architecture, especially the Africa Standby Force (ASF) which may potentially result in duplication and conflicting roles.

With the mounting pressure regarding the location of the AFRICOM headquarters, the USA opted to locate it in Stuttgart, Germany and operate bases in Africa. The USA bases are categorized into three groups: forward operating sites (FOSs), cooperative security locations (CSLs) and contingency location (CLs). In Africa, AFRICOM operates from Camp Lemonnier in Djibouti and another base in the United Kingdom's Ascension Island off the West Coast of Africa. The command's major areas of effort in the continent include battling the militant group *Al-Shabaab* in Somalia; the neutralizing of violent extremist organizations across Northwest Africa, the Sahel and Maghreb; the degradation of the Islamist militant group Boko Haram in the Lake Chad Basin states of Nigeria, Niger, Cameroon and countering piracy in the Gulf of Guinea. Thus Turse argues that in President Trump administration's amplified focus on pursuing its strategic interests in Africa, the USA military's footprint on the continent is bound to continue evolving, expanding and enlarging in the years ahead.<sup>30</sup> It is anticipated that the USA strategy and future engagements in Africa will continue because of the increasing strategic significance of Africa. Future interactions will be "based on reactive, selective strategic interests, and moral impulses around issues of poverty, humanitarian disasters, wars, governance and human rights, with AFRICOM as the main structural framework for achieving these priorities."<sup>31</sup>

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<sup>28</sup> Jeremy Keenan, AFRICOM: Its Reality, Rhetoric and Future, in David J. Francis (Ed.) *US Strategy in Africa: AFRICOM, Terrorism and Security Challenges*, Routledge publishers, 2010, New York, p. 124-5

<sup>29</sup> Volman, Daniel, *US to Create New Regional Military Command for Africa: AFRICOM*, *Review of African Political Economy* 34, No. 114 (2007): 737-44. <https://www.jstor.org/stable/20406460>

<sup>30</sup> Turse Nick, *The U.S. Military Moves Deeper into Africa: U.S. Military Documents Reveal a Constellation of American Military Bases Across That Continent*, 2017, <https://www.connondreams.org/views/2017/04/27/us-military-moves-deeper-africa>, accessed on 14-11-17

<sup>31</sup> David J. Francis: AFRICOM and the future of the United States – Africa Relations, in David J. Francis (Ed.) *US Strategy in Africa: AFRICOM, Terrorism and Security Challenges*, Routledge publishers, 2010, New York, p. 175-8

## Conclusions

Terrorism remains major challenge to international peace and security. It is evident that international terrorism continues to mutate and is proving difficult to mitigate. The counter terrorism measures established by many governments in Africa have tended to worsen the situation rather than ameliorating it. Indeed, the manner in which the Counter Terrorism (CT) measures have been executed by most governments have tended to be counterproductive, save for a few governments where such measures have succeeded. This calls for a critical re-evaluation of the Counter Terrorism strategies employed with a view of coming up with effective counter terrorism strategies which will positively contribute to international peace and security.

Ultimately, the war on terrorism requires concerted international and multilateral cooperation. The roles of the AU and of the USA Africa Command suggest some misapprehensions about their roles in the context of counter-terrorism measures in Africa. The continued misunderstanding will does not bode well for international cooperation in counter-terrorism in Africa.

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# Documents

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## Grand Strategy of the Republic of Kenya

Course 21 - 2018/19, National Defence College, Kenya

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### Executive Summary

This Grand Strategy of the Republic of Kenya was formulated to address national security threats faced by the Republic of Kenya. The formulation of the Strategy is informed by the Kenya Constitution of 2010, Vision 2030, Defence White Paper (2017) and the Foreign Policy of Kenya (2014). The Strategy considers global, regional and domestic security challenges that affect Kenya's survival. Using a SWOT analysis, threats with the potential to seriously affect national security were securitized. The securitized threats are food insecurity, terrorism, cyber-crime and corruption. Ways and means to mitigate the threats were identified and relevant instruments of national power, namely, political, economic, military and information were appropriately applied. The Strategy analyses the risks to its effective implementation, and offers possible scenarios and options for addressing them. Among the risks identified include resource constraints and lack of political will to implement the strategy. The Strategy suggests a Whole Government Approach for its effective implementation.

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### Introduction

The core responsibility of the Government of Kenya is to provide a peaceful, secure and stable environment that guarantees state survival, and allows individual citizens to attain their full potential. This responsibility is fulfilled through the pursuit and protection of national interests in dynamic internal and external environments.

This Grand Strategy outlines ways and means to secure Kenya and promote an environment that facilitates socio-economic development. At the core of the strategy is a framework on the utilization of the various elements of national power.

The Strategy identifies inspirational aspects of the state of Kenya, and the values and beliefs underlying the implementation of the country's short-term

and long term vision. It outlines interests that must be protected, the objectives to be achieved, and the uncertainties and opportunities in the surrounding environment that can affect the attainment of the objectives. These are followed by the determination of ways and means to achieve the objectives, and an implementation matrix which outlines modalities of executing the Strategy. The Strategy concludes with an assessment of future risks that can interfere with its implementation, and suggests the way forward.

## **Aims**

The aim of this Grand Strategy of the Republic is to formulate strategies for the survival of Kenya and the pursuit of its core national security interests.

## **Scope**

This Grand Strategy of the Republic of Kenya covers the following areas:

- a. Introduction
- b. National Vision, Values and Interests
- c. Conceptual Framework
- d. Instruments of Power
- e. Environment Scan
- f. SWOT Analysis
- g. Policy Analysis
- h. Securitization Matrix
- i. Implementation Matrix
- j. Risk Analysis
- k. Conclusions
- l. Recommendations

## **National Vision**

The vision of the Republic of Kenya is to secure a globally competitive and prosperous country with a high quality of life by 2030. The vision aspires to transform Kenya into a newly industrializing, middle income country as envisaged in Vision 2030. The success of the vision will depend on an ambitious and forward looking Grand Strategy.

## **National Values**

National values are fundamental beliefs of a state that guide the behaviour of its citizens. The national values inspire people to action, and communicate

what is important to the country. Kenya's national values are defined by Article 10 (2) of the Constitution:

- a. Patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people
- b. Human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized
- c. Good governance, integrity, transparency and accountability
- d. Sustainable development.

The development of these national values took Kenya's historical context and societal construct into account. The need to provide a safe and secure environment for the people of Kenya and preserve their cohesion was fundamental to the formulation and implementation of this Strategy. The realization of these values requires collective, coordinated and committed effort at all levels of Government, and the private sector.

## **National Interests**

National interests influence public policy and help in planning and prioritizing issues. They also help in developing channels of communication with other stakeholders in the country, regionally and internationally. National interests enable the establishment of a wide spectrum of security settings which are paramount for the survival of the state. Kenya's national interests as outlined in Article 238 (1) of the Constitution of Kenya (2010) include:

### **a. Maintaining and Safeguarding Kenya's Sovereignty and Territorial Integrity**

The Government shall ensure that the national territorial borders are effectively secured, and inviolable. This entails preserving, and protecting the Exclusive Economic Zone from illegal incursion and resource exploitation.

### **b. Promoting a Peaceful and Secure Environment for the Kenyan People**

The government shall protect, promote and guarantee security to the citizens. This aspect of national security interests supports development that is sustainable for the benefits of the country and the people who depend on it.

### **c. Providing a Thriving Economic Environment for the Kenyan People**



This entails collectively pursuing and building a thriving economy that is capable of supporting national growth and development. The government shall ensure that the economy derives its strength from the solidarity of Kenyans who have a stake in it through participation and ownership.

#### **d. Upholding the Constitution**

The government shall ensure compliance with the Constitution. Relevant constitutional provisions assert and define various aspects of the national security agenda which are aimed at upholding and promoting peace, prosperity, freedom and democracy.

#### **e. Promote the Principles of Democratization, Good Governance, the Rule of Law and Respect for Human Rights**

The principles of the rule of law, democracy and good governance will guide the conduct of Kenya's affairs as a state.

#### **f. Sustainable Exploitation and Management of the Environment and Natural Resources**

The government shall ensure the sustainable exploitation of natural resources and guarantee equitable sharing of the accruing benefits.

#### **g. Maintaining Peaceful and Cordial Relations with Neighbouring Countries and the International Community based on Mutual Respect and Interest**

Kenya will endeavor to cultivate cordial relationship and interactions with its neighbours and the international community based on mutual respect and interests.

### **Conceptual Framework**

The national objectives to be achieved were taken into account in formulating this Strategy. Subsequently, an eclectic approach which borrowed from Copenhagen Securitization Approach and National Interest Model was adopted.

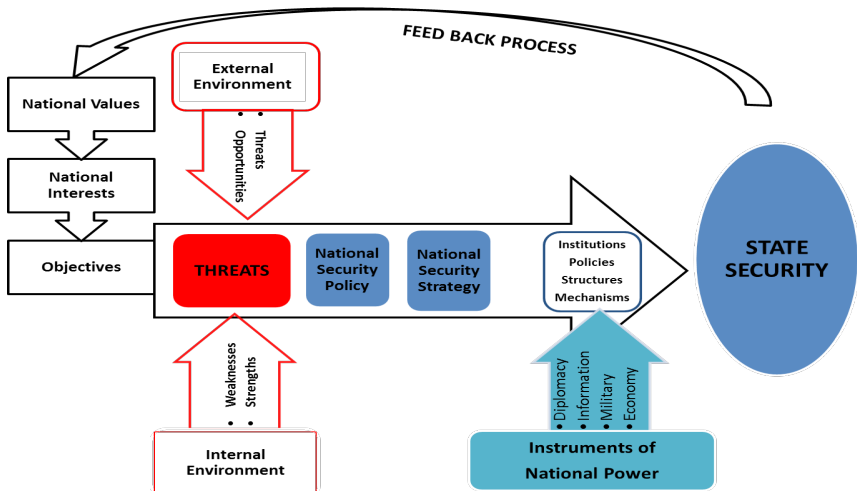
In the Securitization Approach security is conceived in terms of certain sectors: military, political, economic, environmental and societal, and levels from which threats and vulnerabilities to the state can be analysed.<sup>1</sup> In this approach, the levels constitute the conceptual idea of the state, its physical

<sup>1</sup> Buzan B., et al, *Security: A New Framework for Analysis*, (Lynne Rienner Publishers, London, UK, 1998), pp. 21-22.

base and its institutional expression. The analysis of the factors and the significance of each on the levels are based on speech act which determines what threat must be securitized.<sup>2</sup> The advantage of this model is that it enables the dynamics and discourses of security objectives to be grasped. It also allows the appreciation of the interaction of the different levels, and how to securitize them. The weakness in this model is its inability to clearly outline interests.

The perspective of national interests is used to fill this gap. According to this perspective, for national interests to be understood, they can be grouped into four categories of survival, vital, major and peripheral.<sup>3</sup> This determines what takes priority and who acts on what. This conceptual definition of interests augments Barry Buzan's concept of ideas, physical base and institutions. In conceiving national interests in the set of four clusters, it is possible to securitize them relative to the intensity of threats posed to the trilogy of ideas, institutions and physical base.

These two lenses provided the foundation on which the formulation of this Grand Strategy is anchored. This is captured schematically in Figure 1:



**Figure 1: Conceptual Framework for Grand Strategy**  
**Source: Copenhagen School**

<sup>2</sup> Žulovic, Vladimir (2010), *Meaning of Security and Theory of Securitization*, Belgrade Centre for Security Policy, p. 4.

<sup>3</sup> Drew D.M. and Snow D.M., *Making Strategy: An Introduction to National Security Processes and Problems*, (Library of Congress, USA, 2002), p. 28.

## **Instruments of National Power and Enablers**

### **Diplomatic/Political Power**

The elements of national power enabling Kenya achieve its national security interests include tangible and intangible resources. These resources and assets influence events at home, the region and globally in a way that determines the continued existence of Kenya as a state. The key of national security is to create a stable and predictable international environment, and prevent the emergence of threats. It is thus necessary for Kenya to realize a desirable international order and security environment. It can do so by being a proactive contributor to peace, and playing a more proactive role in achieving peace, stability and prosperity of the international community based on the principles of international cooperation.

This strategic approach requires the capability to analyze the constantly changing security environment and the course being taken by the international community. Kenya's economy, infrastructure, and relative stability make it an influential player in the region. As a member of the Inter-Governmental Authority on Development (IGAD), Kenya played an active role in the negotiations to resolve the civil war in Sudan and has long been engaged in working to address instability in Somalia.

Kenya is acknowledged universally for its history of successful global diplomatic efforts. It oversaw the peaceful processes to end the conflicts in Uganda, Sudan, and Burundi. It has throughout history ranked in the top ten contributors of peacekeepers to United Nations Peacekeeping Operations. It will ride on this history to advance its national interests, values, and objectives through diplomacy as its preferred instrument of national power. Additionally, Kenya will establish diplomatic relations with other countries, be at liberty to expel foreign diplomats or recall its own, join or withdraw from treaties and negotiations, and deploy cultural and scientific exchanges to advance its national interests.

### **Socio-Economic Power**

With a Gross Domestic Product (GDP) of USD 70.53 Billion in 2017, Kenya is the regional economic power and entryway to the East African region. A strong economy will enable Kenya to attract foreign direct investments (FDI), access regional and international markets and resources to drive further economic development. As such, Kenya will pursue strong socio-economic and trade policies informed by its national interest to elevate the quality of living and bring prosperity and contentment to its people. A strong economy is a key

driver of national revenues that fund numerous activities including a strong and robust security sector.

### **Informational Power**

In order to appropriately support decision-making on national security policies, Kenya will fundamentally strengthen its information-collecting capabilities from a diverse range of sources, including human, open source, signals, and imagery intelligence. In addition, Kenya will promote the utilization of geospatial intelligence which combines various other types of intelligence. Kenya will harness tools of information and intelligence to advance its national security interests by developing robust information and intelligence gathering systems, informational processing, analysis, and dissemination. It shall continually pursue pragmatic ideas at regional and global levels. Kenya will also continue being a leading center for information, communication and technology to advance human development and regional integration.

### **Military Power**

Kenya's Defense Force is the final guarantor of its national security. It deters direct threats from reaching Kenya, and defeats any that reaches it. Kenya will steadily develop its defense sector in order to effectively address traditional and emerging threats. To ensure peace and security in Kenya in the severe security environment surrounding it, Kenya will develop a highly effective and mission capable defense force. This will adapt to the changing strategic environment, and take into account its national power and the political, economic, and social situations, and ensure the flexibility and readiness of operations. In doing this, Kenya does not necessarily require greater militarily or other elements of national power. But it will ensure that these elements complement each other.

The military will also work with other security agencies and administrations to restore order as part of its secondary role. In peacetime, Kenya will maintain and improve a comprehensive architecture for responding to an array of situations, ranging from armed attacks to large-scale natural disasters. KDF troops are currently deployed in Somalia under AMISOM, to engage *Al-Shabaab* terrorists and stabilize the country. In regional efforts, the KDF continues to commit troops as part of the East African Standby Force (EASF) and other forces for UN/AU commitments.

### **Strategic Enablers**

Some of the enablers of national power include:

### **a. Geo-strategic Location**

Kenya is located on the eastern coast of Africa. It provides vital access to the sea for hinterland countries including Uganda, South Sudan, Rwanda, Burundi and Southern Ethiopia. It has an area of 582,000 square kilometres, and is endowed with natural resources including oil, coal, rare earth, gas, water resources, flora and fauna used in research, development and attraction of tourism. Its proximity to the Middle East is advantageous for international cooperation on issues like international terrorism and trade. Its geo-strategic location in the Horn of Africa and the Great Lakes region also presents it with challenges including spill over of regional intra-state conflicts. The country is also vulnerable to the infiltration of terrorists from the Middle East through unstable Somalia.

### **b. Skilled Population**

Population is an important determinant of national power. This depends on the degree of the population human capital and the emphasis that government places on it. A skilled manpower is an essential component. It enables economic transformation that requires more knowledge-based and innovation-driven activities. Kenya's population of 48 million (2019) is a key factor that provides a pool of skilled manpower for various sectors. This population is a resource that country uses to provide skilled manpower, labour and security.

### **c. Technology**

Technology is an essential force multiplier for all the other instruments of national power. The spread of technological innovations infrastructure will be used to create wealth, improve social welfare of the citizens, and make Kenyan products internationally competitive. *Kenya Vision 2030* has recognized the significance of, and need to improve the science and technology sector in order to ensure national security.

### **d. Energy**

The sources of energy in Kenya include electricity, fossil fuel, biomass, solar and wind. Kenya has a large potential of geo-thermal energy in the Rift Valley currently estimated between 7000-10,000 Megawatts (MW). Energy is an essential driver of economic security. Without secure, reliable and sustainable energy, Kenya's security will be highly compromised. Countries that have a higher per capita per person have stronger economies. Therefore, affordable cost effective, reliable and high quality energy will be necessary for the economic development of Kenya.

### **e. Natural Resources**

Kenya's natural resources offer substantial potential for economic benefits. These include natural resources like oil, minerals, wildlife, forest and marine resources. The aquifers in Turkana and parts of Nairobi will ensure the supply of water in the region for the next 70 years; and the discovery of oil in the same region will improve the economy and raise the standard of living. It is projected that Kenya's oil - estimated at deposits of 10 billion barrels - is enough to run Kenya for the next 300 years at the current levels of consumption. This can be used as the engine to drive economic development.

## **Global Security Environment**

The global environment presents opportunities and threats to the country that require collaboration and cooperation with the international community. Some of the opportunities to the country include engagements in trade partnerships, multi-lateral infrastructure developments, and collaboration in education and research. Threats with the potential to undermine national security include terrorism, transnational crimes, pandemics, climate change and civil conflicts which continue to undermine Kenya's national interests in the dynamic global environment.

## **Conflicts in the Middle East**

Conflicts in the Middle East, particularly in Syria and Yemen have contributed to global instability. They have led to the creation of Islamic States of Iraq and al-Sham (ISIS) and Islamic States of Levant (ISIL) that have attracted the sympathy of radicalized youths from many countries including Kenya. The physical linkage between the Middle East and Africa, and particularly the Horn of Africa and Yemen makes the movement of extremist elements across the two regions relatively easy.

Radical sectarianism from Iran is spreading terrorist ideas to the Horn of Africa. There is a proliferation of Small Arms and Light Weapons from Yemen and Syria. The recognition of Jerusalem as the capital of Israel and its support by some African states including Kenya is likely to render the region more susceptible to terror attacks. Additionally, hegemonic competition in the Middle East has targeted the Horn of Africa for ideological proxy wars, such as between Ethiopia and Egypt.<sup>4</sup>

<sup>4</sup>Feierstein, Gerald (2017): The Fight for Africa The New Focus of the Saudi-Iranian Rivalry. The Middle East Institute. Available at: [https://www.mei.edu/sites/default/files/publications/PF2\\_Feierstein\\_AfricaSaudiIran\\_web\\_4.pdf](https://www.mei.edu/sites/default/files/publications/PF2_Feierstein_AfricaSaudiIran_web_4.pdf). Accessed on 15 March 2018.

## **Terrorism**

Terrorism is a persistent threat driven by ideology, unstable political systems and socio-economic structures. There have been several terror attacks in many parts of the world like the Paris knife attack on 13<sup>th</sup> May 2018. While the multilateral military action in the Middle East led by the USA has succeeded in weakening the ISIS, it resulted in the spill-over of terrorist factions to the Horn of Africa. Owing to this, the *Al-Shabaab* threat in Somalia may intensify despite AMISOM's plan for conditional drawdown from Somalia by 2020.

## **Cyber Crime**

Cyber- crime is an emerging global threat to security. Cyber space offers a platform for trans-national organized crime to thrive. The continuing cyber-attacks on global financial sectors and government institutions and other social platforms continue to be a challenge. Cyber technology in Africa is weak due to lack of appropriate capacity to safeguard ICT infrastructure.

## **Drug Trafficking**

Major criminal networks, including narco-trafficking continue to be a serious security concern. Criminal networks operate across the globe from the cocaine cartels of Latin America to the heroin traffickers of Afghanistan. Africa is trade route of drugs to Europe through West Africa, South Africa and East Africa particularly Kenya.

## **Human Trafficking and Smuggling**

This continues to be a challenge to international peace and security. Human trafficking is common in West Africa and North Africa to Europe. Kenya is a source, transit and destination of human trafficking from West Africa and the Horn of Africa to the Middle East and Eastern Europe.

## **Climate Change**

Unpredictable weather patterns like droughts that affect food production, to rising sea levels and heavy rains that increase the risk of flooding have become global in scope and unprecedented in scale.<sup>5</sup> These will affect poor African countries in critical areas like agriculture and food security, water availability and stress and human health. According to United Nations Framework

<sup>5</sup> United Nations, *Climate Change*, Available at: <http://www.un.org/en/sections/issues-depth/climate-change/>. Accessed on 12 May 2018.

Convention on Climate Change (UNFCCC), 250 million people in Africa will face the risk of water stress by 2020.<sup>6</sup> Water will not only become a source of conflict in Africa, but will also potentially impact on human health.<sup>7</sup>

The threat posed by climate change has the potential to undermine Kenya's short and long-term development plans which include the attainment of the Big Four Agenda. While progress has been made, Kenya is still faced with challenges associated with climate change. There exist resources and capacity gaps due to limited accurate predictive activity data. To enhance effectiveness, institutional capacity building and training of government staff in data collection and analysis is critical. This will help reduce inventory uncertainties and improve the quality of activity data and emission factors. The ability to collect accurate data is critical for the attainment of the Big Four Agenda and overall national security. Investment in capacity building of personnel should therefore be an essential component of the Big Four Agenda.

## **Regional Security Environment**

The region is experiencing forms of instability including the on-going conflicts in the Great Lakes Region and the Horn of Africa. These conflicts have an impact on the security of Kenya due to the influx of refugees and the proliferation of small arms and light weapons. Terrorism, political instability and civil wars abound in the region. These are a threat to Kenya's national security.

## **Domestic Security Environment**

Kenya's security situation is characterized by wide range of human security threats. These comprise political, economic, social, health, food and environmental threats. These threats have the potential to undermine the country's security and development.

## **Threats to Sovereignty and Territorial Integrity**

Border related tension has been a source of conflict in many African countries. These have been the most potent source of conflict and political instability in Africa. The primacy of well-defined and stable borders for state survival and inter-state relations is that every state must claim monopoly over territories

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<sup>6</sup> United Nations, *Climate Change: Impacts, Vulnerabilities and Adaptation in Developing Countries*. UNFCCC, p.1. Available at: <https://unfccc.int/resource/docs/publications/impacts.pdf>. Accessed on 12 May 2018

<sup>7</sup> Lioubimtseva, Elena (2014): *Africa and Global Climate Change Impacts, Vulnerabilities and Adaptation Challenges*, Grand Valley State University. Research Gate, p. 223



that it is able to define and defend properly.<sup>8</sup>

Kenya is faced with threats over border disputes that emanate from un-demarcated territories. Such areas include the Elemi Triangle and maritime border with Somalia. South Sudan's claim over the Elemi Triangle is pending. The claim by Somalia over Kenya's maritime territory is currently before the International Court of Justice (ICJ) awaiting settlement.

These conflicts and disputes need to be conclusively resolved. The most sustainable option to resolve them is through diplomatic mediation efforts initially by exploiting bilateral relations, regional or sub-regional frameworks. Should these fail, then they should be referred to the ICJ. Kenya is however prepared to employ the use of force to defend its territory and protect its people should diplomatic efforts fail.

## **Terrorism**

Kenya continues to be a victim of terrorist attacks from Somalia. The *Al-Shabaab*, ISIL and their affiliate groups continue to recruit and radicalize Kenyans, threatening the peace and security of the country. Kenya together with other security agencies from the region including international security organization and partners as part of AMISOM will continue to take measure to counter these threats.

## **Food Security**

Kenya continues to face severe food insecurity, depicted by a high proportion of the population having no access to food in the right amounts and quality. Food security is affected by a range of factors like climate change, legal frameworks on land tenure, culture and traditions, production processes, storage, frequent droughts and floods in most parts of the country, and high costs of food production.

## **Corruption**

Endemic corruption remains the greatest hindrance to economic and social development in the country. Kenya was ranked 143 out of 180 countries surveyed on corruption. It is listed among top 50 most-corrupt countries in the world, as per the Global Corruption Perception Index (CPI 2017) by Transparency International.<sup>9</sup> Kenya loses about a third of its state budget to

<sup>8</sup>Institute of Security Studies, *Africa's International Borders as Potential Sources of Conflict and Future Threats to Peace and Security*. May 2012, p.2.

<sup>9</sup>Transparency International, <https://www.transparency.org/country/KEN>

corruption every year.

## **Cyber Crime**

Cyber criminals continue to infiltrate Kenya's cyberspace with some of them targeting sectors like telecommunications, financial institutions, e-commerce, Money Business Services (MBS) and money transfer platforms, and government institutions. This resulted in heavy monetary losses and loss of confidential banking information. Kenya loses about USD 27.52 million from customer's bank accounts stolen by cyber criminals, which accounts for 22% of the economic crime report of 2015 and 2016.<sup>10</sup>

## **Poverty**

About 42% of Kenya's population lives below the poverty line. Corruption is one of the leading causes of poverty in Kenya. Jobs outside the agriculture industry are rare, and the education/skills required for such jobs are infeasible, especially for poor families. Poverty has led to some Kenyans engaging in criminality.

## **Health**

Emerging diseases including hemorrhagic ones like Ebola, Marburg fever, Avian flu and HIV/AIDS, and the use of biological and chemical agents in terrorists attack pose security challenges. The increase in non-communicable lifestyle diseases like cancer, diabetes, hypertension are also health threats to national security.

## **Environmental Degradation**

Kenya is highly dependent on rain fed agriculture and unfavorable weather patterns, and these significantly affect food security. Climate change has also affected livestock farming mostly practiced in arid and semi-arid lands that constitute 70% of Kenya's land mass. Poor rangeland management, overgrazing, soil erosion and environmental degradation have led to a decline in land productivity leading to conflict over scarce resources like water sources, pasture and communal borders.<sup>11</sup> Other effects of climate change include resource-based conflicts in marginal areas and disasters like landslides

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<sup>10</sup> *Bank Supervision Report, 2013*, Annual Report, Central Bank of Kenya

<sup>11</sup> National Land Commission Act. 2012. National Council for Law Reporting (Nairobi Kenya) [www.kenyalaw.org](http://www.kenyalaw.org)

and floods, prolonged droughts and loss of biodiversity.<sup>12</sup> The five major water towers are the backbone of the country's economy which provides 75% of its renewable water resources.<sup>13</sup>

## **Unemployment**

Unemployment is still a major challenge in the country. It causes increased poverty among the youth, and predisposes them to engage in criminal activities. The high cost of production, reduced lending by commercial banks, insecurity and corruption also contribute to poor performance of some of the businesses. As a result, the businesses under-perform while others close down or relocate to other countries, further contributing to unemployment.

## **Tribal/Ethnic Conflict**

Domination and marginalization of minority ethnic groups by major tribes and inequitable resource allocation have led to agitation for tribal identity, and clamor for equitable distribution of resources. This deprivation breeds suspicion, distrust and heightens ethnic tensions among communities. This has led to negative ethnicity which has threatened the very fabric and cohesion of the society.

## **Leadership and Governance**

Poor leadership and governance is the greatest hindrance to economic and social development in Kenya. Among the manifestations of this is corruption, social inequalities, negative ethnicity and the culture of impunity. Kenya loses a third of its state budget, an equivalent of about \$6 billion, to corruption every year. The implementation of this Strategy will be undermined if the culture of impunity is not addressed.

## **Organized Crime**

Kenya continues to experience threats of organized crimes. The clandestine activities of organized criminal groups and networks that include drug trafficking, human trafficking/smuggling, poaching, money laundering, counterfeiting and cybercrime continue to undermine socio-political and economic development.

<sup>12</sup> National Environment Management Authority (NEMA), *Effect of Climate Change in Kenya, 2013*, [www.nema.go.ke](http://www.nema.go.ke) accessed on 14.5.2018

<sup>13</sup> Kenya Forest Service, *Kenya Water Towers Status Report, 2016*, <http://www.kenyaforestservice.org/index.php/2016-04-25-20-08-29/news/501-kenya-water-towers-status-report> accessed on 15.5.18

**Table 1: Identification of Threats**

<b>S/No</b>	<b>THREATS</b>
<b>1.</b>	Elemi Triangle
<b>2.</b>	Maritime border dispute with Somalia
<b>3.</b>	Terrorism
<b>4.</b>	Corruption
<b>5.</b>	Cyber Crime
<b>6.</b>	Food Security
<b>7.</b>	Poverty
<b>8.</b>	Drug Trafficking
<b>9.</b>	Human Trafficking
<b>10.</b>	Climate Change
<b>11.</b>	Infectious Diseases and Pandemics
<b>12.</b>	Negative Ethnicity
<b>13.</b>	Unemployment
<b>14.</b>	Refugees
<b>15.</b>	Poor governance
<b>16.</b>	Organised

**Table 2: Classification of Threats**

<b>THREATS</b>	<b>SURVIVAL</b>	<b>VITAL</b>	<b>MAJOR</b>	<b>PERIPHERAL</b>
Elemi Triangle	✓			
Maritime border dispute with Somalia	✓			
Terrorism	✓			
Cyber crime	✓			
Corruption	✓			
Food security		✓		
Climate change		✓		
Poor governance		✓		

Table 3: Prioritization of Threats

S/No	THREATS
1.	Elemi Triangle
2.	Maritime border dispute with Somalia
3.	Terrorism and Radicalization
4.	Corruption
5.	Cyber Crime
6.	Food Security
7.	Poverty
8.	Poor governance

Table 4: Securitization Matrix

National Interests	Threats	Securitized	Politicized	Non Politicized
Territorial Integrity and Sovereignty	Elemi Triangle	✓		
	Maritime border dispute with Somalia			
	Terrorism			
Providing thriving Economic Environment for the Kenyan people	Food security	✓		
Protect Values and Promote Principles of Democratization, Good Governance, the Rule of Law and Respect for Human Rights	Leadership and Governance (Corruption)	✓		

National Interests	Threats	Securitized	Politicized	Non Politicized
Sustainable Exploitation, and Management of the Environment and Natural Resources	Environmental degradation		✓	
Promoting a Peaceful and Secure Environment for the Kenyan People	Organized Crimes		✓	
	Tribal/ Ethnic		✓	
	Unemployment		✓	
	Cyber crime	✓	✓	
	Narco-trafficking		✓	
Maintaining Peaceful and Cordial Relations with our Neighbors and the International Community based on Mutual Respect and Interest.	Regional conflict System		✓	

## SWOT Analysis

**Table 5: SWOT Analysis**

### Objective 1: Safeguarding Kenya's Sovereignty and Territorial Integrity

National Interest	Objective	Threats	Opportunities	Weaknesses	Strengths	Elements	MDAs
Safeguarding Kenya's Sovereignty and Territorial Integrity	Defeat Al-Shabaab	Elemi Triangle	Existing international legal frameworks	Inadequate cohesion	The Constitution	Military	MOD
	Along our borders and degrade them in Somalia	Maritime border dispute		Militant groups	Civil support	Diplomacy	MFA
						Terrorism	Corruption
		Defence pacts		Porous border	Strong economy		
		Secure ICT infrastructure	Regional instability	Regional Mechanisms	Negative ethnicity	Existing legal framework	Political
	Maintain a healthy nation	Cyber-crime	Capacity building	Unemployed Youth	Existing mechanisms		
					Diseases and pandemics	Information sharing at bilateral and multi-lateral levels	
		Participation in regional and international efforts	Inter-Agency Coop				
				Capacity building			

**Objective 2: Enhance Sub-regional, Regional and International Peace and Security**

<b>National Interest</b>	<b>Objective</b>	<b>Threat</b>	<b>Opportunities</b>	<b>Weakness</b>	<b>Strengths</b>	<b>Elements</b>	<b>MDAs</b>
Enhance Sub-regional, Regional and International peace and security	Regional stability	Globalization,  Sub-regional and regional instability  climate change,  Varied national interests,	RECs,  Regional trade,  Mechanisms for conflict resolution,  Investment opportunities and employment opportunities  Africa Continental Free Trade  Bilateral and Multi-lateral trade Agreements, eg Agreements on Double Taxation	Political Instability  Inadequate sensitization of business community  Inadequate trade statistics and skills  Low level of ICT usage and poor adoption and integration of e-commerce  Inadequate coordination between County govts, development plans and foreign trade policy	Adequate representation of missions abroad  Skilled and experienced diplomats  Membership of sub-regional, regional and international organization, such as EAC, IGAD, COMESA, AU, UN, WTO  international regimes  Respected leadership	Political  Economic  Informational	MFA  Min. EAC



### Objective 3: Advance the socio -economic prosperity of Kenya and her people

National Interest	Objective	Threats	Opportunities	Weaknesses	Strengths	Element	MDAs
Advance the socio -economic prosperity of Kenya and her people	Food security	<ul style="list-style-type: none"> <li>-Cheap imports</li> <li>-Unfair trade regimes</li> <li>-Contraband goods</li> <li>-Climate change</li> <li>-Porous borders that facilitate livestock and crop diseases.</li> </ul>	<ul style="list-style-type: none"> <li>- Harness technology to enhance production</li> <li>-Training and bench-marking with other countries</li> <li>Existence of foreign investors</li> <li>Donor support</li> </ul>	<ul style="list-style-type: none"> <li>-Reliance on rain-fed agriculture</li> <li>-Prevalence of Cartels</li> <li>-Poor Farming methods</li> <li>-Poor infrastructure</li> <li>-Expensive farm inputs</li> <li>-Inadequate credit facility</li> <li>-Sea blindness(blue economy)</li> <li>-Poor land tenure system</li> </ul>	<ul style="list-style-type: none"> <li>-Availability of Land</li> <li>-Availability of Human Resources</li> <li>-Favourable climate</li> </ul>	<ul style="list-style-type: none"> <li>Economy</li> <li>Political</li> </ul>	<ul style="list-style-type: none"> <li>Min.of Agric.</li> <li>Min. Of Interior</li> <li>Min. of Devolution</li> <li>Min. of Trade</li> <li>County governments</li> </ul>
	To increase Manufacturing Share by 15% of GDP	<ul style="list-style-type: none"> <li>-Cybercrime</li> <li>-Dumping of goods</li> <li>-Unfair Trade regimes</li> <li>-Cheap imports</li> </ul>	<ul style="list-style-type: none"> <li>- Tech transfer</li> <li>-Capacity building</li> <li>-Bench marking</li> <li>-Exploitation of maritime global commons</li> </ul>	<ul style="list-style-type: none"> <li>-Lack of skills</li> <li>-Inadequate processing technology</li> <li>-Low uptake of technology</li> <li>-High production cost</li> <li>-Industrial unrests</li> </ul>	<ul style="list-style-type: none"> <li>-Availability of raw materials</li> <li>-Availability of natural resources</li> <li>-Availability of labour</li> <li>-Innovative populace</li> </ul>	<ul style="list-style-type: none"> <li>Economy</li> <li>Political</li> </ul>	<ul style="list-style-type: none"> <li>Min. of Industry</li> <li>Min.of Labour</li> </ul>

National Interest	Objective	Threats	Opportunities	Weaknesses	Strengths	Element	MDAs
	To promote Universal Health Coverage and affordable healthcare	Emerging communicable and transmissible diseases such as Ebola HIV/AIDS	-Availability of modern technology  -Donor funding  -Capacity building	-High cost of health care  -Lack of adequate specialized equipment  -Limited funding for universal health care  -Privatization of healthcare  -Traditional beliefs and ignorance  -Poor infrastructure	- National Hospital Insurance Fund  -Reformed private insurance sector  -Skilled health and community workers	Economy  Political  Information	Min of Health  County government  KEMSA  KEMRI
	Provision of Affordable and Decent Housing for all Kenyans	-Influence of foreign investors that affects real estate prices  Refugees	-Promotion of alternative construction methods  -Use of modern and cheap technology  -Opportunity for FDI  -External financing	-Expensive materials  -High cost of land  -Poor technology  -Expensive mortgages  -Limited funding  Land and housing cartels  Weak Land tenure policy	- Availability of labour  -Skilled labour  -Availability of materials  - PPP	Economic  Political	Min.of Lands and Housing  NLC  Min. Devolution  Min Interior

**Objective 4: Promote Good Governance**

National Interest	Objective	Threats	Opportunities	Weaknesses	Strengths	Elements	MDAs
Promote Good Governance	Accountability and transparency	Corruption leads to loss of FDI	Enhancing diplomatic relations	-Lack of national ideology and culture	The Constitution of Kenya 2010	Political	Min of Interior
	Rule of Law	Capital flight	Promotion of national image	- Instances of weak leadership	Stable economy	Economic	Min. Devolution
	Good Leadership	Illegal/ counterfeit products	Attracts FDI	Unequal distribution of national resources and development	Peaceful co-existence		Judiciary
		Illegal immigrants			Social political stability		
		Terrorism		-Weak institutions to enforce the rule of law	Natural resources		
		Cybercrime		-Politicization of ethnicity (Negative ethnicity)	Prevailing stable political climate partially due to 'the handshake'		
		Cross-border conflicts		-Institutionalized corruption			
		Avenue for subversive activities					
	Eliminating negative ethnicity at all levels through sensitization and education	Subversion  External influence	Opportunities for benchmarking and learning from other countries  Exchange programs particularly for students	Historical injustice  Unequal distribution of resources	Constitution  Cohesion and integration Institutions	Political	Min.of Interior  County governments

National Interest	Objective	Threats	Opportunities	Weaknesses	Strengths	Elements	MDAs
	Promote ethical leadership in-line with Chapter 6 of the Constitution	a. Creates conflicts & divisionism b. Widen socio-economic gaps c. Weak value system External interference	a. Fosters unity b. National stability c. Enhance development d. Enhance harmony Structures within regional & international bodies on good governance	a. Ethnic division b. Corruption c. Existing culture of cronyism	The Constitution of Kenya National language Existence of structures such as NCIC, Religious organizations, community leadership, Electoral laws Free media	Political	EACC IEBC All other MDAs
	Promote participatory and inclusive politics	External Influence Cyber criminals	Globalization Liberalization International law	Intimidation of potential leaders Electoral malpractices Marginalization	Democratization High literacy level Constitution	Political	IEBC All other MDAs County governments

## National Security Objectives

Kenya's national security objectives are aimed at safeguarding the country's independence and promoting the security and welfare of all citizens. To attain these objectives it must have a credible national defence, democratic civil institutions, a consistent foreign policy and actively participate in regional and international peace and security activities. It must also provide an enabling environment for economic prosperity.<sup>14</sup>

<sup>14</sup> Kenya Defence White Paper, 2017 Part 1, 2

Kenya's National Security Objectives are:

- a. To protect Kenya's sovereignty and territorial integrity.
- b. To enhance sub-regional, regional and global relations, peace and security.
- c. To advance the socio-economic prosperity of Kenya and her people.
- d. To promote good governance.
- e. Analysis of Existing Policies and Institutions

At independence Kenya was faced with three major problems: illiteracy, disease and poverty. In order to address these problems, Sessional Paper No. 10 of 1965 on *African Socialism and Its Application to Planning in Kenya* was formulated. This paper provided direction on how the country would deal with the challenges of securing its national interests. The 1965 Sessional Paper was complemented by specific Five-Year Development Plans, and other sessional papers addressing specific issues *inter alia* in the agricultural sector, industry, education, livestock, transport, security, and fishing. However, one major weakness of the agencies charged with the implementation of these policies and sessional papers was the failure to implement them fully. As a result, some of the problems that ought to have been eliminated at independence like diseases and poverty are still pervasive.

## Identification of Policy Gaps

The following policies linked to the securitized issues were analyzed and their weaknesses identified:

### a. Foreign and Defence Policies

The Foreign and Defence policies of Kenya have played a major over the years in protecting its territorial integrity and sovereignty. In its foreign policy, Kenya has succeeded in mediating conflicts in the region, particularly in Somalia and the Sudan. Kenya has also been actively involved in the search for peace in the Horn of Africa through IGAD mechanisms, and in the Great Lakes through the ICGLR and other international forums. The country is currently involved in the search for lasting stability in South Sudan.

Although Kenya's foreign policy has succeeded in peace diplomacy, there is still a lack of sufficient capacity skills in conflict mediation. Hence there is a need to train more foreign service officers in conflict mediation, and to create a pool of mediators to be readily available when needed. Kenya has also not been able to assert its leadership of IGAD which has been led and dominated by Ethiopia for a very long time. Ethiopia's domination has prevented the return of Eritrea back to IGAD. Since Eritrea has backed militants in Somalia

before, Kenya's leadership of IGAD will leverage the country to push for the re-admission of Eritrea into IGAD, hence support Kenya's peace and security efforts in Somalia. Kenya's leadership of IGAD will further enable the country direct the South Sudan peace process to its advantage.

Through its defence policy, the Kenya Defence Forces have played a key role in maintaining international peace and security in UNSC peace keeping operations. Following the violation of Kenya's territorial integrity by *Al Shabaab* terrorists, Kenyan troops entered Somalia in pursuit of the terrorists in order to downgrade their capacity to threaten the security of the country. As a result, KDF succeeded in liberating large swathes of territory from *Al Shabaab* control, thus contributing to the peace process in Somalia.

Internally, KDF and other internal organs guided by a multi-agency coordination have tackled illegal armed groups like the SLDF. Currently, KDF and other internal organs are involved in flushing out terrorists in Boni forest.

## **b. National Security Organs**

Article 240 of the Kenya Constitution 2010, and the National Security Act 2012, define the functions, organization and administration of the National Security Council (NSC). However, the NSC lacks a permanent structure to implement its decisions, including monitoring and providing feedback on decisions from the grassroots. The NSC should also establish a 'Futures Committee (or 'think tank') to provide strategy and help in environmental scanning on potential and emerging threats.

## **c. Counter-Terrorism and Radicalisation Policies**

Counter Terrorism legislation enacted include Prevention of Terrorism Act (POTA) 2012, the Security Law Amendment Act of 2014, the Crime & Anti-Money Laundering Act 2012 and the Prevention and Organized Crime Act 2010.<sup>15</sup> Terrorism persists due to the weaknesses in the legislation. These include: gaps in the legal framework that allow for easy bail terms for terror suspects, vulnerability of vital targets due to weak security and low public participation on the war on terrorism, despite the centrality of the population to terrorist activities.<sup>16</sup> These need to be addressed by appropriate legislation.

Although the County Policing Authority has been created under Article 41 of the National Police Service 2011 (revised 2012), it has not been operationalized. The reason for this are the turf wars between:

<sup>15</sup> Laws of Kenya [www.kenyalaw.org](http://www.kenyalaw.org) accessed on 19th May 2016

<sup>16</sup> Rosemary Anyona, "Public Participation in the War on Terrorism. The Case of Kenya", *Contemporary Security in Africa*, Vol 4, No. 1, April 2018.

- i). County Governors and County Commissioners as to who should really be in overall charge of County Security;
- ii). County Commissioners with Governors, who contend that they are the CEOs of the Counties, duly elected by the people: while County Commissioners argue that security is a function of the national government. While the County Security and Intelligence Committee is chaired by the County Commissioner, the County Policing Authority is chaired by the County Commissioner, thus creating two centres of power.

For the sake of the county and national security, the Governor should be made the chairperson and overall in charge of management of security in the County with the County Commissioner becoming the deputy chairperson.

#### **d. Food Security Policies**

Several policies relating to food and agricultural production were analyzed. From the principles set out in Sessional Paper No. 10 of 1965 through to later policies emphasizing government involvement in agricultural production to marketing policies, the intent to improve food security is clear.

The policies failed to realize their objectives largely because of poor coordination, and the effects of the international economic environment resulting from the structural adjustment programs of the World Bank and IMF.

Agriculture being a devolved function is the responsibility of the county governments. However, widespread hunger and malnutrition threatens the very survival of the state. Hence collaboration between the counties and the government should be established to include agricultural output estimates from every county, coordinated by the national government. This will enable the local NCPB stores to anticipate and budget for the estimated production and plan purchases, thus encouraging improved production. Reliance on a single staple food is another problem that needs to be addressed. Efforts should be made to educate Kenyans on the availability and nutritional value of other food items besides the staple maize products.

#### **e. Land Policies**

The only policy on land in Kenya is the National Land Draft Policy of 2016, which is difficult to implement because it is still in draft form. There is also no legislation to prescribe minimum and maximum land holding acreage in respect of private land as envisaged in Article 68 (c) (i).<sup>17</sup> There is too much idle

<sup>17</sup> The Constitution of Kenya, 2010.

land in private and government hands that needs to be utilized for agriculture and pasture.

Parliament should review the draft policy and pass it permit is implementation. Idle private land should be brought into productive use through enforcement of regulations. The county and national governments should collaborate in identifying idle land in private hands. Government idle land should be leased out to landless locals.

#### **f. Ethics and Anti-Corruption Policies**

There are adequate policies and institutions to address corruption. However it remains rampant and has even been declared a national security threat by the president.<sup>18</sup> The public perception is that corruption is now institutionalised while efforts to punish the perpetrators are partly frustrated by technical legal constraints. There should be efforts to entrench the ethics culture in the young people. This can be done through social re-engineering tools, like schools curricula and the introduction of a compulsory national service system, aimed at enculturating the youth to the highest standard of ethics.

#### **g. Kenya Vision 2030**

This policy document aims at transforming Kenya into a middle income country with a better quality of life for Kenyans by 2030 using Economic, Social and Political pillars.<sup>19</sup> The vision does not however have a stand-alone security pillar, although security is an overarching element that creates the necessary environment for the success of the economic, social and political pillars.

The development of the manufacturing sector is restricted by cheap imports, inadequate energy availability and the lack of innovation. Vision 2030 has not emphasised the significance of R&D as a source of innovation and invention. The role that the defense industry can play to supplement the industrialization plan for the country has not been recognized in this policy.

Identification of specific sectors in manufacturing in which the country has a comparative advantage should be identified and mainstreamed rather than the broad based approach suggested in this policy. Industries for value addition in agricultural products can form a basis for manufacture since the country has advantages in food production.

<sup>18</sup> <http://www.president.go.ke/2015/11/23/statement-by-his-excellency-hon-uhuru-kenyatta-c-g-h-president-and-commander-in-chief-of-the-defence-forces-of-the-republic-of-kenya-on-a-national-call-to-action-against-corruption-state-house/> (downloaded May 18, 2018)

<sup>19</sup> Kenya vision 2030



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