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## The Challenge of Securing Kenya: Past Experience, Present Challenges and Future Prospects

Mumo Nzau

*University of Nairobi*

Mohammed Guyo

*Special Envoy to Somalia, Government of Kenya*

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**The Challenge of Securing Kenya:  
Past Experience, Present Challenges and Future Prospects**

Mumo Nzau  
University of Nairobi

Mohammed Guyo  
Special Envoy to Somalia, Government of Kenya

*The dynamic nature of insecurity and mitigation strategies cannot be adequately understood without comparing the present conjuncture and the past experiences. This paper provides a temporal assessment of security in Kenya by scanning convergent and divergent insecurity experiences and mitigation strategies of the regimes of Jomo Kenyatta, Daniel Arap Moi, Mwai Kibaki and Uhuru Kenyatta. The security dynamics have been shaped by drivers located at local, national and global levels. The convergence of local insecurity and protracted transitional terrorist attacks has produced a high trajectory of insecurity with a negative impact on the economy, social cohesion and stability. The contradiction is that the complexity of the emerging threats has not been matched by the optimal policy, structure and overall security architecture at the national and local levels to mitigate the threats. The paper concludes that different regimes adopted similar national security policies, strategies and institutions to deal with insecurity. The paper concludes that the best way forward for Kenya is to approach security as guided by a holistically sound institutional outlook guided by the bounds espoused by the constitution and by the tenets of governance aimed at building a future society for the good of all.*

**Introduction**

Critical assessment of the status of security depicts that Kenya is at a crossroad. Security is emerging as a defining feature of politics, economic, social, religion, national cohesion and stability. The rampant and unprecedented domestic and transnational insecurity have overstretched the security environment posing major challenges to the stability. The security dynamics have been shaped by actors and drivers located at local, national and global levels. These stretches from conventional local cattle rustling to the emerging ethnic and religious radicalization manifested through terrorism. High profile insecurity incidents, among others, include 2011 Baragoi cattle rustling, 2012/2013 clan conflicts in Moyale, 2013/2014 Mandera clan conflicts, and 2015 Nandemo cattle rustling. Landmark incidents linked to Al Qaeda and Al Shabaab are the 1998 US Embassy, 2002 Kikambala Hotel, 2013 Westgate, and 2015 Garissa University College attacks. These threats have put the country in a precarious situation not only in a physical sense but also psychologically.

The convergence effects of the local insecurity and protracted transnational threats via terrorist attacks have produced a high trajectory of insecurity with negative impact on economy<sup>1</sup>, social cohesion and stability. Consequently, the cloud of insecurity facing the

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<sup>1</sup> From time to time, travel advisories are issued by several governments, hence negatively impacting Kenya's booming tourism.

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current Jubilee Government, which came to power in April 2013, has exposed the limits of national security policy and strategies. Within two years of the Jubilee Administration, the security dockets have been grappling with means and ways of dealing with insecurity. Even the cabinet reshuffle and introduction of local neighborhood watch such as Nyumba Kumi have not produced the desired effect with insecurity persisting unabatedly. Even in a situation where there is a lull in insecurity, the country is in a heightened state of alert. In addition, Kenya's state-centric security orientation has led to the perpetual use of force. Yet, the use of force has not rolled back the menace of insecurity, which creates the impression that the government is not doing enough to secure the people. It is abundantly clear that the enormity and complexity of the threats has not been matched by the sufficient re-conceptualization of security and the institutional change to confront the threats. These have often raised questions on the appropriateness of the existing security governance institutions and their modus operandi to deal with insecurity. The country will continue to reap a limited security dividend unless national and local security architecture is compressively addressed.

A clear understanding of the dynamic nature of insecurity and measures to secure Kenya can be adequately achieved by comparing the present conjuncture and the past experience. This essay, therefore, provides a temporal assessment of security challenges and approaches of different regimes in post-independence Kenya. Firstly, it contextualizes the theoretical perspectives on security. Secondly, the essay discusses insecurity experience and mitigation approaches employed by the four regimes in Kenya. These include the government of Jomo Kenyatta, Daniel Arap Moi, Mwai Kibaki and Uhuru Kenyatta. The essay concludes by providing policy oriented measures to redesign the security architecture.

### **Theoretical Perspectives**

Security is subjective because it is conceived in the worldview of individuals, society and state. The flexibility of security has rendered it to various interpretations by the academic community and policy makers alike. Given lack of a common definition, each stakeholder's concerns is the threats posed to its respective referent object. For the state, national security reigns supreme, which was operationalized from a military/strategic standpoint which underscored the ability of any given state to protect itself from direct/physical attacks to its citizens, territory and sovereignty. In this case, the state centric security approach security is the dominant concern for states where force is the major instrument, and that security is achieved once threats to security can either be prevented or managed (Nye 1988: 6–8). From the traditional security standpoints, states are the most important actors, and the primary concern of all states is survival that is guaranteed by building up military. A military capability is a primary indicator of the power of a state and plays a significant role in the operationalization of the national security interests.

As a result, states invest in preventing such attacks by guarding against any forms of surprise, espionage and sabotage. Yet, in recent times, the threats have transformed from traditional inter-state conflicts to the threats posed by subversion of democracy and good

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governance to ethnic and religious radicalization manifested in the form of state and non-state terrorism. In particular, the threats posed by non-state actors have been described by Kaldor (2013: 2-3) as new wars, which are fought by varying combinations of state and non-state networks; use identity politics to fight in name of a label as opposed to ideology; attempt to achieve political, rather than physical, control of the population through fear and terror; and are no longer financed through the state but through other predatory means that seek the continuation of violence.

The post-Cold War period witnessed a growing paradigmatic shift from these traditional conceptualizations of national security to human security. The increasing shift to human security was motivated by the emergence of individual and society as a referent object of security. The quest for democratization, human rights and development has created the need for a security arrangement that is responsive to both the state and its citizens. The broadened security context takes into account political, social, physiological, environmental, economic and cultural variables that feature strongly (Buzan 1991; Snyder, 1999; Williams and Ebooks Corporation, 2013). Issues such as human rights, accountability and transparency, development, and good governance are important elements of human security. From a more liberal perspective of the Human Security Paradigm, it is possible to argue that security is best understood holistically over and above the state-centric realist position (Thomas and Wilkin, 1999; Weber et al 2009). The broadening of security conception from the conventional state-centric security conception has been motivated by the gaps in security delivery for the people.

The operationalization of security within a state operates on the basis of a “policy environment”. The “policy environment” is important to the realization of the national security interests. The *Eastonian* conceptualization of the *policy cycle* becomes instrumental at this level. While “security policy” is about whatever the government decides to do (or not to do) as far as state survival and the life, liberty and property of citizens is concerned (Dye, 2011); the “security policy environment” hence refers to the overall set of actors, structures and processes that permeate the policy cycle and the flow of security policy over time and space. Ordinarily governments personify states and public bureaucratic outfits implement government decisions-public policy. Public service can be envisaged as an instrument of policy implementation that falls under the direction of the executive arm of government and more specifically, the presidency (President and Cabinet). From the classic Weberian point of view, public service is more or less an outfit that attempts to be guided and fashioned by the basic tenets of a ‘classical’ bureaucratic machine. As such, state officials serving in various dockets of the national security apparatus operate within a hierarchical structure of command control in addition to a formally established system of rewards, punishment and management of security information (Dye, 2011). It is noteworthy however, that in developing administrative systems, these Weberian ideals are barely met. As such, a very thin and blurred line more often than not lies between national or state security on one hand and regime security and survival on the other. To this extent, an attempt to decipher and tell for sure in whose interest the national security machinery actually operates may prove to be a murky and convoluted affair, more so in the context of a developing political and/or administrative system. Despite various non-traditional

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parameters that underpin national security, security interest and policy environment has however, continued to emphasise military capacity.

In this direction, the theoretical argument of *clientelism* provides a more vivid representation of the national security environment (Stillman, 1999: Adamolekun, 2003). Here, one may envision a regime and/or ruling elite that acts as a patron and distributes benefits in the form of public jobs, money, contracts and pension in return of public support. Subsequently, individuals who marshal voters in support of an incumbent regime are rewarded for their work with more government attention, jobs in public service, money or gifts, while those who donate money to the party are rewarded with jobs, contracts and special concessions. The rationale for this line of theorization is that; in less democratic regimes political leaders and the ruling elite in general-- who tend to have authoritarian tendencies-- are not accountable to the electorate they purport to represent. Instead, they control and manipulate the electorate with the aim of enhancing and/or ensuring their stay in power especially through a deliberate system of patron-client relationships that in more extreme cases borders on corruption, blackmail, manipulation, personalization and criminalization of the state security apparatus.

In the wider context therefore, the national security policy environment may be construed to have been conditioned by the domestic dynamics of regime survival, political inclusion and/or exclusion on one hand, but also to some extent, the prevailing regional and international political environments. As such, the closer a politician is to the presidency and the Ruling Party's *Politburo*, the more "secure" the community he represents feels (or is supposed to feel) and therefore to be "in-power" or to be "in-good books" with the incumbent regime was for many years a determinant of where any given ethno-regional grouping would feature on the national security order of priorities, preferences, entitlements, privileges and responsibilities as far as the national security policy environment is concerned. In this context, the clientelist theoretical standpoint does add much value to the understanding of national security policy environment. As such, a less democratic regime can forestall political dissidence, opposition and armed rebellion or sabotage by maintaining the overall security interests of a small group of elites and/or clients who then assure the political and socio-cultural constituencies they represent of personal and general socioeconomic well-being (Bueno de Mesquita 1995; 1998).

The transition from autocratic system to a democratic consolidation brings up the transformation of legal, constitutional and institutional reforms. This way, a more institutionalized setting of national security policymaking, implementation, evaluation and adjudication can be said to be taking shape. Measures are taken to streamline the constitutional, legal and institutional mechanism. In this new context of Security Sector Reforms (SSR), the national security machinery is slowly being treated as instrument of service to the citizens, a professional outfit that is aimed at improving the national security policy environment.

### **Post-Independence Security in the Kenyatta Regime**

Upon the attainment of independence in 1963, the government of Jomo Kenyatta, the first President of the Republic of Kenya, focused on building a nascent state. In addition to its internal environment, new government operated in a bipolar global environment characterized by competing ideologies. In principle, Kenyatta pursued a policy of non-alignment and non-interference to navigate the global political and security divisions of the Cold War. Practically, however, with the interests of the Cold War rivals infiltrating the continent and especially the Horn of Africa, Kenya's position was close to the Western orientation under the leadership of the United States (Blanchard 2013: 13), a relationship that ensured Kenyatta with political, diplomatic, security and financial support.

Internally, the new government was faced by the stark reality of the colonial legacy of divide-and-rule, which had serious implications for national cohesion, integration, security and stability. Among the first challenge that confronted Kenyatta was the agitation for self-determination and ultimate secession by the residents of the Northern Frontier District (NFD) -- made up of the present-day counties of Garissa, Wajir, Mandera, Isiolo and Marsabit. The problem of NFD was fomented by the separate administration of the region by the British colonial government. The separate administration was motivated by the geographical, political, economic, historical and cultural differences of the residents of NFD from the rest of the country. To guarantee the effectiveness of the separate administration policy the British colonial authority administered the region via various draconian legal regimes. These include the 1902 Outlying District Ordinance, 1926 Closed District Ordinance and the 1934 Special District Administration Act. Freedom of Movement was curtailed within as well as in and out of NFD without a special pass. Consequently, the colonial legal and administrative institutions transformed the NFD into a special closed zone separate from the rest of the Kenya. The cumulative effect was to maintain NFD as a separate entity from Kenya, a separation described by Farson (1950: 260) as "one half of Kenya about which the other half knows nothing and seems to care even less."

The separate administration reinforced the separate identity of NFD, a fact which led to demand for secession of the region. The secessionist tendency was further motivated by a referendum conducted by the Kenyan Northern Frontier Districts Commission set up in 1962. The referendum result was overwhelmingly in favour of the right of self-determination for the NFD people<sup>2</sup> and as such, secession from Kenya. The non-implementation of the referendum results provoked bitter reactions by the residents of NFD. This sparked insurgency warfare between the Government of Kenya and the Northern Frontier District Liberation Movement (NFDLM), insurgents backed by Somalia. The support by the Government of Somalia was meant to pursue pan-Somali nationalism irredentist goal to reclaim the "lost" territories; a goal given credence by common feature of identity, politics, economy, cultural, religion, history and geography. Khalif and Oba (2013: 16-17) noted that the "*shifita* activities were driven in part by local grievances, they were a reflection of the unsettled borders and frontiers in the Horn of Africa resulting from political instability". The grievances emanated from the

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<sup>2</sup> Kenya: Report of the Northern Frontier District Commission, London, Her Majesty's Government 1962

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discrimination on the basis of individual, marginalization and under-development through laws, Government policies and other administrative practices.

Kenya on the other hand viciously opposed the secessionist move by what it described as a Shifta war (bandits, rebels). Kenya perceived Somalia's intervention as a breach of Kenya's sovereignty and territorial integrity. The Government declared a State of Emergency, a measure which allowed security forces to detain people without trial, confiscate property and restrict the right to assembly and movement. Kenya also took advantage of the differences between Ethiopia and Somalia and signed a "Mutual Defense Treaty" (MDT) with the Emperor Haile Selassie's Government in 1964. The war continued and reached a mutually hurting stalemate with neither side being able to gain military, diplomatic and political advantages. In 1967, Zambian President Kenneth Kaunda mediated peace talks between Somalia Prime Minister Mohamed Egal and President Kenyatta. In October 1967 Kenya and Somalia signed a "Memorandum of Understanding" (the Arusha Memorandum) which spelt out terms of the cessation of hostilities and official ceasefire. Despite its resolution, the conflict has continued to shape mutual suspicion and reshape relations between Kenya and the people of NFD as well with Somalia.

In addition to the Shifta War, internal political and security dynamics continued to expose the vulnerability of the nascent state. In January 1964, the Kenyatta Government was rocked internally by the military mutiny at Lanet Barracks in Nairobi. The main motivation was the demand for higher pay and the removal of expatriate British officers from the newly established national armies (Parsons 2007). The mutiny ended with the successful disarmament of the rebellious soldiers by the British military (Conley, 1964). The mutiny demonstrated the need for a change in identity from the colonial administration that reflected the new face of independent Kenya. The unrest exposed the fragility and fault lines in Kenya security institutions. The consequences of the mutiny were twofold: first, it was a wakeup call to the Kenyan leadership that the honeymoon and euphoria of independence was over and the urgency of a clear shift from reliance on colonial institutions. Secondly, it provided an opportunity to "Kenyanise" security and other government institutions. President Kenyatta responded by promising to establish a committee to examine "certain anomalies" in the pay of Kenya's African soldiers, which was expected to report back to him by March 1, 1964 (Conley 1964).

On the political front, the Government securitized political dissent and employed the security machinery to deal with the political opposition. Among the landmark initial political opposition was a fallout within the government and the ruling party, which led to the resignation of Jaramogi Oginga Odinga as Vice President. Upon resignation from KANU, Odinga formed a rival party, the Kenya Peoples Union (KPU). KPU was banned and its leaders, including Odinga, were detained under the detention-without-trial laws. Political dissidents were exiled. High profile politicians including Pio Gama Pinto, Tom Mboya, Josiah Mwangi Kariuki were assassinated. Branch and Cheesman (2006, 11) pointed out that:

Under Jomo Kenyatta, the post-colonial state represented a 'pact-of-domination' between transnational capital, the elite and the executive. The ability of this

coalition to reproduce itself over time lay in its capacity to demobilise popular forces, especially those elements of the nationalist movement that questioned both the social and economic cleavages of the post-colonial state. Whilst Kenya may have experienced changes to both the executive and legislature, the structure of the state itself has demonstrated remarkable continuity.

In this regard, the “post-colonial state must therefore be seen as a representation of the interests protected and promoted during the latter years of colonial rule” (Branch and Cheesman, 2006: 11). Regime survival more often than not superseded all other national security priorities, especially securing the political interests of a clique of powerful regime members where their consolidation of power was carried out to the exclusion of other Kenyans with diverse opinions.

The political purge was distracted by more military unrest in 1971. The attempted coup led by Maj-Gen Joseph Ndolo shook the Kenyatta regime. Although the main reasons remained unclear, two motives may be advanced. First, the attempted coup was in response to the deterioration of the political environment. The closure of political space and a series of political assassinations exposed regime fragility. Second, at the time, the military coup was emerging as a fashionable form of regime change in Africa. In particular, closer to home in the same year, Idi Amin, ousted President Milton Obote of Uganda. Kenya’s military aimed to be part of an evolving trend in Africa.

In 1976, Kenya’s fragile political and security dynamic was aggravated by external aggression from Uganda. The President of Uganda, Idi Amin, laid claim to a huge swathe of Kenya’s territory. Amin wanted back all Kenyan districts that were part of Uganda before the colonial re-demarcation of the territorial boundaries (Musunguzi 2011). These included the whole of the former Western and Nyanza provinces and parts of the Rift Valley up to Naivasha, about 80 kms from Nairobi. Amin argued he had a map and a written agreement signed by the British Colonial Secretary of State, Herbert Asquith, transferring some parts of Uganda to Sudan in 1914 and to Kenya in 1926 (Oluoch 2013).

To actualize its claim, Uganda provoked a serious security standoff by amassing troops along the Kenya-Uganda border. In response, Kenya massed its troops on the Ugandan border and further responded by closing its border, a lifeline to Uganda as a landlocked country. Jomo Kenyatta issued a stern warning that Kenya would not part with “a single inch of territory” (Oluoch 2013). Further, given the level of hostility, Kenya cultivated a strategic alliance with Britain and Israel, who were also incensed by Uganda’s provocation. Kenya facilitated Israeli military aircraft in a mission to free an Air France jet-liner was hijacked by terrorists and flown to Entebbe Airport. This event escalated tension between Kenya and Uganda. Following interventions by the Organization of African Unity Secretary, Amin agreed to withdraw his troops from the border areas.

The Kenyatta regime’s response to the security challenges was diverse and largely defined by the need to ensure regime and state survival. Cognisant of the fragility of his government, the Kenyatta regime quickly sought to consolidate power and ensure mass political support around the country. In a concerted effort, the Kenyatta regime

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transformed Kenya into a single party state by convincing the Kenya African Democratic Union (KADU), the then opposition, to dissolve and join KANU. Kenyatta pursued a politics of pan-Africanism and national unity to maintain national cohesion, a basis on which KADU leaders joined KANU in a bid to lay basis for one strong nation. The move by KADU gave KANU carte blanche on the fate of individuals, political groups, ethnic communities and the state as a whole.

Following the absorption of KADU into KANU the next target was to centralize power by abolishing the regional federal structures locally referred to as *Majimbo* and replace them with a purely unitary structure that emphasized the supremacy of the Chief Executive as far as the formulation, direction and implementation of national security policy was concerned (Ng'weno, 2008). In this regard, like the colonial administration, the Kenyatta regime invested in law and order by entrenching the system of provincial administration. The provincial administration became both an administrative and security organ that cascaded downward to the local level. The formulation and implementation of national security policies remained the preserve of the Presidency. All the security-related ministries and specialized departments fell under the Office of the President. In addition, the Kenyatta administration initiated a series of constitutional amendments to concentrate more powers in the presidency. Kenyatta's interests were to have a tight and exclusive control of the executive and by extension the security system to protect his regime.

On the whole, the reign of President Jomo Kenyatta succeeded to steer the country through the transition from a colony to a republic and to overcome the major destabilizing factors that many African countries were grappling with. The ability of the Kenyatta administration to master the national security planning and management terrain helped maintain law and order and to dispel internal and regional threats successfully. It was the sense of foresightedness that led Kenyatta prior to his death in 1978 to carefully steer transition from his regime to his Vice-President Daniel Arap Moi despite a clamour from his inner circle to take advantage of his sunset age.

### **Security during the Nyayo Era**

In October 1978, the ruling party Kanu picked Daniel Arap Moi as its President and sole flag bearer, who was later installed as Kenya's second President replacing Jomo Kenyatta. Moi promised to follow the footsteps of his predecessor and christened his regime as '*Nyayo*', (footsteps). However, the internal and external political and security dynamics were extremely fluid. At the international level, The Nyayo regime operated within the context of the Cold War and a transition to the end of the Cold War where the political and security environment remained uncertain.

Similarly, at the domestic level, Moi had to contend with the legacy carried from Kenyatta era. First is the politics of ethnicity with serious implications for national cohesion, integration and stability. Ethnic cleavages, and in particular opposition to the Nyayo regime in central Kenya, persisted. Moi also had to contend with the Ngoroko saga and the move to remove Moi. Amidst claims of oath taking, regime-affiliated militias and clandestine formations such as the *Kiambu Mafia* and *Ngoroko*, Kenya's

security apparatus thrived (Karimi and Ochieng, 1980). Dissidents of the Kenyatta era and those opposed to Moi gathered momentum.

The biggest internal political and security threat to the Nyayo regime was the August 1, 1982 attempted coup. A group of soldiers from the Kenya Air Force who called themselves People's Redemption Council (PRC), led by Senior Private Hezekiah Ochuka, announced over the state radio station Voice of Kenya that it had overthrown the government. According to the PRC, "A gang of local tyrants has emerged whose function is to terrorize and intimidate, whose rampant corruption and nepotism has made life almost intolerable in our society," the broadcast said. "The economy is in a shambles due to corruption and mismanagement"(Associated Press 1982). The putsch was quickly suppressed by loyalist forces commanded by Gen. Joseph Milinge and Gen. Mahamoud Mohamed. Moi reassured Kenyans that the: "action by the air force ... has been defeated, and, therefore, be calm wherever you are" (Associated Press 1982).

The coup marked a watershed in the political and security dynamics for the Nyayo Government. Moi responded viciously by resorting to the use of national security apparatus to enhance a grip on political control and taming political dissidents. He became more assertive in his leadership both in political and security arena. The Government maintained and reinforced centralized disposition of the national security apparatus, actors, structures and processes. The provincial administration was strengthened and the intelligence security apparatus enhanced. The formulation and implementation of national security policies during the one party system of the Nyayo era was highly personalised and meant to project raw power to dispel any form of dissent; the sole interest was regime survival and sustenance. Such a system was characterized by parallel intelligence networks, political purging, and detention without trial, torture and forced exile (Dianga, 2002). Perception of the regime from the person of the head of state and the attendant personal security dilemma would lead to personalisation of state security.

In addition, Moi also consolidated his political authority by enhancing the role and powers of KANU within the government, the state and society as a whole. Parliament enacted Section 2A to the Constitution of Kenya to transform the country from a *de facto* one party to a *de jure* one party state. Through KANU Moi ensured discipline and political and security oversight within the government and the society. The *de jure* KANU rule of the *Nyayo Era* instilled fear in the population and turned Kenya into a police state where regime security and survival superseded all other security priorities including life and liberty of citizens. The politics of regime survival and security superseded many other priority areas on the national political and security map.

This notwithstanding, agitation for political reforms, including constitutional, legal and institutional reforms, started in earnest; the implication of this agitation for national stability cannot be overemphasised. The call for the introduction of multiparty politics was, however, the loudest of the voices for political reform. The end of the Cold War in 1990 exposed the Nyayo regime to the winds of change blowing across the globe. Following a series of riots, street battles and strikes, coupled with external pressure, the

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government was forced to repeal Section 2 (A) of the Constitution, thereby paving the way for a multiparty politics.

Multiparty politics and the entire democratisation process threatened the survival of the KANU government forcing the security agencies to resort to desperate measures that were reminiscent of the colonial era. Communities that were seen to be supporting the opposition were targeted, systematically attacked and forced into displacement with the main objective of tipping the balance in favour of KANU during elections. The strategy of politically instigated “ethnic clashes” as well as the weaknesses of an opposition that was divided along ethnic lines worked for KANU, which trounced the opposition in two consecutive elections in 1992 and 1997 (Oyugi, 1994; Haurgerud, 1995). This period witnessed the rise of criminal groups that mutated from being illegal sects, to private militias for politicians, to vigilantes and organized criminal gangs mainly for political reasons. The youth bulge in central Kenya especially witnessed the rise of Mungiki, which also operated in Nairobi and parts of the Rift Valley Provinces.

The domestic security situation was aggravated by the insecurity emanating from within the Horn of Africa. The spill-over effects of civil wars and armed rebellions in Sudan, Somalia, Ethiopia and Uganda posed severe challenges to Kenya’s national security, especially through the proliferation of small arms and light weapons (SALWs), illegal immigrants, cross-border banditry and human trafficking. In particular, the SALWs transformed cattle rustling, causing havoc in the far flung regions of North Rift, Northern Kenya and North Eastern. It has also led to the rise of organized crime and entrenchment of illegal gangs. This state of affairs was strongly premised on the rising insecurity in the city associated with car hijackings, bank robberies and break-ins.

The security threat was escalated a notch higher with the emergence of the competition and conflicts between Al Qaeda and the United States. On August 7, 1998, in a well-orchestrated terrorist attack in East Africa affecting Kenya<sup>3</sup> and Tanzania, Al-Qaeda attacked the US Embassy in Nairobi, killing a total of 213 people including 12 US nationals. Further, during the sunset years of the Moi regime, Al Qaeda attacked an Israeli-owned hotel in Kikambala, 15 miles north of Mombasa Kenya on 28 November 2002. The blast killed 13 people and injured 80. At the same time, two surface-to-air missiles fired at an Israeli charter plane (BBC News 2002). The attack was claimed by a previously unknown group called the Army of Palestine based in Lebanon, though, Kenyan and Israeli officials speculated that al-Qaeda network might have been responsible (BBC News 2002). The threats to Kenya were motivated by the perception of Kenya’s Western leaning and Western interests in the country were targeted. And in the wake of the Al Qaeda attacks in the United States on 11 September 2001, Kenya became part of the Global War on Terror (GWR). Subsequently, the country received

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<sup>3</sup> The first incident of terrorist attacks in Kenya was on the New Year’s Eve of 1980, Nairobi’s Norfolk Hotel was bombed, with 20 people dead and injuring 80. A Palestinian group claimed responsibility for the attack. In particular, the facilitation of Kenya to give landing rights to the Israeli security forces to rescue the hostages of the hijacked plane in Entebbe in 1976 placed Kenya under the radar of Palestinian-Israeli conflict. Kenya was viewed as leaning towards the western interests and partisan in the Israeli-Palestinian conflict.

plenty of military, technological and strategic support, especially from the United States, for counter-terrorism and sub-regional security, defense and peace initiatives.

The Moi regime, recognising that insecurity and state collapse in the Horn of Africa region impacted on Kenya's security, sought to align the focus of Kenya's foreign policy to seek to resolve and manage the conflict in the region. These include peace-making diplomacy where Kenya hosted Sudan and Somalia peace processes. It was through the pursuit of such a policy that the peace processes for Somalia and Sudan were established and hosted in Kenya and major breakthroughs and agreements signed.

Following the end of his presidential term, Moi appointed his successor the current Head of State, President Uhuru Kenyatta, as KANU's presidential candidate to run against National Rainbow Coalition (NARC) candidate Mwai Kibaki in a major political battle in Kenya's history. The opposition won with an overwhelming majority and Moi handed over the reigns of power to Mwai Kibaki in a peaceful, colourful, stable and democratic transition that remains the bedrock of his legacy.

### **Kenya's Security Outlook under the Kibaki Administration**

The NARC Government of President Mwai Kibaki was inaugurated at Uhuru Park, Nairobi on 30 December 2002. In his inaugural address, President Kibaki, delivered a powerful policy oriented speech. He pointed out that the "the task ahead is enormous, the expectations are high, and the challenges are intimidating. But I know that with your support and cooperation, we shall turn all our problems into opportunities", and further emphasized that "we must unite to build a safe, new Kenya" (BBC 2002). Focus on safety was critical for the NARC government due to the challenges carried over from the Nyayo regime. These include both the conventional local security challenges as well as the new emerging transnational security threats.

The local clan conflicts, cattle rustling and banditry in North Rift and Northern Kenya continued unabated. Militia groups and criminal syndicates thrived in this environment. Politically and ethnically charged vigilantes, including the Sabaot Land Defence Force (SLDF) and the *Mungiki*, emerged and perpetrated acts of criminality. In the urban setting, muggings, rape, break-ins, executions, carjacking, criminal gangs and vigilantes raged with impunity. Of particular importance is the targeting of the security personnel, ostensibly due to their partiality in the local level conflicts. Easy access to automatic weapons due to high prevalence of small arms and light weapons institutionalised and also modernised the conflicts and crimes, thereby producing high human casualties, displacements and humanitarian crisis. The perpetration of these conflicts and crime were complicated by the cross-border movement of militia and resources (arms and ammunition). Various cross-border incursions by armed militias from neighbouring South Sudan, Ethiopia, and Somalia took place.

In addition to security, unlike Kenyatta and Moi, the Kibaki administration was characterized by fractured political parties motivated by ethnic competition for power. The spill over of politics into ethnic polarisation had major implications for security and stability. The bone of contention was over power sharing in which President Kibaki

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trashed the pre-2002 election Memorandum of Understanding with the Liberal Democratic Party (LDP) led by Raila Odinga (Buluma and Atsiaya 2007). The LDP was a key coalition partner in NARC and was instrumental in the 2002 election winning strategy that overthrow KANU. This exposed the fragility of a hurriedly crafted NARC whose sole purpose was to defeat KANU. The resultant political competition between President Kibaki and Raila Odinga intensified to the extent that the November 2005 Constitutional Referendum, which was meant to approve a draft constitution, turned out to be a political battle between them. The winning side 'Orange' left the Government and transformed itself into a political party -- the Orange Democratic Movement (ODM). The losing side 'Banana' remained in government and later transformed itself into a coalition of parties known as the Party of National Unity (PNU), led by the incumbent Mwai Kibaki.

Political competition between ODM and PNU took some precedence over other national security policy areas. The fallout within the NARC government set a stage for the political polarisation in the run-up to the 2007 general elections. ODM relied on the power of the ethnic coalitions and mass movement while PNU relied on the powers wielded through state machinery. The tension underlying the ODM and PNU political campaign led to uncertainty as the country went into the general election in December 2007. The ambiguity in the presidential election results' tally and the announcement of the Electoral Commission of Kenya chairman Samuel Kivuitu declaring Mwaki Kibaki as the winner against his main opponent Raila Odinga created nationwide tension and uncertainty. The situation was exacerbated by the swearing in of President Kibaki for a second term at a dusk ceremony at State House attended by special invitees, away from the public unlike during the initial inauguration of his first term in office.

ODM leaders rejected the presidential result. Mass protests erupted in ODM strongholds, especially Nyanza, Nairobi, Rift Valley and Coast provinces. ODM supporters in Nyanza and Rift Valley and Nairobi Provinces perpetrated attacks on Kikuyu and members of other ethnic groups that generally supported Kibaki and his Party of National Unity (PNU). Members of the Kikuyu and allied ethnicities responded with violent reprisals against Luo, Kalenjin and other ODM supporters. The security forces, and in particular the police used lethal violence against opposition demonstrators. The violence caused about 1,500 deaths, and 630,000 were displaced internally or as refugees. This violence which pushed the country to the brink of civil war shattered the myth that Kenya is an "island of peace in a sea of conflict". The inability to manage her internal security affairs amicably has cast doubt on the state of security management in Kenya.

The international community intervened rapidly to the post-election crisis in Kenya. The African Union appointed a Panel of Eminent African Personalities to mediate talks between the PNU and ODM, headed by former UN Secretary-General Kofi Annan. The two sides agreed on a four-point agenda: ending the violence and restoring fundamental rights and liberties; addressing the humanitarian crisis, as well as promoting reconciliation, healing and restoration; overcoming the political crisis; and working on

long-term issues and solutions.<sup>4</sup> After protracted negotiations, ODM and PNU put short and long term interventions measure to address completely all the agenda items. Kibaki and Odinga signed the National Accord and Reconciliation Act on February 28, 2008, which instituted a power-sharing coalition government. The coalition government was led by Mwaki Kibaki as President while Raila Odinga became the Prime Minister. The post-election crisis in Kenya revealed that although faulty elections had been the immediate cause of violence, long-term political, social and economic issues (such as constitutional and institutional reform, land reform, youth unemployment, and regional imbalances) needed to be addressed. It was on this basis that the stalled constitutional review process was put in place, which culminated in the promulgation of the Constitution in August 2010 after the referendum.

The outstanding feature in the 2010 Constitution is that it was consciously designed to dismantle the highly centralized disposition of the national security policy environment that the country had known since independence. Ideally, the establishment of new and devolved structures of government that hold a good share of executive, regulatory and decisive authority; the strengthening oversight and regulatory powers of parliament on executive decisions; and the guaranteed independence of the judiciary and a free media seemingly set the pace for a new order of security policy making, implementation, evaluation and/or adjudication that is not only broad-based, multifaceted and holistic but also ‘bottom-up’ and participatory. In this direction, structures, functions, and powers of the national security organs (Kenya Defence Forces, the National Police Service, and National Intelligence Service) as well as oversight mechanism were established.

However, the reforms in the national security organs favoured the status quo and were highly skewed towards national government control of the security sector. In an effort to control security, the national government marginalised the role of the county government. The national government created a parallel administrative system in the counties led by county commissioners as a check to the county administration operating under government. The parallel administration under both national and county government have often led to competition, friction, tension, discontent, and confusion, thereby compromising service delivery at the local level. For example, the county commissioners are ever in a competing mode with governors, a fact that has been exploited by criminal elements.

The role of the county government in security is effectively marginalized. Apart from the County Policing Authority under the National Police Service<sup>5</sup>, the County stakeholders including the county government have been excluded from the county security committee. The membership of the country’s security committee was a replica

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<sup>4</sup> Kenyan National Dialogue and Reconciliation, “Annotated Agenda and Timetable”, February 1, 2008.

<sup>5</sup> The police reform as outlined in the Police Service Act 2011 has done excellent work in the reconstruction of the police institutions both at the national and county level. The County Policing Authority chaired by a governor has members drawn from among others County government, youths, women, religious organizations is a major milestone, which could have been amply complimented by the same gesture in the County Security Committee.

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of the former officials of the provincial administration who are often from outside the counties. The implication is that the “custodians” of the county security are invariably ignorant of the history, geography, social, cultural and local politics, a special determinant in understanding security dynamics and the appropriate response. Hence, the provision of security delivery remains divorced from local needs, context and reality. Consequently, the national administration at the county and the county security system have created a dysfunctional relationship between the state and society.

The overall impression of the security outlook is that the old national security and administrative architecture is being recycled at the expense of the dynamic security threats. That is why despite the new constitutional and political dispensation, even the conventional local security threats continue to stalk the country. Insecurity has persisted leading to *Baragoi Incident* in Samburu County in November 2012 where 42 law enforcement officers were killed by tribal militia; the *Massacres* in September 2012 in Tana River County; inter-clan fighting in Mandera, Marsabit, Wajir, in which dozens were killed in inter-clan fighting. The incidences came to show the limits of the legal and administrative reforms under the 2010 Constitution, as well as the political expediency in the management of security. The absence of local ownership and requisite oversight has turned the security system, particularly at the county level, to be a predatory outfit. For example, it is a common knowledge that security belongs to the highest bidder courtesy of corruption, which has been a major driver of perennial insecurity in Kenya. Kenya was yet to turn the new Constitutional dispensation as a tool towards the change from regime-centred security policies to citizen-centred security service provision (Shabangu, 2009; Katumanga, 2011).

At the regional and international level, the security environment continued to be volatile especially in the face of terrorism threats emanating from war-torn Somalia. Al Shabaab have been crossing into Kenya and attack both government and civilian installations. On October 13, 2011, militants suspected to be Al Shabaab gunmen crossed into a refugee camp near the Kenya-Somalia border and abducted two European aid workers. That was the fourth time in less than two months that the group had successfully carried out similar attacks in Kenya. The government of Kenya could no longer take such attacks lightly and the response was unprecedented. On October 16, 2011, Kenya invoked Article 51 of the United Nations Charter and launched ‘*operation linda nchi*’, by deploying its forces into Somalia with the objective of preventing and curtaining further attacks on Kenyan interests being perpetuated from inside Somalia. Kenya’s involvement in Somalia raised bigger questions around the country’s geostrategic interests and how it should pursue them. Kenya’s unilateral decision to intervene militarily in Somalia may be seen as part of a wider strategy in the Global War on Terror, fight against maritime piracy, coordination of international humanitarian operations and regional conflict management (Nzau, 2010). Kenya continues to work closely and cooperate with the international partners in the war on terror.

Whereas Kenya’s entry into Somalia was hailed as a critical milestone for the national security, it fuelled radicalization at home, creating more insecurity. Al Shabaab recruited youths both to fight in Somalia and others to trained and returned to attack Kenya for its

foray into Somalia. In particular in Mombasa, Youths have been at loggerhead with the security authorities. Both (2014: 23) observed that Muslim youth have joined extremist groups as a “counter-reaction to or way of retaliating against what they see as ‘collective punishment’ that is driven by a misguided perception that all Muslims are terrorists or potential terrorists”. Botha (2014: 24) further observed that:

Of even more concern are claims of extrajudicial killings of ‘problematic’ individuals, most notably radical Muslim scholars. The reality is, however, that the ‘elimination’ or assassination of such leaders or scholars has radicalized and recruited dozens, if not hundreds, to the ranks of extremist organizations, ensuring a new wave of radicalism and collective resolve among their members, ultimately indicating that threats of violence or imprisonment are rarely effective deterrents.

This perception was reinforced by the global security conception of the war on terror with theatre of operations being Muslim-inhabited regions at the local levels and the Islamic States of Afghanistan, Iraq, Pakistan, etc. at the international level.

The Kibaki Administration was also confronted by the emergence of the Mombasa Republican Council (MRC), a group formed in 1999 but was dormant until 2008. The MRC raised claims that Mombasa should secede from Kenya to become an independent state under the rallying call is “*Pwani Si Kenya*” (The Coast is not part of Kenya). MRC target a coastal swathe, between the Tanzanian and Somali borders and 300 kilometres inland, as their future country. The goal of the establishment of an independent state is to ‘liberate’ the coastal people ‘from mistreatment and marginalization by successive Kenyan governments’. MRC’s secession claim is based on the 1895 and 1963 agreements transferring the ten-mile strip of land along the coast to the Government of Kenya from Zanzibar. The Agreement was signed between the Sultan of Zanzibar and Prime Minister Jomo Kenyatta prior to Kenya's 1963 independence. The group contests these agreements as invalid, because Kenya has failed to honor them.

The MRC has grown substantially over recent years, opening regional offices throughout the coast and enlisting civic leaders of varied faiths and backgrounds to spread its secessionist message (Dabbs 2012). Fearing the threats posed MRC, the Government declared the MRC illegal in 2010 (Mukinda 2010). MRC responded by seeking legal redress through the Court. The High Court in Mombasa lifted the ban on Mombasa Republican Council on 25 July 2012. Advising MRC to register as a political party, the Judges stated that MRC, like any other Kenyans, has rights under the law including a political agenda that called for secession that must be expressed in a fair and democratic manner -- and in no way incite war, violence or hate speech (Akwiri 2012). This is an extensively liberal judgment on an otherwise sensitive case that touches on the territorial integrity of Kenya. The judgment demonstrates relatively enjoyment of the rights by individuals and groups in the corridors of justice. However, the MRC’s existence as a legal entity was cut short following the successful appeal by the Government to the Court, which once again outlawed the MRC. Consequently, security forces brutally apprehended all its leaders and presented them in Court to face various indictments.

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Kenya's national security, sovereignty and territorial integrity was also put to the test following an unexpected border dispute with Uganda over the Migingo Island in Lake Victoria. The Migingo border dispute can be traced to June 2004 following Kenya's claim that Ugandan marine police invaded and hoisted flag on the island. The Migingo border dispute crisis became worse in early 2009 when Kenyans living in the island were required to buy special fishing permits from Ugandan authorities (Oduntan 2015: 159). In 2007 Kenya deployed police officers who were later withdrawn from the island in order to avoid escalating hostilities between the two countries. During the Kenya-Uganda ministerial meeting held in Nairobi in 2011, it was resolved that the survey team would produce a report and come up with practical modalities to conclude the survey and demarcation of the boundary (Onyango 2013). Further, the two countries agreed to jointly police the disputed Migingo Island as they await the outcome of the joint boundary verification exercise. Kenyan Commissioner of Police Mathew Itere and his Ugandan counterpart, Maj-Gen Kale Kayihura signed a Memorandum of Understanding in Kampala on August 23, 2011, in which both countries agreed to deploy 12 police officers each for joint crime prevention and patrols (Oluoch 2011).

The Kibaki Administration responded to the security threats through a combination of state-centric and human security approaches. This portrays the Government focus to strengthen the provincial administration and national security apparatus, but also to give attention to the revival of the economy through due attention to the road infrastructure; electricity supply through the Rural Electrification Program; a more decentralized development strategy in the form of the Constituency Development Fund (CDF); free and mandatory universal primary education; a poverty alleviation strategy and an Economic Stimulus Programme. Borrowing from the lessons of the ERS, the Kibaki administration developed a long term development blue print known as Vision 2030 which seeks to propel Kenya into a middle income economy with its citizens enjoying high standards of living by 2030. From a human security paradigm, this approach seemed to be the most elaborate and conducive national security policy environment since independence (Nzau 2011; Katumanga 2011). In the broader context also, Kenyans looked forward towards better living conditions and more job opportunities as well as energy, water, food and health security. It was these political, economic and security reforms that define the hallmark of the Kibaki Administration. The Kibaki regime came to an end in 2013 following peaceful transfer of power to the Jubilee administration led by President Uhuru Kenyatta.

### **The Jubilee Administration and National Security**

The Jubilee Party of President Uhuru Kenyatta came into power after the March 2013 general election. The constitutional, legal and institutional reforms initiated during the Mwai Kibaki's Government paid dividend on steering the country out of the hotly contested presidential election. This was critical in dispensing the fear of not only Kenya but the rest of the world of an emerging correlation between elections and insecurity. In another significant way, the election demonstrated that organic reforms confirm the legitimacy of governance institutions, and in particular the security institutions. The 2013 elections therefore demonstrated the important role that electoral institutions and the electoral management can play in entrenching peace, security and stability.

The Jubilee Government has been operating in an environment dominated by local and global security challenges, which were mostly inherited from previous governments. Within the same year of taking power, the Jubilee Government was hit by waves of locally instigated and transnational security crises. These include terrorism, clan/tribal conflicts, and poaching and cattle rustling. In the Marsabit and Mandera counties inter-clan conflicts have emerged with cross-border dimensions. Samburu, Kapedo, Baragoi, Turkana, and West Pokot counties have been affected by debilitating cattle rustling. The causes of these conflicts were attributed to competition over access to political and natural resources and, in the recent past, to corruption within the government administrative and security agencies. These conflicts cumulatively led to many casualties and displacement. The fault lines between the communities have continued to pose challenges to the resolution of these conflicts. Even in situations where the warring communities agree on peace, the relapses to conflicts have remained high.

In his State of the Nation address to a joint session of Parliament in March 2015, Uhuru Kenyatta singled out national unity, terrorism and corruption as the greatest challenges facing his government. Kenya continued to face serious security threats from Somalia. Al-Shabaab Islamic militant group based in Somalia launched an attack on Westgate Mall in Nairobi. The attack left at least 68 people dead, including 61 civilians comprising mainly Kenyans and foreign nationals. This high level terror opened-up a public debate as to how to better Kenya's national security policy environment. Other attacks were intensified in Nairobi, Mombasa, Mandera, Wajir and Garissa.

In response to security threats, the government undertook a range of measures. These include: firstly, reshuffle and the deployment of the key staff including cabinet and principal secretary from the security docket. Secondly, legal measures were instituted targeting service delivery by the security agencies and also enhancement of punitive measures for acts of insecurity. The National Assembly passed the Security Laws (Amendment) of 2014. Nonetheless, some of the provisions were later dropped after successful petitions in the Court. Thirdly, measures were taken to strengthen the national administration (former provincial administration) role in administration and security, which saw the introduction of the localized micro-security system known as *Nyumba Kumi*.

At the international level, Kenya was also faced with a maritime boundary dispute between Kenya and Somalia. While it was simmering during the Kibaki Government, the maritime dispute between Kenya and Somalia has emerged with the latter taking the matter to the International Court of Justice (BBC 2015). The dispute emerged in the wake of the 13 May 2009 deadline set by the UN Commission on the Limits of the Continental Shelf (UNCLOS), which required countries to submit agreements with neighbouring states on the limits and orientations of their maritime boundaries.<sup>6</sup> UNCLOS seeks to establish the sea limits and sovereignty of states on the use of the sea

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<sup>6</sup> [SPLOS/72](http://www.un.org/Depts/los/clcs_new/issues_ten_years.htm) - Decision regarding the date of commencement of the ten-year period for making submissions to the Commission on the Limits of the Continental Shelf set out in article 4 of Annex II to the United Nations Convention on the Law of the Sea (29 May 2001), [http://www.un.org/Depts/los/clcs\\_new/issues\\_ten\\_years.htm](http://www.un.org/Depts/los/clcs_new/issues_ten_years.htm)

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and allows coastal countries to seek an extension of their exclusive economic zones beyond the 200 nautical-mile' limit.<sup>7</sup> The triangle of disputed ocean territory between Kenya and Somalia stretches for more than 100,000 square kilometres. The dispute is over the extension of the boundary line into the sea. For Somalia the line of the land border continues southeast diagonally, while Kenya wants the maritime border to go in a straight line east from the land border. The maritime dispute has far-reaching security and geopolitical implications and is expected to redefine relations between Kenya and Somalia.

### **Conclusion**

This paper sought to assess the security challenges and mitigation measures to secure Kenya from independence to the present time. The national security environment during the regimes of Jomo Kenyatta, Daniel Moi, Mwai Kibaki and Uhuru Kenyatta reveal two contours of challenges of securing Kenya. The first springs from the reality that the security environment has been changing dramatically since independence. The locus of security challenges in terms of actors' and issues has been shifting over a wider scale. Progressively, insecurity challenges are anchored at the local, national, regional and global levels. Secondly, different regimes adopted similar national security philosophies, strategies, policies and apparatus to deal with insecurity. The recycling of the static security institutions, outdated policies and security structures is not in tandem with the reality of the unfolding security crisis. Hence, over the years, the solution to the dynamic nature of the security threats has remained elusive due to the dysfunctional legal, administrative and institutional security system.

The national government overzealously protected its security mandate. This has made Kenya's security architecture remain state-centric, divorced from local needs, context and reality. Yet, security is a multi-dimensional and multi-phenomenon domain and involves many players (state and non-state) and often requires formulation of an integrated policy, coordination and collaboration of all actors in dealing with threats objectively. The incessant focus on state security has not secured the state and the people. The national government cannot effectively and efficiently discharge its security functions without involving people in the matter of their security at the local level. This emanates from the fact that all acts of insecurity are perpetrated locally and the need for local solutions and ownership cannot be over emphasized.

Good governance requires a broader conceptualization of security that includes both the state and its people. This means that whereas security belongs to the function of the national government, it is on this aspect that both the national and county governments need to nurture the spirit of inter-dependence and cooperation. This emanates from the fact that comprehensive security is therefore the sum of both state and people centered security. It also gives effect to a broader democratic governance of security where ultimately security is a cooperative venture between the people and the state. Therefore, as opposed to haphazard securitization policy, Kenya needs to develop holistic coherent remedial measures to the defective legal and institutional reforms of the national security

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<sup>7</sup> Article 76, United Nations Convention on the Law of the Sea

policies and structures. This requires pragmatic political leadership, devoid of self-interests, who can transform the security governance.

*Dr. Mumo Nzau is a Fulbright Scholar who holds an MA and PhD in Political Science from the State University of New York at Buffalo. He also holds an MA Degree in International Relations from USIU; in addition to other graduate-level training in the field of Peace and Conflict Studies from MMUST. He is a lecturer at the Institute of Diplomacy and International Studies at the University of Nairobi; and he has been a Senior Lecturer of Political Science at the Catholic University of Eastern Africa (CUEA) and Adjunct Faculty at the United States International University (USIU, Africa); as well as the Department of Political Science and Public Administration-University of Nairobi. Dr. Nzau is a key resource person in the Foreign Affairs, Internal Security and Defence dockets in Kenya. He is also an instructor at the National Defence College (Karen, Nairobi) and the Defence Staff College (West Wood Park, Karen- Nairobi) and the Police Staff College (Loresho- Nairobi). His Consultancy and Research specialties include National Security and Defence Strategy, Conflict Resolution and Management, Governance and Development- areas of specialization on which he has numerous peer-reviewed published works in the form of Books, Book Chapters and Journal Articles. Dr. Mumo Nzau is the author of: *Transitional Justice and After: Kenya's Experience with IDP Resettlement and Peacebuilding since the 2007/08 Post-Elections Violence* (Nairobi: CUEA Press, 2016). Dr. Mumo Nzau Personal Webpage: [www.mumonzau.net](http://www.mumonzau.net)*

*Dr. Mohamed Guyo is Kenya's special envoy to Somalia. He holds a PhD in International Security from the Norwegian University of Life Sciences. His areas of research interest include conflict analysis, maritime security, peace building and governance – areas in which he has widely published.*

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