

Is the Rise of Terrorism Activities Leading to the Extrajudicial Killings in Kenya?

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Abstract

An Independent Study on how Kenya government is using Anti-Terrorism Police Unit (ATPU) to carry out Extrajudicial Killings. The Issue of enforced disappearances and killings in the fight of Al-Shabaab terror group. The implications of the presence of Kenya Defense Forces in Somalia and government's predicament to get out. The Issue of Dadaab Refugee Camp in Kenya hosting Somalia Refugees and others. Human Rights Violations in the fight of Terrorism.

Introduction

The encyclopedia defines extrajudicial killing as the killing of a person by governmental authorities without the sanction of any judicial proceeding or legal process. Extrajudicial punishments are mostly seen by humanity to be unethical, since they bypass the due process of the legal jurisdiction in which they occur. Extrajudicial killings often target leading political, trade union, dissident, religious, and social figures and may be carried out by the state government or other state authorities like the armed forces or police.ⁱ

According to a National Commission on Human Rights 2008 report: "Extrajudicial executions and other brutal acts of extreme cruelty have been perpetrated by the police against so-called Mungiki adherents and that these acts may have been committed pursuant to official policy sanctioned by the political leadership, the police commissioner and top police commander". HRW observed in 2008 that, "The brutality of the police crackdown matched or even exceeded that of the Mungiki itself."ⁱⁱⁱ

The violent terrorist activities in Kenya have increased since 2011. The Kenya government officials claim that many of the killings and blasts are being carried out by the Al-Shabaab militants in retaliation for Operation Linda Nchi, a coordinated military mission between the Somalia military and Kenya military that began in October 2011 when the Kenyan troops crossed the border into the conflict zones of southern Somalia. The Kenyan security experts I interviewed insisted that the bulk of the attacks were being committed by the radicalized Kenyan youths who were hired for the sole purpose of creating mayhem in Kenya. The others being used are the unemployed youths mostly from the slum areas who are easily promised financial rewards while being recruited to join terror militia groups.

Interestingly, some of the Kenyan security officials also admitted that they are part of the death squads, carrying out many of the extrajudicial killings under the orders of government security council to contain the terrorists and their sympathizers.

The start of 'Operation Linda Nchi' by the government in late 2011 ignited Al-Shabaab to increase their attacks in Kenya. They vowed retaliation against the Kenyan authorities until the operation is ended by the Kenyan military forces. The increasing number of attacks in Kenya by the militants is being carried out by the local Kenyan youths who are recent converts to Islam. The Al-Shabaab militants have been able to easily recruit the unemployed youth especially from the slums that are typically young and overzealous to join the group. The Kenyan insurgents are a favorite group for the militants because they can easily blend into the general Kenyan population unlike the Arabs and Somalis.

Extrajudicial Killings

The issue of extrajudicial killings in Kenya came to light in December 2011 when a journalist from Al Jazeera network managed to interview a group of Anti-Terrorism Police Unit (ATPU) officers who admitted and confessed that they have been involved in the extrajudicial killings of over 500 people.

The murders of people who are suspected to be Al-Shabaab sympathizers have continued unabated despite Kenyan government being accused of involvement in the murders. The high profile murders included that of Sheik Aboud Rogo Mohammed, a radical Muslim cleric from Mombasa. He openly preached and supported the holy war fought by the Somali Islamic militant group, the Al-Shabaab. He was killed in a drive-by shooting in the City of Mombasa. He had been accused for obtaining funding and new recruits for Al-Shabaab terrorist group. He was shot in broad daylight while taking his father to hospital. He is one of the many Muslim clerics who were targeted and assassinated by those who are believed to be Kenyan security forces that are being funded by United States in the fight against terrorism.ⁱⁱⁱ

The other high profile Muslim cleric who was also assassinated in 2012 was Abubaker Shariff Ahmed "Makaburi", an Al-Shabaab associate from Kenya. He was among 21 Muslim clericals allegedly murdered by the Kenyan police since 2012. The ATPU officers admitted that they resorted to the killings when the Kenyan police could not prosecute the terror suspects. In fact the court case of Aboud Rogo had been dismissed by the time he was assassinated. The security officers who were interviewed by Al Jazeera indicated that they acted on direct orders of Kenya National Security Council which is headed by none other than the President himself, Deputy President, Chief of Defense Forces, and Inspector General of Police, National Security Intelligence Service Director, Cabinet Secretary of Interior, and Principal Secretary of Interior. But President Uhuru Kenyatta and the National Security Council members denied operating the extrajudicial killing program.

The Kenyan government has accused some of the clerics who were killed of recruiting Muslim youth for terrorism activities through their mosques. However, despite initiating investigations against them, the government never followed through to prosecute the imams. After public outcry over the killing of Muslim cleric Ibrahim "Rogo" Omar, the government set up a task force to investigate his murder. The director of public prosecution promised in 2013 that he will institute an inquest, but has not done so yet. The killings of Muslim Imams and the Mungiki youths have continued unabated.

One of the commissions established following the 2007-2008 violence to look at the role of the police, was the Waki Commission. Established to look into the circumstances and facts surrounding the violence and provide recommendations, the Waki Commission found that of the 1,500 deaths, the police was responsible for more than 30 percent of them. The extrajudicial killings by the police in Kenya are anchored in a systemic lack of accountability and deeply entrenched culture of pervasive impunity. While the police undoubtedly face ever changing security challenges, its involvement in extrajudicial killings make matters worse. Effective security sector reform is the only way forward. According to the Human Right Watch, there is strong evidence that Kenya's Anti-Terrorism Police Unit (ATPU) has carried out a series of extrajudicial killings and enforced disappearances and there is evidence of arbitrary arrests and mistreatment of terrorism suspects in detention.^{ivv}

The Commission on Human Rights, in its resolution 1992/72, renewed the mandate of the Special Rapporteur and widened the title of the mandate to include "extrajudicial" as well as "summary or arbitrary" executions. This change indicates that the members of the Commission have adopted a broader approach to the mandate on executions to include all violations of the right to life as guaranteed by a large number of international human rights instruments.

Philip Alston, John Norton Pomeroy Professor of Law as well as the United Nations Special Rapporteur on extrajudicial, summary, or arbitrary executions, held a press conference on February 25 in Nairobi following a 10-day mission to investigate alleged extrajudicial killings of criminal suspects and others by Kenyan police. Alston concluded that such acts were not isolated incidents; rather, they were "systematic, widespread, and clearly planned."

Since mid-2007 the Kenyan Police have engaged in an orgy of extra-judicial killings and disappearances. In the last year and a half, with the connivance of the country's political leadership, over 500 young men have been killed or disappeared. This Sep 2008 Kenya National Commission on Human Rights report, *The Cry of Blood*, is an account of these crimes and a call for the United Nations to intervene. Despite being submitted to the authorities in Kenya and to the United Nations Committee Against Torture, the Report is not publicly available in Kenya, even on the official website of the Kenya National Commission on Human Rights. The Report contains evidence of a high-level policy to assassinate Kenyan citizens with impunity. This policy is still in effect, hence the urgency of getting this report to a global and Kenyan audience via WikiLeaks. The Report contains annexes which detail the names of the men executed by the Kenya Police and those who have disappeared.

It also contains medical forensic evidence implicating the Kenyan Police, morgue records and post mortem examination reports. The report shows that since mid-2007 the Kenyan Police have engaged in an orgy of extra-judicial killings and disappearances.^{vi}

The US government also went on record and asked the Kenyan government to investigate the killings of the Muslim Imams and others. The US Ambassador, Robert Godec saying that it is essential that the country “follow the rule of law “while carrying out security operations. The US government has given ATPU an average of \$8 a year since it was formed to fight terrorism. The indiscriminate killings of the suspected terrorist sympathizers by the security forces do not protect Kenyans against terrorism. Accordingly, these killings should be investigated and officers or persons responsible in these deaths charged in a court of law. Unfortunately, killings and assassinations in Kenya have continued since independence and no one has ever been successfully charged in court for these murders.

Fight against Terrorism

The Kenya government fight against terrorism has led to the disappearances of over 500 young men who have either been killed or disappeared. The government crackdown on radical Muslims and ethnic Somalis after the Al-Shabaab attacks on the Nairobi Westgate Mall caused a lot of criticism that the government is indiscriminately targeting the Muslim minority in its effort to secure the country against terrorism. Ethnic profiling and abuse of Somali community by the Anti- Terrorism Police Unit is rampant.

But an official of the anti-terrorism unit that I interviewed denied vehemently that the government is involved in the extra judicial killings terming it as propaganda to discredit the government and its war against terror groups. According to him, those who have been killed are terror suspects who refused to surrender and confronted officers and were therefore killed in combat. The human rights groups on the other hand, claim that instead of arresting the suspects and charging them in a court of law, the government is involved in the execution. The result has been the hardening anti-Western and anti- Kenyan sentiment among the groups of people that are needed to help in the fight of extremism.

The Human Rights organizations insist that the government is involved in high-level policy of assassinations of Kenyan citizens with impunity. The Kenya National Commission for Human Rights insist that they have evidence to show that the Kenya Police have been involved in executions and other brutal acts of extreme cruelty have been perpetrated by the police against so-called Mungiki adherents with the full knowledge of Police Commissioner and other top police commanders.

They claim that while initially the police mainly used firearms to execute the suspects, they subsequently changed their tactics and are now using other methods like strangulation, drowning, mutilation and bludgeoning. This change of tactic was to make members of the public believe that rival Mungiki members are responsible for the killings. It is known that the killer police squads carry with them machetes, iron bars, and other crude weapons in their vehicles according to several witnesses I interviewed.

Some of the eliminationism perpetrators used by the government are just groups in the society and ordinary members like the Mungiki adherents. But in most cases, the regime uses paramilitary forces to eliminate people on their behalf. The repeated use of mobile killing units from place to place which resemble military and police units might be composed of government security operatives. They are the most familiar major elimination institutions used by the government and their activities tend to defy conventional social and political life. They include the paramilitary, General Service unit; National Youth Service, Kenya Police and other organizations. These are the groups the government has been using in the killings of Muslims Imams and others in Mombasa and other parts of Kenya.

“According to a National Commission on Human Rights 2008 report: “Extrajudicial executions and other brutal acts of extreme cruelty have been perpetrated by the police against so-called Mungiki adherents and that these acts may have been committed pursuant to official policy sanctioned by the political leadership, the police commissioner and top police commander”. HRW observed in 2008 that, “The brutality of the police crackdown matched or even exceeded that of the Mungiki itself.”^{viii} The Mungiki, which means many or multitude in the Kikuyu language was an organization primarily comprised of Kenyans from the “GEMA” community (ethnic Gikuyu /Kikuyu, Embu, and Meru), the majority of whom were Kikuyu.”. The group has always been used on and off by the government of the day to achieve their own political ends. It was formed in the late 1980s.

It quickly grew in size, expanded outside the Rift Valley, and developed a national presence, and by the time it was banned by the Kenyan government in 2002, the group had become a force to reckon with; wielding political and economic power particularly in Nairobi, Central Kenya and the Rift Valley regions. It has been increasingly involved in extortion and violent crime, including armed confrontations with the police and other ethnic militias. Politicians, especially from Kikuyu tribe have used them for political gain. After the Mungiki opposed the Kibaki government in the 2005 constitutional referendum the government launched a campaign of extra-judicial killings, enforced disappearances, and arbitrary arrests of Mungiki members. In January 2008 (the Mungiki) was a large organization, capable of mobilizing thousands quickly when required...it had a hierarchical structure with a functioning chain of command and it is claimed that Uhuru Kenyatta used them to the maximum during the 2007/2008 post- election violence that erupted after the contested general elections. Many of the Mungiki leaders who were to be witnesses in the case against President Kenyatta either disappeared or recanted their testimonies and failed to appear in the ICC to testify against Uhuru Kenyatta and the case against him collapsed.

Foreign Involvement

The Kenyan human rights bodies are accusing Britain, Israel and United States for supporting the Kenyan government operations in the extrajudicial killings occurring.

They have called upon these countries to suspend their support for the anti-terror police accused of a string of disappearances and extra-judicial killings in the country. The ATPU is known to be funded and receive their training from the United Kingdom, Israel and United States.

The illegal tactics used to fight terror by the ATPU may be having a negative effect by emboldening and strengthening the support for radical Islamist in East Africa, especially in Somalia. The Al-Shabaab is able to use these connections to continue to recruit young people to fight against western influence in the region.

The Kenyan authorities have vehemently denied operating outside the law and claim that it has managed to prevent a number of terror plots within the country. Since 2003 Kenya has received nearly \$50 million from the United States state department's anti -terrorism assistance fund. It has also received unspecified training and equipment and funds from UK and Israel. The Foreign and Commonwealth Office said in a statement:

“All our support to the ATPU is delivered in line with {government guidelines}..... to mitigate human rights abuses. It said it will challenge the unit where allegations were made.^{viii}

Many human rights groups have called on the U.S. to stop funding the unit until allegations of abuses have been investigated. The increased terrorist attacks in Kenya has made U.S. government to increase its anti-terrorism funding to Kenya, according to an official who asked not to be named because he was not authorized to discuss the matter.

Since 911 terror attack in the United States, the issue of terrorism has taken center stage in the whole world and US government is very much involved in supporting other countries in the fight against terrorism. The Kenya government is involved in restoring democracy in Somalia, a neighboring country which has been unstable for decades.

The terror group, Al-Shabaab operations are particularly based in Somalia and have been systematically attacking Kenya. The US government therefore is obligated to help Kenya in the fight against terrorism.

Also, Britain has a lot of interest in Kenya having once colonized the country and continues to be Kenya's greatest trading partner. Israel, on the other hand continues to support Kenya in the fight against terrorism because they have been and continue to be targeted by terrorist especially their businesses in Kenya. It is therefore for their best interest to continue to associate with Kenyan government in the fight of terrorism globally. In 2002 while in Kenya, terrorists attacked Paradise Hotel in Mombasa, which was owned by an Israeli when two car bombs exploded and fifteen people were killed including three Israelis. Terrorist also tried to blow down an Israeli jetliner with a hand held rocket propelled grenades. The plane with over 260 passengers had just left Moi International Airport, Mombasa and Israel had to evacuate their citizens from Kenya.

Therefore, Kenya and Israel continue to cooperate in the fight against terrorism and continue to supply Kenya with counterinsurgency systems. It has also helped Kenya in national disaster management as was witnessed when United States Embassy was bombed by Al-Qaeda in 1998 and the Westgate Mall attack in 2013 by Al-Shabaab militants.

The ATPU unit was set up 17 years ago in response to the 1998 American Embassy bombings in the Kenyan capital of Nairobi and other related attacks on targets in Mombasa. The ATPU has been clamping down on terrorism in Kenya. But with the backdrop of deepening radicalization among the Muslim populations in the coastal region of Kenya, the increased foreign involvement in the fight against Al-Shabaab in neighboring Somalia and constant terror attacks inside Kenya, their tactics of dealing with suspected terrorists and their perceived sympathizers have come into question. The worst terror attack inside Kenya was in September 2013 when a group of gunmen stormed the Westgate Mall in Nairobi and killed sixty eight people and left over 150 injured. This attack was claimed by the Al-Shabaab terrorist group.

The terrorist activities in Kenya have worsened as was evidenced with the attack that happened in Garissa University College in North Eastern Province on April 2014 when 148 students were killed by the Al-Shabaab terrorists. The massacre at the college was one of the latest attacks by Al-Shabaab, a Somali terror group, a splinter from Islamic Courts Union, which has killed thousands of people both in Somalia and Kenya. Interestingly, the group that attacked the college was headed by a former Nairobi University Student, a lawyer and the son of a Kenyan government officer from the same area.

The ATPU ended up arresting and deporting many suspects especially of Somali origin but has delivered very few convictions in the court. In the wake of the Westgate terrorist attack, the unofficial successor as leader of the coast's radical Muslim community leader, Sheikh Ibrahim Omar Rogo was also assassinated in the same area in Mombasa. Although the Kenya police denied involvement, the general perception of the people is that ATPU was involved in the killings. Most of the people I interviewed believe strongly that ATPU is involved in targeted killings as one of them claimed: "This government is killing us," he said, claiming that with all the deaths of the Muslim Imams, no serious effort had been made to investigate this broad daylight shootings in which the targeted victims were killed. Most people claimed that the counter-terrorism operations by the ATPU were making more Kenyan Muslims to be radicalized. And one of the ATPU officers who did not want to be quoted by name said sarcastically: "We have achieved a lot of success in fighting terrorism outside the court than inside the court".

One of the Kenyan security analysts I talked with, a Mr. Wanyama claimed that the fight against terror is being hindered due to corruption in the Kenya security system.

He claimed that due to corruption among the immigration officials and security officials particularly the police officers at the border posts allow unauthorized and undocumented people especially Somalis to move into the country unhindered. The security officials are taking "shortcuts" in the face of increasing extremism. The government is allowing unlawful violence and not holding the security forces responsible for the atrocities being committed against its people in the name of fighting terrorism and many Somalis bribe their way into the country.

The Kenya government is being accused by the human rights organizations for failing to fight terrorism by indiscriminately targeting ethnic Somalis and Muslim minority groups. Instead of investigating and prosecuting the terrorist suspects, the security forces are involved in committing heinous abuses against the Somali ethnic groups based on ethnic profiling, claims the Human Rights Watch officer I interviewed. But the security officers insist that they are not involved in targeted killings and those who have been killed were suspects engaging officers and resisting arrest.

The Al-Shabaab

The Al-Shabaab terrorist group is a splinter group of the now-defunct Islamic Courts Union and was created in 2006. The group pledged their loyalty to Al-Qaeda in 2012 and their aim has been to overthrow the current Somalian regime and enforce a strict version of Sharia law. The insurgents have controlled Somalia's capital, Mogadishu from 2006 to 2011 when they were dislodged and defeated by the African Union peacekeepers led by Kenya Defense Forces. The AU offensive has prompted the insurgents to increase their attacks on Kenya claiming that Kenya's presence in Somalia is unwarranted. They have sworn to continue attacking Kenya until KDF and AU peacekeepers leaves Somalia.

TIME magazine's Ishaan Tharoor explains the recent history of Al-Shabaab:

"The group, whose name means the Youth in Arabic, was once the militant youth wing of a coalition of Islamist forces that held sway in parts of Somalia more than half a decade ago.

The country has had no real functional central government for over two decades, and the Islamists, for a time, provided a veneer of security and stability despite the harshness of the Sharia they sought to impose. That control slipped following a series of offensives spearheaded by the African Union, beginning with an Ethiopian-led invasion in 2006.^{ix}

Some other attacks that have been carried out by the group include the Koromei massacre in December 2014 in Northern Kenya. The militants killed 36 quarry workers and witnesses said that Muslims were separated from non-Muslims and Christians shot dead. Following the massacre, the militants said that the killings will continue in retaliation to the “Kenyan occupation of Muslim lands”.

The other spectacular attack by the Al-Shabaab was on June 15th 2014 at Mpeketoni, a village in Lamu along the Kenya coastal region. The massacre which involved the torching of buildings and vehicles left over 50 people dead. The terrorist group justified their violent attacks as retaliation for the extrajudicial killings of Muslim leaders and the oppression of Muslims in Kenya. The group also claimed that Kenya’s government has been involved in brutal oppression of Muslims in Kenya through coercion, intimidation and extra judicial killings of Muslim scholars, particularly in Mombasa and the violation of Muslim honor and sanctity. They also justified the massacre due to Kenyan military’s continued invasion and occupation of Muslim lands and massacre of innocent Muslims in Somalia. Also the town raided by the terrorists was once a Muslim town before it was invaded and occupied by Christian settlers.^x

Somali Refugees in Kenya

The Kenya government has repeatedly tried to reduce the number of Somalia refugee population residing in Kenya due to security concerns. The final straw came in April 2 2015 when the Al-Shabaab terrorists massacred 148 students at the Garissa University College. The Kenya government blamed the Somali refugees hosted at one of the largest refugee camps in the world, Dadaab which is located exactly halfway between Garissa and Somalia border. The refugee camp hosts over 350, 000 thousand Somali refugees and was established in the 1990s.

The camp has been in existence for over 20 years and was opened up after the start of Somalia civil war when President Barre was overthrown. The Kenya government threatened to close down the refugee camp and forcefully repatriate the Somali refugees. The Deputy President of Kenya, William Ruto on April 11 2015 announced that the government had asked the United Nations to close down the camp within three months. “The way America changed after 9/11 is the way Kenya will change after Garissa,” he said.^{xi} This has caused a lot of fear and resignation among the Somali refugee population who feel that they are wrongly being blamed and used as scapegoats in the war against terror. On the other hand, the Kenyan government suspect claim the refugee camp is being used as recruiting ground by the terrorists.

The United Nations High Commissioner for Refugees (UNHCR) officials were therefore obligated to discuss the Somali refugees’ issue and find ways and efforts to relocate the camp in a humanly way and warned of the humanitarian consequences of forced repatriation. Kenya is also a signatory to the UNCHR 1951 Convention which stipulates that states have obligations to protect refugees who reach their territory:

“The refugee regime comprises two main norms: ‘asylum’ and ‘burden –sharing’. Asylum can be considered to relate to the provision of protection to refugees who reach the territory of that state. Burden –sharing can be considered to be the provision to refugees who are on the territory of another state-for example, through resettlement or financial contributions to UNCHR.^{xii}

Although the Kenya government blames the Al-Shabaab cells for the attacks, there is no clear evidence of the group’s activities at the camp. But the government concern about the refugee camp and terrorist connection is understandable bearing in mind that in 2011, two Spanish aid workers were kidnapped from the camp and held in Somalia for more than two and half years.

It might have been isolated case but refugee camps have always been good ground for recruiters for different causes either terrorism or armed struggle. The residents of this camp are more worried that the youths from the camp may be easily recruited to join armed groups like Al-Shabaab if they are forced to relocate to Somali, a failed state which cannot provide the basic services and social amenities in the areas recently liberated from Al-Shabaab. The youths will be more vulnerable to the armed groups if moved to a country they have never known as most of them were born at the refugee camp. It will be a wasted effort both for Kenya and United Nations to spend a lot of money educating the refugees and sending them back to be killed or kill someone back in Somalia, a failed state.

Voluntary Repatriation

The UNHCR has been running a voluntary repatriation program to support the Somali refugees who want to go back to Somalia. The agency is providing cash assistance to those who want to go back to Baidoa, Luuq and Kismayu. These are the three areas deemed safe enough for people to return.

Interestingly, those who are willing to relocate in other areas of Somalia are also allowed to go but with no assistance from the United Nations. As of December, 2014, only about 2000 refugees have taken part in the relocation program. Despite the financial incentive, few are willing to relocate and venture in the unfamiliar and unstable territory. The Somali refugees continue to face the predicament of neither being Kenyans or Somalians as they stay in limbo at the Dadaab refugee camp. One youth stated: "I'm a Somali by blood, by color, by nationality, by language," he says. "But my heart says Kenya just because I only know Kenya".^{xiii}

The Kenya government has so far softened its position of forced repatriation stance and closing of the Dadaab Camp as was envisaged by Deputy President, Ruto. In 2013, Kenya, Somalia and the UNHCR signed a tripartite agreement in which all parties committed themselves to the principle of voluntary return. Kenya remains engaged with the tripartite process and, according to the UNHCR, on 29 April took part in a technical committee meeting convened to discuss the agreement's implementation. "The only way forward is to continue working for the implementation of the tripartite agreement," the UNHCR's senior regional protection officer, Eva Camps, said at the gathering.^{xiv}

Politics of Ethnicity

The Mpeketoni massacre totally changed the dynamics of the operations of Al-Shabaab in Kenya. The justification of the attack by Al-Shabaab clearly showed how savvy and manipulative they can be in using regional and ethnic politics to achieve their aim. As far as they were concerned, Mpeketoni was a legitimate target. None of those who were killed was a Muslim or local Bajuni tribe. Those who were killed were the kikuyus from the far distant highlands central of Kenya.

They were Christians who had taken up land on a government settlement scheme and in effect were considered outsiders in this coastal region. Mpeketoni is an island of wealth in the midst of poor, marginalized and underdeveloped district. The terrorists are trying to show that the foundations of radicalization were laid down over many years in the alienation, disaffection and dissent of the Kenya's Muslim community. The coastal region has been ignored and underdeveloped by the government while their resources are being plundered by the 'kikuyu ruling class' and the natives continue to wallow in poverty. The Muslim politicians have been accommodated in Kenya's political coalitions over the years meanwhile Islam continues to be misunderstood and marginalized by majority Christian Kenya's politicians.

Mpeketoni massacre showed that Al-Shabaab realize how they can effectively exploit local politics and turning it to their own cause. While the local and national politicians enrich themselves and promise the general poor populace riches in form of development plans generally on paper, the majority of the people continue to wallow in poverty. The people no longer trust the state to deliver on their promises. There is no equitable distribution of resources as Lamu district is still one of the least developed counties in Kenya. Most residents are living as squatters in their own county after large parcels of land were taken over by the 'kikuyus' from central Kenya. The local populace who are Muslims feel marginalized and victimized by the government and as such view Al-Shabaab as the protector of their interests. In that connection, they have become soft targets for Al-Shabaab exploitation. They have managed to link their message to local ethnic politics. The Al-Shabaab has therefore managed to reinvent itself and appeal directly to the Kenyan Muslims effectively. Despite the security intelligence blaming Al-Shabaab for the Mpeketoni attack, the Kenya President ended up blaming the opposition party for the attack ending up politicizing the terrorist attack. It was a disgraceful link.

"Ethnic politics emerged as common recurring issue in this study. Majority of participants agreed that Kenyan politics is primarily hinged on ethnicity rather than ideology. A majority of the informants strongly believe that ethnic politics has always existed in Kenya. They also affirmed the existence of "ethnicity from below" in Kenyan politics. This is to say there is a strong perception among Kenyans that control of state power is synonymous to sociopolitical benefits for the ethnic community in power (Throup & Hornsby, 1998).^{xv}

Questionable Killings

Since 2012, there have been many raids on the mosques and unexplained killings and "disappearances" of many prominent Muslim Imams and activists.

It is widely believed that the Anti-Terror Police Unit (ATPU) has been behind these actions with the support of the government. It is also speculated that Britain, Israel and United States are involved in supporting the East African Countries and particularly Kenya's security services in combatting terrorism. No one has so far claimed responsibility for the disappearances and killings of these preachers and others. Sheikh Aboud Rogo who was gunned down in broad daylight had been subjected to a UN Security Council travel ban and asset freeze after being accused of being the ideological leader of Al-Shabaab and recruiter. Interestingly, the court had not found him guilty of any of the charges labelled against him by the time he was gunned down. There were widespread demonstrations and riots in Mombasa when he was murdered and his supporters accused the government of extrajudicial killings of their leaders.

Al-Shabaab has also been involved in the assassinations of Muslim Imams and clerics whom they have accused of giving information to security agencies. Those killed included moderate clerics leading the campaign against radicalization and jihadist teachings.

The killings have ended up alienating moderate as well as radical Muslims. There is general mistrust of the state and its security agencies among the Muslim populace making it hard to build consensus to fight radicalism.

The Mpeketoni and Garissa massacres show a larger problem for Kenya's security forces to control the vast north-eastern borderline which is easily accessible by the Al-Shabaab terrorists. Of late, there have been countless reports of Al-Shabaab militants entering villages and preaching in the local mosques without any resistance from the security forces. It has become a natural home for Al-Shabaab as there is considerable disaffection with the Kenyan state organs amongst the general populace including Somalia refugees. In this wild region of Kenya, loyalty tends to be given to Al-Shabaab who is operating among the populace with the absence of state government residing in Nairobi or Mombasa. In some places, they are already taxing the locals.

The killings in Kenya have continued since independence. It started before independence when Kenya was under British rule. The Mau-Mau uprising during the fight for Kenya's independence led to the massacre of thousands of kikuyus and other peasants who revolted against British rule and wanted their land back. After independence, political assassinations continued with other suspicious and unexplained deaths of political personalities and religious leaders who were perceived to be sympathetic to the opposition parties and a threat to the government. For example, Tom Mboya, trade minister assassinated in 1969, Dr. Robert Ouko, foreign affairs minister killed in 1990, Josiah M. Kariuki, Member of Parliament, assassinated in 1975 and just to mention a few. These killings have continued to date and with the issue of prevailing terrorist activities, the government is using fighting terror to eliminate others who they perceive to be terrorism sympathizers.

“Genocide, massacre, and human slaughter; pillage, rape, and torture have been more common than war and revolution. But historians ordinarily do not dwell on such events.

And even the few that do very rarely attach numbers to them. They prefer the glamour of war, of diplomacy.”^{xvi}

After the 2007 disputed General elections in Kenya, ethnic violence erupted that claimed the lives of over 1300 people. President Uhuru Kenyatta and his Deputy, William Ruto were indicted and charged at the International Criminal Court. Uhuru Kenyatta faced charges at the ICC as an indirect co-perpetrator, with five counts of crimes against humanity consisting of murder, deportation or forcible transfer, rape, persecution and other inhumane acts allegedly committed during the post-election violence in Kenya in 2007-2008. William Ruto was charged with criminal responsibility for ordering, soliciting and inducing commitment of crimes against humanity which the Deputy President faces in The Hague at the ICC. Ruto is charged with one popular radio broadcaster, Joshua Sang, who used his prime-time radio show to help Ruto and his allies to "broadcast anti-Kikuyu rhetoric and even helped to coordinate attacks through coded messages and in this way contributed to the violence of 2007/2008 post-election violence as claimed by Bensouda, the Chief prosecutor in the ICC case.

“The ICC accused Kenyatta of being “an indirect co-perpetrator” in the ethnic massacres of 2007 and 2008. Additionally, Kenyatta's deputy, William Ruto, is also on trial for crimes against humanity, but the case against him has yet to conclude. Although Ruto and Kenyatta were originally opponents in the 2007 conflict, they formed an alliance that allowed them to gain control of the parliament and the presidency in 2013, even after both leaders had been indicted for crimes against humanity.

Kenyatta and Ruto used the ICC charges to paint themselves as victims of international aggression and defenders of Kenyan independence.^{xxvii} On March 13, 2015, after months of investigation, the International Criminal Court (ICC) announced that it was formally dropping its charges against Kenyan president, Uhuru Kenyatta. He had the last laugh.

Ultimately, ICC prosecutors did not have enough evidence to sufficiently prove Kenyatta's guilt in court and were forced to drop their case for the foreseeable future. President Uhuru's case in Hague, ICC, collapsed due to lack of evidence as most of the witnesses in his case were bribed, intimidated, disappeared or died under 'mysterious circumstances'.

"This distinction is vital to the operation of International law. Establishing motive and action remains a critical distinction in the prosecution of genocide as a crime. So long as perpetrators can rely upon communication patterns emphasizing the scene, they will know that their identity will be limited and risk of prosecution low."^{xxviii} Uhuru Kenyatta, as President exploited this notion and being in power managed to control the evidence against him and won.

"International Criminal Court prosecutor Fatou Bensouda has alleged that President Uhuru Kenyatta was involved in the killing of various senior Mungiki leaders to silence the group and cover-up his guilt. In a confidential ex-parte filing of July 11 available to the prosecution and the government only, but which was made public on July 29, the prosecution further alleges that Maina Njenga, as head of the Mungiki movement whose members spearheaded the violence, received payments from Mr. Kenyatta after he was released from prison in October 2009."^{xxix}

Under Uhuru Kenyatta presidency, the killings have continued with the government being accused of targeted killings. The attack on civil rights movement, deregistration of Non-Governmental Organizations and threatening of journalists is of great concern.

"In our age, mass elimination and extermination have visited all parts of the world not just geographically but also socially, with peoples of virtually every imaginable type of group falling victim: people defined by ascriptive characteristics such as skin color, by genetic endowments such as autism, by social or cultural identities such as ethnicity or religion, by sexuality, and by political identity, such as national membership, or political affiliation such as being communist or being an anticommunist. Germans during the Nazi period slaughtered people in all kinds of groups."^{xxx} In Kenyan situation, people are divided and victimized along tribal or ethnic lines, religion or political affiliation. For example, Muslims and Somalis are a targeted group. The ruling party is discriminating against the other tribes who voted for the opposition in allocation of resources and government positions.

Operation Usalama Watch

The increased terrorist attacks in Kenya by the Al-Shabaab have become a nightmare to the government of Kenya. The general public, the opposition party, the civil rights movement and other stake holders have accused the government of being unable to provide security and stop terror attacks inside Kenya. In order to prove the ability to stop and eradicate terrorism, the government on April 2nd 2014, launched Operation Usalama Watch and began rounding up and arresting Somalis in Nairobi's Eastleigh district and over 650 Somalis were arrested. Over 6000 security personnel were deployed, detaining and interrogating over 4,000 Muslim 'suspects'^{xxxi}.

The Usalama Watch was a bold move by the government showing a commitment to resolve the security situation in the country but the way it was conducted had a negative effect in the larger Somali community who felt being used as scapegoats in the larger war against terror. This played right well into the hands of Al-Shabaab by appearing that ethnic Somalis were being discriminated against and further alienating the Muslim community.

The operation was generally done after dark and the suspects were moved to Kasarani stadium or other local police stations for interrogation. Suspects were mishandled, abused and beaten up by the security officers. The security officers were accused of stealing jewelry, laptops, phones and other products from suspects. Suspects were asked to produce identity papers to prove being in Kenya legally and were immediately released if they offered bribe to the officers therefore totally undermining the purpose of the security operation.

The operation was launched to appease the general public and was politicized as there was public outcry with newspapers being against Kenya Somalis for not being loyal and harboring the terrorists or being terrorists themselves. Politicians supported the operation and ways used by the security personnel while arresting all the Somalis despite the abuses committed against arrested suspects. It was outright discrimination against the Kenya Somalis.

Recommendations

The Kenya government need to stop politicizing the terrorism issue as was witnessed after the Mpeketoni massacre. The security intelligence rightly blamed the Al-Shabaab for the attack but the President tried to blame the opposition party. The country has to come together for the common good of fighting terrorism. Some of the politicians have also been known to blame opposition leaders for terrorist activities when the evidence available points to Al-Shabaab. The country needs to be well informed about terrorist activities and the government has to be bold enough to disseminate right information to the people instead of scapegoating in the fight against terror. Reconciliation between the government, community leaders and Muslim leaders along the coast and north eastern region of Kenya is of paramount importance to combat terrorism in Kenya.

There is mistrust between the state and the Muslim leaders due to the extrajudicial killings of the Muslim imams and other activists whose death remain unresolved. The constant raid of the mosques by security officers ought to stop and other ways used to investigate suspected terrorist activities in or around the mosques. They need to be embraced and welcomed inside the state so as to feel part and parcel of the Kenya society. The killings should also be investigated and culprits brought to book.

The current government should stop discrimination of the Muslim and Somali community. The security personnel activities resulting into abuse of these communities in the name of fighting terrorism ought to be curtailed. There should never be justification of extrajudicial killings and human rights abuse in the name of fighting terror. Security officers accused of torture, abuse and extra judicial killings should be taken to court and charged. Terrorist suspects should also be charged in a court of law and not summary executed. The Operation Usalama Watch crackdown just worsened the situation as it was not conducted properly and in good faith. This kind of policing and military action ended up justifying that Muslims and Somalis are the targets of the security operation and not real terrorist hence alienating them further. The government should continue working and embracing moderate Muslims in order to curtail terrorism activities in the region.

The government should stop targeting Somalis or Muslims in the fight against terror because they end up playing into Al-Shabaab's hands. The Operation Linda Nchi also has to be reviewed and Kenya government must come up with an exit strategy. The invasion of Southern Somalia by KDF and the AU peacekeepers have made Kenya a target for terrorism attacks. The Al-Shabaab has made it clear that the presence of Kenya Forces inside Somalia is unwanted and they will continue to attack Kenya as long as it occupies Somalia. Somalia civil war has been raging for the last 20 years and without a proper exit strategy, Kenya's security will be undermined for years to come and terrorist attacks will continue for a long time.

The politics of ethnicity ought to stop and the government has to encourage politics of inclusion. The Muslims and Kenya Somalis should be included in the national politics particularly in security issues and national leadership. Building of national dialogue and consensus is of paramount importance to win the war on terror and defeat Al-Shabaab.

The security operations like Operation Usalama Watch need not target particular ethnic community. Such kind of operations can be headed by identified Muslim and Somali leaders. In fact the last time Kenya had disciplined, effective and efficient military and police force was when they were headed by Somali Muslim commanders. Major General Mohammed Hussein Ali, a Kenyan –Somali who was military commander and became also Police Commissioner was one of the most effective and efficient commanders in the forces during his era.

The coastal region and North Eastern part of Kenya had been ignored for a long time by the government. These areas are lagging behind in development due to misallocation of resources and the majority of Somalis and Muslims live in these areas. The communities and their leaders need to be reassured of development opportunities being introduced in these areas to benefit them. Also, their interests have to be protected. The land issue ought to be resolved and the landless to be allocated land. The land belonging to absentee landlords ought to be redistributed to the landless since large tracts of land were taken away from the local people who are now living as squatters. Al-Shabaab is capable of reinventing itself and exploiting the local politics to their advantage as was displayed in the Mpeketoni attack.

Violation of Human Rights

The issue of hate speech by the people and some politicians against the Muslims, Somalis and other communities should be investigated and those responsible prosecuted. The political rhetoric in Kenya has really been rising as the majority of Kenyans are covered into total silence and inaction.

The human rights bodies that have been vocal in the past have been somehow silenced by the government. Recently, over 510 Non-Governmental Organizations (NGOs) were deregistered for suspicion of funding terrorist activities or not complying with government regulations, a claim which they have vehemently denied. The government use of fighting terrorism as an excuse to clamp down on civil rights is therefore in bad taste.

“The decision to target more than 500 organizations is bound to cause uproar in Kenya, where many fear that the government is using the threat posed by Al-Shabaab to curb democratic freedoms, reports the BBC's Wanyama Chebusiri from the capital, Nairobi.”^{xxii}

The Kenyan government has just passed a controversial Security (amendment) Law to enhance the ability of security organs to secure the country and clamp down on terrorism and insecurity. The law also includes measures directed at the press. Journalists could face up to three years behind bars if their reports "undermine investigations or security operations relating to terrorism," or if they publish images of "terror victims" without permission from the police. The opposition party, CORD, the NGOs, the Civil Society Groups and other stake holders termed the law as draconian and suppressive. But because of the tyranny of numbers by the government side in Parliament, there was no viable opposition and the government side passed the law despite the controversy and chaos in parliament recently.

The Kenyan government reaction to terrorism by attacking of Muslims mosques and killing of the Muslim leaders who they view as radicals and terrorist sympathizers is totally worrying. Once the state becomes determined to wipe out ethnic or religious groups of people in the name of national security, like the Muslim Imams, the police and the citizens become the accomplices and not the guardians of human life. The Muslim imams are targeted group and their targeted killings continue unabated.

“Violence is therefore being committed by the state against the civilian community.

By using the word “fighting terror”, usually violence committed by the state against civilian subjects is not interrupted due to a rhetorical system dedicated to the preservation of state sovereignty”^{xxiii}.

The militarization and aggressive behavior by the police and the military to target the leaders of Muslim community in the name of fighting terrorism is really worrying. Therefore, terror panic attacks are used by the Kenyan leaders to entrench on people’s privacy and human rights hence the passing of draconian laws in the name of state security. The killings have not only been directed at the so called Islam Jihadists but also to the Mungiki adherents. Kenyans, therefore, must resist and overcome blind obedience to authority.

The inhuman- so called machinery of destruction by the police, paramilitary and GSU Squads used by the government must be stopped. The mass killings and eliminations usually occur due to seemingly opportune circumstances. The extra-judicial killings by the police and other government security organs continue unabated. The aftermath of every terrorist attack in Kenya like the Westgate Mall attack of September, 2013 is when the government unleashes the police or paramilitary elites to attack the mosques and targeted people.

Muslim leaders (Imams) end up being shot dead in broad daylight and their deaths remain unsolved thereafter. The mobile killing units combine permanence with flexibility, allowing them to kill singly or in conjunction with other institutions, and then move to the next kill. The latest clandestine technique used is by poisoning their targeted victims.

Once the state becomes determined to wipe out ethnic or religious groups of people in the name of national security, like the Muslim Imams, the police and the citizens become the accomplices and not the guardians of human life. The Muslim imams are targeted group and their targeted killings continue unabated. The government war on terrorism is being misdirected to eliminate targeted people who the security forces perceive to be terrorist sympathizers.

Conclusions

The Kenya government officials have to take the issue of terrorism seriously and stop politicizing the fight to eliminate Al-Shabaab to suit local and national politics. National unity is of paramount importance to eradicate terrorism in Kenya. Policing policies and the behavior of security officers have to change. Operation Usalama Watch was a good idea but the way it was carried out left a lot to be desired. It showed the corruption of some of the security officers and discrimination of Muslims and Somali community. Such kind of incidents should be investigated and officers responsible for committing crimes disciplined and prosecuted.

The media and other communication channels need to be used effectively to curb down on hate speeches and educate the people on how to live in harmony with each other. The media should act responsible and not used as propaganda machine to spew hatred towards other ethnic communities and religions. The judiciary should act decisively and prosecute those who break the law with impunity.

Kenya has the laws and penal codes that can be used to prosecute those violating the law and the judiciary and other branches of the government ought to act decisively against those involved in hate speeches against others. There should be a civilian police oversight unit to check into the excesses of the police brutality.

The continued targeting of the Muslim Imams by the government is not solving the terrorism activities. It is driving more Muslim youth to be radicalized and end up joining Al-Shabaab. The government action continues to drive the Muslims and Somalia community away from supporting the government. The police continue to face more security challenges as terrorist attacks continue. The security system needs to be reformed to combat terrorism.

The government should advocate for politics of inclusion and Muslims and Somali-Kenyans must be included in the national politics especially in security matters. Reconciling with Muslim leaders and thorough investigations of the unexplained killings of the Muslim imams and others therefore is very necessary and vital. The National Cohesion and Integration Commission which was formed to reduce inter-ethnic conflict should take its work seriously and not become a 'toothless dog' at the whims of politicians and other 'untouchables' in the regime.

The Kenya government has to diligently find and stop the sources of Al-Shabaab funding. The arbitrary closing of financial institutions belonging to Somalis or Muslims is not a real solution. The rules and regulations dealing with money laundering should be followed by the Central Bank of Kenya to stop remittances to Al-Shabaab and people or organizations found committing a crime of funding terrorist should be prosecuted without discrimination or targeting particular groups of people. The role of Al-Shabaab in poaching and ivory trafficking to fund the organization should be investigated.

The bank assets of straw organizations and charities properly identified should be seized and their bank accounts frozen. The security and anti-poaching campaign should be increased to curtail poaching. The government should increase more funding for the Kenya Wildlife Society and lobby for foreign funding if necessary from United States, Britain and others as fighting terrorism has become a global issue.

The 'Nyumbi Kumi' initiative by the government where the people have to know their neighbors should be explained better to the people in order to be effective and not seen as people spying on others to victimize them. It is a good way of detecting and reporting of suspicious persons or activities in order to fight terrorism. Al-Shabaab is known to target mostly 'soft targets' like the malls, schools, colleges, markets and other places, therefore it is important for the people to be on the lookout and report any suspicious activity to the security officers.

The government should make drastic changes to the security department and also immigration department. It has been known that most security and immigration officers have been compromised and corrupt officers should be removed and prosecuted. Strict discipline and code of conduct should be enforced in all departments. Fighting terrorism in Kenya and winning will take time and it needs full government commitment in order to succeed. Kenya should continue to cooperate with other countries in the fight for terrorism. It is global war on terror.

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