

Chapter 10

## **Policed perceptions, masked realities: Human rights and law enforcement in Kenyan popular art**

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### **Summary**

Human rights record is often monitored through mass media content. However, in repressed societies, mass media is often policed, resulting in sanitised depictions of life. Such mass media appears inadequate as a source of primary information for human rights monitors. This paper poses the question whether there are alternative sources, informal sources, even in society's periphery, that can indicate where human rights monitors can shine their torches. It is argued that popular art, as independently-generated culturally-specific entertainment, provides the sought-after fresh independent lens. This paper analyses the depictions of human rights abuses attributed to one powerful state organ in Kenya, the police. Since the police wield coercive power and are the face of a state's monopoly of force, systemic abuses by police fit well into the category of information that is invisible in the sanitised depictions of controlled mass media. This analysis focuses on public perceptions of the police in Kenya, as portrayed in protest music, popular comedies, broadcast advertisements, and parodied interviews.

### **1 Introduction**

Kenyan and international human rights law places on the government of Kenya the obligation to protect, respect and ensure the right to life,<sup>1</sup> to prohibit all forms of torture,<sup>2</sup> and to protect everyone from arbitrary arrest and

<sup>1</sup> Constitution of Kenya sec 26; Repealed Constitution of Kenya sec 71; Police Act sec 14; Criminal Procedure Code sec 2; art 4 African Charter; art 6(1) ICCPR.

<sup>2</sup> Constitution of Kenya sec 29(d); Repealed Constitution of Kenya sec 74; art 5 African Charter; art 7 ICCPR.

detention.<sup>3</sup> These legal prescriptions have been binding on Kenya since its independence in 1963, when the repealed Constitution of Kenya came into force, have been reiterated as binding international law when Kenya ratified the International Covenant on Civil and Political Rights (ICCPR) (in 1976), and the African Charter on Human and Peoples' Rights (African Charter) (in 1992). Finally, the Constitution of Kenya in 2010 reaffirmed these obligations.

However, the record of Kenya's law enforcement tells a different story. All sources, from popular fiction to reports by credible human rights institutions, point to a culture of arbitrary arrests, torture, extra-judicial killings, government ineptitude and corruption. The list of authoritative human rights reports that document the state of law enforcement in Kenya include the 2009 Report of the Special Rapporteur on Extra-Judicial, Summary or Arbitrary Executions, Prof Philip Alston's mission to Kenya;<sup>4</sup> the report of the Commission of Inquiry in Post-Election Violence;<sup>5</sup> and Up-scaling Torture Prevention and Response in Kenya: National Torture Prevalence Report 2011;<sup>6</sup> Cry of blood: Report on extra-judicial killings and disappearances;<sup>7</sup> Why am I still here?' The 2007 Horn of Africa renditions and the fate of those still missing;<sup>8</sup> Kenya: police abuse Somali refugees;<sup>9</sup> Kenya: Torture compounded by the denial of medical care;<sup>10</sup>

<sup>3</sup> Constitution of Kenya sec 29 (a); Repealed Constitution of Kenya sec 72; art 6 African Charter; art 9 ICCPR.

<sup>4</sup> (Advance unedited version), A/HRC/11/2/Add.6, 26 May 2009. For recent commentary on the same, see M Kiai 'Extrajudicial killings in Kenya' 31 January 2011 <http://blog.soros.org/2011/01/extrajudicial-killings-in-kenya/> (accessed 17 May 2011).

<sup>5</sup> <http://www.dialoguekenya.org/docs/PEV%20Report.pdf> (accessed 5 May 2011).

<sup>6</sup> Independent Medico-Legal Unit (2011) <http://www.imlu.org/IMLU%20SURVEY%20FINAL.pdf> (accessed 25 November 2011).

<sup>7</sup> Kenya National Commission on Human Rights, September 2008 [http://www.marshgroupkenya.org/pdfs/2009/03/KNCHR\\_crimes-against-humanity-extra-judicial-killings-by-kenya-police-exposed.pdf](http://www.marshgroupkenya.org/pdfs/2009/03/KNCHR_crimes-against-humanity-extra-judicial-killings-by-kenya-police-exposed.pdf) (accessed 5 May 2011). See also <http://www.knchr.org/pidief/overview.pdf> (accessed 5 May 2011). See also *K24 News* 'Langata Road execution' <http://www.youtube.com/watch?v=CajzPMozz5s&feature=related> (accessed 14 May 2011).

<sup>8</sup> Human Rights Watch, September 30 2008 <http://www.hrw.org/sites/default/files/reports/eastafrica1008webwcover.pdf> (accessed 14 May 2011).

<sup>9</sup> Human Rights Watch, Press release, 17 June 2010 <http://www.hrw.org/en/news/2010/06/09/kenya-police-abuse-somali-refugees> (accessed 5 May 2011).

<sup>10</sup> Amnesty International, Report of December 1995 <http://www.amnesty.org/en/library/asset/AFR32/018/1995/en/02508d18-f892-11dd-b378-7142bfbe1838/afr320181995en.pdf> (accessed 14 May 2011).

Triple killing by Kenyan police must be investigated;<sup>11</sup> and Kenyan police fire at protesters.<sup>12</sup> In summary: 'Killings by police in Kenya are systematic, widespread and carefully planned. They are committed at will and with utter impunity.'<sup>13</sup>

How is it then that, while the law, both local and international, has been clear on what rights are guaranteed to Kenyans, the reality of their enjoyment has been so different? How has such a sorry state of affairs been allowed to persist for so long? Could it be that, all the while, all the information was right before us, staring at us, only that it was in a form not usually recognised by formal human rights monitoring? Have human rights monitors allowed their perceptions of legitimacy and credibility to be 'policed', thereby impeding their ability to recognise and document patterns of systemic human rights abuses? Even though certain information sources are treated with distrust, even by human rights law itself,<sup>14</sup> it is instructive that what is rejected is exclusive dependence on mass media as a source of information.

In his press statement at the conclusion of his mission to Kenya in February 2009, Professor Philip Alston, UN Special Rapporteur on Extra-Judicial, Arbitrary or Summary Executions, laid down in clear terms the distinction between reporting of human rights monitoring and prosecutorial reporting. In his words:<sup>15</sup>

The task of a human rights investigation is to obtain credible and well-founded information which is sufficient to give rise to an obligation on the part of the government to undertake its own comprehensive, impartial, and effective investigation of all such allegations. Human rights reports are not required to demonstrate as a prosecutor must, or judge as a court

<sup>11</sup> Amnesty International, Press release, 26 January 2011 <http://www.amnesty.org/en/news-and-updates/triple-killing-kenyan-police-must-be-investigated-2011-01-20> (accessed 5 May 2011).

<sup>12</sup> Amnesty International, news release, January 18 2008, <http://www.amnesty.org/en/news-and-updates/kenyan-police-fire-protesters-20080118> (accessed 14 May 2011).

<sup>13</sup> UN Headquarters Press Centre 'Press Release on conclusion of UN Special Rapporteur on Extrajudicial Executions Mission to Kenya', Nairobi, 25 February 2009 [http://www.extrajudicialexecutions.org/application/media/PRESS\\_RELEASE\\_Kenya.pdf](http://www.extrajudicialexecutions.org/application/media/PRESS_RELEASE_Kenya.pdf) (accessed 5 May 2011).

<sup>14</sup> Art 56(4) of the African Charter prohibits the admission of complaints of human rights abuses for determination by the African Commission on Human and Peoples' Rights if they are 'based exclusively on mass media sources'.

<sup>15</sup> P Alston 'Press statement at the conclusion of mission to Kenya 16-25 February 2009' <http://www.scribd.com/doc/12821980/Alston-Press-statement-of-UN-special-Rapporteur-on-Kenyas-extrajudicial-killings> (accessed 5 May 2011).

would. But that does not mean that their contents can be ignored by the police or other relevant government agencies.

This distinction is instructive as it reiterates the value of human rights monitoring as a first step, a sort of trigger to the formal legal system. Human rights monitoring must therefore continue to seek credible sources of information on systemic human rights violations and use these sources and their information to trigger more substantive attention to human rights enforcement.

We divide our analysis into two main sections. The first is an assessment of the place of popular art critical of state involvement in systemic abuses in the spectrum of public discourse, from the periphery to the centre. This assessment seeks to understand how dissident popular art gains legitimacy as an accurate depiction of systemic human rights violations and hence serve as a valid human rights monitoring tool. With Kenya as case study, we present a brief overview of the opening up of that central public space to peripheral art, and question the correlations, if any, with democratisation and respect for human rights. We also juxtapose and interrogate public perceptions of the Kenya Police *vis-à-vis* their own self-perception.

The second analysis involves a critique of the depictions of these alleged violations in popular art. We restrict ourselves to the systemic police abuses as experienced and depicted by Kenyan youth. Given that the daily ordinary experiences of youth are a privileged subject of popular art, we demonstrate trends and attitudes in various popular art forms which relate to events in Kenya. This analysis aims to demonstrate the enduring accuracy of ‘fiction’ as a depiction of masked realities, hence giving credibility to popular art as a human rights monitoring tool for the underbelly of Kenyan society.

## **2 Scope and aims of this analysis of the utility of popular art as a human rights monitoring tool**

In this paper, we argue that one such credible yet oft neglected and unrecognised source is popular art. The paper’s limited scope neither extends to a comprehensive discussion of the history and evolution of Kenyan popular art, nor does it allow for the study of the Kenyan police *per se*. The paper investigates what popular art is and what the characteristics are, that allow it to uncover and describe trends in human rights abuses of this subject perhaps

better than formal human rights reporting processes. The paper seeks to demonstrate that it is precisely the correlations and similarities among the different art forms, genres and artists that establish their reliability as source of human rights information.

In the case of Kenyan law enforcement, we explore the portrayal of the police in Kenyan pop culture and then juxtapose this portrayal with the more 'credible' sources of human rights reporting. In this, we demonstrate that Kenyan pop culture has been consistent in documenting and shouting out loud, attempting to bring to formal recognition the masked reality of Kenyan law enforcement and the attendant human rights violations.

With this in mind, this paper analyses the human rights record of law enforcement agencies as depicted in Kenyan popular culture. Seen as both subjects and objects, it aims to contrast police self-perception with that of the young public. It traces its history from the era of repressed expression, through to the 'free speech'<sup>16</sup> years of post-1997 Kenya. It seeks to reflect on the role of mass propaganda, and its relevance in human rights discussions. We see a direct correlation between the increase in creative space and its movement from state-controlled perfect society prescriptions to popularly-generated descriptions of misery, lament, and cathartic laughter at human rights violations towards the centre of public popular art consumption.

Contrast and juxtaposition is the choice methods used in this study. Laughter engages in unveiling truths boldly.<sup>17</sup> As such, particular emphasis is placed on comedy and, more so, comic parody. Thus, reconciliation between perception and reality, pitting official versus popular opinion, is attempted.

The research employs both textual (colloquial language) and contextual (performance, time frame) analysis. It also looks at the challenges, for voices

<sup>16</sup> For our purposes, we see 1997 as a watershed for 'free speech' in as far as the creative space for popular art is concerned. This limited working definition is important to note since, arguably, freedom of speech, as with other human rights, in Kenya has seen much challenge. Indeed, it can be submitted with little fear of contradiction that, while creative space for social commentary has increased in Kenya since 1997, this increase has *not* been accompanied by commensurate enforcement of human rights and redress for abuses thereof. Impunity remains the problem, hence the existence of bold critical popular commentary even into 2011. See <http://www.imlu.org/?p=1063> for recent incidences of police brutality.

<sup>17</sup> MM Bakhtin *Rabelais and his world* (1968) 92. Bakhtin is particularly inspirational for us as in his *Rabelais and his world*, he too attempted to recover and give credibility to something that was previously ignored.

from both fronts, that accessing mass media presents. It highlights creative adaptations in language and content that enables both the official and the dissenting voice to ironically co-habit in the same public discourse space, reflecting on elements such as didacticism and stereotyping.

### 3 Popular perceptions, popular art and public discourse

#### 3.1 Understanding popular art

Popular culture can be seen as independently generated, culturally-specific entertainment.<sup>18</sup> The daily ordinary experiences of youth are the privileged subject of popular art.<sup>19</sup> Through this art, facts, emotions, fears, joys and sorrows, doubts and convictions are portrayed with crisp unsanitised accuracy. The depiction of perceptions is so bold and direct as to dare to be dissident, describe systemic violations attributable to the powers-that-be at the centre of societal public discourse. Popular culture tends to defy simple categorisation ‘as “traditional” or “elite”; as “oral” or “literate”; as “indigenous” or “Western” as it straddles and dissolves these distinctions’.<sup>20</sup>

Depictions of life will show the authors’ concerns and with that, their concerns of their respective ‘walks of life’. It is therefore incumbent on the consumer of popular art to see it in its context, assess the value and accept the challenges of separating the context and nuances from the popular art. Indeed, for the purposes of our paper, we submit that it is precisely these nuanced messages that can be tapped into, and used as corroborating elements of a wider human rights monitoring protocol.

Because of these characteristics, popular art is generated from a wide range of societal actors and cannot be restricted to a number of socio-economic, socio-cultural or any other sub-societal groupings. For this reason,

<sup>18</sup> K Barber (ed) *Readings in African popular culture* (1997). Barber also identifies the lack of financial gain as a distinguishing factor as the expression is not manipulated by commercial interest. Although some of the content discussed here had had great financial success, like Redykyulass, for the large part, we see the expression of the art discussed here as driven by the artistic need to make social commentary as understood by O P’Bitek *Artist the ruler: Essays on art culture and values* (1986). Since financial gain is a result, not a motivation, we see Barber’s definition as applicable.

<sup>19</sup> F Sipalla & H Sipalla ‘Loosening tongues: Contemporary beer drinking songs amongst the youth in Kenya’ unpublished seminar paper 2005.

<sup>20</sup> J Ogude & J Nyairo *Urban legends, colonial myths: Popular culture and literature in East Africa* (2007). See also SS Olaoluwa ‘Review of urban legends, colonial myths: Popular culture and literature in East Africa’ (2009) 108 *African Affairs* 499.

it can be said to be a versatile art form, capable of maintaining a presence throughout the spectrum of public discourse, from the centre to the periphery. It is these qualities that make it an attractive source of primary information for human rights monitors. But what exactly is the value of such versatility *vis-à-vis* public discourse on human rights?

This paper recognises that popular culture is diverse because it is open to different uses and interpretations by different groups in society. It also agrees that popular culture itself has to be seen as a diverse and varied set of genres, texts, images and representations that can be found across a range of different media.<sup>21</sup>

### **3.2 Mass media, legitimacy and the spectrum of public discourse**

Human rights are neither popular nor democratic. Fair trial for suspects, absolute prohibition of torture, abolition of capital punishment, women's and lesbian, gay, bisexual, transsexual and inter-sexual persons (LGBTI)'s rights are just examples of human rights questions that arouse emotive debate and little consensus. Arguably, even more difficult to publicly discuss are systemic abuses attributable to the state and its agents. Hardly is there a topic that ignites a more resolute repression of free speech and critical discourses.

Mass media, understood as organised and centrally-controlled information dissemination, has long been the choice battle ground for public opinion. Mass media legitimises information by bringing it to the centre of public discourse.

By occupying the centre of public discourse space, what the mass media describes invests power in the central institutions of the society, industry, the state and the socio-culturally privileged. Those who control the institutions of power pander to the tastes of the mass in order to control them.<sup>22</sup> Mass media defines social reality for the mass public.<sup>23</sup> In this sense, the more mass media occupies the centre, the less independent and diverse its depictions of society will be, much to the detriment of the periphery. Even harder becomes its ability to consistently depict abuses attributable to the central institutions of society. It would therefore seem that a multiplicity of sources outside the mainstream is indispensable for effective human rights monitoring.

<sup>21</sup> D Strinati *An Introduction to theories of popular culture* (2004) 35.

<sup>22</sup> Strinati (n 21 above) 8.

<sup>23</sup> Strinati (n 21 above) 12.

This paper interrogates the movement of this art from the periphery of official public discourse to the centre, and along with it, an increasing legitimacy as a monitoring tool for human rights abuses by the state. Here, we submit that such movement to the centre of public discourse is directly proportional to credibility of human rights monitoring tool.

### 3.3 Popular art and post-modernism

Post-modernism describes the emergence of a society in which the mass media and popular culture are the most important and powerful institutions, and control and shape all other types of social relationships.<sup>24</sup> To understand the power of popular media, and by extension popular art, and its challenge as a source of credible information, this paper reflects upon the tenets of post-modernism:<sup>25</sup>

The mass media were once thought to hold a mirror up to a wider social reality, and thereby reflect it. Now reality can only be defined by the surface reflections of this mirror ... this mirror is now the only reality we have.

It is this circular maze which illuminates the examples provided in this paper. The decline of meta-narratives presents a nudge to re-examine the official sources of information. Embracing post-modernism also means 'rejecting the claim of any theory to absolute knowledge, or the demand of any social practice to universal validity'.<sup>26</sup>

### 3.4 Popular art and human rights in politically-repressed societies

In a politically-repressed society, popular art becomes largely didactic and prescriptive, a masked reality that mirrors the state's preferred view. Any bold portrayals are considered subversive and forced underground, and the few creative spaces that retain their autonomy remain peripheral. However, as societies open up to freedom and human rights, free expression brings these hitherto subversive and frank descriptions to the centre of public discourse: the mass media. 'A state monopoly over broadcasting is not compatible with the right to freedom of expression.'<sup>27</sup> State monopoly stifles

<sup>24</sup> Strinati (n 21 above) 205.

<sup>25</sup> Strinati (n 21 above) 206.

<sup>26</sup> Strinati (n 21 above) 209.

<sup>27</sup> African Commission on Human and Peoples' Rights 'Declaration of Principles on Freedom of Expression in Africa', Principle V(1). See also African Charter on Broadcasting; AfriMAP, Open Society Foundation for South Africa, Open Society Media Programme *Public broadcasting in Africa: South Africa* (2010).



popular culture through external and self-censorship.

Before 1997, there was little variety in popular art reaching out to a national audience. Nationwide broadcasting in Kenya, on television and radio, was the preserve of the state broadcaster, Kenya Broadcasting Corporation (KBC).<sup>28</sup> Notably, a few private broadcasters'<sup>29</sup> broadcasts were restricted to greater Nairobi. In terms of content, there was little encouragement of artistic expression, save for the highly-prescriptive self-aggrandising choral pieces greatly favoured by the then President D T Moi. In 1998/1989, a locally-produced soap opera *Tushauriane* ('Let's discuss', in Swahili) broke ground by capturing the fancy of the nation and gluing families across the country to their sets every weekend. Although not popular art as understood in this paper, it represented free expression of artistic creativity. Such was the power of the show that it was banned by presidential decree in 1990.<sup>30</sup>

Kenyan popular art that enjoyed a place at the centre of public discourse continued to be restricted largely to broadcast media productions in radio and television that retained the prescribed, proper, apolitical trend that is the hallmark of a state broadcaster. These were primarily pedagogical tools, using comedy, mimicry and song to educate the masses. Classic examples of such in television, for instance, are *Vitimbi* ('machinations' or 'intrigues' in Swahili) and *Vioja Mahakamani*<sup>31</sup> ('the whacky courtroom', in Swahili). This means that critical depictions of state action were almost non-existent in

<sup>28</sup> TV and radio comedies were produced and aired from the 1960s by the state broadcaster Voice of Kenya (VoK) – later to be renamed KBC. See [http://www.korogocho.org/english/index.php?option=com\\_content&view=article&id=288&Itemid=62](http://www.korogocho.org/english/index.php?option=com_content&view=article&id=288&Itemid=62) (accessed 14 May 2011). For a discussion on the legal framework that governed media control and subsequent liberalisation, see PO Mbeke 'Background note: The media, legal, regulatory and policy environment in Kenya: A historical briefing (2008) [http://downloads.bbc.co.uk/worldservice/trust/pdf/kenya\\_media\\_legal\\_framework.pdf](http://downloads.bbc.co.uk/worldservice/trust/pdf/kenya_media_legal_framework.pdf) (accessed 14 May 2011).

<sup>29</sup> Kenya Television Network (KTN) began operating in 1991 and was restricted to retransmitting foreign news media, especially from CNN, and producing a local news update to Nairobi's environs for the large part of the 1990s. Capital FM, Metro FM (an FM channel of the state broadcaster) also began airing before 1997 as an alternative to KBC Radio.

<sup>30</sup> For a quick but interesting look at the debate for liberalisation of Kenya's broadcast industry in the mid-1990s, see M Nyanchama 'A case for opening up Kenya's airwaves' first published in *East African Standard* in spring 1994, <http://www.matunda.org/?p=650> (accessed 14 May 2011).

<sup>31</sup> *Vioja Mahakamani* is actually a pedagogical tool. It is conceived to use comedy (caricature and mimicry) to sensitise the public on Kenyan civil and criminal law while discouraging unfavourable social behaviour. See [http://www2.jumptv.com/seo/vioja\\_mahakamani/vioja\\_mahakamani.htm](http://www2.jumptv.com/seo/vioja_mahakamani/vioja_mahakamani.htm) (accessed 17 May 2011).

these productions, hence their classification as ‘sanitised’. Case in point is *Vioja Mahakamani*, a court room drama aimed at educating the masses on the law and their rights and obligations in the judicial process, that never depicted an unduly delayed case, a defendant complaining of torture in custody, denial of medical assistance, cruel or inhuman or degrading treatment (like carrying human excrement with one’s bare hands), denial of access to family and legal counsel, a defendant bearing visible torture marks, a poorly-prosecuted case, a case of illegally-acquired evidence or coerced confessions, a case of suspect accomplices killed extra-judicially during arrest, a case of missing valuable evidence like drugs or cash or other such occurrences that form the litany of public complaints against Kenyan police. These, however, were common occurrences in actual court rooms across Kenya.

In these circumstances, although society interrogated itself and popular art critical of police culture was being generated, it remained visible only in the periphery, hidden in the few public spaces that were permitted to express political dissent. Popular music, school plays, street drama and comedy groups and several other forms of popular art in Kenya, which contained critique of state action, police misconduct or even sentiments of discontent, remained peripheral. Popular criticism of the police never came to take confrontational postures in the years preceding 1997, especially during single-party rule (which officially ended in 1991 with the repeal of section 2A of the then Constitution of Kenya which bound Kenya to one-party politics), but was occasionally made in covert ways. Allusion is made here to the politically-charged, highly-irreverent beer drinking songs that formed an integral part of rugby,<sup>32</sup> *mugithi*<sup>33</sup> music and even children’s songs.<sup>34</sup>

<sup>32</sup> Rugby culture, particularly in Nairobi in the 1990s and early 2000s, is accompanied by a strong beer drinking and sing-along culture that spawned creative parody renditions of all types of popularly-known music from gospel to political praise chorals. The proverbial ‘bar’ that was the rugby pitch provided a safe haven for then otherwise dangerous expressions of political dissent. See Sipalla & Sipalla (n 19 above) for a fuller discussion.

<sup>33</sup> *Mugithi*, meaning ‘train’, is a popular musical idiom characterised by a singular guitarist leading the performance of popular songs. *Mugithi* is invariably a ‘bar’ cultural form, thus providing both physical and psychological space for the loosening of tongues during the famous ‘adults only’ late night sessions where X-rated lyrics and bold political dissent expressed in sexual undertones form the basis of popular glee. For fuller discussion, see M Mutonya *Touch what you don’t have: The one-man guitar and urban identities* (2003).

<sup>34</sup> We are reminded here of mimicking, by children, of popular police/army drill songs that date back to the colonial period: *Twende safari, twende safari/amri ya nani, amri ya nani/kapten!/amri ya keya*. Appropriated by performers other than the police/army, this drill song satirised the authoritarian culture of the police and also drew attention to the colonial roots of police culture in the independent state.

However, as liberalisation of the airwaves progressed, things began to change towards the turn of the century. In 1998, a trio of comedians from Kenyatta University's famous Creative and Performing Arts Centre burst onto the scene with their socio-political satire that largely revolved around parodying then powerful politicians, especially President Moi. As their show gained popularity, they were aired by private broadcaster KTN in a comedy show that still remains the most watched family show in the history of Kenyan television.<sup>35</sup> Redykyulass's greatest contribution to freedom of expression in Kenya is that they demystified political critique by parodying President Moi. Almost suddenly, it was possible to express dislike for the President, portray the ruling party as inept and police as unjust, and not risk detention in the dreaded Nyayo House dungeons. True to Bakhtin's assessment, laughter became the space to 'unveil truths'<sup>36</sup> boldly and the catharsis for the trauma of oppression.

Laughter remains an integral part of political commentary in Kenyan popular art. The seemingly intractable problem of police impunity and in the context of ethnically-charged crimes against humanity prosecutions, laughter in popular art remains indispensable to freedom of expression and a catharsis for societal trauma.

#### **4 Police self-perception**

Several formal reports confirm negative placement of the police in the eyes of the greater public. Writing in 2006, Kagari and Thomas cited negative perceptions of the Kenyan police as including corruption, excessive use of force, abuse of due process, culture of secrecy and impunity.<sup>37</sup> PriceWaterhouseCoopers in 2007<sup>38</sup> found, amongst other broad areas of concern, that the poor image of the police was generating 'low levels of trust by customers' and 'unsatisfactory customer service levels'. Transparency International

<sup>35</sup> Sarakasi Trust 'Redykyulass: Get ready to laugh your lungs out' <http://www.nairobis.com/wilsen/sarakasi/redykulas.html> (accessed 14 May 2011).

<sup>36</sup> MM Bakhtin *Rabelais and his world* (1968) 92.

<sup>37</sup> M Kagari & S Thomas *The police, the people, the politics: Police accountability in Kenya* (2006). For a fuller discussion on post-colonial police culture in Kenya, see GP Joshi & S Baudh *Police as a service organisation: An agenda for change* (2003).

<sup>38</sup> PriceWaterhouseCoopers *Kenya Police culture and attitude change – Pilot training programme* (2007).

listed the Kenyan police as one of the most corrupt institutions in the East African region from 2008 until 2011.<sup>39</sup>

How does the self-perception of the Kenyan police compare against the sources cited in this paper? Police self-perception is best depicted in the official statements issued to the public. The very motto of the Kenyan police, *Utumishi kwa wote* ('service to all'), depicts not only the aspiration of these uniformed forces, but also the very basis of their self-view, and even more so, their self-perceived entitlements to that view. Statements issued by the police repeatedly revert to the aspirations of this motto. For instance, a 2006 statement ran as follows:<sup>40</sup>

It is important to clarify here that the Kenya Police is committed to the fight against rape and defilement. There should be no doubt about this in anybody's mind and it is our obligation to protect the citizens of this country from perpetrators of this heinous crime.

However, it is not their purpose ('service to all') but their perceived entitlements *derived from* their stated purpose that marks the Kenyan police. We contend below that their paternalistic view of government, as a force to be feared and not to be questioned, creates for them more, if not exclusive, entitlements of unquestioning loyalty and service from the public, and not the other way round.<sup>41</sup> This view becomes contentious as Kenyan society develops with the widening of democratic space.

Throup contends that this self-view draws its roots from the colonial predecessor of the Kenyan police.<sup>42</sup> A direct legal descendant of the colonial

<sup>39</sup> See Transparency International-Kenya *East African Bribery Index 2011 Report* <http://www.transparency.org/content/download/63593/1019155> (accessed 19 November 2011). See also TI-Kenya *East African Bribery Index 2009 Report* [http://www.tikenya.org/index.php?option=com\\_content&view=article&id=73&Itemid=67](http://www.tikenya.org/index.php?option=com_content&view=article&id=73&Itemid=67) (accessed 18 November 2011).

<sup>40</sup> Kenya Police 'News: Allegations on conspiracy of silence' (10 April 2006) <http://www.kenyapolice.go.ke/news10.asp> (accessed 18 November 2011). It is noted that this press release is signed and dated at the end.

<sup>41</sup> The Swahili word for government is *serikali*, whose etymology, it is contended, leads us to *siri kali*, Swahili for 'powerful/dangerous secret'.

<sup>42</sup> D Throup 'Crime, politics and the police in Kenya, 1939-65' in D Anderson & D Killingray *Policing and decolonisation: Politics, nationalism and the police, 1917-65* (1992). Throup covers the establishment of the Special Branch as an intelligence-gathering arm of the police during the emergency, the culture of beatings and draconian measures against freedom of assembly and movement of Africans at the time and observes that the post-independence force 'was not so very different from its colonial predecessors'. *Ukoo flani*, a Kenyan rap group, also allude to the colonial repression of the emergency in their historical look at police brutality in *Angalia saa* (meaning 'look at the clock') in n 51 below.

force that was created to keep the native population in check and protect the ruling colonial class, the Kenya Police seems to have maintained this very soul and purpose. The culture of excessive force, beatings, the use of detention as punishment for dissent or even simple question, while remaining almost completely opaque and impervious to change or scrutiny, cultivated under colonialism and entrenched during the emergency (1952-1956), have lived on to present-day Kenya.<sup>43</sup>

As media freedom increases, policing of the mass media lessens, and the police force begins to see itself as the victim of unfavourable press. Police spokespersons react defensively, consistently discrediting media reports. Terms such as 'false article', 'misleading and erroneous news' and 'unbelievable report' have become their catch phrases. The previously brazen and fact-laden approach (and dismissal of accusations) is now replaced with some sort of moral claim to authority on the truth.

Sanitised depictions of police in Kenyan performance art invariably stressed the image of a responsible and just arm of the state, the impartial arbiter between disputing citizens. Such depictions were the norm in the state broadcaster KBC's comedy productions *Vitimbi* and *Vioja Mahakamani*. The depictions seemed to reiterate that government and the police represent just power and any suggestion to the contrary is subversive, a threat to law and order that must be dealt with all necessary force and every such action is just and noble.

However, this policed depiction could only mask the reality of the abuse of law enforcement while freedom of expression remained limited. As public space opened up, as more media outlets were licensed and, as more production facilities were created,<sup>44</sup> messages could no longer be as effectively 'policed'. Public servants, politicians and the police began to be subjected to frank commentary and comedy.

<sup>43</sup> See InformAction 'Getting justice: Kenya's deadly game of wait and see' (2009), a documentary on justice options for Kenya following the post election violence, [http://www.youtube.com/user/INFORMACTIONTV?blend=21&ob=5#p/a/u/0/nXS\\_UR4Ml00](http://www.youtube.com/user/INFORMACTIONTV?blend=21&ob=5#p/a/u/0/nXS_UR4Ml00) (accessed 14 Oct 2011). In the documentary, host Maina Kiai, current UN Special Rapporteur on Freedom of Assembly and Association, shows the obstacles he encounters, including a threat of arrest, for asking to see the Commissioner of Police or film his picture in a police station, demonstrating the very opaque culture of the Kenya Police. See also InformAction 'Maina Kiai and Eldoret Police' <http://www.youtube.com/watch?v=xzfhdm1bR3k&feature=related> (accessed 25 November 2011).

<sup>44</sup> The state, through KBC, the Kenya Institute of Mass Communication or the public universities had hitherto dominated TV and radio production facilities until private players began to sprout in the mid-1990s. See Nyanchama (n 30 above).

Rather than providing the impetus for reform, increased attention and discussion have only created a repetition of blanket denials. Police self-perception faces a serious challenge as we witness a move from sanitised depictions of the police to stubborn justifications of their largely unjustifiable actions.<sup>45</sup> The authors of the reports mentioned earlier, not least Alston, have been the subject of well-co-ordinated attacks by the state establishment casting aspersions about their work and even their integrity, in an attempt to lessen the sting of critical reports.<sup>46</sup>

In the transformation into free expression and the related calls for accountability, the police then become public servants, who risk their lives to protect innocent civilians.<sup>47</sup> Resultantly, it is imperative that the public understand that it is the police who are victims of the criminals, and all effort must be deployed to contain criminal activity.<sup>48</sup> The assignment of

<sup>45</sup> For some examples, see 'Mt Elgon operation saves lives', March 2009 <http://www.kenya-police.go.ke/News133.asp>: 'The feature articles are replete with falsehoods-they are an example of how irresponsible journalism can be used to subvert public interest. The interest of the Kenya police force and all the other forces in this operation is purely restoration of law and order and it is grossly irresponsible to impute any other motive by publishing poorly researched and biased feature articles. We expect the *Daily Nation* to move fast to correct the wrong impression created.' See also Human Rights Watch Report, August 2008 <http://www.kenyapolice.go.ke/News145.asp>: 'Kenya police has studied these allegations and finds them to be deliberate falsehoods concocted to discredit government efforts and depict Kenya as hostile to Somali refugees. Kenya Police recognises the important duty performed by our security and immigration officers serving at border points and in areas where refugees are hosted. These officers have performed their duties professionally in enforcing the law and providing security under difficult circumstances and quite often at serious risk to their own lives. In conclusion, the false and fabricated allegations made by the Human Rights Watch NGO are dismissed with contempt.'

<sup>46</sup> In the wake of the co-ordinated government attack on the February 2009 Alston Report, EU missions and in Nairobi and Kenyan civil society rallied behind the UN Special Rapporteur in support of his work. See 'EU Heads of missions: Press statement on Alston report' [http://www.mzv.cz/static/145692-1-MZV/en/news\\_and\\_events/press\\_release\\_1.html](http://www.mzv.cz/static/145692-1-MZV/en/news_and_events/press_release_1.html) (accessed 4 May 2011), and 'Kenya civil society communiqué on extra-judicial killings and the state of the nation, Nairobi, March 12 2009'.

<sup>47</sup> 'Police officer murdered in city riots, June 2006' <http://www.kenyapolice.go.ke/News21.asp> (accessed 14 May 2011). 'Riots instigated by hawkers in the Nairobi city yesterday left one police officer dead. The officer attached to Makongeni Police Station was killed near a Shell petrol station in the city centre. The hawkers had ignored pleas from Leader of Opposition Hon Uhuru Kenyatta, MP for calm, before killing the policeman.'

<sup>48</sup> One cannot but wonder at the possible parallels with the infamous broadcast by Egyptian state television during the 9 October 2011 Maspéro massacre of Coptic Christians when it falsely reported that 'Christians were killing the army!' and 'even issued a call to citizens to go out and protect the army from Christians!'. See M El-Husseiny 'The Maspéro crime: Accounts against the counter-revolutions power, media and religion' [http://www.jadaliyya.com/pages/index/3022/the-maspero-crime\\_accounts-against-the-counter-rev](http://www.jadaliyya.com/pages/index/3022/the-maspero-crime_accounts-against-the-counter-rev) (accessed 12 February 2012). See also Al Jazeera English documentary 'Tweets from Tahrir'.

human rights moves quickly from the human being to the clear dichotomy between the criminal and the protector, implicitly denying the same rights to the criminal (convicted or otherwise). This presents a classical self-perception, where the police become the sole defender of human rights by virtue of their service role. It is this very perception that goes to justify shoot to kill orders and the extra-judicial executions and delves even further to introduce the idea of stray bullets that exonerates the officers involved in killing innocent bystanders. After all, the police are only carrying out their mandate.

Like the proverbial emperor's golden dress, this self-view becomes all the more self-serving when juxtaposed to that of the 'all to be served'. In the eyes of the public, the police become the modern ogre of oral narratives, a figure that deserves and commands fear as opposed to respect. This is demonstrated further in the examples that this paper examines in various subsets of popular culture: protest music, popular comedies, broadcast advertisements and parodied real-life interviews.

## **5 Depictions of police in Kenyan popular art**

### **5.1 Protest music**

Generally music ... is a dynamic and highly charged force that affects other aspects of life such as democracy, economic growth, empowerment.<sup>49</sup> It is a 'vital artistic medium, through which people embody the self'.<sup>50</sup>

The journey through time, and generations, in Kenya is best depicted in *Angalia Saa*,<sup>51</sup> a protest song and music video weaving a narrative covering the period of anti-colonialist struggle to 2008. The parallels become clear: The present-day Kenyan police serve the same function as that of the slave

<sup>49</sup> DS Parsitau 'Sounds of change and reform: The appropriation of gospel music and dance in political discourses in Kenya' (2008) 14 *Studies in World Christianity* 55.

<sup>50</sup> JB Okong'o 'Ohangla music as a parodic genre and post-colonial Luo experience' (2011) 57 *Africa Today* 23.

<sup>51</sup> UkooFlani Mau Mau (2008) <http://www.youtube.com/watch?v=YqARPgKnTnE> uploaded by 'rwangal' on 19 December 2008 (accessed 14 May 2011).

masters<sup>52</sup> and home guards of the colonial period.<sup>53</sup> In the images presented in the video, the sheer brutality and force used by both uniformed forces is subtly depicted to highlight the similarities. In this song, which is a clarion call for heroes to rise and champion social justice and human rights, and which celebrates freedom fighters as heroes, the police are depicted as the enemy. Handcuffs, a tool of trade for the police, are juxtaposed against vivid imagery of a woman in agony. While the police strike at an individual with batons, text printed as part of the video demands for 'People Power Now' and even goes further to refer to the police as *maadui* ('enemies'), presumably of the people. Juxtaposed with the 'service to all' motto, the masked reality becomes most evident.<sup>54</sup>

This characterisation of police in harsh terms recurs in Kenyan hip-hop. As we will see below, Ruff calls them *hii pack ya wolves* ('this pack of wolves').<sup>55</sup> Ngare and *Mashifta*, discussed further below, call them 'beasts'. Big Mo in turns sees them as 'terrorists'. *Wenyeji* do not mince their words, calling them 'bloodthirsty devils'.

The earliest track in Kenyan protest hip-hop on police behaviour came in 1998. Kalamashaka's *Mungu wangu*<sup>56</sup> (Swahili for 'Oh God!'), just like Redykyulass in stand-up comedy, breached the horizon by daring to produce and widely distribute<sup>57</sup> popular art highly critical of the state. Although dealing with the malaise that Kenyan society was experiencing at the time and the sense of hopelessness after the 1997 general election, largely seen to have been rigged, political assassinations, widespread corruption and the then ongoing election violence, the section on police represents the first time an artist unambiguously refers to extra-judicial killings.

<sup>52</sup> The artists further assert: *Tushavumilia viboko mbele ya ma slave master*, meaning 'We have already persevered flogging under the slave masters.'

<sup>53</sup> Colonial collaborators who fought against the Mau Mau fighters, and were the major beneficiaries of land allocation post-independence struggle.

<sup>54</sup> Ruff, discussed further below, wonders if police behaviour is chasing away young Kenyans, asking 'Why do you think everybody wants a visa?' Ruff (2003) 'Makarao' [http://www.myspace.com/ralph\\_sipalla](http://www.myspace.com/ralph_sipalla). *Makarao* is slang for 'police'.

<sup>55</sup> Ruff (n 54 above).

<sup>56</sup> Kalamashaka 'Munguwangu' 1998. *Kalamashaka* is a Swahili word meaning 'those who have lived troubles'.

<sup>57</sup> The song was first aired on Capital FM in July 1998, further demonstrating the symbiotic relationship between freely-expressed popular art and liberalised airwaves.



In *Gunshots*,<sup>58</sup> a warning text flashes on screen in the first few seconds: *Hatutaki na tumechoka na ma gun shots ... maboys tuwache guns na macops tuwache kuwaua vijana wa mtaa* (We do not want, and we are tired of, gunshots ... boys let's abandon guns and cops (police) let's stop killing the youth).

Without even listening to the song, police already stand condemned of killing the youth, and rings close to human rights violations in the form of extra-judicial killings. The police are referred to as beasts, and the need for investigation into such killings is deemed by the youth to be an effort in futility. Though the song is about proliferation of arms, the resounding message is that in their path of duty, the police are killing innocent people (mostly the youth) and in the process endangering the country's long term plans.<sup>59</sup>

In *Tunavyoishi* by *Wenyeji*, a narrative is offered of life in 'the ghetto' (as Kenyan youth call the underprivileged lower class and poor neighbourhoods that form the underbelly of Kenyan urban society) and how a plan by three youths to rob in the neighbourhood is intercepted by the police. In graphic detail, the story depicts an execution of two suspects by police. Reasonable force is scoffed at as the youth are only armed with crude weapons such as knives and, in one case, the criminal-in-waiting actually disarms before a round of ammunition sprays his body. The lyrics state that despite this disarmament, the devil was thirsty for blood. The police become the devil. Towards the end of the song, haunting words come to play:

Sasa mwili na bullet, hakumaliza shule ...

Now the body full of bullets, he never finished school ...

In *Makarao*,<sup>60</sup> by Ruff, aptly named after one of the slang references to the police, tough questions are thrown across at the uniformed forces. The refrain is hard hitting:

<sup>58</sup> Ngare featuring *Mashifita* (2010) <http://www.youtube.com/watch?v=osbO03vxNng&feature=related> uploaded by 'karitemkenya' on 28 August 2010 (accessed 14 May 2011).

<sup>59</sup> The song alludes to the impossibility of attaining Kenya's Vision 2030, when its youthful population is at threat with deaths of many below the age of 30. The video to the song uses violent animated computer game scenes to depict the killings.

<sup>60</sup> Ruff (n 54 above). Ruff later issues a remix of the track following the killing 'by stray bullets' of George Kibet in January 2010. See Kenya Television Network 'Trigger-happy police?' (2010) <http://www.youtube.com/watch?v=7c6TRax-K9k&playnext=1&list=PL929B0CE6C72E9B05> uploaded by 'standardgroupkenya' on 18 February 2010 (accessed 5 May 2011). See also NTV Kenya 'Murder and the police'(2010)

Makarao...mbona mwajifanya ma-pharaoh, maisha hamthamini...kama za wanao...twauliza kwanini, kwanini...?  
Police, why do you pretend to be pharaohs, why is it that you don't value (others') lives as you'd value the lives of your own children?

The song goes on to narrate violations of human rights committed by the police, depicts them as a source of fear, and becomes a scorching tirade against a force that refuses to recognise humanity in others. The police are perceived as enemies, threats and above all inhumane.

BigMo, in *Kumbe ni ma-terrorist*, does not mince his words. The police are terrorists. Sauti Sol, in *Blue Uniform*,<sup>61</sup> captures a satirical piece showing the police harassing musicians on their way home from a band practice session. The musicians, cornered, plead with the police declaring that they are ready to reform if they have wronged the police. In this case, the police are depicted as the law, not a law enforcement agency. The apology is not for committing a crime but for committing a wrong against the police, and even this with a cautionary perhaps. Power and privilege, and its discordant abuse is the parallel painted throughout this song.

*Sitoi Kitu Kidogo*<sup>62</sup> sheds light on another aspect of police perception. The whole song focuses on the protagonist refusing to offer a bribe to a police officer. It comes out clearly that one of the characteristics of the police in the eyes of the public is as harbinger of corruption. The song portrays the youth as tired of offering bribes, pushed into a corner and even arrested for refusing to offer a bribe. The policeman makes an explicit request

<http://www.youtube.com/watch?v=sogrLwwL-v8> uploaded by NTVKenya on 12 March 2010 (accessed 22 April 2011) – shows disparity between Kenyan police zeal to handle public disturbances and apparent ineptness to investigate murders; KTN 'Police killing unarmed civilians' (2008) <http://www.youtube.com/watch?v=NkW83xCvPxo> uploaded by 'nmugaya' on 18 January 2008 (accessed 22 April 2011) – shows the pre-meditated murder of Kisumu protesters during post-election violence in Kenya; NTV Kenya 'Police or rogues' (2010) <http://www.youtube.com/watch?v=RGiN18B3rTQ&NR=1> – uploaded by NTV Kenya on 12 March 2010 (accessed 22 April 2011) – shows police brutality in the Nairobi suburb of Kawangware suppressing demonstration of residents protesting the murder of seven fellow residents by a police officer earlier that week; CNN 'Kenya police (demonstrator) shoot up close' (2008) <http://www.youtube.com/watch?v=tibUHeWE1ZU&feature=related> uploaded by 'juicethedj' on 20 January 2008 (accessed 22 April 2011) – shows an irritated police officer cocking an AK-47 and shooting a shouting protester at point blank range. Bullet misses.

<sup>61</sup> (2008) [https://www.youtube.com/watch?v=6LVnBr96\\_bQ](https://www.youtube.com/watch?v=6LVnBr96_bQ) uploaded by 'thdee254' on 29 July 2009.

<sup>62</sup> Swahili idiomatic expression stating a blatant refusal to offer a bribe: <https://www.youtube.com/watch?v=e-L79xtsz40>. Jimwat (2008) Calif Records.

for the bribe, even negotiating for an exact figure, depicting a heightened level of desperation on his part. The reaction by the policeman to this protest is to issue a threat of arrest. Through word play, the policeman further trashes the idea of the rights of the individual, comparing in a linear fashion and thereby declaring that in his view that which is being claimed as a right is actually a wrong. The interplay between power and justice leaves the policeman on the side of excessive brute and thereby a perpetrator of injustice. The song takes a swath at the police stating that, even though they claim that corruption is a vice, they are still at the forefront of advancing it. When the policeman makes good his threat of arresting the young man, trumped-up charges are booked and the young man is offered a chance to purchase his way out of this new-found trouble.

## **5.2 Popular comedies**

Police ineptitude is the overriding theme in Kenyan comedy depicting the police. Unlike music that protests and minces not its words, comedy, with tongue in cheek, almost invariably laments at how such power can cohabit with such incompetence.

The XYZ Show, a puppet show on political satire, has coined a pun on the police motto 'Service to all' to say 'We serve you and serve ourselves better'. In a skit titled 'Police answering machine',<sup>63</sup> XYZ portrays the poor level of police service. The very idea of an answering machine to take emergency phone calls from citizens in distress is tragic-comical. The directions and conversation of the police voice exemplify the most common complaints of poor service. After opening with the self-serving description of Kenyan police serving Kenyans 'for the last 300 years', the electronic secretary goes on to offer language directions: English, Swahili, and for any other language such as French, the caller is politely advised to 'go to France'. Then directions are offered not for a set of complaints, but of different phases of a robbery: the robbery itself, if the robbers have left, if the robbers have 'already killed you'. It also offers options like spotting suspected criminals, at which point the voice advises the caller to leave the scene immediately or risk being hit by a stray bullet. Once again the theme of extrajudicial killings comes up. Finally, if it is corruption you want to report, no dialling options are offered. Instead, on offer are insults for being insensitive to the

<sup>63</sup> XYZ Show (2010) [http://www.youtube.com/watch?v=SC7HOQj5uk8&feature=player\\_embedded](http://www.youtube.com/watch?v=SC7HOQj5uk8&feature=player_embedded) uploaded by 'thexyzshow' on 15 June 2010 (accessed 22 April 2011).

plight of police. As the voice asks, 'Do you think we eat stones?' When the caller finally chooses the robbery option, the police officer goes on to laugh at the caller for the robbery he or she is undergoing, with background laughter from other officers. To the officer, it is a game, guessing in advance what predicament a caller would be in. It ends with some 'tough luck' words from the electronic voice: 'This world ... don't worry too much' which is Kenyanspeak from 'Don't be a cry baby. Toughen up!'

In *Witness protection programme*,<sup>64</sup> XYZ hypothesises ICC Prosecutor Luis Moreno Ocampo applying for witness protection in Kenya and the joke with which it is treated by the attending police officer. The officer does not seem the least bit concerned; Ocampo is even given a butter knife, to help him defend himself from the threats on his life that he is experiencing. This skit represents a general dismay that the Kenyan police are responsible for the security of subjects in the witness protection programme established under the Witness Protection Act of 2010.

Serykaly, a theatre group out of the same creative and performing arts springboard at Kenyatta University that produced comedy greats like Redykyulass, specialise in political satire. Their name is a pun on the Swahili word for government, *serikali*. One cannot help but see in the apparent misspelling of a common word like *serikali*, an allusion to the incompetence of the objects of their satire.<sup>65</sup> Instructively, their video clips open with the sound of gunshots. In a clip also titled 'Witness protection',<sup>66</sup> they revisit the quintessential Kenyan arbitrary arrest encounter: A young couple meets up with police and under the tough questioning that accompanies such encounters. The portrayal of self-perception is strong in Serykaly's art. Here, the police appropriate the entire government and any question is seen as a challenge to government power, if not legitimacy. This is demonstrated when the police officer asks the young man why he has covered his head. By giving an explanation, he shows himself to be challenging 'the government' and is promptly imposed upon his first trumped up charge, 'denying the government the right to identify you'. Similarly, upon identifying herself as 'Mary-Anne', the young woman is accused of 'denying another innocent citizen the right

<sup>64</sup> XYZ Show (2010) <http://www.youtube.com/watch?v=Z5Oik40Jc80>– uploaded by 'thexyzshow' on 2 July 2010 (accessed 22 April 2011).

<sup>65</sup> Such purposive naming of characters and subjects is a much favoured literary device for political satire, particularly in Swahili literary stylistics, where they are called *majina ya majazi*.

<sup>66</sup> Serykaly (2011) <http://www.youtube.com/watch?v=amj4CIUjVTA> uploaded by 'ALEXMATHENGE' on 5 April 2011 (accessed 22 April 2011).

to have an identity', ostensibly for having two names.<sup>67</sup> As usual, arbitrary arrest follows the imposition of false charges and physical harassment. It ends with commentary on the police role in witness protection. One officer says in the alternative (to going to the police station's holding cell) he will take away the arrested girl to his home for 'witness protection'. Once again, popular art shows the public's dismay at the 'fox-guarding-the-chicken-house' role of the police in Kenya's witness protection programme.

Serykaly also offer us a comic look at the police self-perception. Having explored this question above, particularly in the explanations and apologies that are the official statements the police issue, Serykaly goes on and parodies the police press briefing.<sup>68</sup> Ineptness and caricature expectedly feature strongly in the parody. This clip is interesting for, in parodying the police press briefing, it represents distrust and disappointment at what was long yearned for by the Kenyan public, a police force open to media briefings. While giving press briefings was hoped to be a welcome development towards accountability and reform, it has shown itself to be an incessant reaffirmation of the self-serving perception discussed above and joked over by XYZ. Serykaly's police briefing is a caricature of police openness and competence. In the briefing, for instance, extra-judicial killings are blamed on the dead suspects who 'collided with the bullets'.

Fununukenya<sup>69</sup> reinforces this theme of disappointment at police public pronouncements, in an animated parody of a news report where pre-recorded public statements by cabinet ministers over an incident where seven taxi drivers were killed by a police officer are juxtaposed with commentary from the narrator posing as a news anchor.

<sup>67</sup> This police practice of imposing ludicrous trumped-up charges is also depicted by Redykyulass in their interlude in Eric Wainaina's album *Sawa sawa*. Whilst it may seem that these ludicrous charges and the even more ludicrous explanations for their actions are part of creative comedy, they unfortunately are not the result of creative writing. When a video showing a police officer hunting down, shooting and kicking the bodies of two protesters and watching as they die during the post-election violence in Kenya in January 2008 was aired on local and international media, the police spokesman Eric Kiraithe gave a press briefing where he dismissed the video as fabrications of the media, and called it 'cinema' akin to 'Rambo movies'. One of the victims' brothers later spoke to the press and reminded the police spokesman that in 'Rambo movies' the real life actor does not, like his brother, die. See KTN 'Police killing unarmed civilians' (n 60 above).

<sup>68</sup> Serykaly (2011) <http://www.youtube.com/watch?v=WWbCYikb-bE&NR=1> uploaded by 'ALEXMATHENGE' on 5 April 2011 (accessed 22 April 2011).

<sup>69</sup> Fununu Kenya (2010) <http://www.youtube.com/watch?v=5nP3qR6Z0wk> uploaded by 'jfununu' on 11 August 2010 (accessed 14 May 2011). See also <http://www.fununukenya.com>.

### 5.3 Broadcast advertisement

The inclusion of broadcast advertisement in the scope of this paper may be viewed as being misplaced, given the non-financial motivation of popular culture. However, one example deserves comment here. Given their commercial motivation, advertisements seldom attempt to critique the state, let alone accuse it of criminal activity, as does music, or of ineptitude, as does comedy. Yet, in 1999, as a sign of the expanding democratic space, Trust condoms aired a most intriguing radio advert. It depicted a young man being arrested for walking at night, a regular occurrence, particularly in pre-2005 Kenya that every young man could identify with.<sup>70</sup>

The unfortunate young man's encounter with two police officers opens with the long and quickly spat-out series of questions that the average young Kenyan man has heard with horror: 'Come here! Where are you going? Where are you from? What is your name? What is your father's name? What work do you do? Answer quickly!!' Before one can answer, comes the false accusation: 'There are three things that walk at night', policeman 1 explains. 'These are police, dogs and thugs. Are you a police officer?' The young man answers in the negative. 'Are you a dog?' It is again a negative answer. 'Then you must be a thug!' As with all fallacious arguments, from the very premises of the argument, which is also a sterling example of police perception of the 'all' they serve, the young man's fate was sealed. The impromptu interrogation proceeds to asking for an ID card. Among the by-products of this demand is that one pulls out their wallet, at which point the police proceed to rummage through the wallet, quite literally robbing him. It is then that they come across his pack of Trust condoms, which brings in the advertising hook. It also cleverly allows the young man an opportunity to wiggle his way out of arrest and giving up his money (it hardly happens that the two occur together) by explaining to the ignorant officers what the condoms are.

That the police practice of arbitrary arrest for walking at night, not carrying an original identity card, bribe seeking and false and ludicrous accusations to 'justify' arrest can be the basis of a very successful advert exemplifies just how pervasive the practice is. After all, Trust condoms target a very specific demographic, young men. This advertisement's stunning tongue-in-cheek depiction of a very real Kenyan problem spawn and inspired a series of repetitions. Trust condoms, although in a much less prominent role, depicted

<sup>70</sup> That encounter is very comical but very sad and mirrors the experience depicted in the Redykyulass interlude in Eric Wainaina's *Sawa sawa* album.

the police once again in a 2008 television advertisement,<sup>71</sup> this time in a much reformed view.

#### 5.4 Parodied real life interviews: The case of *Bonoko*

This is the transcript of an interview given by an eye witness to a police killing. It was an actual news clip,<sup>72</sup> which then got remixed into a song.<sup>73</sup> This *Bonoko* remix is a rare example of a new form of popular expression of protest against such police killings.

In the interview itself, the persona speaks in a surprising straight-up, matter of fact fashion. He begins by stressing the innocence of the victim of the extra-judicial killing. *Huyo si mwizi*, he repeats four times in the interview. He explains that the victim who was shot had been urinating in public when police officers arrived, and it is then that he took to his heels.

In explaining the scenario, the persona narrates that the victim was shot, then killed, and died. The persona makes an interesting differentiation between shooting and killing, and by doing so highlights that this was a process pure and meditated, separate from an accident. After the killing, false evidence was planted on the victim to justify the shooting and killing. The false evidence is in the form of a fake gun, which the persona calls *bonoko*. This relatively unknown street slang term for a fake gun becomes the name of the song.

To assert his conviction that the victim did the right thing by running away from the police, he notes that even he would have fled given similar circumstances. And this is a point of view that many young Kenyans, we assert, would relate to. But this is, on the other hand, surprising considering that the victim in this real-life tragi-comedy was shot and killed for simply running away.

The persona goes on to explain that, given his poverty and lack of family (for he was born a street kid, he explains), he has nobody to bail him out and there is much suffering in detention. 'One is not fed, and is beaten', he says.

<sup>71</sup> Trust Condoms (2007) <http://www.youtube.com/watch?v=AjOzzBfRKvU> (accessed 23 May 2011).

<sup>72</sup> Original *bonoko* interview (2010) <http://www.youtube.com/watch?v=ZScwMubqxRI&feature=related> uploaded by '36xb' on 4 March 2011 (accessed 18 May 2011).

<sup>73</sup> *Bonoko* remix [<http://www.youtube.com/watch?v=ZkBFnFcQg48&feature=share>] uploaded by 'Githumbato' on 26 February 2011 (accessed 18 May 2011), is a house remix of an interview of a Nairobi street dweller who had witnessed a police killing and was accusing the police of planting fake guns on those extra-judicially executed to suggest reason to have opened fire.

In short, there is no way he will ever access justice given his poverty. This draws a parallel that in his view, justice belongs to those with means and ways, and anyone with no access to the said only has one option: to run.

Parodied real-life interviews build on a history of parodied Kenyan music that was popularised by comedian Kajairo. Its construction lends itself to greater proximity to real-life witness of police crimes while maintaining its creative element. The creative remix simply makes palatable a rather painful and gory interview. It makes light of a weighty matter, and relies heavily on a vernacular accent to shift focus from the criticism. It contains less creative interpretation and presents a new theme.

Unlike comedy, advertisements and protest music, parodied real-life interviews' portrayal of police is less reductionist. It is difficult to retrieve a linear conclusion, but rather presents the kaleidoscope of lament that forms real-life Kenyan discourse on police brutality. It is not strictly creative since the content comes from a real interview while the form is parodic. The musical idiom is created but the content is neither interpreted nor created, just real life.

Compared to comedy or music, the persona blunts out emotion; he is not bitter or protesting, nor does he sound resigned to his lowly sort. No, he retains his agency. If pounced upon by police, he will run. He knows what the risks are and takes his choices, albeit false as they are, and does the best he can with those. The persona even takes the time to offer advice. The feat one must do is to ensure they do not put it on them – the only way to do that is to run. The persona asserts to the news reporter interviewing him that he too can be a victim of *bonoko*. After all, he recounts, just the other day, they planted *bonoko* on one of our colleagues, and all the market vendors were there and they knew him and still they planted *bonoko* on him.

One cannot help but see a dignified and noble revolt in this, the marginalised street urchin that can be shot dead for urinating in public, or simply for running (the only logical thing for him to do). Of all the pop culture art forms, this form of parodied real life is most tragi-comical. What he recounts is neither new nor even unjust. It is simply the way it is. He does not fear *bonoko*, but he is no fool to wait for it to be planted on him,<sup>74</sup> or for the police to catch up with him and beat and arrest him.

<sup>74</sup> The Swahili verb used by the author to say that the victim of the extra-judicial killing had false evidence planted on him is curiously also the Swahili verb for the action of false accusation.



## 6 Conclusion

By broadening the horizons of acceptable and credible evidences of human rights violations to include elements of popular culture, human rights practitioners have the opportunity to detect tell-tale signs of a system gone wrong. Even where admissibility in court may be a challenge, these warning signals can be used to proactively manage both real and potential threats to human and peoples' rights.

The Swahili in Kenya have an adage that says *litemwalo lipo, na kama halipo li njiani laja*.<sup>75</sup> By treating the voices in the parodies, satire and protest music with the seriousness they deserve, human rights violations can be better monitored and even averted. Rather than dismiss these voices, forums to listen to, decode and unwind the rising tensions in the youth-police relations can be used to create a healthy dialogue space and create accountability to those perceived to be in power and by extension oppressive in their tactics.

In increasingly free and open public spaces, the traces of violations are easier to identify and thereby present a more accessible source of alternative information than officially recognised reports. In a politically-repressed society, emphasis must remain in listening to the nuances and subtle reflections, especially in contextualising humour and refusing to ignore depictions of stereotypes. Stylistic devices in popular art could easily hide the very allegations that are intended to be brought into the public space. As a result, conscious effort must be applied to extract the key messages, and informal exchanges must be used to workshop contextual messages – especially as a proactive monitoring tool.

It is this paper's argument that, by embracing post-modernism, human rights perspectives can be enriched by lending an open ear to other sources than those structurally accepted as sound.

As concerns the Kenya police, it is noted here that, with the implementation of the Kenyan Constitution and together with it, the new legal regime governing the police (National Police Service Act, National Police Service Commission Act and Independent Police Oversight Authority Act),<sup>76</sup> there

<sup>75</sup> This effectively translates to mean that elements that are rumoured are real, or are on their way to becoming realised.

<sup>76</sup> See [Kenya] National Council for Law Reporting's webpage on recent legislation <http://www.kenyalaw.org/klr/index.php?id=651> (accessed 22 November 2011).

is much hope for reform of the Kenya Police into a service-oriented crime-fighting outfit.<sup>77</sup> The rare public discussion by the police of vulnerability and plea for increased public investment, as seen at the launch the 2011 East African Bribery Index, may be instructive of a new introspective self-perception.<sup>78</sup>

<sup>77</sup> [Kenya] Civil Society Working Group on Police Reform 'Press release: Radical surgery of Kenya Police long overdue' (15 November 2011) <http://www.imlu.org/?p=1107> (accessed 21 November 2011).

<sup>78</sup> NTV Kenya News '2011 bribe index: Kenya police most corrupt institution nationwide' 21 October 2011 <http://www.youtube.com/watch?v=ur14P3h4KAs> (accessed 21 November 2011). See AK Mwenda *A review of the Kenya police force budget and its effect on crime management* (2005).