

Explaining Kenya's insecurity: The weak state, corruption, banditry and terrorism

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Abstract

In the past few years Kenya has become increasingly insecure. Internally, it has experienced rampant banditry that continues to claim tens of lives. This banditry is also manifestly aimed at showing the impotence of the police who they seem to kill at will. The net effect of this insecurity is that the state is now only nominally in control of the region that has been dubbed Kenya's "arc of insecurity". This region straddles 12 out of Kenya's 47 counties and accounts for more than one-half of Kenya's territory. Urban areas have not been spared either and terrorist attacks conducted by the Al Shabaab terrorist organization are becoming more frequent and more deadly. This has seen the state increasingly turn to the military as a solution to what are basically policing problems. This paper argues that Kenya's weakness as a state emanates not only from long-standing inequitable policies but also from endemic corruption that has severely compromised the institutions of security of the state including the police and the armed forces. The weaknesses that affect the security arms of the state can largely be attributed to the widespread corruption that not only interferes with the collection and use of accurate intelligence but the procurement of effective equipment that are needed to deal with the emerging security threats. Should the state fail to eliminate or significantly reduce the levels of corruption then Kenya may well be headed for failure as a state.

Introduction

There are strong states and there are weak states. A strong state is able to exercise considerable or great control over its territory while a weak state has limited or little control over its territory. Few would seem to dispute this characterization. However, there is little agreement about the point at which a state moves from being merely weak to become a failed state (Easterly & Freschi, 2010). At the present time one possible objective measure would be the effectiveness of control over territory. However, as Easterly and Freschi (2010) point out, this is easier said than done. The problem revolves around developing an accurate measure for "effectiveness". For this reason the criteria that determine what constitutes a failed state must remain somewhat subjective. For the purpose of this discussion it will therefore be assumed that a failed state is one whose weakness has gotten to a point where it no longer has a recognizable structure of government as happened in Somalia in 1990. By this somewhat generous definition Kenya is not (yet) a failed state. Quite naturally, there are those who disagree.

On the *Failed State Index* Kenya is already ranked 17th and is sandwiched between Nigeria and Niger (Fund for Peace, 2013). Number one on that list is its eastern neighbor Somalia and number four is another neighbour to the north, the Republic of South Sudan. As Wagner (2014) observes, Kenya is in a rotten neighbourhood. As already noted, the notion of “failed state” is a contentious one and it has been criticized for being arbitrary and sensationalist. Easterly and Freschi (2010), for example, have argued that the concept of state failure lacks a coherent definition and only serves the policy goals of Western states by allowing them to intervene in the internal affairs of those states perceived to have “failed”.

Call (2008) argues that the label “failed state” has been used so widely as to be rendered useless. This situation arises from the multiplicity of characteristics, or more accurately the categories of characteristics that are often employed in identifying “failed states”. They are so varied that most classifications end up masking the complexity of the characteristics that mark a state as having “failed”. The end result is a “one size fits all” that is not really useful. As a result of these difficulties many analysts see the concept of “failed state” as teleological, a historical and as highly reflecting a Western bias of what constitutes a successful state.

Based on the comparison that was made earlier between strong and weak states, it can hardly be disputed that Kenya is a weak rather than a strong state. At least one-half of the country is now only nominally under the control of the central government. This has been demonstrated with increasing regularity in the last couple of years. Just to cite a few cases, in November 2012, 46 people among them 42 police officers who had gone to quell a violent clash between the Samburu and Turkana communities were massacred. In 2012/2013, in ethnic clashes between the Orma and Pokomo communities of Tana River County up to 30 people were believed to have lost their lives. These two areas fall within what Kagwanja (2014) has dubbed Kenya’s “arc of insecurity”. This arc straddles 12 out of Kenya’s 47 counties namely, West Pokot, Elgeyo-Marakwet, Baringo, Turkana, Samburu, Isiolo, Marsabit, Mandera, Wajir, Garissa, Lamu and Tana River. Amongst them these counties account for more than one-half of Kenya’s total land surface area.

This is not to suggest that the remaining one-half of Kenya is any more secure. During the same period, urban centres, where state presence would be expected to be strongest, have also been the scenes of deadly terrorist attacks. In November 2012, 10 people were killed and 25 others injured in an explosion of an improvised explosive device (IED) inside a minibus in the Eastleigh Estate of Nairobi. In September 2013, in a four-day siege of the upmarket Westgate Mall situated in the Westlands suburb of Nairobi, a group of terrorists shot and killed 67 people. While Kenya may not be a failed state in the subjective sense in which I have defined it here, it certainly is a weak state judging by the most important indicator of state weakness: the inability to secure its territory by ensuring safety for its citizens from both internal and external agents of insecurity.

In the East African region, Kenya is in the company of other weak states. However, the difference is that Kenya has, more than these neighbours, been the target of repeated terrorist attacks. Apart from its relatively greater democratic space (that can hardly be considered a liability), the only variable that seems to distinguish Kenya from its neighbours is the high level of corruption, especially in its state sector.

Although Kenya is not the most corrupt country in the world (Transparency International, 2013), it is not far from being one of the worst (Wagner, 2014). The mixture concocted out of corruption, banditry and incipient terrorism makes for a highly potent and deadly cocktail. This has led Foden (2014) to propose that corruption and terrorism actually constitute parts of one continuum with corruption being at one end and terrorism being at the other end. Armed robbery is situated in the middle. The violence and insecurity emanating from causes other than terrorism in Kenya in the “arc of insecurity” are therefore situated somewhere around the middle of this continuum.

Odula (2014) in his interviews with analysts and officials reported that corrupt police and other government employees who are willing to break rules for bribes are weakening Kenya's ability to prevent terror attacks by Somali militants. According to John Githongo (Odula, 2014):

Corruption – systemic graft – is at the heart of the state's inability to respond to insecurity in general... National security has always been the last refuge of the corrupt in Kenya. Security sector contracts were always subject to unconstrained predatory treatment. The chickens are coming home to roost and it hurts. Grand theft by the country's ruling elite has allowed an attitude of "if he can do it so can I" to permeate the country's lower ranking security apparatus... We are paying the price in blood.

John Githongo was at one time in 2003-2004 a presidential advisor on corruption who exposed millions of dollars in government corruption and had to flee the country when his life was threatened by the corruption networks. If anyone knows the workings of these networks, he should. This factor of corruption alone has made Kenya more vulnerable to terrorism and internal insecurity than its equally or even weaker neighbours.

The strength of a state can be measured by how effectively it provides certain political goods to its members (Rotberg, 2003). These political goods can be arranged in a hierarchy from the most important to the less important ones. These goods are *security, maintenance of law and order, the provision of medical and health services, the provision of schools and educational services, the construction and maintenance of critical infrastructure, maintenance of effective money and banking services, a good business environment, space for a vibrant civil society and the effective regulation of the environmental commons.*

These are the issues around which the following discussion will revolve. This is because it is the failure to provide these goods to a reasonable extent to most of its citizens that are at the root of Kenya's weakness as a state. It is in this weakness that corruption takes root and thrives further aggravating the insecurity brought about by the failure to provide these political goods in the first place.

Roots of insecurity in Kenya

Kenya has increasingly become a dangerous place for its citizens and visitors. There are two main sources of insecurity, one external and the other internal. The external threat is in the form of terrorism that is often guised as an Islamic *Jihad* (holy war). At present the main perpetrator of this kind of terrorism in Kenya is the Al-Shabaab terrorist organization originating and operating from Somalia. Increasingly they are using a strategy of sporadic guerrilla attacks that target non-Muslims for extermination while sparing Muslims. The failure of their victims to recite passages of the *Holy Quran* marked them for sure execution in both the Westgate siege of September 2013 and in the Mandera executions of November 2014. Al-Shabaab's ostensible reason for its attacks in Kenya are allegedly in retaliation to Kenya's presence in Somalia, now under the aegis of the United Nations' Amisom. However, this appears to be more of an excuse than a reason; Kenya invaded Somalia in 2011 in an attempt to curtail the activities of Al-Shabaab that were already taking place on its soil.

The internal threats to security consist first, of rampant thefts and robbery that target individuals and which many Kenyans now treat as a normal burden of citizenship. The second type of internal insecurity is directed towards groups of people and goes by many labels such as inter-ethnic clashes, livestock theft, boundary clashes, inter-clan rivalries, and even insurgency. These violent episodes have recently acquired an ominous character in that the combatants no longer brook the interference of the state security apparatus in their activities. And in order to demonstrate this resolve they have repeatedly slaughtered the police at will. Because the police are the custodians of internal state security, every time they are slaughtered the

message that is communicated is a very potent one: that these parts no longer recognize the laws of the state that is Kenya. Whether it is in Kapedo or in Baragoi these incidents are increasingly deadly not just for the public but for the police, and by extension to the state, as well.

Part of the reasons for the existence of the “arc of insecurity” are the colonial policies that neglected these areas of the country as being agriculturally unproductive and therefore not worthy of any meaningful social or economic investment. The independence government took this creed to heart and for the last 50 odd years of Kenya’s independence the government has continued to implement this policy faithfully to the continued detriment of these areas. The Sessional Paper No. 10 on *African socialism and its application to planning in Kenya* (Kenya, 1965) stated this policy as the best way of ensuring fast economic growth. By largely ignoring these areas the state has shown little presence and little basis to earn either the loyalty or regard from the populations residing in these regions. To a very large extent they have had to fend for themselves.

The same policies that dictated that these areas were not worth investing in also advocated for a strong centralized government that controlled and distributed resources in fulfillment of this policy. In these circumstances, as the Ethics and Anti-Corruption (EACC) notes, the control of state power also came to mean control over public wealth and this in turn quickly led to patronage, tribalism, looting and bribery (EACC, 2006).

That corruption quickly captured the post-independence state meant that while a significant proportion of national resources went to a corrupt elite and its clients, these areas suffered even more because of their disadvantaged position to begin with. As the Ethics and Anti-Corruption Commission notes in its plan (2006) evidence from around the globe clearly demonstrates that corruption impacts on the poor most devastatingly. These areas have therefore suffered from systematic and structured neglect and a review of how the Kenyan state has performed in the provision of political goods to Kenyans in general and to these areas in particular shows some of the sources of its weakness.

Security

In this vast area, also sometimes loosely referred to as “the north”, there is little state presence when it comes to security. This means that to a large extent security is a self-help undertaking and the people have taken this lesson to heart. You take care of yourself and your own because the government (that is supposed to take care of your security) will not or cannot. The gun is the law in this vast, poorly policed and poorly administered region of Kenya.

With a few exceptions in Tana River and Lamu counties, the people occupying this arc of insecurity are mainly nomadic pastoralists and the main currency of commerce or anything else is livestock, firearms and bullets. Whoever has livestock, guns and bullets commands power and respect but also by that token also attracts violence and death from those who would take these things away from them.

The level of state neglect of security in these areas is perhaps best illustrated by many persons whose only article of “clothing” is a firearm! According to one source quoted by Kagwanja (2014), “G3 [rifle that is regular government issue to police officers] is for women, AK 47 [automatic assault rifle] is for training boys and the MP5 [Heckler & Koch machine pistol model 5] is for experienced *morans* [warriors in their prime]”. It is not a wonder that the police (armed with G3s) are therefore routinely slaughtered (there is no better word) in engagement with these armed bandits, who it is sometimes said, are but mere operatives of rich and powerful businesspeople dealing in livestock. This rampant insecurity sets the background upon which to discuss the next political good.

The maintenance of law and order

Given the preceding scenario the maintenance of law and order is a misnomer in many parts of the country. Since the June 2014 terrorist attack in Mpeketoni, Lamu County in which at least 48 people were killed only two people have been charged in court. In the aftermath of the Westgate Mall siege Kenyans are yet to see any proof of a successful prosecution of any suspects and the list goes on and on. Virtually no large scale corruption case or a case involving mass slaughter has ever been successfully prosecuted in Kenyan courts. And usually, attending this prosecutorial lethargy will be rumours of money changing hands to tamper with or get rid of the evidence or some such underhand and corrupt dealings. The message is that Kenyans forget quickly and move on with their lives.

However, it is important to add that the situation is worsened by state impunity, or more correctly, the impunity of state officers. The Kenyan state has a history of being the chief culprit when it comes to the disregard for the rule of law (*Daily Nation*, Friday 19 September 2014) and this to a great extent has helped to create an atmosphere where the citizen feels little obligation to respect the law. It is not necessary to review the litany of state impunity but suffice it to give just two examples. In 1964/1965 President Kenyatta (*father*) unconstitutionally invoked a state of emergency in then Northern Frontier District (region now covering Marsabit, Isiolo, Mandera, Wajir, and Garissa counties). In late August 2014 President Kenyatta (*son*) presided over the sinking of a ship, the *Al Noor* that had been seized in July 2014 with a shipment of heroin worth about \$ 14 million. This ship was sunk despite court orders to preserve the ship while destroying the drugs. The point simply being that an impunious state can only find the maintenance of law and order a burden rather than a duty or an obligation.

Medical and health services

To say that medical and health services in the arc of insecurity are more noticeable by their absence than their presence is not an overstatement. The few medical facilities that are run by the state are far and few in between and poorly staffed. Due to the harsh climatic and endemic insecurity these postings are not for the faint-hearted. Missionaries and non-governmental organizations are more noticeable than the government when it comes to offering some of these services in these counties.

According to the *Daily Nation* newspaper of Tuesday 25 November 2014, in the aftermath of the Mandera massacre the Kenya Medical Practitioners and Dentists Union (KMPDU) was one of the first unions to ask their members to pull out of not just Mandera but also from Wajir, Garissa, Lamu, Samburu, Turkana, Tana River and parts of Baringo counties. According to the governor of Mandera County, Ali Roba, non-residents of Mandera account for between 70 to 80 per cent of the personnel that run the county's health facilities. If the health staffers heed the call of their union to leave Mandera County one can only imagine what the repercussions on health care delivery (that is far from satisfactory to begin with) will be like. The fact is that because of the systematic structural neglect of these regions the majority of these personnel are from outside these counties.

Schools and educational services

What schools there are in these regions are few and have few pupils. Partly due to the nomadic lifestyles of the inhabitants and partly due to insecurity, school populations often fluctuate widely. Due to insecurity the teachers are also hard to come by. The fact that these areas have been neglected educationally for so long usually means that they have a dearth of people who have trained in a professional capacity and can therefore take up positions such as teaching or in the medical field. This therefore becomes a circle that feeds on itself and as insecurity grows so does the threat to education and schooling.

Just to illustrate, in the 22 November 2014 attack in Mandera County, Al-Shabaab terrorists executed 27 non-Muslim passengers on a bus heading to Nairobi. It was revealed that of the 27 persons killed, 24 were teachers (eight of them from one school) who were not residents of Mandera and were travelling to their home counties after schools closed for the Christmas vacation. These were some of the “expatriates” to Kenya’s north who take up opportunities that no locals are sufficiently qualified to take up.

The Kenya National Union of Teachers (KNUT) also called on their members to pull out of Mandera and other regions prone to insecurity. By the nature of their job and where the schools are situated, perhaps teachers and health personnel are the most exposed to attacks. Once again it can only be left to imagination what the impact of withdrawing an odd 300 teachers would be for the children of Mandera County now and for their education in the long-term.

Critical infrastructure

Whether one is referring to roads, water supply, electricity or railways or telecommunications, the areas in the arc of insecurity are also very backward. The whole of the arc of insecurity covers an area of some 340,000 square kilometers or nearly 60 per cent of Kenya’s total area. It has few tarmac roads and only a negligible proportion of the population have electricity or safe water. There is no railway and although mobile telephones have drastically altered the telecommunications sector for the better, not the whole area is served.

In the Mandera incident for example, the main trunk road, the B9 (Mandera-Garissa) could not be used by the bus because of its poor state. This forces buses and other motorists from Mandera town to use a road near the Somalia border that actually exposes them to frequent terror attacks in which many have died over the years.

This lack of critical infrastructure has direct security implications. First these areas are difficult and sometimes impossible to police, even if there were personnel to do it. Although it is difficult for everyone, the indigenes are better able to negotiate this terrain than any police officer posted from outside the region and they can live off the land more easily. This was amply demonstrated in the Kapedo incident where the bandits attacked and disappeared, seemingly into thin air!

Money, banking and business environment

It is perhaps self evident that given the foregoing the money economy is not particularly strong; apart from facilitating the buying of weapons and the paying of bribes cash may not hold much value. Livestock is wealth and livestock is also the bank. As already noted, the main stock in trade apart from livestock is guns and bullets. The exchange of livestock may occur peacefully for some reasons such as bride price but apart from that all other exchanges are marked by violence and death from the barrel of a gun.

Civil society

The civil society as exemplified by non-governmental organizations (NGOs), especially missionary non-governmental organizations, is the only source of health and education services that most of these areas know. Although they may be nowhere near providing for the needs of everyone, they are present where the government is not. According to Ken Wafula the former chairman of the Non-Governmental Organizations Council (*The Star*, 2014) up to 80 per cent of the health programmes in this region are supported by NGOs. Most NGOs in Kenya concentrate on health, education, agriculture and the environment. These are all areas that are supposed to be the core business of government rather than of the non-governmental sector. However, it is also a sign of the weak state when these services are privatized (Rotberg, 2003). Contrary to what one would expect, the government does not look on the NGOs as partners. In the recent past they are

more likely to be viewed with hostility. The civil society is perceived as “the enemy” by certain sections of the state elite who have on occasion derided it as “the evil society”.

Unfortunately, for the large proportion of Kenyans that they serve, under the Jubilee Alliance administration, civil society, especially non-governmental organizations are under threat of regulation that is actually meant to kill them. On 30 May 2014, a bill seeking to revise the Public Benefits Organization (PBO) Act 2013 was published. In October 2014, fresh amendments to the PBO Act were sponsored by a Member of Parliament from the Jubilee Alliance that if adopted would limit foreign funding of NGOs to 15 per cent. Virtually all of Kenya’s 8,500 NGOs rely on foreign donor aid to finance their operations (*The Star*, 2014). In fact according to the Institute for Security Studies (ISS) (2014), international sources account for 91 per cent of local NGO funding, with local sources accounting for eight per cent and the Government of Kenya contributing only one per cent. Given this scenario obviously the intention of the bill is to throttle this sector into extinction.

The reason for this animus is not difficult to discern; the state after all has a face. Although the majority of NGOs concentrate on the provision of badly needed social services, a few high-profile NGOs such as Open Society and Africog pursue an agenda of political accountability and it is these entities that have apparently upset the government. The current siege on the NGOs can be traced back to the 2007/2008 post-election violence and the subsequent indictment of President Kenyatta (whose case was terminated in December 2014) and his deputy William Ruto at the International Criminal Court, the ICC (Institute for Security Studies, 2014). The NGO sector is perceived by the ruling Jubilee Alliance to have played a critical role in adducing evidence used to indict the two state officials. Added to that, it is the NGOs who were also seen to have led the challenge on the eligibility of the candidacy of the President and his deputy in the 2013 elections given the fact of their indictment at the ICC. Having been elected, it was the NGOs who were also seen to also play a prominent role in challenging their election at the Supreme Court. It is therefore not accidental that political leaders allied to the ruling Jubilee Alliance see the civil society as the “enemy” who are fighting it with money from foreigners bent on undermining Kenya’s security and sovereignty (ISS, 2014). Although they have consistently failed to substantiate these allegations against civil society, it is clear that should the bill go through, all the social services that the NGOs currently provide, at least 100,000 jobs, and in excess of \$ 2 billion that is channeled through civil society per year would be lost (*The Star*, 2014). Clearly a strategy that gives the public good short shrift!

Preservation of the environmental commons

As far as the conservation and protection of the environmental commons are concerned it may safely be said that because of all the foregoing, the state lacks the capacity to undertake this effectively; largely because of its absence. Whatever commons remain conserved are conserved by default rather than any conscious design on the part of the state. In most of these areas, due to the precarious environmental conditions, the wanton cutting of indigenous tress for charcoal burning and other forms of deforestation is further worsening an already delicate environmental situation (Bosire, 2012).

The recent interest of the state in these areas to which it has largely remained oblivious in the past can only be attributed to the discovery of oil and other minerals. The state elite is infamous for its corrupt deal-cutting and wheeling-and-dealing. In this context the sending in of the army to secure these areas does not come from a belated sense of civic duty and obligation but rather from a realization of the necessity to establish control to enable the exploitation of the newly discovered resources.

So what is likely to happen is not the establishment of a *Pax Kenyana* but rather the establishment of control around the points of extraction of these minerals; a policy that has already proved ruinous in other countries such as Nigeria. This kind of approach is not only likely to lead to greater environmental damage

but to the further marginalization and exclusion of the already marginalized populations of these counties and therefore to greater violence.

To sum up this review of the provision of political goods it is important to consider how corruption has affected the situation. The Ethics and Anti-Corruption Commission (2006) quoting an interview conducted by the British Broadcasting Corporation (BBC) with then Minister for Planning, states that in 2003 alone corruption cost as much as US \$1 billion, nearly one-quarter of the government spending in that year. It is anyone's guess how much has been lost in just this way prior to that year and since. What cannot be doubted is that without corruption the regions we have just been discussing would present a totally different picture and the state would therefore not be as weak as it is today.

Corruption misallocates development resources and the citizens who are entitled to services do not get them. As a result, suspicion between the people and the state sets in and as they stop trusting their government they stop interacting with it. Because they still have to get things done, they create their own systems to do these things (Ngunjiri, 2010). This is basically what has happened in the regions we have been discussing due to the largely corruption-induced weakness of the Kenyan state.

Corruption, the Police and the Kenya Defence Forces

Chapter 14 of the Constitution of Kenya (2010) deals with national security. In that chapter, national security is defined as the protection against internal and external threats. Traditionally the former has been seen as the responsibility of the Kenya Police Service while the latter has been seen as the primary responsibility of the Kenya Defence Forces (henceforth simply referred to as the army).

The corruption that exists in Kenyan society today has a long history dating back to the colonial period (Wrong, 2014). As the Ethics and Anti-Corruption Commission observes in its plan (2006), colonialism, as a system of governance, was based on and sustained by authoritarianism, injustice, deceit and outright plunder of the country's natural resources. As a system it therefore provided the perfect environment for corruption to flourish. Because independence did not come about with any fundamental restructuring of the colonial state corruption was transmitted to the new independent state. Indeed, some of the earliest efforts to fight corruption started during the colonial era in the 1920s culminating in the enactment of the Prevention of Corruption Ordinance (CAP 65) of 1956. This piece of legislation was not the outcome of foresight for future needs but rather the recognition of a phenomenon that could no longer be ignored. The tentacles of corruption therefore run further and much deeper than might first appear. It has deep roots in Kenya's social fabric and it is against this background that I want to discuss the two security institutions.

The Kenya Police

The police is not only the most corrupt state institution in the perception of the public (Ngunjiri, 2010) but may also be said to comprise a significant number of corrupt individuals whose main qualification for joining the service was because they were able to bribe their way into it. The most recent exercise carried out in 2014 to recruit nearly 10,000 officers is now the subject of a court case that annulled the exercise on the basis that the exercise was mired in bribery and corruption. All these took place in a service that is supposed to be the first port of call for the citizen on matters to do with their security.

A substantial proportion of officers in the police service may therefore comprise of people who are not necessarily committed to their job in the sense that they want to pursue a career in law enforcement but are people who are out to recoup their "investment" (the bribes that they paid out to get into the service). One would hardly expect them not to practice on a fairly regular basis the very vice that gained them access to the service. It is therefore a false notion that it is the poor pay that drives them to be corrupt. Although

their pay remains poor (like that of most public servants in Kenya), it cannot be used to explain why many a police officer is reduced to picking up Ksh. 50 (\$0.5) notes thrown contemptuously on the road by minibus conductors!

The Kenya Police Service is unable to fight corruption mainly because corruption itself is a religion in which many of its officers are born into the service and it is the milk upon which they are fed. And there seems to be no way of weaning this child from the milk that is corruption. A survey conducted by Transparency International in Kenya in 2011 revealed that 90 per cent of Kenyans did not trust the police and considered the security services either *corrupt* or *extremely corrupt* (Wagner, 2014). According to Odula (2014), two senior Kenya Police officers he interviewed said that police officers, customs and immigration officials are easily compromised because of low pay and bad working conditions. One of the officers reported multiple occasions when the police have arrested a suspect and then set him free on account of a bribe only to realize later that the suspect was indeed a terrorist. The Kenya activist group Inform Action, in a You Tube video entitled "All in a day's work" posted a video of a police officer being bribed to release a woman from custody in the aftermath of a terrorist attack in Nairobi (Odula, 2014).

This fact of corruption alone makes the police a soft target for terrorists; those who take bribes do not even think of what the repercussions may be on themselves and fellow officers, let alone the public whom they are sworn to protect. According to Samuel Kimeu, the Executive Director of Transparency International's Kenya Chapter, there are many illegal aliens in the country who have authentic documents acquired corruptly (Odula, 2014). This presents an easy way for terrorists to get into the country. It was not coincidental that after the Westgate Mall siege 15 officials were fired for issuing government documents for bribes. It is this willingness to break the rules for bribes that is at the root of Kenya's vulnerability to terrorism (Associated Press, 2014).

Second, and proceeding from the above, in terms of commitment you cannot compare the police to the bandit or the terrorist. The bandit is a professional whose main motivation is personal gain (quite like the corrupt police official) but unalloyed with any pretense to a "higher purpose" to which the police have to pretend if not practice. The bandit performs a deviant role quite overtly and for very high stakes sometimes. The terrorist, on the other hand, has a cause (just or not) that they are often ready to die for. The corrupt police officer, such as the type that I have just described has only one cause that makes sense: self-enrichment. But because of their deviant role within the police service they suffer from role conflict and this generally affects their ability to perform to the required standards. Law enforcement and lofty notions such as the public good and so on cannot therefore provide the main motivation to continue being a police officer. This is the type of police officer that is beloved of the terrorist. They may even be in a minority but they put all their brother and sister officers who may not be corrupt and the public at risk.

Those who do not share in this creed of corruption can only look on in despair as things go down the drain. Indeed this group of honest and hard working police officers exists. However, corruption is a way of life that has become so entrenched within the police that it is the corrupt officer who gets rewarded. Warner's (2013) interview with two former officers reveals this clearly. Good behavior (read, behavior expected of an honest police officer) goes unrewarded and is indeed punished by frustrating such an officer who usually quits in frustration.

The police by being corrupt only fuel more corruption. By engaging in corruption they render themselves ineffective against all forms of criminality including terrorism. And by becoming the leading ally of criminals and terrorists they also become the first victim of criminals and terrorists. It is a truism that the first victim of ineffective policing is the police. The *Daily Nation* of Wednesday 26 November 2014 reported that in Mandera, members of the public were complaining that those members of the public who volunteered information to the police were routinely killed and that the police bosses were doing business

with the town's tycoons who are apparently known sponsors of terrorism. Although the governor of Mandera had warned the government that the area had recently been infiltrated by large groups of armed men from Somalia no action had been taken. To the contrary, it was reported that the armoured unit that had been deployed to guard the road on which the bus was attacked was mysteriously removed some weeks before the attack! Indeed as Wagner (2014) observes, Kenya has become a paradigm of what happens when the security arms of the state goes to bed with corruption.

The army

The military may not be generally perceived as corrupt by the public because typically, their interaction with the public is not as frequent. However, the fact is that some equally disturbing allegations of corruption have also been made against the military. And this begins right from recruitment as the following report demonstrates (Today Financial News, 2014):

... The case was not any different for John Kamau whose dream of becoming a soldier in the Kenya armed forces has been thwarted by rampant corruption in the recruitment process. "I have this strong desire to join the armed forces from the time I was a child... So I have tried twice in Kisumu and another time in Kisii", he says. "The last one I went [to] everybody was asked to write on their feet *barua ya mzazi* (letter from the parent)... I passed in all the tests, running, height, physical fitness. Then on the last stage, we were told that those who had a letter (a code for bribe) from the parents to move aside and I went, and I could see many people wondering and shocked there was a letter that was required and they had not been told". Kamau lost the opportunity because the Sh. 50,000 bribe him and his parents were willing to pay was too little. He says other applicants were offering in excess of Sh. 200,000. "After a while, another office came and told us that we had failed because our parents' letters were not heavy", he says.

A second illustration; although Kenyans may now be said to have become hardened to the endemic corruption in their society, even they were shocked when closed-circuit footage showed Kenyan soldiers looting stores of mobile phones and cash during the siege of Westgate Mall in September 2013. Worse still, this looting was taking place on the second day of the four-day siege and while terrorists were apparently still alive in the building and hunting down more victims (Warner, 2014)!

A final illustration; according to a report that appeared in the *Daily Nation* of 25 October 2014, the United Nations banned charcoal exports from Somalia in 2013. This was because the Al-Shabaab was using charcoal as a source of revenue to finance its acts of terrorism. Despite the ban, the report continued, the Al-Shabaab continue to reap large profits from the trade. Most of the charcoal is shipped from the port of Kismayu that has been under the control of Kenya's forces for the past two years. The estimated value of that charcoal over the two years is \$250 million. The UNs Somalia-Eritrea Monitoring Group said that some of its sources indicated that these illicit proceeds are divided equally among Al-Shabaab, the Kenya forces deployed in Kismayu and a local militia's regional overseers. As far as corruption goes, the army bears the mark of the rest of society.

The Kenya Defence Force (KDF) invaded Somalia in 2011 to "root out" the menace of Al-Shabaab terrorist organization that was responsible for several attacks in Kenya just prior to that invasion. Perhaps, symptomatic of its weakness, since that time the state has increasingly relied on the military to provide what are essentially internal policing duties. This increasing militarization of Kenya has become quite obvious in 2014 as illustrated by several events.

In 2014 alone the army has been sent out of their barracks at least three times to solve conflicts between local peoples. In May, the army was deployed to Mandera County to disarm residents. In

September, they were sent to Marsabit County to stop the fighting between the Gabra and the Borana communities. In November, the army was sent to stop the violence in Kapedo that had resulted in the death of 19 police officers and recover arms and ammunition that had been taken away from the officers by the bandits.

Another more subtle indication of this increasing militarization has been expressed sartorially by the Commander-in-Chief of Kenya. Although Kenya's president is also the commander-in-chief the tradition has been for presidents to dress as civilians. President Kenyatta (*father*) in the 15 years of his rule appeared in military ceremonial uniform maybe a couple of times. President Moi in his 24-year rule may have also appeared a couple of times in ceremonial military dress; most notably in the aftermath of the failed coup attempt against him in 1982. President Kibaki in his 10 years in power never donned any form of military dress. President Kenyatta (*son*), in barely two years of his rule has already been photographed at least two times in military combat fatigue (no less). The first time on 5 September 2014 in the corridors of State House and the second on 14 October 2014 on the Kenya Defence Forces Day. Perhaps there is nothing remarkable about this; after all he is entitled to dress this way if he so wishes. The significance, if any, of this choice in fashion remains to be seen.

That aside, by involving the military in what are primarily policing duties, there are at least three important issues that the state must be ready to answer to. First, the military is not trained in homeland policing; their primary duty is to protect society from external aggression. Involving them in policing duties therefore exposes them to duties for which they have no training and usually no aptitude. The effect is to militarize society. Because the military are not trained to deal with civilians they are not sensitive to the preservation and protection of the civil liberties that are guaranteed by the Constitution. Although it is true that whenever and wherever the military have been deployed to deal with violent situations within the country, peace has been restored, this peace always comes at a heavy price. Every time that the military has been brought in to restore civil order in Kenya it has always been followed by complaints about the abuse of civil rights and violation of citizen freedoms. In the most recent military involvement in Kapedo in November 2014, many of the residents were actually forced to flee the area due to what they termed harassment by the army (Kipsang, 2014). Residents talked of sleepless nights after soldiers allegedly destroyed their property including their homes. This resulted in public protest by Members of Parliament from the Pokot community asking the government to withdraw the army from their area. The army's boot always leaves a large imprint on peoples civil rights. To militarize society is therefore to bring into question the commitment of the state in remaining faithful to the Constitution that guarantees and protects these liberties. A caution of these dangers is made by William Adama, the fictional character in the television series *Battlestar Galactica* produced and aired by SyFy cable network (Finke, 2014):

In *Battlestar Galactica* there's a scene where President Laura Roslyn and chief military Commander William Adama debate how to respond to the potential rioting of civilians. In the absence of a police force capable of handling the situation, Roslyn wants the military to police the civilians. Adama tells her the military won't be her cops.

"There's a reason you separate the military and the police," he says. "One fights the enemy of the state, the other serves and protects the people. When the military becomes both, then the enemies of the state tend to become the people."

Second, to use the analogy of a fable, it is easier to summon the genie from the bottle than to return it therein. The army may look tantalizingly like the silver bullet that will solve all of Kenya's security problems once and for all. But experience shows us that where the military have acquired a taste for running civil affairs there is a tendency for this to only whet their appetites. What happens if the "need" continues?

May there not come a time when the military may decide on its own that they are actually “better” at running the country than the civilians? May there not come a time when the civilians themselves, out of desperation, begin to see the military as all that stands between it and chaos? These are dangerous possibilities that should never be taken lightly.

Finally, there is a danger that the military – although initially appearing formidable and unbeatable – may eventually fail to stabilize not just the external aspects of the terrorist threat but the more insidious aspects of internal insecurity that comprises both terrorism and internal-bred thuggery. This is becoming increasingly apparent in Nigeria where soldiers have been reported abandoning their arms and fleeing from battle against the Boko Haram militants. What is to stop the same from happening in Kenya? What happens then? Therein lie the true danger to the deployment of the military for duties that rightly belong to the police.

The military by definition ultimately underwrite the state’s monopoly over physical violence. Their failure should therefore be unthinkable to any right-thinking state elite. For the military to be defeated in a war against external aggression is different; society understands that a foreign power may be better armed, better equipped, better organized, etc. and defeat may be anticipated as a possible outcome in such a confrontation. But what if the “enemy” is within and the “ultimate weapon” fails to tame it? It spells no less than the dissolution of society itself. For the military to be defeated by elements within society is the ultimate statement of state impotence and illegitimacy. This is what the weak state should avoid like the proverbial plague. By committing itself to this course of action the Kenyan state elite is therefore taking a big gamble.

Why is Kenya so vulnerable to insecurity?

A weak state by virtue of its inability to secure itself from both internal and external threats becomes a primary target for terrorism, especially if it puts itself in a situation that attracts terrorist activities. A weak state that for an instant ignores the fact of its weakness is doubly exposed. In the last couple of years Kenya has been exposed not just to the terrorism from Al-Shabaab but also internal security threats from its vast ungoverned arc of insecurity. In this region of perennial insecurity the presence of the Kenya state is only nominal. Most residents of this areas only half jokingly refer to a sojourn out of these areas into other parts of Kenya as “going to Kenya”; apart from their nominal citizenship they really have no reason to feel that they are a part of Kenya. To move from this nominal status to have an actual presence the state needs to adopt a more methodical approach than it has taken so far. It certainly requires more than the knee-jerk reactions of sending in tanks and helicopter gun-ships against naked bandits wielding AK 47s; it requires more than sacking security chiefs and so on.

As Misiko (2014) notes, Al Shabaab and other assorted bandits will continue to have a field day in Kenya unless the state seriously addresses several serious weaknesses. Although he summarizes them under six headings, in the final analysis they can all be subsumed under a single one: corruption. If corruption does not actually bring about these five other weaknesses, at the very least it makes them worse.

The first of these weaknesses is *weak security intelligence*. The National Intelligence Service (NIS) has for a long time come under criticism for serving partisan political interests. To some of its critics, it appears more preoccupied with the political health of some individuals than with the general political health of the society: its reason for existence. This can largely be attributed to another form of corruption: tribalism. Whoever captures the state in elections becomes the patron first and foremost of the members of his tribe and is expected to give them preferential access to all forms of political goods. In this context the primary function of intelligence gathering and analysis is not geared towards securing national interests but primarily of looking after regime survival

Following the Mpeketoni attack on 5 June 2014 in Lamu County in which 48 people were killed, although the Al Shabaab immediately claimed responsibility, President Kenyatta, in a move that left many people puzzled, dismissed this claim and declared that it was the work of the political opposition who were engaging in what he called “ethnic profiling” to massacre those they did not agree with politically. Because the majority of those killed were Kikuyu (the President’s ethnic group), it seems the intention was to portray this as a direct attack against “his” people. The fact is that the majority of non-indigenous residents of Lamu are the Kikuyu who were settled there in the 1960s by President Kenyatta (*father*). Thus, the majority of those who would be killed by anyone targeting “outsiders” would end up being Kikuyu. This reaction from President Kenyatta therefore seemed to demand nothing less than an “equal opportunity” approach by terrorists for all other tribes to get killed as well even in places where they are absent! If he got this information from the National Intelligence Service – and it is their mandate to provide the president with information on such matters, then it is quite telling of how that organization works. It is equally telling that a day before the attack Britain closed its consulate in Mombasa for fear of an attack. It is inconceivable that such a red flag should have been missed by the NIS.

The second weakness identified by Misiko is a **poor anti-terror strategy**. This is to say that Kenya’s anti-terror plan has all the hallmarks of firefighting. A predictable script has actually evolved around these attacks: the event occurs; ethnic Somalis will usually be rounded up (in what are invariably called “security crackdowns”) amidst accusations of violation of human rights and ethnic/religious profiling; those unable to produce papers allowing them to be in Kenya will be deported or sent to refugee camps; those who can buy their way out will do so and those who rightfully have, or have bought authentic papers will be released awaiting the next crisis and round up.

The third weakness revolves around **poor and inadequate equipment**. As alluded to by Githongo, national security is the veritable cash cow for corruption networks in Kenya. Corruption, more than any other single factor, has acted to deny Kenya’s security forces weapons to match those of their enemies. The Anglo-Leasing corruption scandal that Githongo was instrumental in exposing, was mainly about the procurement of security equipment. In March 2014 the Associated Press revealed that the anti-terror police unit in Nairobi was operating on a budget of \$735 per month while the country was spending \$15,000 per month to remunerate each Member of Parliament (Misiko, 2014)!

The fourth weakness is **incompetent/botched investigations**. Again, in this regard the script is quite predictable. An attack occurs and immediately the clichés begin to fly: “no stone will be left unturned...”; “... to bring the terrorists to book”, etc, etc. And that is usually that last that is heard about the matter. If anyone happens to appear in court there will usually be inadequate evidence, no witnesses, or the judge will be dressing down the prosecution for incompetent investigations or faulty charges and so on. Often the main reason for any or all of these is simply corruption of the system.

The fifth weakness relates to **poor local and regional cooperation**. After the Westgate Mall attack in September 2013, the NIS claimed that they had passed on to the police the relevant intelligence on the attack. The police on their part replied that the information they got was so vague as not to be actionable. In responding to the attack itself the paramilitary General Service Unit declared that they had actually gotten the situation in hand before the army came in to “bungle” up the whole situation. It is a litany of disjointed voices when it comes to inter-agency cooperation. With regard to the region it is possible that others may well become wary of sharing with a neighbour intelligence that then becomes available to the highest bidder.

Conclusion

Kenya actually served as the inspiration for the founding of Transparency International (Wagner, 2014). Kenya was the first country worldwide to ratify the United Nations Convention against Corruption on 9 December 2003 in Mexico (EAAC, 2006). The problem of corruption is well known to the state elite. There is also no shortage of laws that have been crafted to deal with the problem of corruption in the country. What has been signally lacking over the years is the political will to fight corruption. Addressing the weaknesses that we have just discussed must begin with reducing considerably, if not eliminating corruption.

Once corruption has been brought under control, a second part of the solution to overcoming state weakness and insecurity lies in devolution. The devolved governments in the counties that were created by the new Constitution in 2010 have long argued that they need to be empowered to handle, if only in part, the security docket. As recently as 7 July 2014, a group of Bishops raising their concerns about the increasing insecurity in the country also raised this issue (Kariuki & Wachira, 2014). That the central authorities have not seen the sense in this has partly to do with what can only be attributed to a dangerous nostalgia for the “benefits” of the highly centralized state of yesteryears. In the present circumstances the solution would appear to lie in deconcentration rather than in concentration at the centre; the enemy is mobile and highly adaptable. A corrupt, monolithic lumbering state is unlikely to prevail against this kind of enemy.

State failure (however one wishes to define it) is not something that comes about accidentally (Rotberg, 2003). It is something that has to be worked at. The Kenyan state elite has so far shown a surprisingly high propensity to work towards just such a failure by its own greed and venality. The choice for this elite is indeed stark: continue feeding its greed for the fruits of corruption and lose the state that makes this corruption possible, or eliminate this corruption and secure the state for the future benefit of society. Where its moral duty lies is not debatable. What is debatable is whether it has the moral courage to make such a decision.

As suggested at the beginning of this discussion the complex mix that results in a failed state means that sometimes all it may take for a weak state to fail is a little shove. At other times it may be a long and drawn-out process. There is really no objective way of determining what exactly will lead a state to fail. Thus, all that can be said is that if Kenya’s elite should avoid making the right moral decision, then regardless of whether it is in the short-term or long-term, Kenya is now headed in the right direction towards realizing state failure.

References

Alingo, P. & Gatimu, S. (2014). Democracy and development under siege in Kenya. Institute for Security Studies. (2014). 12 November 2014. Retrieved on 27 November 2014 from:

<http://www.issafrica.org/iss-today/democracy-and-development-under-siege-in-kenya>.

AP. (2014). Kenya vulnerable to terror attacks because of corruption; immigration, police take bribes.

Retrieved on 26th November 2014 from: <http://www.foxnews.com/us/2014/05/29/kenya-vulnerable-to-terror-attacks-because-corruption-immigration-police-take/>

Bosire, B. (2012). A healthy environment propagates peace, Kenyan activist says. Retrieved on 27 November 2014 from:

http://www.sabahionline.com/en_GB/articles/hoa/articles/features/2012/10/12/featur-02

Daily Nation, The. (2014). Disobeying court orders and other acts of impunity a worrying trend. 19 September 2014. Retrieved on 26th November 2014 from:

<http://www.nation.co.ke/oped/Opinion/Disobeying-court-orders-and-other-acts-of-impunity-is-worrying/-/440808/2459300/-/crtt4sz/-/index.html>

Daily Nation, The. (2014). Union advise staff to quit clash-torn areas. Tuesday, 25 November 2014, pp. 1 & 4.

Daily Nation, The. (2014). Workers in Mandera “will not be evacuated. Wednesday 26 November, 2014, p. 4.

Daily Nation, The (2014). UN in talks with Kenya over KDF link in Somalia charcoal. Saturday 25 October 2014.

Easterly, W. & Freschi, L. (2010). Top 5 reasons why “failed state” is a failed concept. Retrieved on 27 November 2014 from: <http://aidwatchers.com/2010/01/top-5-reasons-why-“failed-state”-is-a-failed-concept/>

Ethics and Anti-Corruption Commission. (EACC) (2006). *National anti-corruption plan*. Nairobi: Government Printer.

Finke, C.Z. (2014). What Battlestar Galactica can teach us about the militarization of police. Retrieved on 9 December 2014 from: <http://www.yesmagazine.org/people-power/battlestar-galactica-and-the-militarization-of-police>

Foden, G. (2014). Kenya: Behind the terror is rampant corruption. Retrieved on 26th November 2014 from: <http://www.theguardian.com/commentisfree/2013/sep/23/kenya-behind-terror-rampant-corruption>

Fund for Peace. (2013). *The failed states index, 2013*. Retrieved on 28 November 2014 from: <http://www.ffp.statesindx.org/rankup-2013-sortable>

Kagwanja, P. (2014). Cutting bullet supply key to draining the swamps in the North Rift of lawlessness. Retrieved on 26th November 2014 from:

<http://www.nation.co.ke/news/Bullets-and-guns-are-the-unholy-trinity-of-terror/-/1056/2515908/-/87779z/-/index.html>

Kagwanja, P. (2014). How new wars are feeding myth of Kenya as a “military state”. In the *Daily Nation*, 16 November 2014.

Kariuki, J. & Wachira, M. (2014). Bishops put Uhuru on the spot over killings. In the *Daily Nation*, November 2014, pp. 1&4.

Kenya, Republic of. (1965). *Sessional Paper No. 10 on African socialism and its application to planning in Kenya*. Nairobi: Government Printer.

Kipsang', W. (2014). Calm returns to Kapedo but leaders want KDF out. In the *Daily Nation*, Tuesday, 25 November 2014.

Misiko, H. (2014). How Kenya made itself vulnerable to terror. *The Washington Post*, 17 June 2014.

Retrieved on 26th November from: <http://www.washingtonpost.com/blogs/worldviews/wp/2014/06/17/how-kenya-made-itself-vulnerable-to-terror/>

NGO law monitor: Kenya. Retrieved on 27 November 2014 from:

<http://www.knl.org/research/monitor/kenya.html>.

Ngunjiri, I. (2010). Corruption and entrepreneurship in Kenya. *The Journal of Language, Technology and Entrepreneurship in Africa*. Vol. 2, No. 1.

Odula, T. (2014). Experts: Corruption exposing Kenya to terrorism. Retrieved on 26th November 2014 from: <http://bigstory.ap.org/article/experts-corruption-exposing-kenya-terrorism>

Rotberg, P. (2003). Failed states, collapsed states, weak states: Cases and indicators. In Rotbert, P.(ed). *Weak states: Cases and indicators*. New Jersey: Princeton University Press.

Star, The. Newspaper of 27 October 2014. Retrieved on 28th November 2014 from:

<http://allafrica.com/stories/201410270250.html>

Today Financial News. (2014). Over 250,000 jobs lost to corruption in Kenya, says senior World Bank official. Retrieved on 4 December 2014 from:

<http://www.todayfinancialnews.com/trade-and-investment/1784-over-250000-jobs-lost-in-kenya-says-senior-world-bank-official>

Transparency International. (2013). *Corruption perception index, 2013*. Retrieved on 28 November 2014 from: <http://www.transparency.org/cpi2013/results>

Wrong, M. (2014). Everyone is corrupt in Kenya, even grandmothers: Is East Africa's economic powerhouse becoming the continent's newest lootocracy? *Foreign Policy*, May. Retrieved on 28 November 2014 from: [www.foreignpolicy.com/taxonomy/term.4803](http://www.foreignpolicy.com/taxonomy/term/4803).

Wagner, D. (2014). Kenya, corruption and terrorism. Retrieved on 26th November 2014 from: http://www.huffingtonpost.com/daniel-wagner/kenya-corruption-and-terror_b_5505869.html

Warner, G. (2013). In Kenya, corruption is widely seen, rarely punished. Retrieved on 26th November 2014 from: <http://www.npr.org/blogs/parallels/2013/11/27/247468299/kenyas-security-forces-a-victim-of-corruption-nepotism>

Weber, M. (1946). *Essays in sociology*. Oxford: Oxford University Press.

Wikipedia (2014). Ethnic conflicts in Kenya. Retrieved on 26th November 2014 from:

http://en.wikipedia.org/wiki/Ethnic_conflicts_in_Kenya