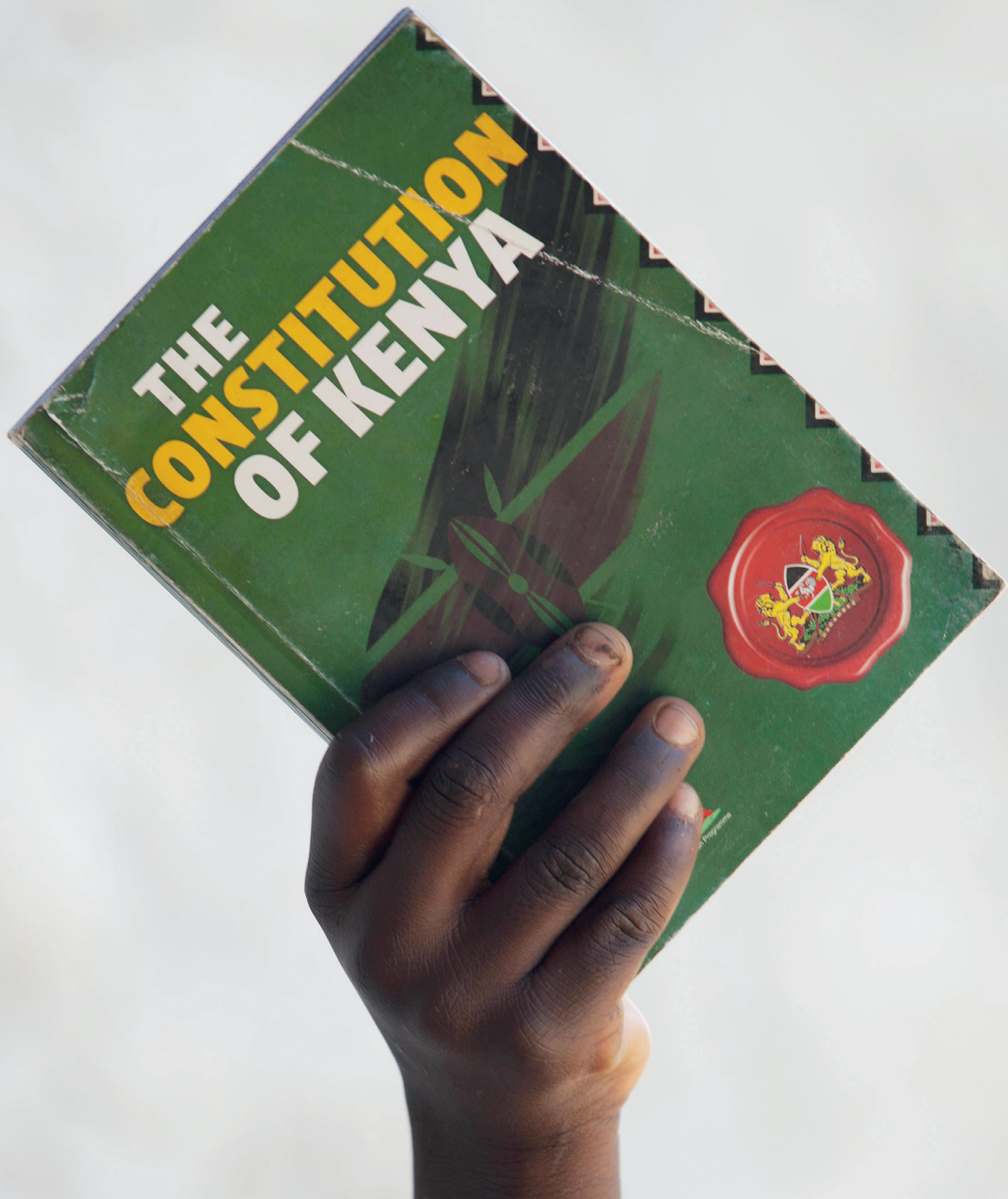




Experiences in the Kenyan Criminal Justice System and Violent Extremism

Dr Anneli Botha & Mahdi Abdile



Executive Summary

This study reports on research conducted in Kenya from 2017 to 2019. It explores the link between counterterrorism strategies and recruitment into violent extremism in Kenya as well as the role of the Kenyan criminal justice system in relation to violent extremism. Kenya has been experiencing violent campaigns links to violent extremism for at least two decades. Perpetrators of such acts usually come from counties and communities with Muslim majority residents. Compared to the rest of Kenya, these communities have unusually high unemployment, underdeveloped infrastructure, poor economic opportunities, long-standing local grievances, close-proximity to Somalia – all of which can serve as important internal and external radicalizing factors not only in Kenya but also in the wider region. Kenya's contribution to foreign fighters to Somalia and to conflicts in countries such as Syria and Iraq have increased both in total and capital. Due to the violent and seditious nature of these terrorists, coupled with increased threats and a rise in the number of fatalities, Kenya has enacted an ambitious counter violent extremism and radicalization initiative aimed at preventing radicalization and rehabilitating those who have already been radicalized. While the emphasis continues to focus on individuals, there has also been recognition in that addressing violent extremism as part of prevention of terrorism has to include interventions aimed at addressing the environment conducive for violent ideologies and extremists who radicalise and recruit followers. It is evident from the Kenyan counter strategy initiatives that a holistic approach, that also addresses the development dimension of violent extremism, should be enacted. For counter initiatives to succeed, the government of Kenya should undertake two strategic initiatives. First, policies and strategies must be designed together with affected communities, including victims of violent extremism. The key to tackling violent extremism, and ultimately eliminating terrorism, lies in Kenya's collective effort approach and less on a doing it alone approach. Second, evaluate what has worked and what has not through piloting and testing before rolling out. Critically, identify the gaps and limitations of current counter strategies.

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We trust that the data, results and recommendations deriving from this research report will be mutually beneficial for the national, international and local partners of the project and increase the understanding of the relationship between experiences in the criminal justice system, drivers and support for violent extremism in Kenya.

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1. Introduction

Violent extremism continues to be an issue of global concern. The high number of fatalities arising from violent extremism has been catastrophic and the need for concerted international initiatives to counter violent extremism is evident.¹ Kenya, in particular, has experienced numerous terrorist attacks in the last decade, which in addition to fatalities, have resulted in massive economic losses with a long term impact on foreign direct investment.² The apparent continuing threat of violent extremism was reaffirmed during the al-Shabaab terrorist attack at the Dusit Hotel in Nairobi on 15 January 2019.³

The main objective of the research project is to advance a deeper understanding of ways in which violent extremist organizations use the breakdown of trust between local communities and state and criminal justice system to harness support for their activities and to recruit individuals at risk. To achieve this overarching objective interviews were conducted with respondents representing individuals who had been arrested, detained or convicted on terror charges in Kenya (referred to as the detained sample), their immediate families and friends, communities in the targeted counties as well as officials from the Criminal Justice System and Kenyan government. Questionnaires were developed to identify the triggering factors, including perceptions of unjust treatment and a history of mistrust and marginalization contributing to the erosion of relations and antagonistic attitudes between criminal justice authorities and local communities.

In light of the grave impact occasioned by violent extremism, coupled with changing dynamics of the strategies employed by the violent extremists, as well as the guaranteed continued attacks the designing of effective counter strategies is critical. In the absence of empirical research on all the different dimensions of violent extremism, but more important the consequences of countermeasures, counter strategies are at risk of being ineffective. In other words, an evidence-based understanding of the underlying factors propelling violent extremism is crucial.

Through analysing the experiences of the three target groups, the research results aim to improve the understanding of violent extremism in Kenya by providing primary data on how to better approach violence extremism. Second, it hopes to identify any policy shortfalls that impede the implementation of counter violent extremism policies. Third, this analysis hopes to identify policy shortcomings and provide policy recommendations to address contributing factors. These include the perceptions of unjust treatment as well as a history of mistrust and perceived marginalization that may contribute to the erosion of relations and antagonistic attitudes between the criminal justice system and local communities.

1 UNDP, *Journey to Extremism* (UNDP, 2017), vi.

2 UNDP, *Articulating the Pathways of the Impact of Terrorism and Violent Extremism on the Kenyan Economy* (UNDP, 2017) 1.

3 Jason Burke, "Nairobi Terror Attack: Gunfire Heard Hours After Minister Declares Scene Secure", *The Guardian*, January 16, 2019; Macharia Munene, "Response to Terror Attack the Most Important Aspect", *The Standard*, January 21, 2019.

2. Literature Review

Research conducted on radicalisation in Kenya until the time of writing attempted to identify both pull- and push factors into violent extremist organisations. Capturing some of the most prominent findings the following section will be divided into several sub-headings.

2.1 Underlying Catalysts for Radicalisation and Violent Extremist Operations

Research reveals that diverse factors make individuals vulnerable to radicalisation. A key factor Bradbury and Kleinman (2010), Botha (2013 and 2014) and Kenya Muslim Youth Alliance (2016) highlighted was that individuals harbouring a sense of marginalisation embrace a narrative of victimisation⁴. Marginalisation is based on most notably ethnic and religious identities. Therefore, individuals belonging to a certain ethnic or religious group may perceive themselves as marginalised, hence be driven to protect the groups they belong to, as identified by Botha (2014).⁵ This sense of marginalisation thrives in circumstances where a sense of national identity is lacking according to Botha (2013).⁶ According to Badurdeen (2012), in Kenya ethnic and religious identity have often been politicised to achieve political advantage. For instance, amongst the coastal communities narratives of political and economic marginalisation have been repeatedly disseminated thus providing an entry point for radicalisation.⁷ KMYA (2016) as well as Rink and Sharma (2018) explained that al-Shabaab extremists have used this narrative to lure Muslims who already considered themselves as having long been marginalised.⁸

Apart from the collective identity, Odhiambo (2016) explained that deficiencies in individual identity creates vulnerability; individuals in search of their personal identity have been seen as easy targets for radicalisation.⁹

The Open Society Foundation and MUHURI (2013), Botha (2014), Patterson (2015), Villa-Vicencio, Buchanan-Clarke and Humphrey (2016) and Abdikadir (2016) emphasised that discontent against State action, such as the response to violent extremism breeds a desire to retaliate thus creating

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- 4 Anneli Botha, Assessing the Vulnerability of Kenyan Youths to Radicalisation and Extremism (ISS, 2013): 14; Anneli Botha, "Political Socialization and Terrorist Radicalization Among Individuals Who Joined Al-Shabaab in Kenya," *Studies in Conflict and Terrorism*, 37 (November 2014): 913; HORN and CSCR, *Mapping Dynamics and Perceptions of Violent Extremism A Study of Nature, Drivers and Perceptions of Muslim Women and Girls Towards Violent Extremism in Kenya* (HORN and CSCR) 14. International Alert and KYMYA, *We Don't Trust Anyone Strengthening Relationships As The Key To Reducing Violent Extremism In Kenya* (International Alert and KYMYA, 2016) 11. Mark Bradbury and Michael Kleinman, *Winning Hearts and Minds? Examining the Relationship between Aid and Security in Kenya* (Feinstein International Centre, 2010) 30.
 - 5 Anneli Botha, "Political Socialization and Terrorist Radicalization Among Individuals Who Joined Al-Shabaab in Kenya," *Studies in Conflict and Terrorism*, 37 (November 2014): 902.
 - 6 Anneli Botha, Assessing the Vulnerability of Kenyan Youths to Radicalisation and Extremism (ISS, 2013): 19.
 - 7 Fathima Azmiya Badurdeen, "Youth Radicalization in the Coast Province of Kenya," *Africa Peace And Conflict Journal* 5, no. 1 (June 2012): 56.
 - 8 International Alert and KYMYA, *We Don't Trust Anyone Strengthening Relationships As The Key To Reducing Violent Extremism In Kenya* (International Alert and KYMYA, 2016) 12; Anselm Rink and Kunaal Sharma, "The Determinants of Religious Radicalization: Evidence from Kenya," *Journal of Conflict Resolution* 62, no. 6 (2018) 1231
 - 9 E.O.S Odhiambo et.al, "Domestic Radicalisation in Kenya," *Global Journal of Interdisciplinary Social Sciences* 4, no. 3 (May-June, 2015): 50; Villa-Vicencio Charles, et al, 2016:20)

vulnerability to radicalisation.¹⁰ Similarly, Odhiambo (2015) and Abdikadir (2016) found that dissatisfaction based on socio-economic difficulties creates vulnerability and enables violent extremists to recruit individuals by providing economic incentives.¹¹ Socio-economic discontent further erodes a sense of belonging and thrives under the notion that, according to Villa-Vicencio et al (2016) "...when you have nothing, you have nothing to lose..."¹²

According to Botha (2014), influential people in the community also play a major role in the radicalisation of individuals. For instance, religious leaders have been known to misuse religious texts to justify violent extremism thus encouraging followers to join extremist groups.¹³ Mazrui (2018)¹⁴ further highlighted that geopolitics have also contributed to violent extremism and that unresolved conflicts which sustain instability also create environments that are conducive for radicalisation.¹⁵

The transnational nature of violent extremism requires inter-state movement and porous borders such as between Kenya and Somalia to further facilitate extremist activities.¹⁶ Rosenau in 2005 and Patterson (2015) explained that insufficient border control and immigration management, often as a result of corruption, provide a conducive environment for violent extremist groups to operate.¹⁷ Thus, countries with high levels of corruption become easy targets for such groups.

The role of the family in a person's early development was highlighted by Botha (2014) in her thesis on the role socialization plays in later vulnerability, as well as weakened family structures, that according to Villa-Vicencio et al (2016), further contribute to radicalisation, particularly amongst the youth. The lack of solid authority within families renders young people vulnerable to radicalisation and makes it difficult for families to intervene against radicalisation.¹⁸ Violent extremism is also dynamic and extremist groups aptly identify new opportunities that will further their agenda. One such opportunity relates to gender dynamics which present women as valuable players in violent extremism. Extremist groups are increasingly targeting women for recruitment owing to their lower visibility as terrorists, their strong influence on their sons and their role as wives of terrorists.¹⁹

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- 10 Osman Ali Abdikadir, *Youth Radicalization as a Tool for Terrorism in East Africa: A Case Study of Kenya*. (MA in International Studies diss., University of Nairobi, 2016), 9; MUHURI and Open Society Foundations, "We're Tired of Taking You to Court" (Open Society Foundations, 2013), 11; Villa-Vicencio Charles, et al, *Community Perceptions of Violent Extremism in Kenya* (IJR, 2016), 19; William R. Patterson, "Islamic Radicalization in Kenya," *Joint Force Quarterly* 78 (July 2015): 20.
 - 11 Anneli Botha, *Assessing the Vulnerability of Kenyan Youths to Radicalisation and Extremism* (ISS, 2013): 5; Anneli Botha, "Political Socialization and Terrorist Radicalization Among Individuals Who Joined Al-Shabaab in Kenya," *Studies in Conflict and Terrorism*, 37 (November 2014): 907; E.O.S Odhiambo et al, "Domestic Radicalisation in Kenya," *Global Journal of Interdisciplinary Social Sciences* 4, no. 3 (May-June, 2015): 50; Osman Ali Abdikadir, *Youth Radicalization as a Tool for Terrorism in East Africa: A Case Study of Kenya*. (MA in International Studies diss., University of Nairobi, 2016), 15.
 - 12 Villa-Vicencio Charles, et al, *Community Perceptions of Violent Extremism in Kenya* (IJR, 2016), 18.
 - 13 Anneli Botha, "Political Socialization and Terrorist Radicalization Among Individuals Who Joined Al-Shabaab in Kenya," *Studies in Conflict and Terrorism*, 37 (November 2014): 904; HORN and CSCR, *Mapping Dynamics and Perceptions of Violent Extremism A Study of Nature, Drivers and Perceptions of Muslim Women and Girls Towards Violent Extremism in Kenya* (HORN and CSCR) 12.
 - 14 Alamin Mazrui et al, "Global and Local Contexts of Terrorism and Counterterrorism in Kenya," in *Countering Violent Extremism in Kenya: Between the Rule of Law and the Quest for Security*, ed. Alamin Mazrui et al (Nairobi: Twaweza Communications, 2018), 15.
 - 15 Anneli Botha, *Assessing the Vulnerability of Kenyan Youths to Radicalisation and Extremism* (ISS, 2013), 13.
 - 16 Anneli Botha, *Assessing the Vulnerability of Kenyan Youths to Radicalisation and Extremism* (ISS, 2013), 4.
 - 17 William Rosenau, "Al Qaida Recruitment Trends in Kenya and Tanzania" *Studies in Conflict & Terrorism* 28 (2005): 2; William R. Patterson, "Islamic Radicalization in Kenya," *Joint Force Quarterly* 78 (July 2015): 20.
 - 18 Villa-Vicencio Charles, et al, *Community Perceptions of Violent Extremism in Kenya* (IJR, 2016), 20.

Enlisting in violent extremist groups has also been linked to general criminality. Individuals involved in criminal activities have been known to join the groups with the intention of disappearing and avoiding law enforcement.²⁰ Further, the activities of violent extremist groups are facilitated within environments in which criminality is rife with ineffective law enforcement. According to Villa-Vicencio et al (2016), al-Shabaab in some cases recruit members through coercion and abduction.²¹

The advancement in technology has played a key role in furthering and actualising the agenda of violent extremist groups. For instance, the internet had been used to recruit individuals and coordinate extremist activities from other countries. According to Odhiambo (2015) with reference to Kenya, social media additionally facilitated easy access to young people enhancing their vulnerability to be recruited into violent extremist organisations.²² According to Patterson (2015) in addition to the use of technology to radicalise and recruit new members, a good transportation and communication network further facilitates the movement and communication of extremist groups, therefore enabling them to operate with ease.²³

2.2 State Response to Violent Extremism

In view of the imminence of violent extremist attacks and the continued recruitment of individuals into extremist groups, Kenya introduced a robust legal framework in response to violent extremism. This legal framework is set against the backdrop of critical institutions established by the Constitution of Kenya with reference to the Kenya Defence Forces, the National Intelligence Service and the National Police Service. Other critical organs include the judiciary, the Kenya Prisons Service and the Probation and Aftercare Services. To specifically respond to violent extremist activities, the National Counter Terrorism Centre was established and consists of appointees from the National Security Council, National Intelligence Service; Kenya Defence Forces; the Attorney-General Directorate of Immigration and Registration; the National Police Service and such other national agencies, as may be determined by the National Security Council.

The Prevention of Terrorism Act was enacted in 2012 to specifically make provision for the prevention, detection and prosecution of terrorist activities. Further, the Proceeds of Crime and Anti-Money Laundering Act enacted in 2017, targets the financing of criminal activities which is a critical strategy against violent extremism. Apart from the general provisions empowering the security agencies to combat crime such as powers to search and arrest, the Prevention of Terrorism Act further provides powers to deal with specific terrorist activities. First, the Act criminalises a wide range of activities that are linked to terrorism. For instance, radicalisation is criminalised and is defined in very broad terms which capture a wide range of actions geared towards promoting ideologies supporting extremist violence.²⁴ Secondly, punitive sanctions are prescribed for terrorist crimes.²⁵ Third, the rights of individuals suspected of having committed terrorist activities may be limited. Section 35 of the Prevention of Terrorism Act provides that the right to bail, freedom of expression, freedom of security and the right to property may be limited. With respect to the right to bail, the cumulative extension by the court of periods in which suspected members of terrorist groups are remanded can extend to three hundred and sixty days.²⁶ Fourth, the Act gives authority for the designation/

19 HORN and CSCR, Mapping Dynamics and Perceptions of Violent Extremism A Study of Nature, Drivers and Perceptions of Muslim Women and Girls Towards Violent Extremism in Kenya (HORN and CSCR) 23; Villa-Vicencio Charles, et al, Community Perceptions of Violent Extremism in Kenya (IJR, 2016), 25.

20 Villa-Vicencio Charles, et al, Community Perceptions of Violent Extremism in Kenya (IJR, 2016), 21.

21 Villa-Vicencio Charles, et al, Community Perceptions of Violent Extremism in Kenya (IJR, 2016), 21.

22 E.O.S Odhiambo et.al, "Domestic Radicalisation in Kenya," Global Journal of Interdisciplinary Social Sciences 4, no. 3 (May-June, 2015): 50

23 William R. Patterson, "Islamic Radicalization in Kenya," Joint Force Quarterly 78 (July 2015): 17.

24 Prevention of Terrorism Act, s.12D.

25 Prevention of Terrorism Act, part III.

listing of individuals or entities amenable to sanctions for their involvement in terrorist activities.²⁷ Sanctions include freezing or seizing funds or property belonging to the designated individuals or entities involved in terrorist activities.²⁸

To streamline its counter violent extremism initiatives and to provide a well-coordinated approach, Kenya launched its National Strategy to Counter Violent Extremism. Similarly, Mombasa, Kwale, Lamu and Kilifi Counties have launched County Plans to Counter Violent Extremism.

Apart from a robust legal framework designed to combat violent extremism, Kenya has also strengthened community policing, referred to as the “Nyumba Kumi” initiative, with the purpose to enhance detection of extremist groups. However, according to International Alert and the KMYA (2016), mistrust of the State by affected communities has undermined the operations of community policing.²⁹

Following terrorist attacks in Mombasa and Nairobi, a State operation referred to as “Usalama Watch” was undertaken with the intention of identifying individuals involved in terrorist activities. The outcome of the operation was the arrest of about 4000 individuals, the majority being of Somali origin.³⁰ The disproportionate impact of the Usalama Watch on the Somali community created a sense of victimisation and was counterproductive to the efforts of the State in countering violent extremism.³¹

According to MUHURI and the Open Society Foundation (2013), Abdikadir (2016) and Van Metre (2016) to name a few, allegations of forced disappearances, arbitrary arrests and extrajudicial killings of individuals linked to terrorist activities (also to be referred to in this study); perceived victimisation of some communities and further diminished trust between the State – especially the security organs – and the said communities. This diminished trust is taken advantage of by violent extremist groups and fits into their victimisation narrative which they employ when recruiting individuals.³²

26 Prevention of Terrorism Act, section 33.

27 Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2013, Part III.

28 Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2013, Part IV.

29 International Alert and KYMYA, *We Don't Trust Anyone Strengthening Relationships As The Key To Reducing Violent Extremism In Kenya* (International Alert and KYMYA, 2016) 32.

30 Jeremy Lind, Patrick Mutahi and Marjoke Oosterom, *Tangled Ties: Al-Shabaab and Political Volatility in Kenya* (Institute of Development Studies, 2015), 27; KNCHR, *The Error of Fighting Terror with Terror* (KNCHR, 2015) 3.

31 Amnesty International, *Somalis Are Scapegoats in Kenya's Counterterror Crackdown* (AI, 2014), 14.

32 Lauren Van Metre, *Community Resilience to Violent Extremism in Kenya* (USIP, 2016), 3; MUHURI and Open Society Foundations, *We're Tired of Taking You to Court* (Open Society Foundations, 2013), 47; Osman Ali Abdikadir, *Youth Radicalization as a Tool for Terrorism in East Africa: A Case Study of Kenya*. (MA in International Studies diss., University of Nairobi, 2016), 9.

3. Research Methodology

Finn Church Aid (FCA) based in Finland, in collaboration with the Network for Religious and Traditional Peacemakers, Muslims for Human Rights (MUHURI) and Kenyan Muslim Youth Alliance (KMYA) as operating partners, conducted empirical research on the question whether there was a relationship between experiences associated with the criminal justice system and radicalisation into violent extremist organisations. The primary purpose of this research was to test the hypothesis that there was a link between counterterrorism strategies and recruitment into violent extremism. If there was a relationship, the report hoped to inform policy-makers on possible additions to current counterterrorism and counter violent extremist strategies.

Facilitating the collection of primary data, the study used structured questionnaires in which the majority of questions used a Likert scale to measure respondents' attitudes and opinions on a range of topics (quantitative). Where necessary, these closed questions were followed by open-ended questions (qualitative) to allow respondents to add more information or to clarify. Collected data was analyzed and presented in percentages.

After the questionnaires had been developed, all three were tested to allow corrections to be made where necessary before the fieldwork commenced. It was during this phase that overseers identified respondents' inability to connect both numbers (1-7) and words (strongly disagree, disagree, neither agree nor disagree, agree and strongly agree) to their attitudes and opinions. Consequently, the traditional sliding scale was replaced by percentages (0%-100%) that proved to be more effective.

In addition to testing the questionnaires during the pre-interview phase, a preselection questionnaire was used to ensure that the right respondents had been targeted and that consent forms were signed in the five targeted counties. This stage was particularly critical to introduce the project, build a relationship with the targeted communities and to attain better understanding of the local circumstances in preparation for the fieldwork. This short questionnaire explained the purpose of the study and ensured that respondents were made aware of measures to safeguard their identity, as well as measures to secure information they provided. Snowball sampling with very specific respondents in mind was used to ensure that the most relevant individuals were interviewed. With reference to the detained sample of individuals who went through the criminal justice system for terrorism-related offences, 161 one-on-one interviews were conducted (66 detained and 57 arrested and charged on terrorism-related offences). The second sample included 110 interviews conducted with family members and friends associated with individuals who went through the criminal justice system. The last set of interviews was conducted with 114 respondents (62 male and 52 female) who were part of the criminal justice system tasked with countering terrorism and violent extremism. These interviews were conducted in Mombasa, Kilifi, Kwale, Tana River, Lamu, Garissa, Wajir and Nairobi; these areas have proved to be vulnerable to radicalization and recruitment into violent extremism. 516 individuals were invited to participate in the study of whom 131 declined the invitation, bringing the overall total of people interviewed to 385.

In Kwale, the majority of extremism-related incidents had been recorded in Bongwe and Gombato ward in Msambweni sub-county. As a result, Msambweni sub-county became the focus area for the study. Interviews in Nairobi were conducted in Majengo and Kibra (areas that had borne the brunt of violent extremism in Kenya since the 1998 bombing of the U.S. Embassy). The study predominately focussed on Likoni and Mvita (especially Majengo) sub counties. Considering the changing social and contextual dynamics of violent extremism and radicalization, Kisauni sub county was also included. In addition to the spread of violent extremism, youths in these areas complained of being the target of heavy-handed security operations.

As part of the field research preparation, local teams of interviewers were identified and trained. Leveraging on the existing pool of student researchers at the local universities, two research assistants were drawn from the University of Nairobi's Mombasa Campus. Additionally, local teams of interviewers, including youth leaders representing both men and women were identified to assist in the research. Local youth and community mobilisers further acted as gate openers into the communities.

3.1 Preliminary Stage

During the preliminary stage research permits and consent from relevant authorities were secured, most notably from the Office of the President. Introductory letters addressed to the respective county commissioners across the coastal region, the various offices of the Directorate of Public Prosecution (DPP), the Attorney General (AG), the judiciary and the Law Society of Kenya (LSK) were prepared and shared across the region. Permission to conduct interviews were also received from the Office of the County Director of Probation in Mombasa, the Regional Commander of Prisons in the Coast, as well as the principle magistrate at Shanzu court. Lastly, lead teams met with the local administration associated with the office of the county commissioner in the Ministry of Interior. Government officials, especially the local authorities at county level, were initially reluctant to embrace the research and required approvals from their leadership to participate in the study.

Although required, governmental permission to conduct the research made outreach to communities even more challenging as the project was seen by many as a government-sponsored study. Many could not see the research as being independent from government interference. Such association between the research and the government made the researchers to be perceived as government associates and therefore spies. In fact, some community members openly stated that the research team looked like government security intelligence officers. Often members of the communities were more suspicious since field workers were seen as government spies and that by participating in the project, respondents could become the target of extrajudicial assassinations or could disappear. As a result of this suspicion community members started to turn one against the other, as explained by one respondent in Kwale:

"We have been living in systemic fear; even amongst ourselves, no one trusts the other. You cannot trust even your close relative because he or she might be the reason as to either you disappear or are killed tomorrow".

Another interviewee in Bongwe painted a similar picture of several families fleeing their homes in fear of being targeted by either al-Shabaab or security agents:

"You may be sharing security information not only to unknown individuals but even to close friends thinking that you are trying to solve a problem, but that information is finally misused putting your life or that of your loved ones in danger. That notwithstanding, once a neighbour's son gets lost amidst such kind of processes (research) in which you are involved, then you are not only becoming a target to the terrorists but also face the general community's reprisals."

Having noticed these challenges, the research team decided to approach the matter differently. This time the teams began contacting influential community leaders with standing in the community as well as liaised with local Community Based Organisations (CBOs) who had maintained a close relationship with the targeted communities through established networks and who were trusted by the people. With the assistance of these individuals and organizations, people's perception of, and objections to, the study started to change. Individuals started to come forward to participate in the project.

3.2 Field preparation

As part of the field research preparation, field teams were briefed to enhance their understanding of the topographical dynamics, climatic conditions as well as associated security situations. Based on this, information risk assessments and mitigation matrix were prepared and shared with the field team.

Preparations to initiate fieldwork were essential in addressing the following:

- The sensitive nature of the research topic and stigma associated with the terror label. It also called for ways to address perceptions on the side of respondents who went through the criminal justice system as well as their family and friends since the project had received official authorization from the relevant authorities.
- Appointments had to be made with the respective respondents. This also included coordination with prison officials in order to obtain the necessary clearance to conduct the interviews in the prisons under circumstances that would put both the interviewee and respondent at ease. Similarly, it was equally important to agree on a meeting point with other respondents to ensure that interviews could be conducted without any interferences.

3.3 Fieldwork and Data collection

The data collection process commenced in July 2018. Most challenging during this period was that in some counties (especially in Nairobi) the fieldwork coincided with government security operations. It created suspicion among the local communities that these operations and the data collection were conveniently coincided. Primary data collection was done by means of the printed questionnaire for ease of recording and future reference. Once completed, the data was keyed into tablets to create an electronic copy that was password protected, and then sent to a central electronic repository for further analysis. Many respondents, especially those individuals who had been arrested, charged or convicted and their families were careful about their safety. Consequently, a number of interviews were conducted at venues outside the target areas where respondents felt comfortable.

At the end, the fieldwork started with interviewing those individuals who had been arrested, detailed or charged on violent extremism related charges followed by family members and criminal justice actors. The focus group discussions (FGDs) came to order during the second round of interviews which comprised of a mixture of families and immediate communities, including civil society members, the religious leaders, business leaders and criminal justice actors.

Field teams in especially Malindi and Kwale noticed that Kenyan security officers conducted surveillance operations on the field workers despite official permission, realizing that it could impact on the research. It was also as a result of this discovery that field teams became more concerned with the possibility that al-Shabaab's sights were set on them. This situation was a reminder of how members of the community could have felt, being in the centre of two opposing forces (as will be referred to later in this report).

3.4 Focus Group Discussions

Focus groups discussions (FGD) involved individuals from the three groups representing diverse religious, gender, political and socio-economic backgrounds. The topics discussed were similar to those used in the one-on-one interviews and were aimed at discussing and capturing the views and experiences of respondents. Between 15-25 people participated in each focus group discussion. In total, two FGD's were conducted per county, bringing the total to 16.

FGDs participants maintained the main threat associated with violent extremism related to its ability to attract vulnerable youth. According to the participants, violent extremists tapped into grudges young people held against the state and its security forces, thereby turning the youth into militants. Young militants who seek to change the system through violent means not only pose a serious security threat, it is also an attack on the social fabric of the community. Participants highlighted the following factors that cause Kenyan citizens to be vulnerable to violent extremism: radical religious teachings that are not effectively challenged by Muslim clergy, as well as economic and social marginalization.

Considering that especially family members and friends had firsthand experience of the radicalization process, they identified the following signs: a sudden change in behaviour, especially being overly religious; individuals isolating themselves from the rest of the family and declaring that other people are infidels or not “proper” Muslims; identifying themselves with the causes of people perceived to be oppressed such as the Palestinians and a sudden dislike and condemnation of Western culture and institutions such as democracy, music, sport and fashion are some of the traits that could identify radicalized individuals.

On the role that could be played by community members to prevent recruitment into violent groups and getting radicalized, participants felt there was a need to engage in honest discussions among themselves, whereafter those communities needed to engage with other groups including religious groups and the government. By working with police and criminal justice actors, those communities would be in a better position to speak with one voice when engaging with challenging narratives used by extremist groups to radicalize vulnerable people. This would also facilitate participation in community initiatives to promote peace through inter-religious social and inter-cultural dialogue specifically regarded as counter-measures going a long way in shaping the behaviour of youth and other community members.

Focus group discussions highlighted issues of interest to the three groups who were the subject of this study. Issues that came up constantly included:

- The stigma associated with the fight against violent extremism;
- Fear within the community;
- Poor coordination among key stakeholders involved in the criminal justice system and the lack of a common approach in fighting violent extremism. It was clear that there was a lot of finger pointing amongst the stakeholders;
- The lack of trust between the criminal justice actors and communities, especially in targeted counties. This issue was addressed in every FGD;
- Community perception of security forces when they require assistance. Kenyan security agencies have a reputation of being harsh, oppressive, insensitive and treating people as “guilty until proven otherwise” even when the former require the assistance of the community. Consequently in the mind of community members there was no need to cooperate with the police, even in cases where community members had been in possession of useful information about radicalization and violent extremism that were taking place in the community.
- Participants had similar views when it came to the criminal justice system whom they regarded as corrupt and only favouring the rich and politically powerful over the poor.
- Participants also felt that mistrust between the police and the community created the perception that the police was regarded as an external actor and therefore not being part of the community.
- When asked how to improve the relationship between the police and the community, participants proposed continuous community dialogue between security agencies and the community, capacity building and the retraining of the police.

On recommendations how to improve the justice system in order to prevent violent extremism and terrorism, participants proposed that the human rights of every person who came into contact with the criminal justice system should be observed and upheld at all times. The majority of Muslims detest radicalization and violent extremism and want the removal of bad elements from the community, but

within the legal framework. Stereotyping and collective punishment that often are exhibited within the criminal justice system when dealing with matters of radicalization and violent extremism cause many Muslims to withdraw their support for counter violent extremism (CVE) initiatives.

3.5 Analysis of data

As already mentioned, researchers used structured questionnaires, which contained questions to allow for an ordinal scale of measurement (quantitative), and distinguishing open-ended questions (qualitative), to collect data on perceptions and opinions. Collected data was analysed through referring to percentage and descriptive analysis. Although more interviews were conducted, 136 interviews as part of the 'detained' sample, 110 with family members and friends of individuals who went through the criminal justice system or who were family members or friends of individuals who had been killed or disappeared, and lastly 133 respondents representing the criminal justice system were used in the analysis. In other words, 385 one-on-one interviews will be used in this analysis. Questionnaires were excluded from this analysis in cases where respondents only provided their biographic data without answering any of the substantial survey questions as some respondents indicated that they no longer wanted to be part of the study (for whatever reason).

Criminal justice respondents predominately consisted of police officers (50%) followed by correctional officers (26%), individuals representing the judiciary (15%) and prosecutors (9%). When asked to explain the relationship with the detained respondent(s) who went through the criminal justice system, the majority (29%) indicated that they were the spouse of the detained, followed by 24% who were siblings of the detained and 18% who were the parents of the detained. Only 8% of respondents interviewed were friends of individuals who went through the criminal justice system. In other words, 92% of respondents belonged to the same family as the detained respondent, a fact that would shed valuable insight into the background of respondents who went through the criminal justice system. It also implied that the interaction with the criminal justice system was extended to those individuals and their family members, often making them the target of what some respondents referred to as 'collective punishment' after being treated as criminals themselves.

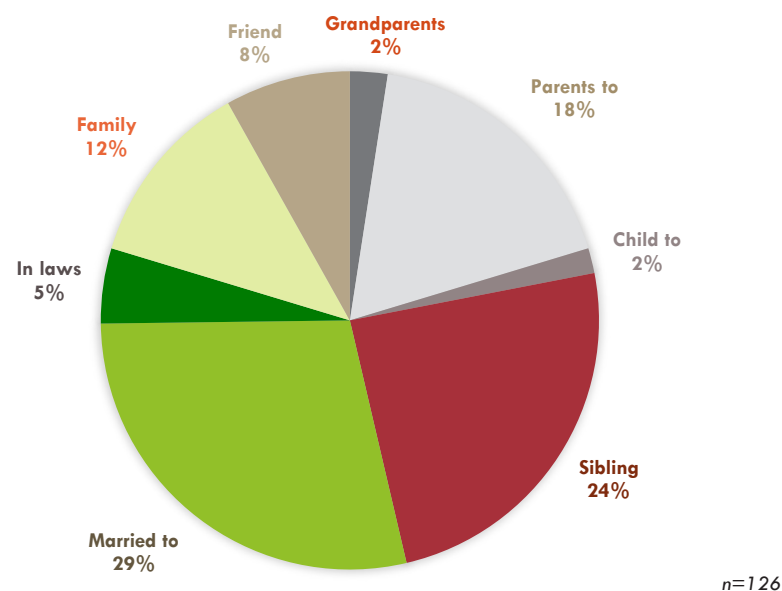


Figure 1. Relation to the person who went through the criminal justice system

As not all questions in the questionnaires were answered, each question would present the total of respondents who answered the respective question of each category (n=). The questionnaire used in interviewing family members and friends included questions about the person who went through the criminal justice system as well as questions relevant to the person being interviewed. In an attempt to prevent confusion, reference to 'detained 2' will refer to the person who went through the criminal justice system (CJS) and 'family' will refer to information provided by the person being interviewed and relevant to the respondent.

4. Biographic background of respondents

4.1 Gender

In total 256 interviews were conducted with male and 129 with female respondents. It is important to note that more women (83) were interviewed than men (42) as part of the sample representing family members and friends.

4.2 Age

Respondents representing the criminal justice system were predominately older than 40 years of age, whereas the individuals that were part of the detained sample were predominately between the ages 24 and 35. Individuals who went through the criminal justice system (according to family members and friends) as well, also represented older individuals, even older than 50 years of age. Similarly, 39.39% of family members interviewed were older than 40 years of age (see **Figure 3**).

4.3 Marital status

The majority of respondents interviewed were married, including respondents interviewed representing family members and friends of which 58% were married and 19% a widow or widower (often in relation to detained 2). Although not in the majority, 32% of the detained and 29% of the detained 2 samples were single.

Although the focus of this study was not to assess the impact that belonging (or the suspect's sense of belonging) to an illegal organisation had on the person's marital status, an interesting difference was that only the detained, detained 2 and family members samples included individuals who were divorced or the widow or widower of a person affected by the criminal justice system. In contrast, criminal justice respondents were either married or single. Although the interview did not focus on the circumstances leading up to the divorce or loss of his/her partner, respondents also included partners who disappeared and could therefore speak of the strain families living in vulnerable areas were under.

4.4 Number of children

It was important to determine whether respondents had children and the ages of those children considering the potential medium- and long-term consequences to children – both positive and negative – of being in an environment where safety could not be guaranteed while being subjected to positive and negative messaging. Even more notable were the experiences that would play an important role in the formative years of the next generation.

Research on political socialisation identified parents as one of the primary socialisation agents of children, especially in the formative years before school and friends become more prominent. Therefore, from a very young age, children are susceptible to be influenced by the views of parents (or primary care givers) and their interpretation of the world around them. To reflect the serious nature of this influence, Assistant Commissioner Mark Rowley, who is the leading counter-terror officer in the United Kingdom (UK), said exposing children to extremist propaganda was “equally wicked” as keeping them in environments where there was sexual abuse and should therefore be removed from their parents as: ‘Extremists [reference to both Islamist and right-wing] have the same ambition to create hatred, intolerance and

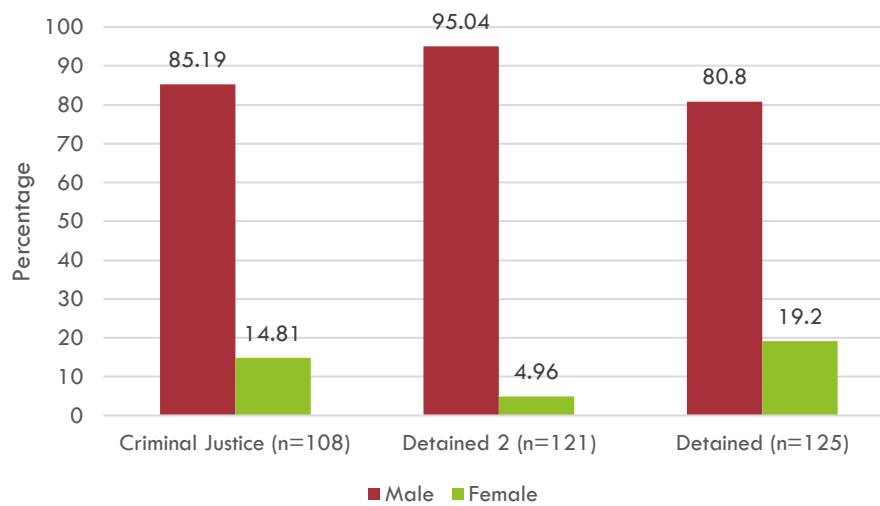


Figure 2. Gender of respondents

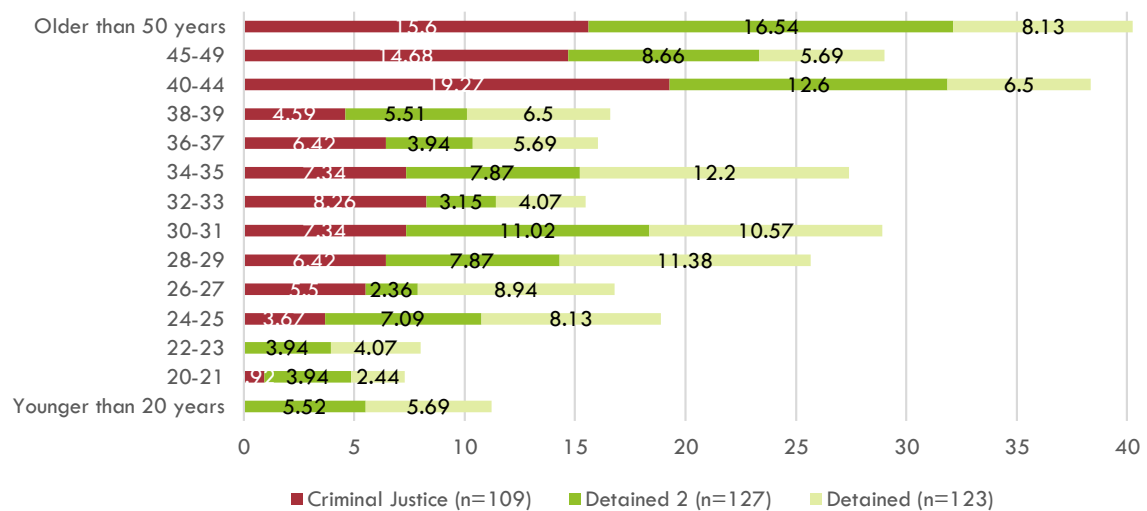


Figure 3. Ages of respondents

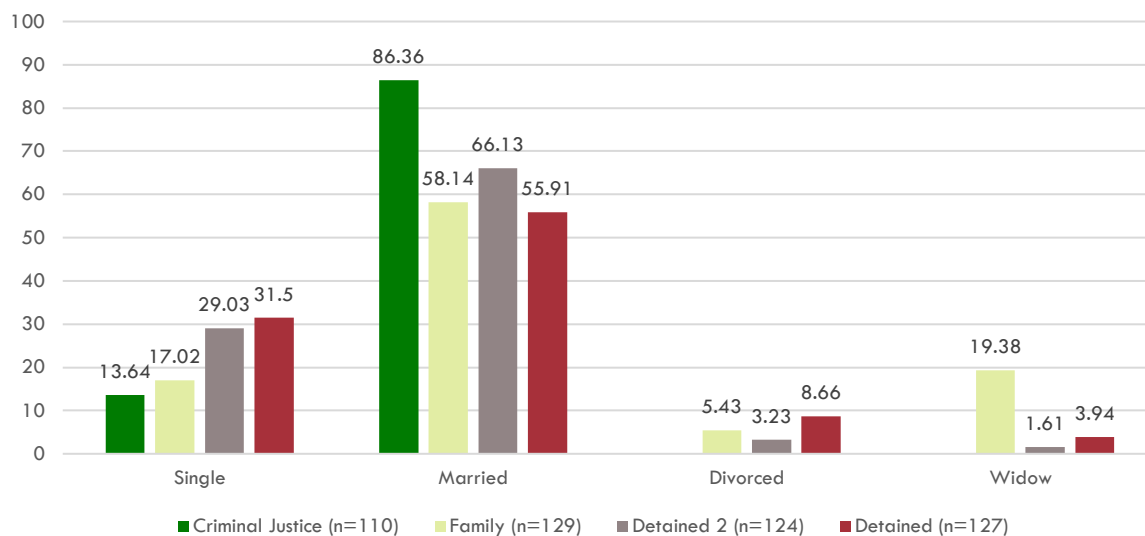


Figure 4. Marital status of respondents

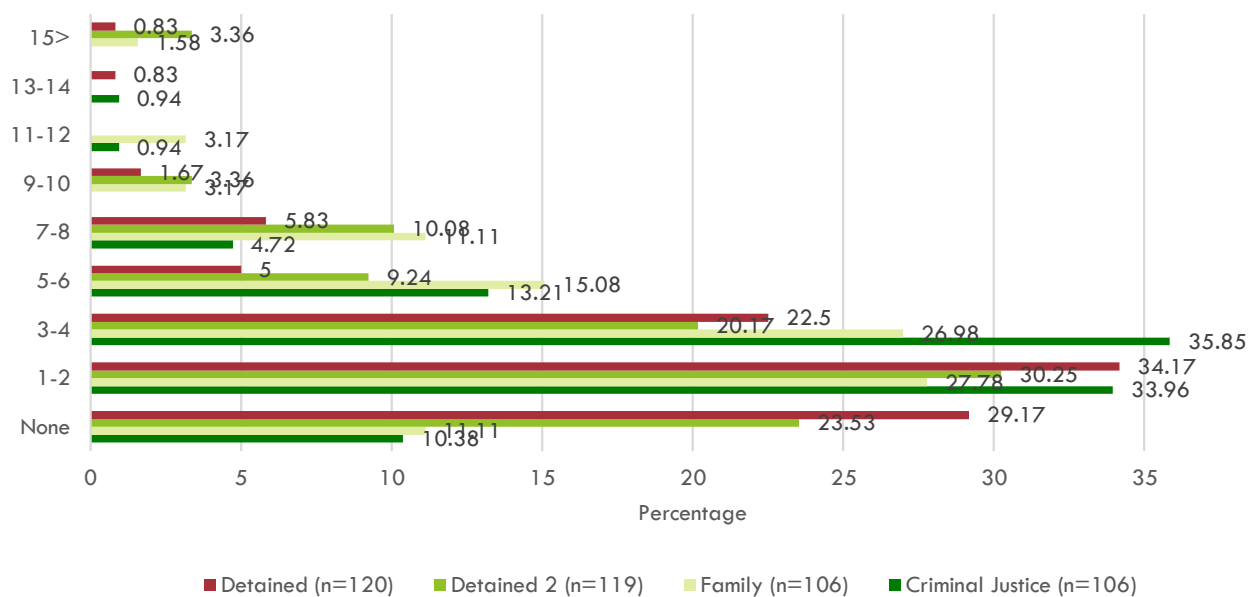


Figure 5. Number of children of respondents

isolation.³³ Another concerning trend in the UK is that extremists remove their children from school and teach them at home where the threat is that they are being radicalised by their parents. According to Mr Rowley, in a survey police discovered that approximately half of all people convicted of terrorist offences in London had been found to be homeschooling their children. The negative influence parents could have on the development of their children is a known subject under delinquent behaviour of children where parents were involved in criminal behaviour themselves. Although the focus of this study is not to determine and assess the relation between radicalisation and socialisation of children, it is to be expected that children can be positively (children of criminal justice actors) and negatively (children who experienced the impact of the criminal justice system) influenced by the experiences of their parents.

Although 29% of detained, 24% of detained 2 and 11% of respondents representing family members and friends did not have children, the potential impact of children's experience of the criminal justice system can be severe and requires attention, especially considering the ages of those children.

As to be expected, what is being experienced by adults can have an effect (negative or positive) on their children. Borrowing from criminology, it is accepted that parental imprisonment might cause an increase in a child's antisocial and criminal behaviour. Within right-wing extremism, scholars³⁴ determined that children growing up in a family with extremist influences are particularly vulnerable to become radicalised themselves due to the intergenerational transmission of ideology, as radicals often share the same extreme views as their parents who serve as their role models. Therefore, while most extremists may not come from an extremist family, extremist families do appear to produce children with extremist views.³⁵

33 Martin Evans. Terrorists should be treated like paedophiles and have their children removed, top cop suggests. The Telegraph, 26 February 2018. Available at <https://www.telegraph.co.uk/news/2018/02/26/terrorists-should-treated-like-paedophiles-have-children-removed/> (accessed on 28 December 2018).

34 Trees Pels & Doret J. de Ruyter (2012). 'The Influence of Education and Socialization on Radicalization: An Exploration of Theoretical Presumptions and Empirical Research', *Child Youth Care Forum*, 41(3): p. 311-325.

35 Sikkens, Elga, M. R. P. J. R. S. van San, S. M. A. Sieckelinck, and Micha de Winter. "Parental Influence on Radicalization and De-radicalization according to the Lived Experiences of Former Extremists and their Families." *Journal for Deradicalization* 12 (2017): 192-226.

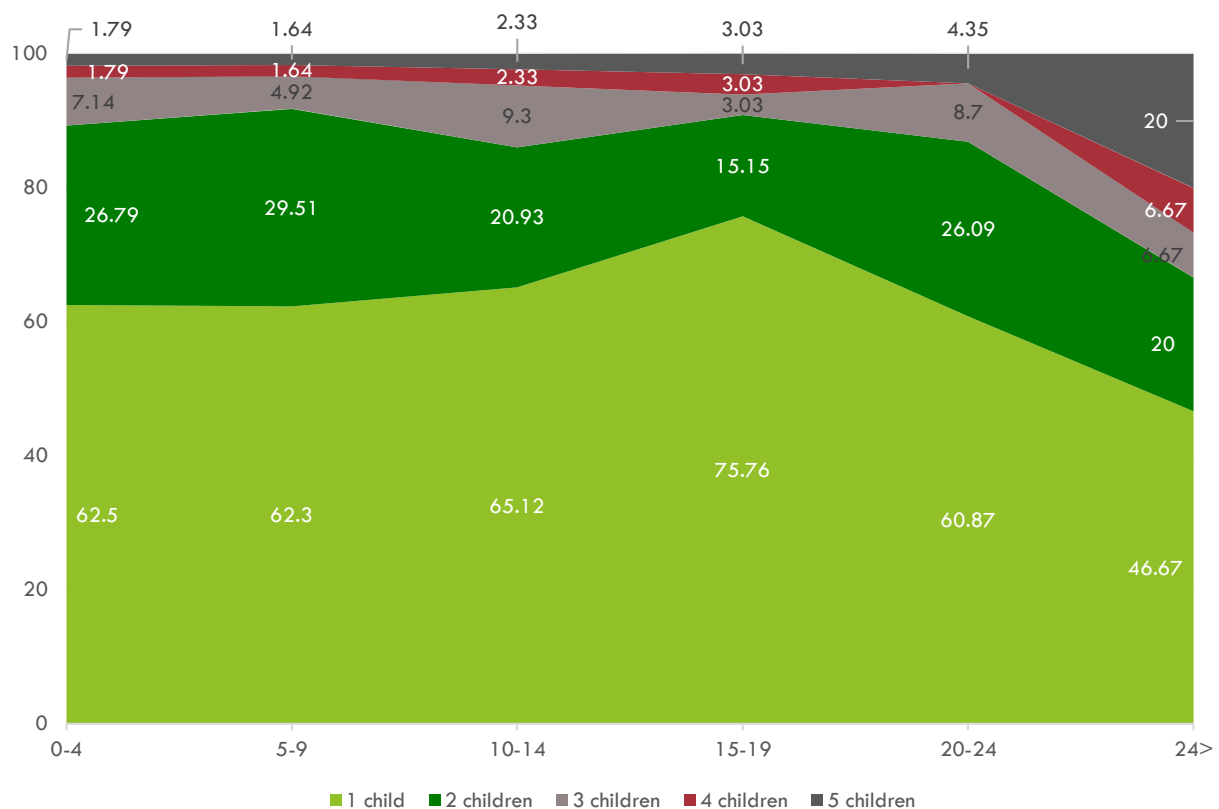


Figure 6. Ages of children of criminal justice respondents

Although scholars initially assumed that very young children are not being affected by trauma, as they are too young to understand a traumatic event or to remember the instance, Osofsky³⁶ in an article in 1995 explained that even in the earliest phases of infant and toddler development, clear associations have been found between exposure to violence and post-traumatic symptoms and disorders (PTSD). Starting with children up to three years of age, studies showed that due to the very rapid and complex changes during the first three years of life, developmental factors will influence the young child's perception and experience of the trauma associated with violence. Infants who experienced a traumatic event show increased irritability, sleep disturbances and fear of being alone. Exposure to trauma interferes with their normal development of trust and the later emergence of independence through exploring. Sleep disturbances, nightmares and other manifestations of increased anxiety are common at all ages. Children of pre-school and school going ages who are exposed to violence are less likely to explore their physical environment, which can lead to several difficulties. On the one hand, children may, in later years, avoid behaviour associated with the trauma or on the other hand, intentionally get involved in activities associated with the trauma. The relationship with the person (for example parent) against whom violence was directed will also influence the path the child may decide upon later in life. Secondly, when assessing the effects of violence on children, the emotional state of the child's parents or caregivers should also be taken into consideration. When parents and/or caregivers are numbed, frightened and depressed themselves, the child cannot depend on the emotional support, trust or security that generally come from these caregivers. Furthermore, children at any age may withdraw and show disorganized behaviour. The constant barrage of fear and violence in the community may steer parents to communicate helplessness and hopelessness to their children. Being exposed to violence and trauma directly impacts on the ability of the child to have and show empathy and other prosocial behaviour. Furthermore, it can result in increased aggression and violence. In the instances where the parent displayed severe verbal and/or physical outbursts of anger and violence, boys externalised responses, whereas girls demonstrated more internalising responses.

36 Osofsky, Joy D. "The effect of exposure to violence on young children." *American Psychologist* 50, no. 9 (1995): 782.

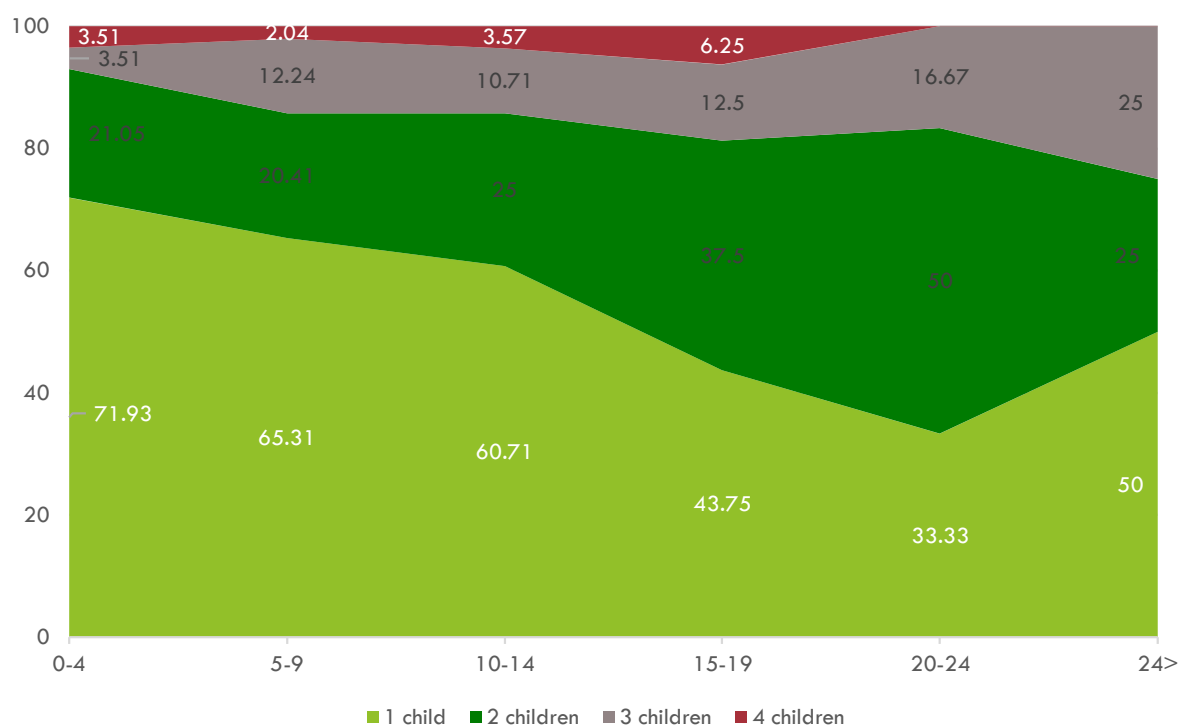


Figure 7. Number of children of individuals who experienced the criminal justice system (detained)

On the positive side, Osofsky noted that children exposed to violence are better equipped to cope with violence if they have a supportive person, have a protected place in the neighbourhood that provides a safe haven from violence and have the individual adaptable temperament or intelligence to make sense of their experiences.

Considering the experiences of adults throughout the study (in particular detained respondents, their families and especially where a parent or a close relative disappeared or was killed), it would be a mistake not to consider the psychological impact it had on children. This was particularly the case when noting that children of detained respondents (**Figure 7**) were much younger than those of criminal justice respondents (**Figure 6**).

The potential impact the incarceration of a parent might have on the development of a child is summarised in **Table 1**.

Table 2 describes the type of behaviour associated with the relevant type of trauma a child might display. Although the impact of trauma or response to the incarceration of a parent differs from person-to-person and situation-to-situation, the overall fear is that the child is at risk for a number of negative behaviours that, in some instances, , especially in the absence of positive intervention, can lead to school failure, delinquency and intergenerational incarceration.

Although the impact of interactions with law enforcement and the criminal justice system has is not known, it is to be expected that these experiences could have a profound impact on the lives of children when their parents are arrested and incarcerated for terrorism-related offences. Considering that interaction with security forces plays an overwhelming role in the radicalisation process of adults, the fact is that there is no clear policy or standing operating procedures on how officials should respond and how to treat the children of individuals arrested or incarcerated on terrorism-related offences. This needs urgent attention to prevent second generation radicalisation; it should start with the conduct of security forces.

Table 1. Possible developmental effects on children of parents arrested and incarcerated³⁷

Developmental Stage	Developmental Characteristics	Developmental Tasks	Influencing Factors	Effects
Infancy (0–2 years)	Total dependency	Attachment and trust	Parent-child separation	Impaired parent-child bonding
Early childhood (2–6 years)	Increased perception and mobility; incomplete individualization from parent	Sense of autonomy, independence and initiative	Parent-child separation; Trauma	Anxiety, developmental regression, acute traumatic stress, survivor's guilt
Middle childhood (7–10 years)	Increased independence, ability to reason, importance of peers	Sense of industry, ability to work productively	Parent-child separation, enduring trauma	Acute traumatic stress and reactive behaviours
Early adolescence (11–14 years)	Increased abstract thinking, future oriented behaviour, aggression, puberty	Ability to work productively with others, control of emotions	Parent-child separation, enduring trauma	Rejection of limits on behaviour, trauma-reactive behaviours
Late adolescence (15–18 years)	Emotional crisis and confusion, adult sexual development, abstract thinking, independence	Achieves identity, engages in adult work and relationships, resolves conflicts with family and society	Parent-child separation, enduring trauma	Premature termination of parent-child relationship; intergenerational crime and incarceration

Table 2. Intergenerational behaviours, crime and incarceration³⁸

Childhood Trauma	Emotional Response	Reactive Behaviour	Coping Pattern	Criminal Activity
Physical Abuse	Anger	Physical aggression	Fighting with peers	Assault
Parent-child separation	Sadness, grief	Withdrawal	Substance abuse	Drug possession
Witness to violence	Anxiety	Hypervigilance	Group-violence activity	Accessory to homicide

37 Simmons, Charlene Wear. "Children of Incarcerated Parents." *California Research Bureau, California State Library note 7*, no. 2 (2000): p. 5.

38 Simmons, Charlene Wear. "Children of Incarcerated Parents." *California Research Bureau, California State Library note 7*, no. 2 (2000): p. 5.

5. Education

The relationship between the level of education and radicalisation presented two scenarios: the first found a correlation between limited education (not completing secondary school) and radicalisation, while the second determined that individuals who received a tertiary education were more vulnerable to extremist ideology than those with limited education. 58% of respondents who represented the detained and 74% of the detained 2 sample did not complete secondary school. In comparison 18% of respondents representing the criminal justice system indicated that the highest level of secular education they received fell into this category, whereas 69% attained further education.

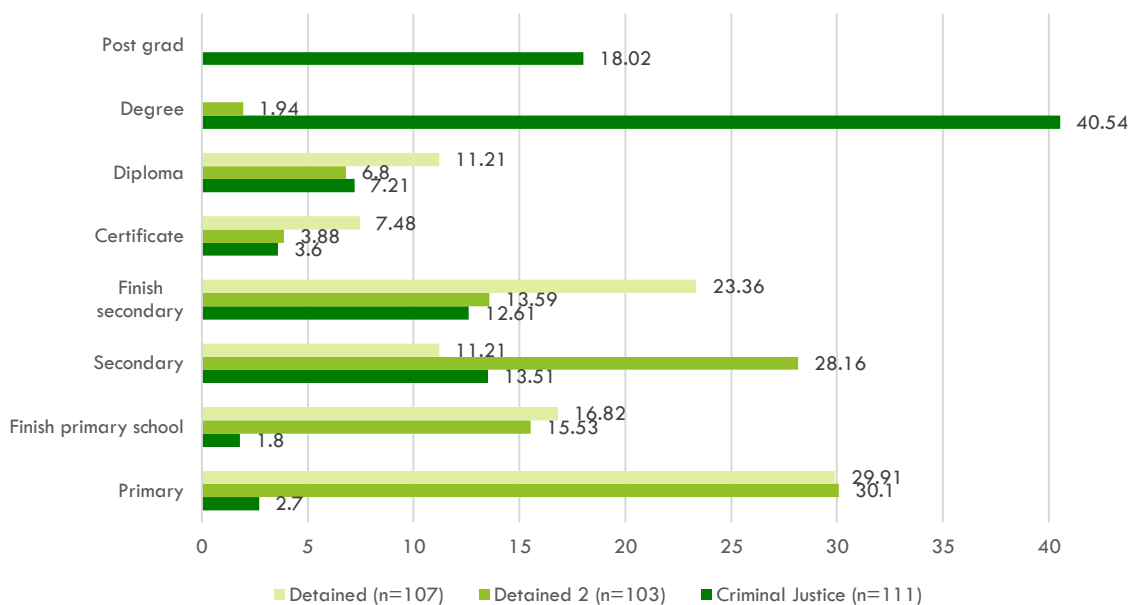


Figure 8. Education

Considering above differences, respondents were asked whether they felt that they had the same opportunities as others to receive an education. Although the majority of both criminal justice and the detained samples indicated that they were not the victims of discrimination, 48% of respondents who went through the criminal justice system (detained sample) versus 27% of the criminal justice sample were under the impression that they had been discriminated against by not having the same opportunities as others in the community.

In a follow-up question, the two samples were asked to identify the source of the discrimination they experienced; both identified economic circumstances. However, not having the financial resources to study further in a community where the majority found themselves in similar circumstances could not be classified as discrimination per se. Gender, age, ethnicity, religion and disabilities being the source of discrimination were however of greater concern, although limited under both samples.

It is however, not only receiving equal education opportunities, irrespective of religious or ethnic/tribal orientation, but more importantly, having equal access to employment opportunities that will counter perceptions of marginalization. For example, participants of a focus group discussion in Kilifi noted the evidence of ethnic and religious discrimination in the county which has led to a lack of employment. Cases had been reported of qualified Muslim youths who were denied jobs that were eventually given to less qualified Christian youths.

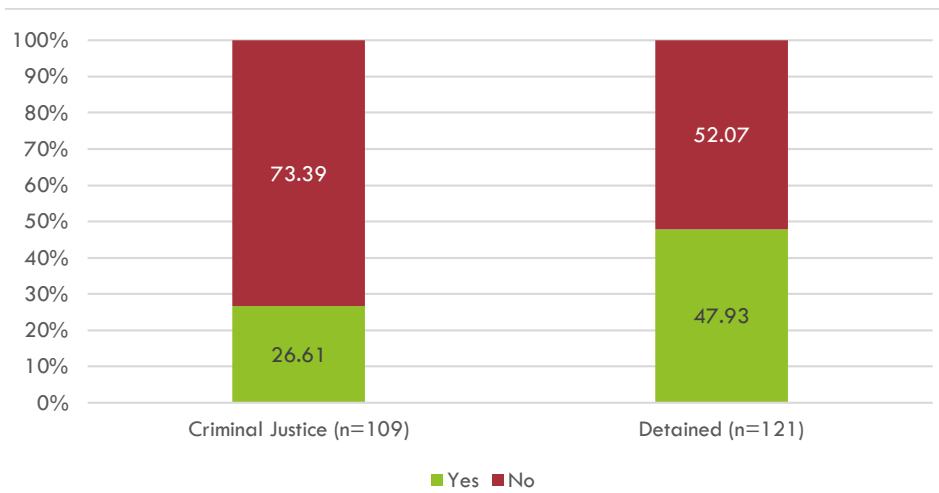


Figure 9. Access to the same education opportunities

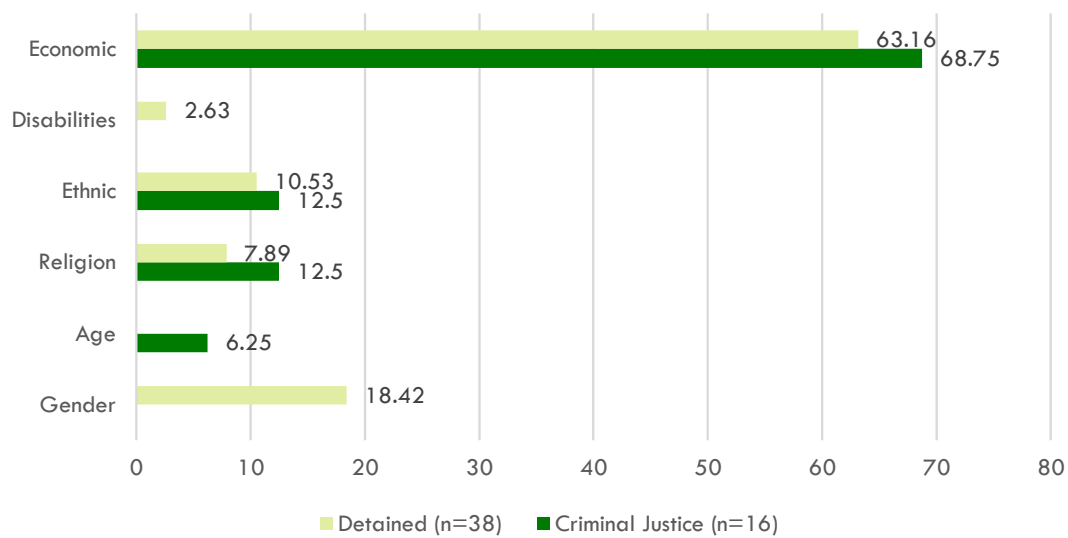


Figure 10. Reasons for not receiving the same education opportunities

6. Religion

The majority of respondents across all three samples received very basic religious education. Although criminal justice respondents identified with being Christian and were not supposed to rely on religion to fulfil their responsibilities, it is important to note that the two community-related samples progressed further. However, considering the importance of a religious education to be able to counter the influences of an extremist ideology, the focus of the rest of this section will be on the respondents, as part of the 'detained' sample.

26% of the detained sample received religious education for longer than seven years; 41% also studied the interpretation (Tafsir) of the Qur'an. However, despite receiving formal religious education, only 19% indicated that they understood what they read in the Qur'an and 26% more often than not, while 27% outright answered in the negative (see **Figure 12**).

Although only 35% internalised conflicting positions to those presented by a religious scholar, the majority was willing to discuss those matters with the particular religious scholar, a fact that was considered as a positive occurrence (see **Figure 13**). However, the concern rests with the credentials and interpretation of religious texts on the part of the particular religious scholar an individual may interact with. In other words, if the religious scholar was radicalised himself, he would relay his interpretation to a person searching for understanding and the latter would be convinced if he/she was not equipped to form his/her own opinion. There is a substantial portion of respondents ready to discuss questions as and when they arise with other sources (other scholars, friends, family).

It is not only the way adults deal with conflicting messages, but more importantly how children who are very susceptible to conflicting messaging handle the messages since they do not have the ability to differentiate between 'correct' or 'incorrect' interpretation, especially if it is coming from a person with authority. For example, during one focus group discussion in Kilifi, a reference was made to children as young as 14 years that were no longer safe as a class six pupil in Ganda Primary school was caught with a knife in class. The pupil wore a Kanzu that had Salafi Jihad written on the collar. When interrogated, he said that he had made a decision to defend his religion by eliminating any Christian pupil who spoke ill of Prophet Mohamed (SAW). He cited a verse in the Quran where the Prophet (SAW) was encouraging people to fight in the Jihad. There seems to be an abundance of alternative narratives available should the misinformed youth care to engage in discussions with other religious scholars, or family and friends. This seems to be the best venue for future campaigns proposing narratives alternative to extremist ones.

6.1 Religious Identity

When respondents were asked to state their religious affiliation, 75% of criminal justice respondents indicated they were Christian, while the majority of respondents representing those who went through the criminal justice system (detained and detained 2) identified themselves as being Muslim (92% and 86%).

Assessing the importance respondents placed on their religious identity, those interviewed were asked to rate the importance of family, friends, religion, ethnicity and nationality. After family, respondents included in the detained and family and friends samples rated (expressed through percentages) their association with members of the same religion in their country highest. Criminal justice actors rated religion as third most important following their family and colleagues.

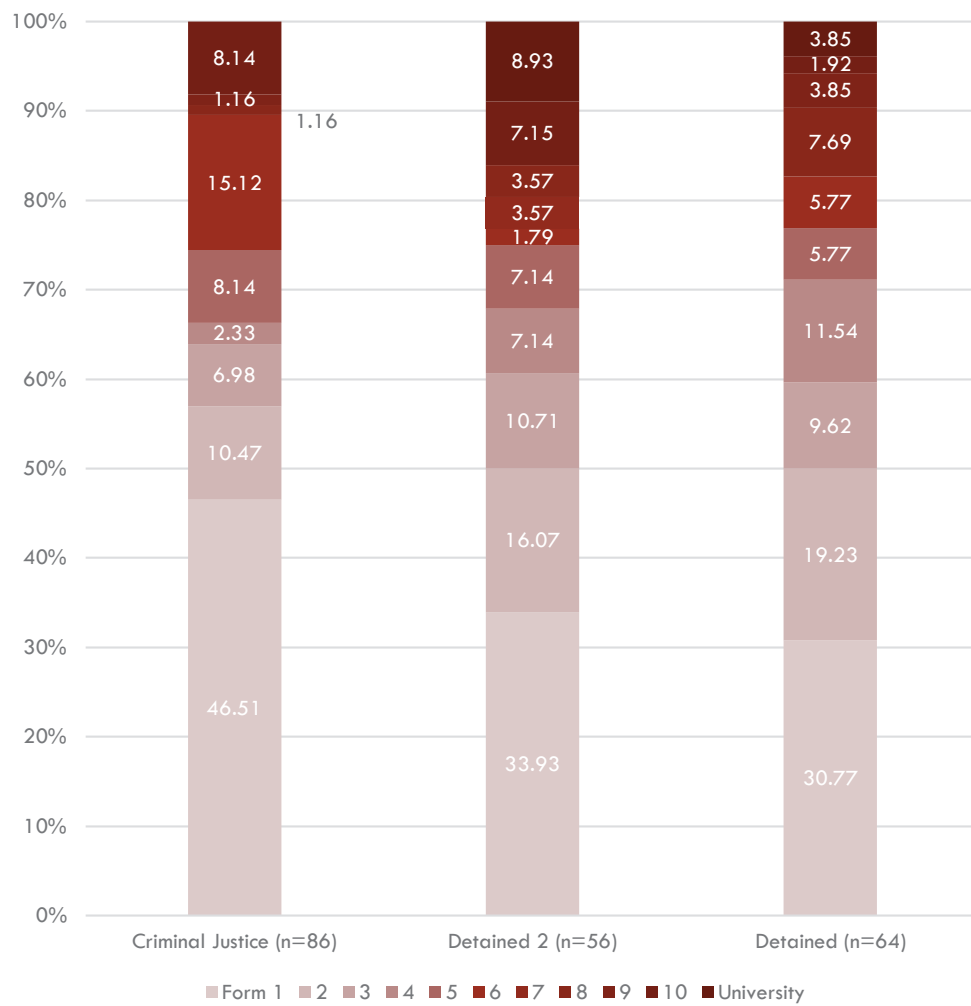


Figure 11. Level of religious education received

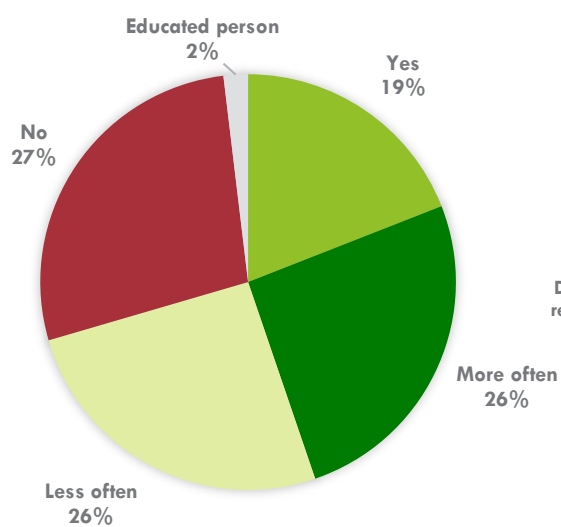


Figure 12. Do you understand what you read

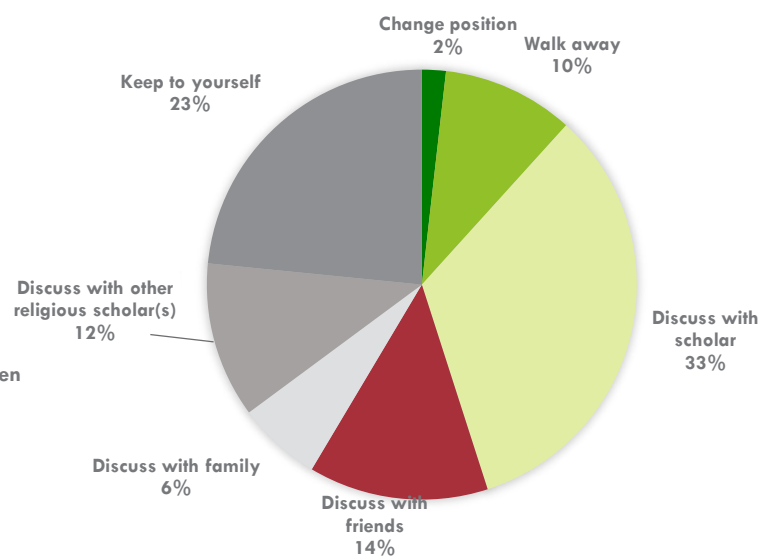


Figure 13. Reaction when confronted with conflicting preaching

After establishing the importance of religion in the lives of respondents, the same respondents were asked to assess the other or 'them'. Criminal justice respondents overall expressed a stronger sense of 'them' in reference to other religions (see **Figure 16**). It is important to remind the reader that Christianity was predominately eminent in criminal justice respondents and in an area where Islam is the majority religion this sentiment may be expected considering the importance of religious identity. Secondly, it also reflects an existing threat perception amongst Christians living in vulnerable areas, being a section of the public that bears the brunt of attacks associated with al-Shabaab and a broader Salafi jihadi ideology. This is crucial as it is a known strategy of attackers to separate Christians from Muslims. When the former refuse or are unable to recite the shahada (declaration of faith), they are executed. This can be exemplified through the Garissa University attack when more than 148 Christian students were killed, as well as in al-Shabaab 'roadblocks'. Consequently, approximately 1,100 Christian teachers fled or had requested to be transferred to safer areas. According to the Kenya National Union of Teachers, non-local teachers make up approximately 60% of the teachers in the area (after being transferred due to a shortfall of teachers in the area), but they still experienced discrimination. In a statement made in 2018 by Wilson Sossion, the secretary-general of the union: "We have heard cases of locals pretending to be al-Shabaab or conspiring with the group to target non-local teachers. Students have attacked teachers through stoning, clobbering and issuing verbal attacks." Cyntia Chepkemai, a teacher, said she was forced to adopt customary Muslim dress and was told that Sharia law prohibited her from correcting her male students in class.³⁹ Focus group discussions in Wajir and Garissa confirmed the rift between Muslims and Christians in the region was widening, with Christians being targeted by the terror groups and Muslims branded as sympathisers. As a result, education, economy, health and social life of the region have been negatively affected.

Christians are not the only group feeling persecuted by the 'other', as a detained respondent explained: "Muslims are presumed to be terrorists by security officers. Me being a Muslim will be the first one to be held responsible when I report such a case to police [coming forward with information]."

Recognising the importance of religious identity does not necessarily contribute to conflict. To determine the influence of religious divide in contributing to conflict, respondents were asked to rate a series of potential sources of domestic instability, including religion. In that regard, the detained sample considered religion to play a more prominent role than ethnicity (to be discussed in a later section) in an area where Islam was practiced by the majority. This contributed to the question to what extent religion plays a role in radicalisation. According to the family members sample, religious ideology was placed in the fourth position (61% after anger towards the police, financial incentives and anger towards government) and detained respondents in the fifth position (52% after anger towards the police and government, financial incentives and treatment at the hands of security forces since arrest) contributing to radicalisation. In contrast, criminal justice respondents placed religious ideology second (65%) after financial incentives (see **Table 4**). Due to the large difference between detained and criminal justice system representatives regarding the perception on the role religious ideology plays in contributing to domestic instability, religious education and how it differs from extremist ideologies should be considered.

39 Doreen Ajiambo. In northern Kenya, al-Shabaab militants target Christian teachers. *Sight Magazine*, 15 January 2019. Available at <https://www.sightmagazine.com.au/news/11244-in-northern-kenya-al-shabab-militants-target-christian-teachers> (accessed on 16 January 2019).



Figure 14. Religious affiliation of respondents

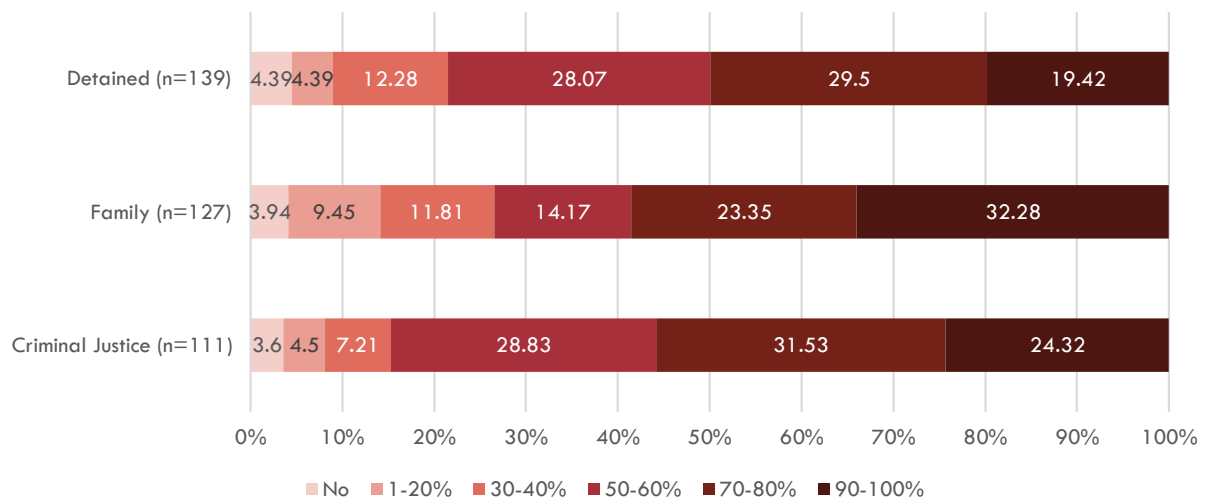


Figure 15. Importance of religious identity

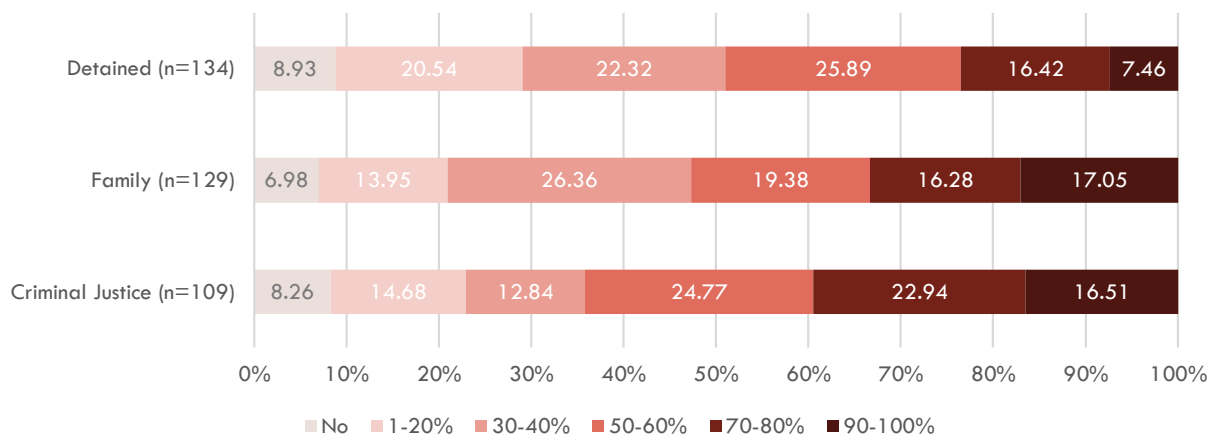


Figure 16. Identifying other religions as 'them'

7. Government and National Identity

The National Strategy to Counter Violent Extremism introduced by Kenya in September 2016 listed initiatives to promote patriotism for Kenya's nationhood as the second of nine priorities set as outcomes of the strategy. Communal knowledge of this strategy will be presented in a later section; this section first intends to determine respondents' sense of a Kenyan national identity. When respondents were asked to rate their association of being Kenyan as part of 'us,' it became clear that criminal justice actors had an established national identity as demonstrated by 66% respondents rated the importance of being Kenyan between 70-100% versus 43% amongst family and friends and 27% amongst individuals who went through the criminal justice system. The need to serve was confirmed when criminal justice respondents were asked why they became part of the criminal justice system: 89% rated serving his/her country and community and 82% rated protecting his/her country and community between 70 and 100%. As reflected in **Figure 14**, it is important to note that respondents (as part of the detained sample) were not necessarily not associating with being Kenyan as 31% rated their national identity between 50 and 60%. Of the three samples, respondents being part of the family sample associated the least with being Kenyan as 23% either answered 'no' or rated their association between 1 to 20%. Anger towards the Kenyan government and treatment at the hands of security forces explain this negative sentiment.

Following the previous question to assess national identity, a later question was put to respondents to indicate how proud the person was of being Kenyan. Confirming above assessment, 62% of criminal justice respondents indicated that they were most proud (10/10) of being Kenyan. 68% of family members rated being proud of being Kenyan between seven and ten, while 58% of detained respondents provided the same assessment. Despite the fact that most respondents representing all three samples were very proud of being Kenyan, 12% indicated that they were not at all proud of being Kenyan (1/10).

Despite the pride in being Kenyan and a strong national identity, 68% of criminal justice respondents identified the Kenyan government as 'them' or the out-group between 70% and 100%. In contrast, 34% of family members and friends and 26% of respondents in the detained sample reflected the same negative sentiment towards the government. It is interesting to note the negative judgement about the government due to experiences with the criminal justice system is higher among families than in the detained sample, potentially indicating a kind of multifaceted negative effect following any authority's misbehaviour.

Although expressing a strong sentiment in referring to the Kenyan government as 'them,' criminal justice respondents did not express the same level of distrust in the president, local and national governments. However, criminal justice respondents expressed very limited trust in politicians overall as 41% of respondents rated their trust between 10 and 20%.

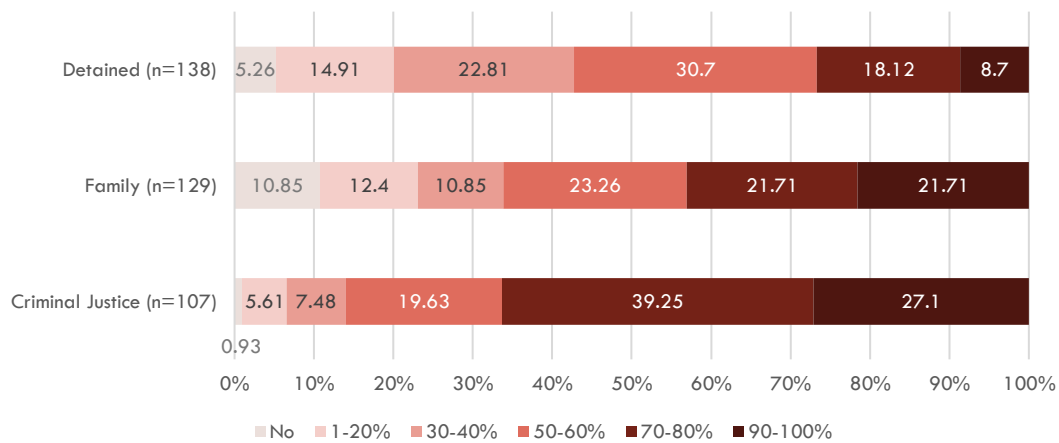


Figure 17. Respondents' association with being Kenyan (national identity)

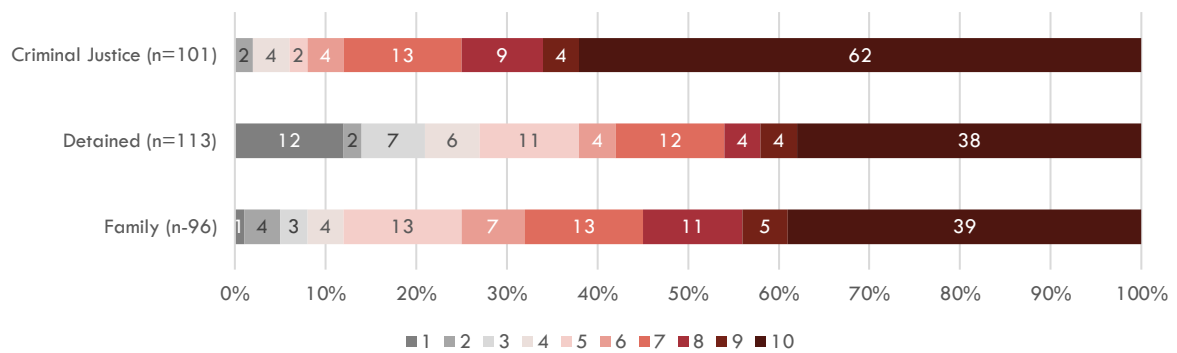


Figure 18. Proud of being Kenyan

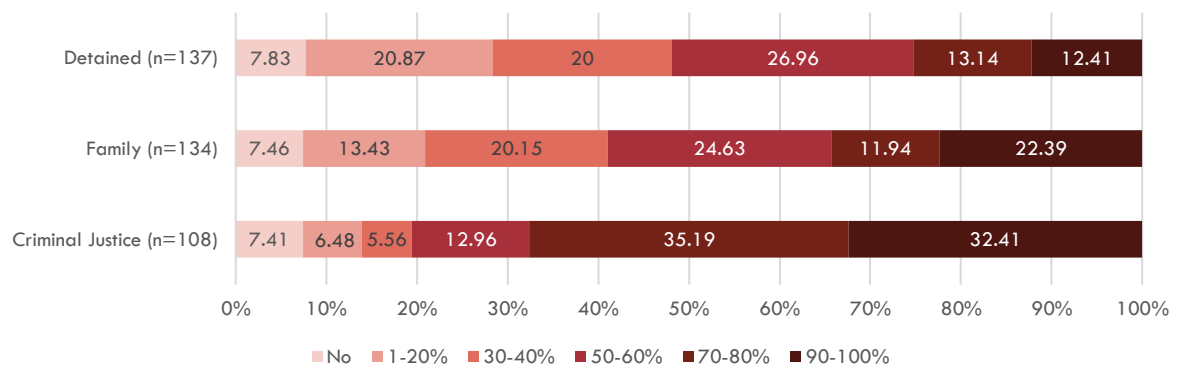


Figure 19. Identifying the Kenyan government as 'them'

7.1 Ethnic Identity

Kenya's population is divided into more than 40 ethnic groups (the most prominent presented in **Table 6**) belonging to three linguistic families: The Bantu, the Cushitic and the Nilotic. Language traditionally has been the primary characteristic of ethnic identity. Bantu-speaking Kenyans are divided into three different groups: the western group (Luhya), the central, or highlands, group (including the Kikuyu, the Kamba, and other subgroups), and the coastal Bantu (Mijikenda). Among Kenya's Nilotic speakers, the major groups are the River-Lake, or Western group (Luo); the Highlands, or Southern group (Kalenjin); and the Plains, or Eastern group (Masai). The Cushitic-speaking groups include the Oromo and the Somali. The Kikuyu, who make up 22% of the population, are Kenya's largest ethnic group. Luhya is the second largest (14%), followed by the Luo (13%), the Kalenjin (12%) and the Kamba (11%). Although economic and political development have increased mobility and urbanisation among the country's inhabitants, the majority of Kikuyu live in south-central Kenya (Kiambu, Muranga and Nyeri districts), the majority of Luhya in western Kenya (Bugoma, Busia and Kakamega districts), the majority of Luo in south-western Kenya (consist of around 40 groups, each associated with an area), the majority of Kamba in east-central Kenya, and the majority of Kalenjin (who include the Nandi, Kipsigis, Eleyo, Marakwet, Pokot and Tugen) are predominantly based in west-central Kenya.⁴⁰

Table 3. Ethnic composition^{41/42}

Ethnic group	Population	Predominantly based
Kikuyu	6 622 576	Central and Nairobi (estimated at 47%) and the Rift Valley (15%)
Luhya	5 338 666	Predominantly based in the Western region (80%) and 16% of Nairobi's population is Luhya
Kalenjin	4 967 328	Predominantly based in the Rift Valley (95%)
Luo	4 044 440	Predominantly based in Nyanza (estimated at 87%) and Nairobi (15%)
Kenyan Somali	2 385 572	Northeastern Province, Wajir area
Kisii	2 205 669	Predominantly based in Nyanza (95%)
Mijikenda	1 960 574	Coast Province
Meru	1 658 108	Eastern Province, Meru District
Turkana	988 592	Rift Valley Province, Turkana, Samburu, Trans-Nzoia, Laikipia, Isiolo districts
Maasai	841 622	Rift Valley Province, Kajiado and Narok districts
Teso	338 833	Western Province, Busia District
Embu	324 092	Eastern Province, Embu District
Taita	273 519	Coast Province, Taita District
Kuria	260 401	Nyanza Province, Kuria District
Samburu	237 179	Rift Valley, Baringo District
Tharaka	175 905	Eastern Province, East Meru District, Embu District and Kitui District
Mbeere	168 155	Eastern Province, Embu District
Borana	161 399	Northern Province
Basuba	139 271	Western Province, originally from the Lake Victoria islands of Rusinga and Mfangano
Swahili	110 614	Coast Province
Gabra	89 515	Northern Province
Orma	66 275	North Eastern and Coast provinces, Garissa and Tana River districts
Rendile	60 437	Eastern Province, Marsabit District, between Lake Turkana and Marsabit Mountain

40 Prinz, J. 2008. *Determination of national identity in ambivalence of traditional means of communication and the medium radio in the case study of Kenya*. Magister thesis, Wien University, Vienna, Austria. p. 28-32.

41 Oparanya, WA. 2010. '2009 Population & Housing Census Results'. Minister of State for Planning, National Development and Vision 2030. p. 34-35.

42 Elischer, S. 2008. *Ethnic Coalitions of Convenience and Commitment: Political Parties and Party Systems in Kenya*. German Institute of Global and Area Studies, No. 68, February. p. 11.

The Coast and North Eastern provinces are home to the Mijikenda (they also include the Giriama, Digo, Kauma, Duruma, Jibana, Kambe, Rabai, Ribe) the Pokomo, Taita, Taveta, the Makonde and the Swahili (not referring to the language). Kenya's small ethnic minority groups, including the Borana, Burji, Gabra, Orma, Sakuye and Waata, also live in these two provinces. However, over the years other ethnic groups including the Kamba, Kikuyu and Luo migrated to the coast from other regions.⁴³ The economic consequences of this migration contributed to the ethnic marginalisation of the original inhabitants.

Although criminal justice actors represent an array of tribal groups found in Kenya, the numbers are disproportional as far as the primary Somali clans (with specific reference to the Hawiye, Darod and Dir), Swahili, Kamba, Digo and Giriama found in the coastal and north-eastern regions are concerned. The Luo, Luhya, Kisii and Kamba are over-represented when compared to community members interviewed.

However, the ethnic/tribal identity of respondents are less important than their religious identity, with reference to **Figure 21** where respondents still regarded it as being very important.

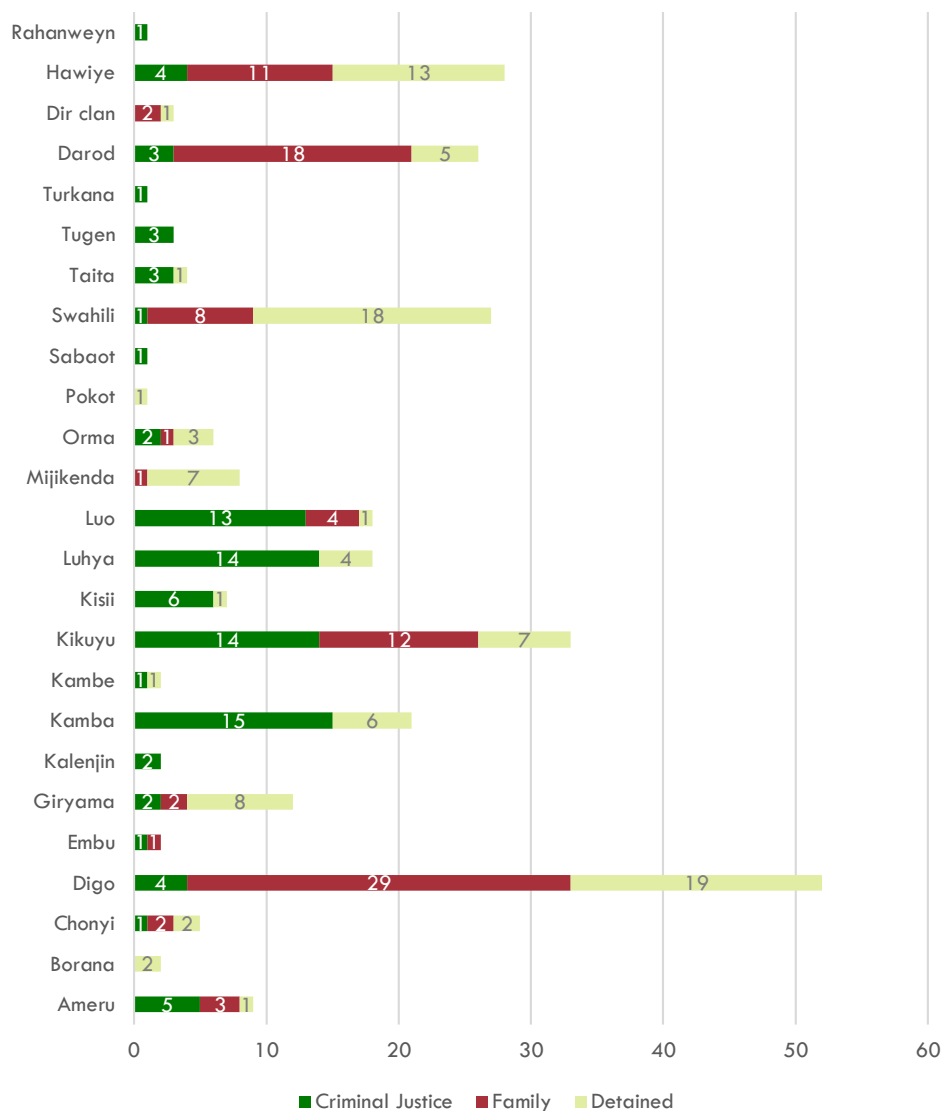


Figure 20. Ethnic/tribal representation of respondents

43 Makoloo, MO. 2005. Kenya: Minorities, Indigenous Peoples and Ethnic Diversity. Minority Rights Group International. p. 26.

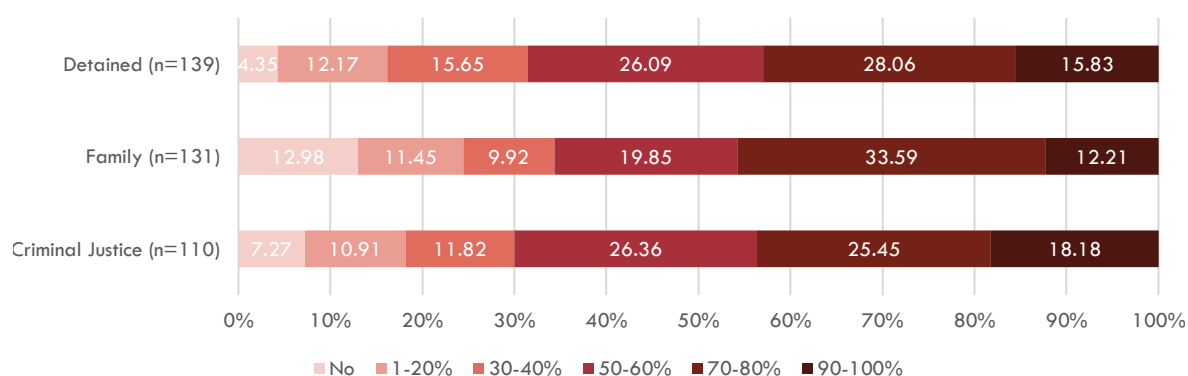


Figure 21. Importance of ethnic/tribal identity

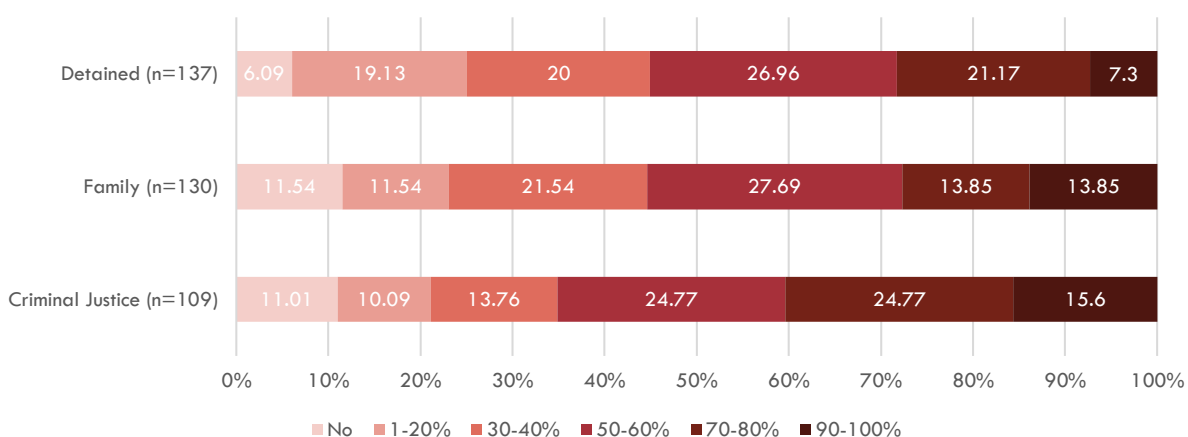


Figure 22. Identifying other ethnic groups/tribes as 'them'

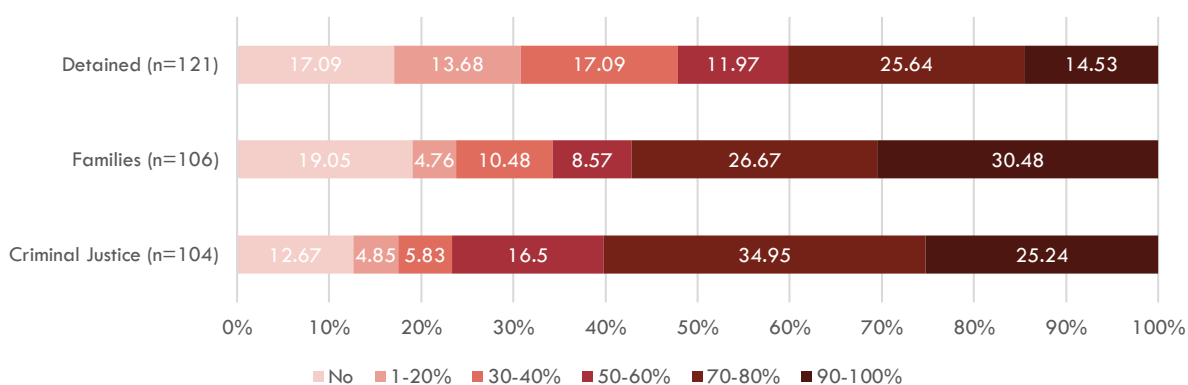


Figure 23. Historic grievances based on ethnicity as a threat to domestic security

In an attempt to establish whether ethnic identity has the potential to be regarded as a threat to domestic security, respondents were asked to assess historic grievances between ethnic/tribal groups as a threat. Compared to religion, both criminal justice and family respondents regarded ethnicity as a more severe threat to domestic stability than the detained sample. According to one focus group discussion in Kilifi, there is ethnic discrimination between the Swahilis, the Mijikenda and Giriama communities. The county government had been providing more opportunities to the Mijikenda than the Swahilis, who are a significant population in Kilifi County. This then justifies why most of the youths who had been linked to terror related crimes were either Muslims or Swahilis. Limited opportunities in the county contributed to vulnerability.

As an answer to challenges associated with Kenya being a diverse country, 89% of criminal justice respondents (n=106), 69% of respondents representing family and friends (n=110) and 62% of respondents part of the detained sample (n=128) called on the Kenyan government to utilise more resources to build a Kenya beyond ethnic differences. This is significant as there seems to be consensus towards unifying non-ethnic-based development strategies rather than a demand for privileging the respondent's own ethnic identity.

7.2 Access to land

Although access to basic services will be discussed later in this section, families and friends of those who went through the criminal justice system and respondents who experienced it were asked to rate their access to land; the majority of both samples rated their access to land between 1-30%. Land ownership and land reform has become a very sensitive topic in recent history as owning land is perceived to be linked to wealth while not owning land is regarded as a form of exclusion, especially when perceived to be linked to ethnicity. As explained by Robert Gilman, private ownership enhances personal freedom (for those who are owners), but frequently leads to vast concentrations of wealth (even in the U.S., 75% of the privately held land is owned by 5% of the private landholders), and the effective denial of freedom and power to those without great wealth. Consequently, the Mombasa Republican Council (MRC) focuses on land grievances and the fact that outsiders dominate the local economy, which consists predominantly of tourism.⁴⁴

As mentioned above, both families and friends, as well as detained respondents, considered unequal access to land and natural resources as the primary threat to domestic security when compared to other threats. It is however important to note that especially families, followed by criminal justice actors and respondents representing the detained sample, recognised the serious nature of this threat as presented in **Figure 25**.

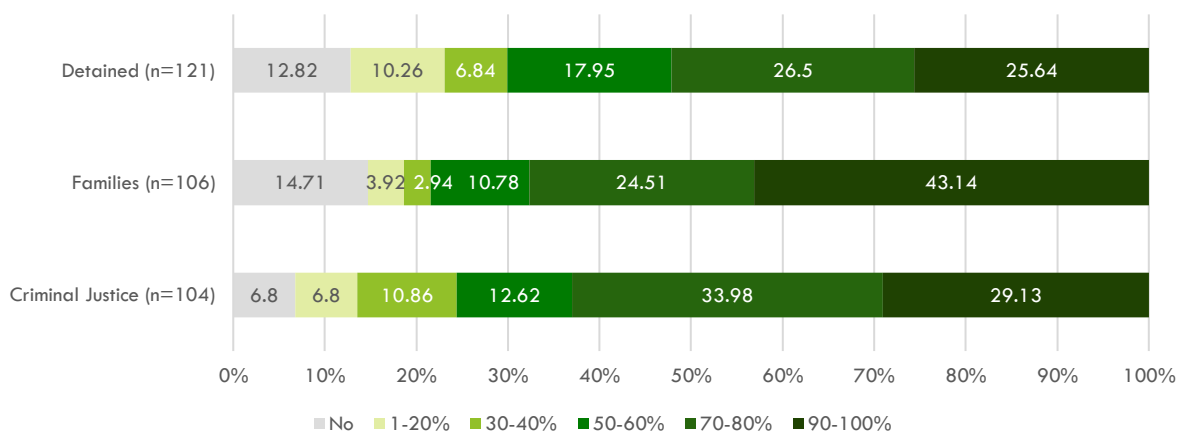


Figure 24. Unequal access to land and natural resources as a security challenge

Figure 25 confirmed the overall seriousness of the land issue in Kenya as presented in **Figure 26**, but this graph went further and reflected the potential for conflict over land in the mind of both criminal justice respondents and the sample representing family members and friends.

44 Gatsiounis, I. 2012. 'After Al-Shabaab'. *Current Trends in Islamist Ideology*, 14: 74-89.

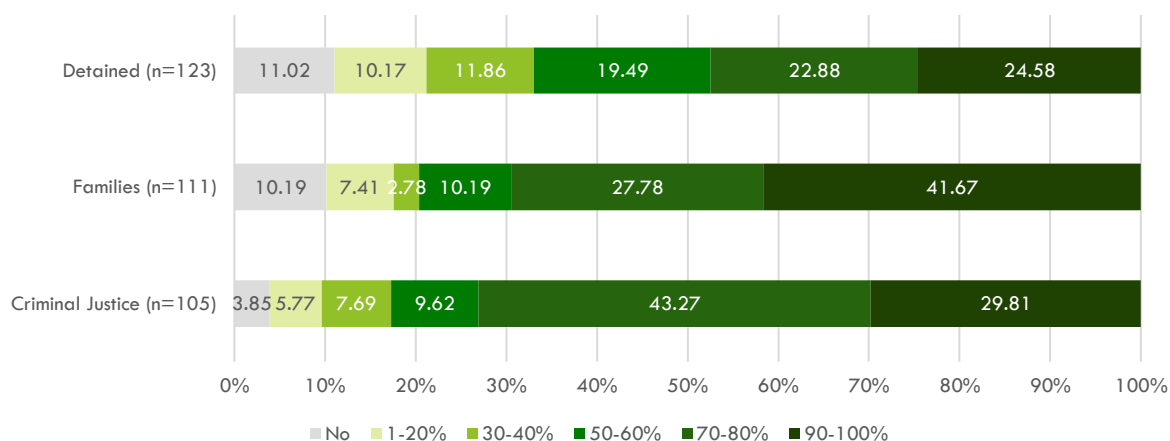


Figure 25. Potential conflict over land

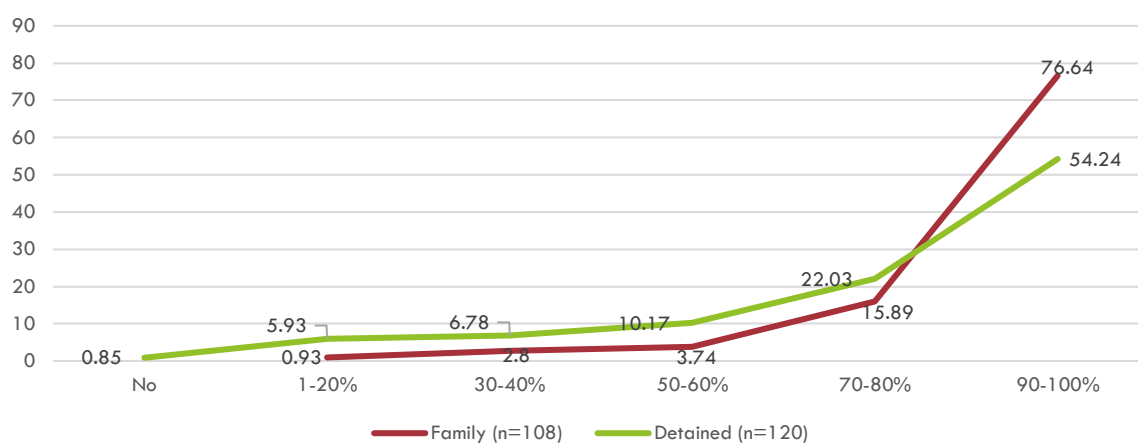


Figure 26. Need for land

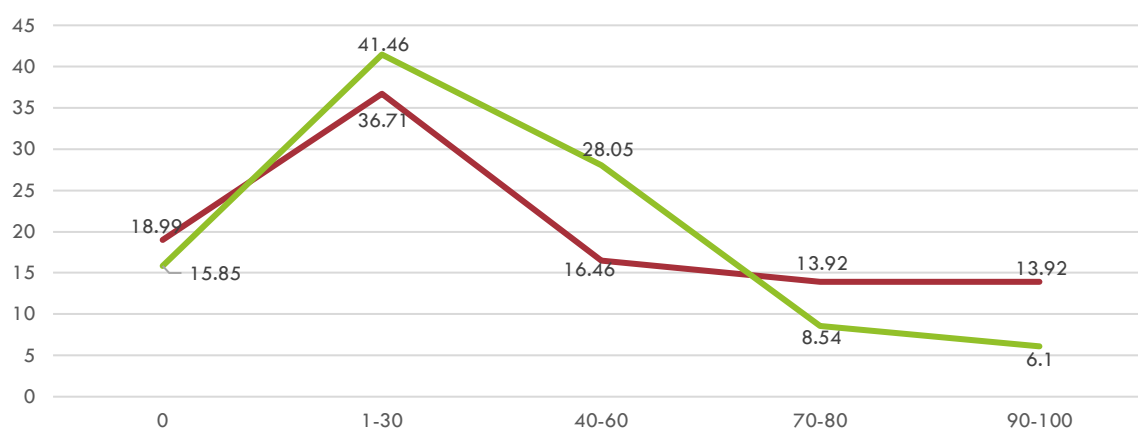


Figure 27. Government's success in providing access to land

Unequal access to land can be seen as a major challenge to domestic security, compared to the need for land rating between 90-100% (see **Figure 26**). The need for land reform as growing concern urgently has to be satisfied as government's success to provide access to land is rated between 1-30% (see **Figure 27**).

After having established the religious and ethnic/tribal affiliations of respondents and determining its importance to the identity of respondents, the following section will discuss the importance of religious and ethnic diversity of the police as an important factor towards police legitimacy.

In dealing with religious grievances, respondents were asked whether religious dialogue will be a viable strategy to deal with security challenges (**Figure 28**). The family and friends sample was particularly supportive of religious dialogue, followed by criminal justice and detained respondents. However, when discussing the best counter strategy, the question should be what the role of religious differences in security challenges is: Is it a motivating factor in contributing to radicalisation into violent extremist organisations and is it a topic that needs to be discussed? According to criminal justice respondents (n=103), religious ideology is the second most prominent reason (65%) why individuals join extremist organisations after financial incentives (81%). Family members and friends (n=105) on the other hand placed religious ideology at fifth place (61%) on of a list of twenty potential reasons after anger towards the police (76%), employment (71%), financial incentives (68%) and anger towards government (63%). In contrast, respondents part of the detained sample (n=117) placed religious ideology at number six (52%), after anger towards the police (67%), anger towards government (60%), financial incentives (59%) and treatment from security forces since arrest (57%).

As an answer to challenges associated with Kenya being a diverse country, 84% of criminal justice respondents (n=106), 68% of respondents representing family and friends (n=110) and 57% of respondents part of the detained sample (n=128) called on the Kenyan government to utilise more resources to build a Kenya beyond religious divides.

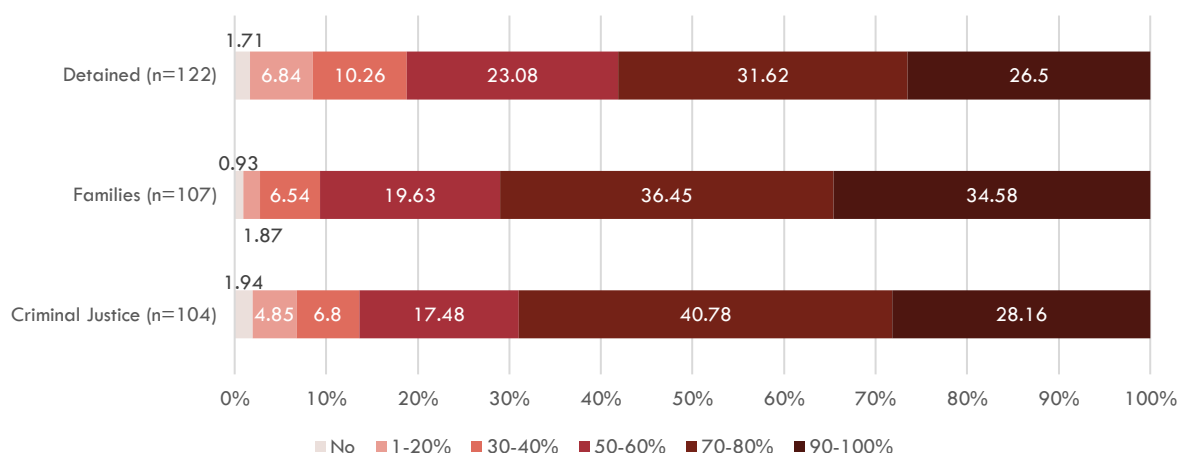


Figure 28. Religious dialogue as a strategy to deal with security challenges

7.3 Create a sense of belonging in Kenya

The most challenging aspect for any religious and ethnic diverse country is to establish and maintain a sense of belonging, especially amongst minorities. As established above, both criminal justice actors and families and friends of those who went through the criminal justice system and respondents who experienced it, include both Islam and Christianity and represent a multitude of tribal groups. Despite an overlap, there exists a clear distinction between the three samples. With this in mind, criminal justice respondents indicated a higher sense of belonging and being proud of being Kenyan.

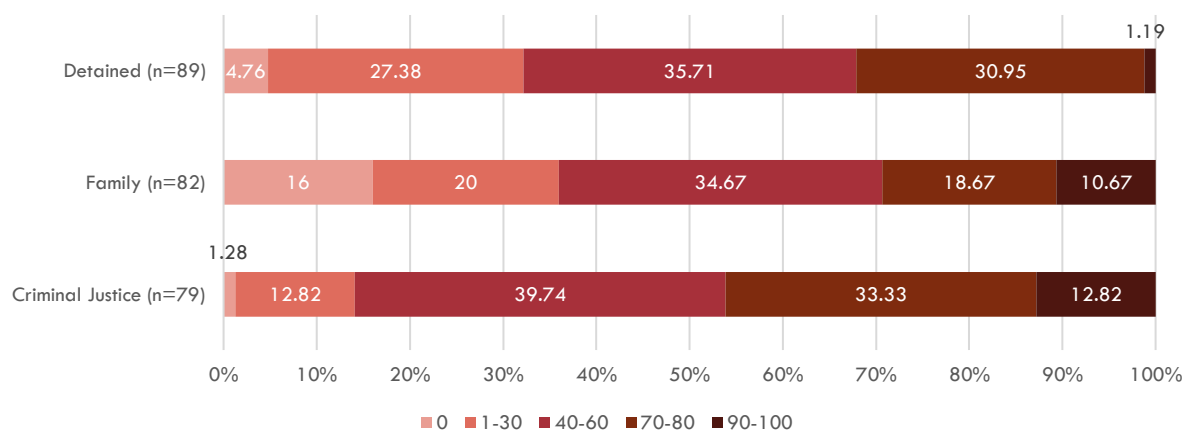


Figure 29. Government's success in creating a sense of belonging

After establishing the influence of diversity in Kenyan society, respondents also emphasised the need to build an inclusive society to be able to successfully address security challenges Kenya currently is being confronted with.

All three samples – especially criminal justice respondents – recognised the importance of initiatives to build national cohesion to deal with security challenges (see **Figure 31**).

In July 2018, French president Emmanuel Macron announced that his government introduced a national service requirement for all 16-year-olds, to be presented in two phases. The first phase focussing on civil culture is mandatory; participants will go through a month-long placement when young French citizens can look into teaching or work with charities, or take part in traditional military training with the police, fire service or defence force. The second phase is optional and can be between three months to a year. This gives young people the opportunity to work in defence and security or alternatively in social care, the environment, or heritage. The decision was taken to 'promote social cohesion and foster and sustain a more active sense of citizenship'.⁴⁵ Although national service can be expensive, its benefits in establishing a sense of belonging and duty to the country and its people beyond differences can on the medium- to long-term outweigh the costs. Family and criminal justice respondents also supported this proposal (see **Figure 32**).

Building on national cohesion, the majority of all three samples, especially criminal justice representatives, supported community involvement as a counter to security challenges. This support enforces the importance of community policing to be discussed in a later section. Although community involvement is critical to address any challenge affecting it, without trust in government and its institutions, the community will be reluctant to get involved in any initiatives either in word or deed. When discussing radicalisation and initiatives to prevent and counter recruitment into violent extremist organisations this matter will again be raised.

45 Aamna Mohdin. European countries are quietly bringing back the draft. Quartz, 3 July 2018. Available at <https://qz.com/1318379/france-joins-sweden-and-lithuania-in-bringing-back-mandatory-national-service/> (accessed on 10 January 2019).

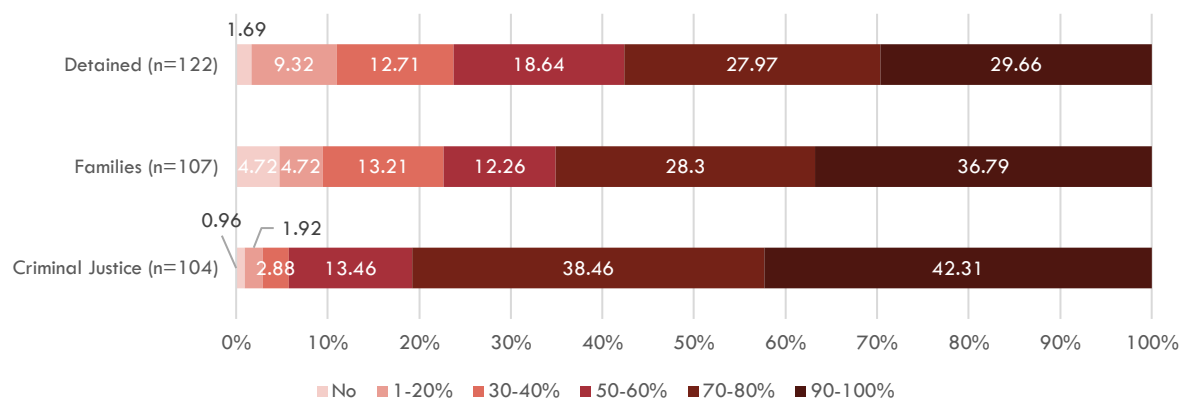


Figure 30. Initiatives to build national cohesion to deal with security challenges

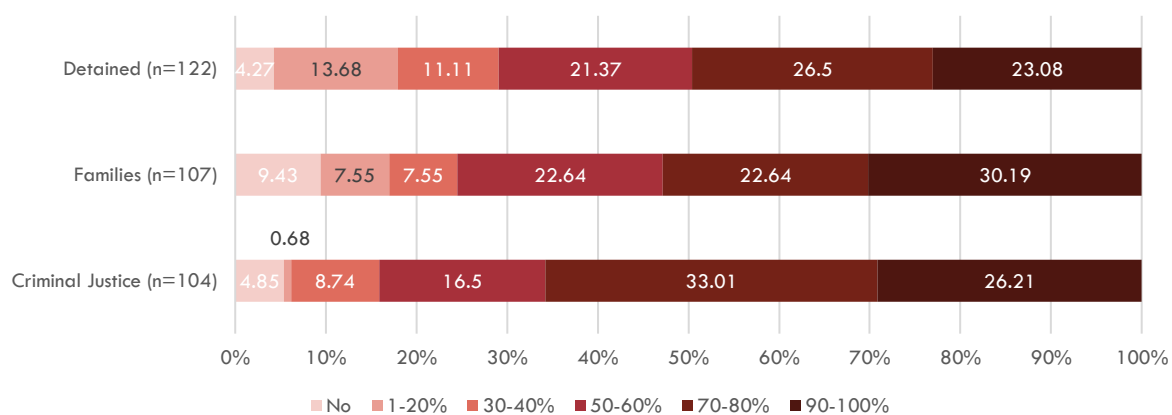


Figure 31. National service of the youth

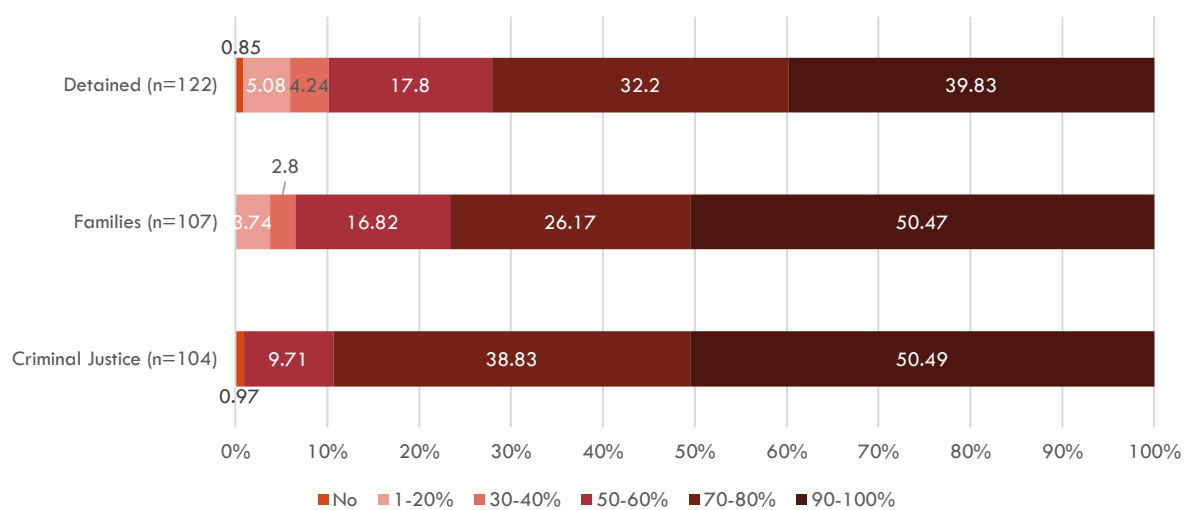


Figure 32. Community involvement to address security challenges

8. Trust in Government

Measuring the performance of government overall before requesting respondents to rate the delivery of specific services it is responsible for, the questionnaire asked the three samples to rate their trust in the president, national government, local government and politicians overall. It is important to note that criminal justice respondents expressed greater trust in these institutions than the other two samples. The obvious explanation is that criminal justice respondents as civil servants should have a greater level of trust than members of the public. Another explanation may also relate to the fact that criminal justice respondents were not on the receiving end of the criminal justice system as an extension of government and that will make them less sceptical of government and what it represents.

Although trust in government and its institutions will be discussed throughout this report, **Table 4** will summarise the position of these institutions as expressed by respondents. This rating is based on 70-100% trust.

Table 4. Trust in government and its institutions

Position	Detained (n=91)	Family (n=84)	Criminal Justice (n=80)
1	Presidency (45.55%)	Presidency (32.1%)	President (81.25%)
2	Judiciary (27.38%)	Judiciary (23.07%)	National government (70%)
3	National government (22.35%)	Military (20.51%)	Military (62.5%)
4	Military (20.73%)	National government (19.75%)	Intelligence agencies (62.5%)
5	Local government (16.67%)	Intelligence agencies (14.67%)	Religious leaders (62.5%)
6	Prison authorities (15.39%)	Prison authorities (12.99%)	Prison authorities (61.25%)
7	Intelligence agencies (13.09%)	Politicians overall (11.39%)	Police (55.7%)
8	Politicians overall (10.59%)	Local government (10.25%)	Local government (46.84%)
9	Police (5.88%)	Police (7.6%)	Politicians overall (11.25%)

Starting with the president, respondents – when compared to the national and local government and politicians overall – expressed most trust in President Uhuru Kenyatta. President Kenyatta received the highest approval from criminal justice respondents with 46% rating their trust in him between 70–80%, followed by 35% that rated their trust in him between 90–100%. Only 1% rated their trust in him between 1–10% and another 1% between 10–20%. Families and friends of those who went through the criminal justice system expressed the least trust in President Kenyatta with 15% rating trust between 1–10% and another 22% between 10–20%. Despite receiving very low approval from one spectrum, 19% rated their trust in him between 70–80% followed by 14% that rated their trust in him between 90–100%. The majority, 31% rated their trust between 30–60%. Respondents who went through the criminal justice system expressed far more trust with only 5.56% rating trust between 1–10% and 18% between 10–20%. The majority in this sample, 33.33% rated their trust between 70–80%, followed by 31% who rated trust between 30–60%. 12% rated their trust in President Kenyatta between 90–100%.

Criminal justice respondents expressed very high levels of trust – yet lower than that in the president – in the national government with 43% rating trust between 70–80% and a further 28% between 90–100%. The category of between 30 to 60% however increased to 26% when compared to 16% in reference to the president. Following the same trend as with the president, the family and friends sample expressed far less trust in national government than the detained sample. Notwithstanding,

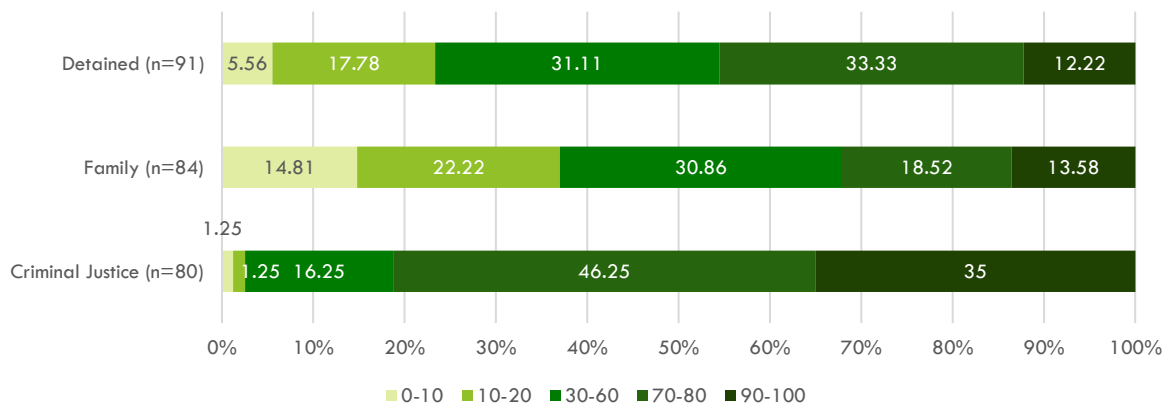


Figure 33. Trust in the presidency

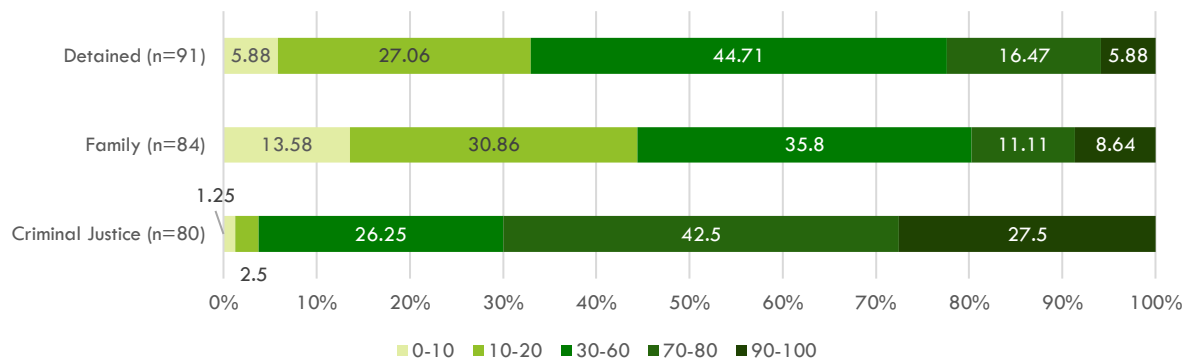


Figure 34. Trust in national government

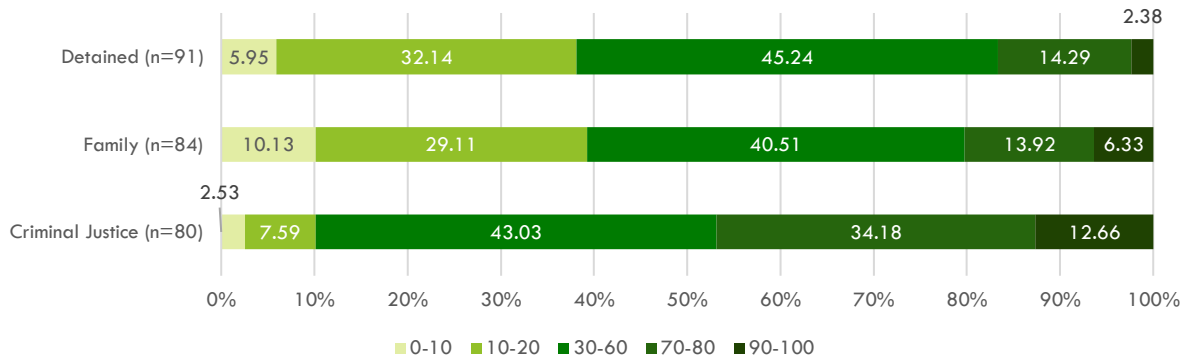


Figure 35. Trust in local government

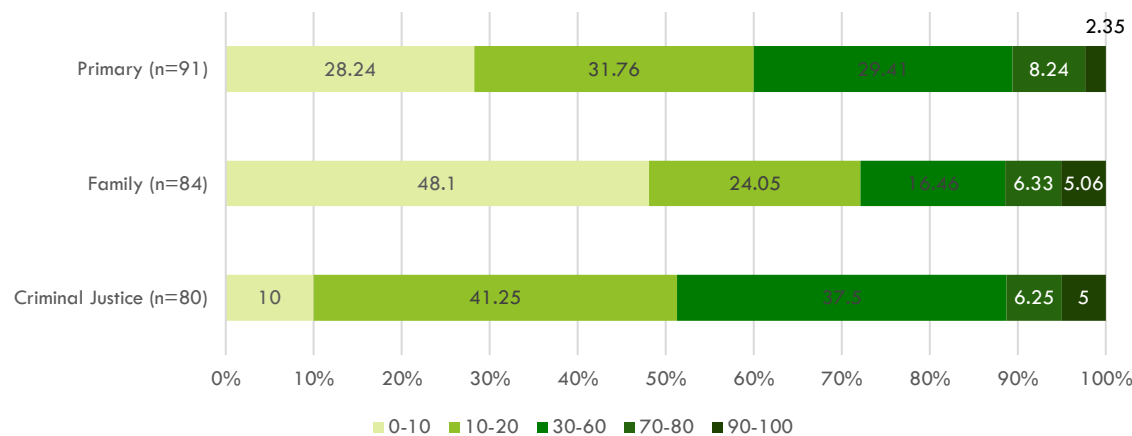


Figure 36. Trust in politicians

extreme trust in the national government decreased substantially in the other two samples when compared to that in the president. The majority in both samples, 45% in the detained and 36% in the family and friends sample rated trust between 30–60%.

Local government lost substantial trust amongst all as the majority of all three samples rated trust between 30–60% (45% amongst the detained, 43% representing criminal justice and 41% within the family and friends sample). 32% of the detained sample and 29% amongst family and friends rated trust in local government between 10–20%. Criminal justice representatives expressed more trust as 34% rated trust between 70–80% and a further 13% between 90–100%. Amongst family and friends, 9% rated trust in national government between 90–100%. In comparison 6% expressed the same level of trust in local government.

Respondents within all three samples expressed the least trust in politicians overall as 48% of family members and friends rated their trust between 0–10%, while 28% within the detained and 10% amongst the criminal justice sample expressed a similar view. The majority within the criminal justice (41%) and detained sample (32%) rated their trust between 10–20%. Overall, representatives within all three samples expressed very similar views in relation to trust between 70–100% (see **Figure 37**).

8.1 Participating in the political process

Participating in the political process is probably the best way to determine the legitimacy of any government. In short, the public will not participate in elections if they do not see the value of voting. Although the majority of all three samples identified the value of participating in the political process, criminal justice respondents were particularly positive.

Respondents did not see the value of participating in the political process since the perception existed that the political process was not free and fair, followed by the sentiment that politicians only represented a small minority. To a lesser extent amongst the three samples the perception that politicians were corrupt was the most prominent reason not to participate.

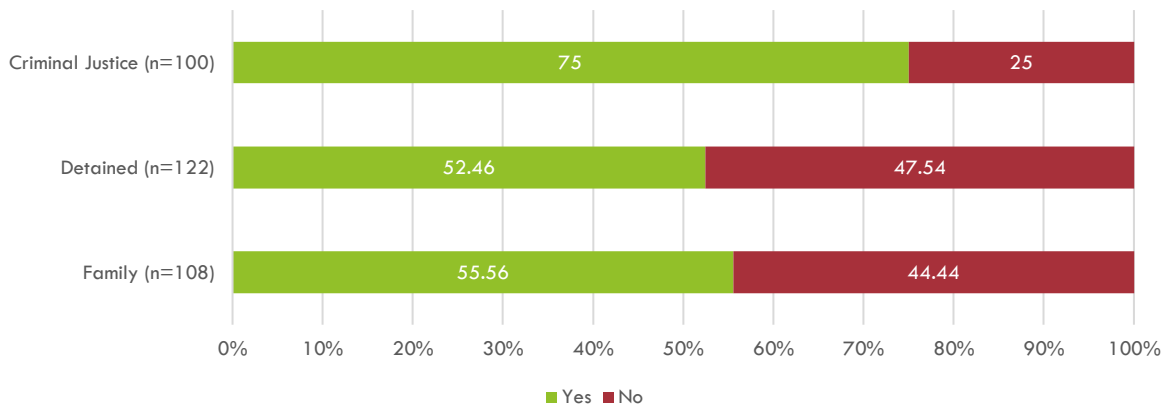


Figure 37. Participation in the political process

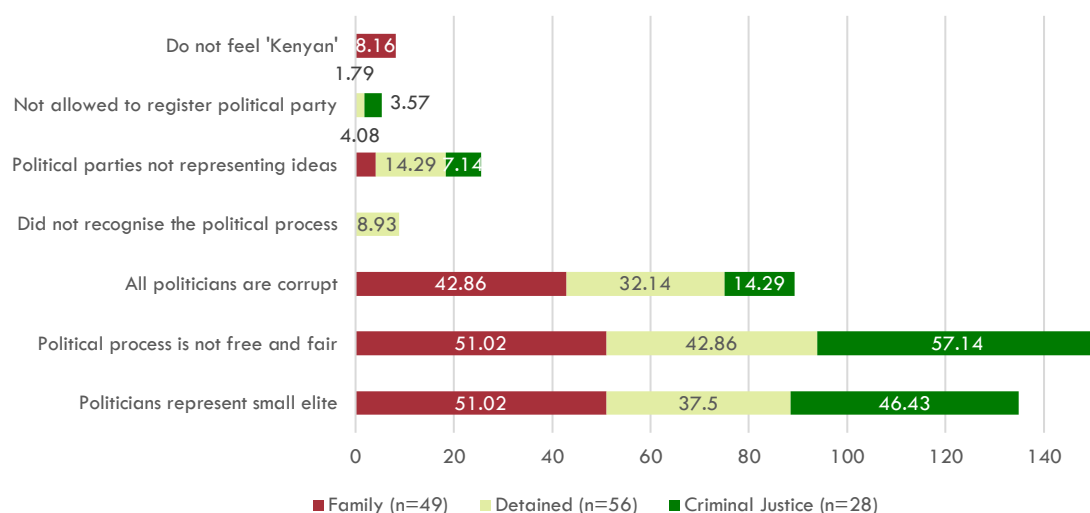


Figure 38. Reasons for not participating in the political process

8.2 Access to national identity documents

Critical in creating a sense of belonging, but also a source of marginalisation, has been the perceived unequal access to national identity documents (ID). An ID document or card is technically the key to the privileges of being a citizen of that particular country, from being allowed to participate in the political process (vote in elections), access a government building, to open a bank account. Not being in possession of an ID has a tendency to facilitate arrest in Kenya. For example, following two attacks in March 2014 in Nairobi and Mombasa that killed 12 people, Joseph Ole Lenku, the Kenyan Minister of Interior announced that more than 4 000 people suspected of being Somali had been arrested, some held at Kasarani soccer stadium. The mass arrests were part of a crackdown on Somalis suspected of belonging to or sympathizing with al-Shabaab. In another example, a participant part of a focus group discussion gave the following testimony: Eight months ago, I was arrested in Wajir town without an ID and for alleged involvement with al-Shabaab and I was placed under remand for six months, interrogated, tortured and injected with chemicals that changed my life forever. I am now trapped in the body of a disabled man with a harrowing tale of extremism in the hands of the same security agents that were supposed to protect me. My alleged involvement claim with al-Shabaab didn't bear any fruit since none of their advanced interrogation skills could work. I was innocent and to date I didn't get justice or compensation from anyone. I was even threatened by the anti-terrorism unit not to pursue the matter.

Stopping and asking people to produce an ID can reasonably be applied, but it should be applied equally to all while recognising that the individual in question has 24-hours to produce the document. According to the Kenyan Constitution, the freedom of movement (Article 39) can only be limited after all possibilities to limit any basic right were taken into consideration (Article 24). Article 21 set two principles in the implementation of rights and fundamental freedoms, namely: All State organs and all public officers have the duty to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities; and secondly, the State shall enact and implement legislation to fulfil its international obligations in respect of human rights and fundamental freedoms.

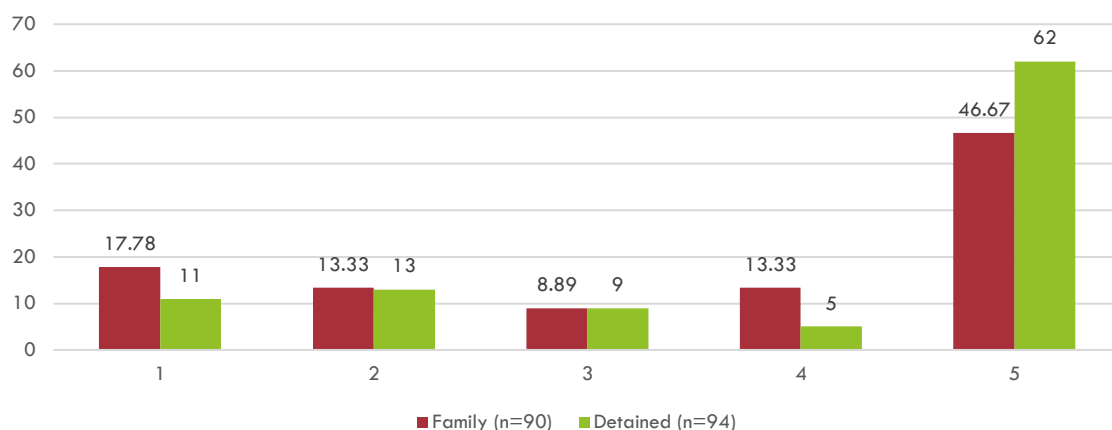


Figure 39. Stopped and asked for ID

The Kenyan Constitution⁴⁶, under Article 39 guarantees the freedom of movement of every person. Article 21 under the implementation of rights and fundamental freedoms:

1. It is a fundamental duty of the State and every State organ to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights.
2. The State shall take legislative, policy and other measures, including the setting of standards, to achieve the progressive realisation of the rights guaranteed under Article 43.
3. All State organs and all public officers have the duty to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youths, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities.
4. The State shall enact and implement legislation to fulfil its international obligations in respect of human rights and fundamental freedoms.

The Constitution also stipulated the following limitation of rights and fundamental freedoms under Article 24:

1. A right or fundamental freedom in the Bill of Rights shall not be limited except by law, and then only to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including—
 - a. the nature of the right or fundamental freedom;
 - b. the importance of the purpose of the limitation;
 - c. the nature and extent of the limitation;
 - d. the need to ensure that the enjoyment of rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others; and
 - e. the relation between the limitation and its purpose and whether there are less restrictive means to achieve the purpose

46 The Republic of Kenya. The Constitution, 2010. Available at file:///Users/Anneli/Desktop/ConstitutionofKenya%202010.pdf (accessed on 10 January 2011).

Sensitivity around producing an ID can be traced back to the colonial period when the pass was produced only on demand by a police officer or an authorised person in accordance with the law. This was seen as a measure to prevent the free movement of non-Europeans in the country of native Kenyans. Years after independence, militias from certain communities were demanding a display of ID cards during the 1992 tribal clashes to assist in identifying their victims. A similar formula was applied in the 1994 Rwanda genocide.⁴⁷

The second sensitive topic associated with ID documents is the perceived unequal access to these documents. Members of the community living in vulnerable areas expressed that when applying for national identity cards and passports they, Muslims especially, felt discriminated against. For example, when applying for a passport, Muslims are required to produce additional documentary evidence of citizenship. Whereas 'Christian applicants only needed two birth certificates, their own and of one of their parents. Applicants with Islamic names were required to produce, in addition, the birth certificate of one of the grandparents'. This was again confirmed in a focus group discussion in Wajir as participants blamed this occurrence on corruption in government agencies (corruption will be discussed in greater detail below) such as immigration department and Office of Registrar of Persons. Participants referred to this state of affairs as a cause of an increased rate in radicalisation. Assessing this perception, respondents as part of the detained and family and friends samples were asked to rate government's success in providing identity documents and passports. Of the 89 respondents as part of the detained sample 43% rated government's ability to provide identity documents and passports 41% above average. In contrast, only 30% of family members and friends (n=82) expressed a similar view on the issuing of identity documents and 23% with reference to passports, than respondents part of the detained sample (see **Figures 41** and **42**)

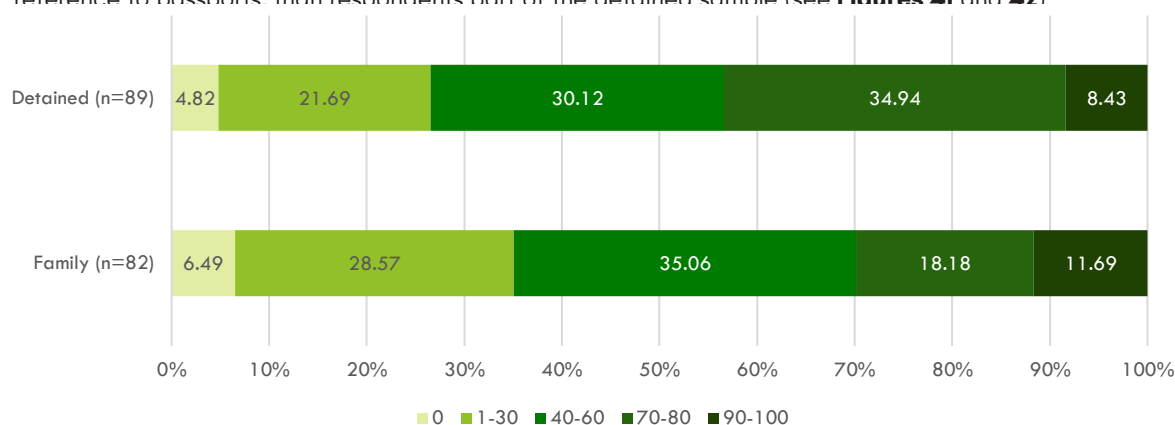


Figure 40. Government's success in providing identity documents

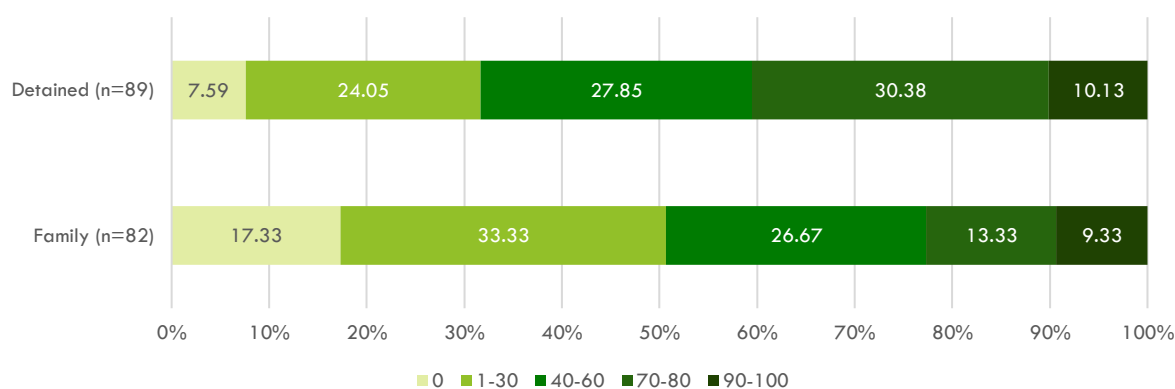


Figure 41. Government's success in providing passports

47 Gitonga Muriuki. Demands by officers to see ID cards illegal. Daily Nation, 6 February 2006. Available at <https://www.nation.co.ke/lifestyle/1190-106304-gkwrqkz/index.html> (accessed on 15 January 2014).

As explained in one focus group discussion, the Somali community has been subjected to profiling, harassment and massive corruption in the issuing of identity documents. According to one testimony: "It's easier for an elderly Somali born in Mogadishu loaded with cash to access those key documents than a teenager born and raised in Wajir county hospital armed with birth certificate to get the same. And this will hinder their access to jobs and further studies adding to the vulnerabilities." According to another respondent: "I have two families; one in Eldoret and the other one in Wajir and I was blessed with children from both ends. High level discrimination is observed in the birth certificates issued to children in both places. As for the one born in Eldoret, the certificate indicates 'this is a proof of citizenship' while clearly marked on the one issued in Wajir county indicates 'this is not a proof of citizenship' a clear picture of 'one family, one nation and different identities.'"

8.3 Service delivery: Efficiency

A key function of government that will ultimately influence its legitimacy is if it is able to address the needs of all its citizens and provide public services, such as health care, education, water and electricity etc. Through providing public services, government interacts with the public which then shapes people's trust in and expectations of government. The providing of public services also contributes to welfare and economic growth. It is therefore critical that government responds to the needs of its citizens and that the delivery of these services addresses the needs of the most vulnerable.

Starting with education, the majority of all three samples expressed a very high need to receive education (see **Figure 43**), also one of the main areas respondents felt discriminated against as a result

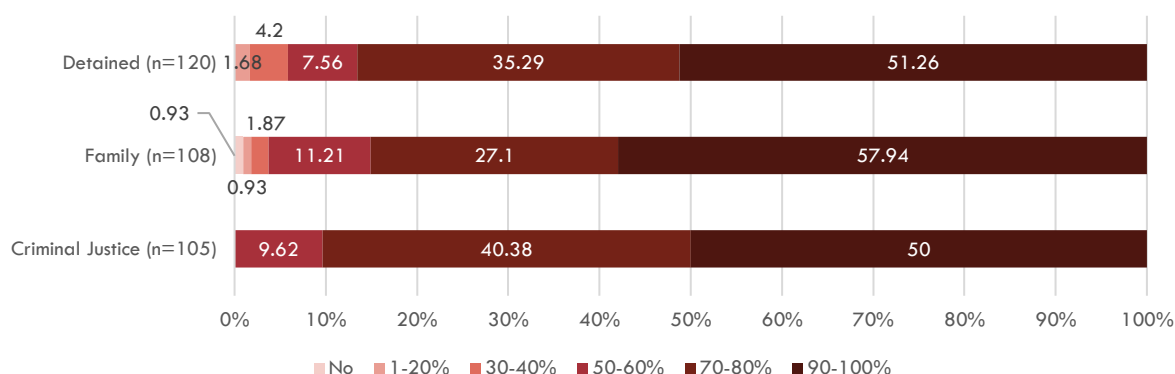


Figure 42. Need to receive education

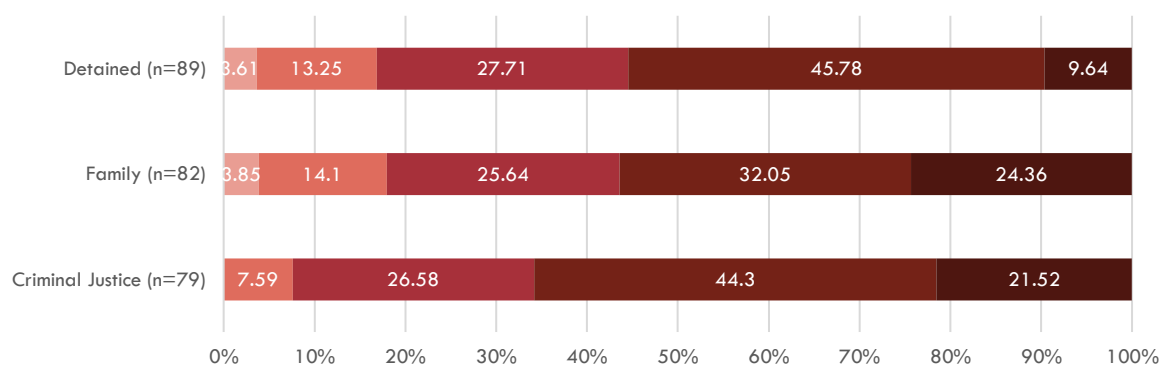


Figure 43. Ability of government to provide education

of financial difficulties.

In response to the overwhelming need to receive education, the majority of all three samples rated government's ability to provide education between 70-80%, while a further 24% of families and 22% amongst the criminal justice sample rated government's success between 90-100%. This is a positive reflection on the Kenyan government and a crucial step towards building a country that is informed and able to pursue a better life. However, the critical question is whether government and the business community create sufficient employment opportunities to accommodate especially the youth.

In addition to education, respondents rated their need (**Figure 45**) for healthcare higher than what they actually received (**Figure 46**).

Although respondents did not experience the same level of success providing in their healthcare needs, it was less than the success they experienced in the provision for education. Overall, education proved to be another sensitive topic considering the opening of opportunities and further lessening the associated probability of being manipulated due to illiteracy.

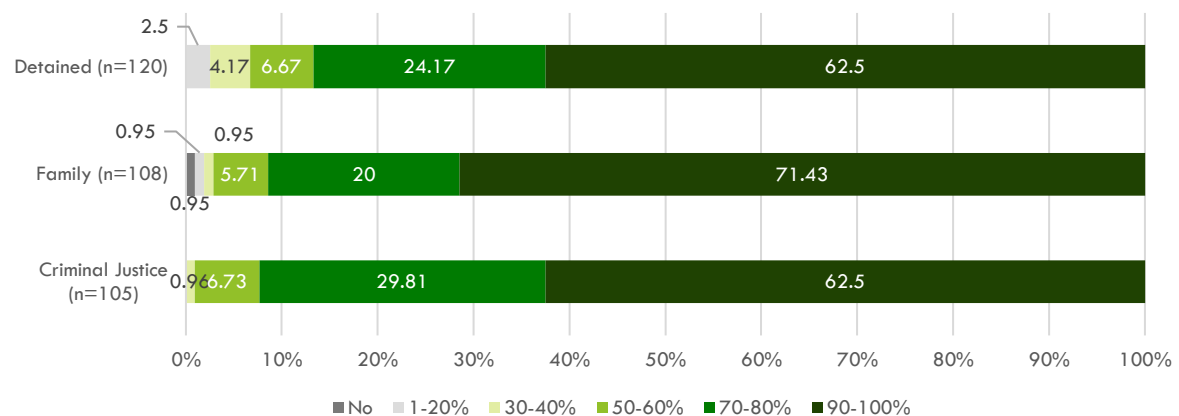


Figure 44. Need for healthcare

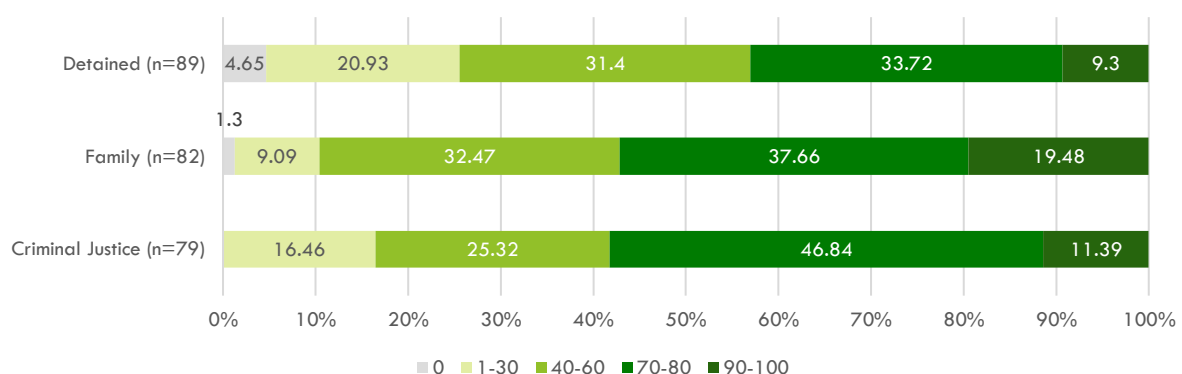


Figure 45. Government's success in providing healthcare

8.4 Safety from foreign enemies

An internationally recognised responsibility placed on governments through its military is to protect the country against foreign intervention. Al-Shabaab incursions from Somalia into Kenya is arguably the country's main threat from foreign enemies. It is also this threat that prompted the Kenyan government to deploy troops to Somalia in October 2011 after al-Shabaab was implicated in a series of kidnappings along the Kenyan coast. The deployment of the Kenyan Defence Force unfortunately did not prevent Kenya from being the target of attacks, most notably the Garissa University attacks and Westgate, that had been planned and executed from Somalia in response to Kenyan presence in that country.

Before assessing the success of the Kenyan government to protect its citizens, respondents were asked to rate the need to be protected from a foreign enemy. It is important to note that all three samples expressed a very similar need to be protected against a foreign enemy, that can be interpreted as a similar threat perception.

Whereas the majority (49%) of criminal justice respondents rated government's ability to protect the country against foreign enemies between 70–80% the majority of families (39%) and 36% amongst the detained rated success between 40–60%. It is however important to note that both samples' second classification was between 70–80%, while 22% of criminal justice respondents rated government's success at the same level.

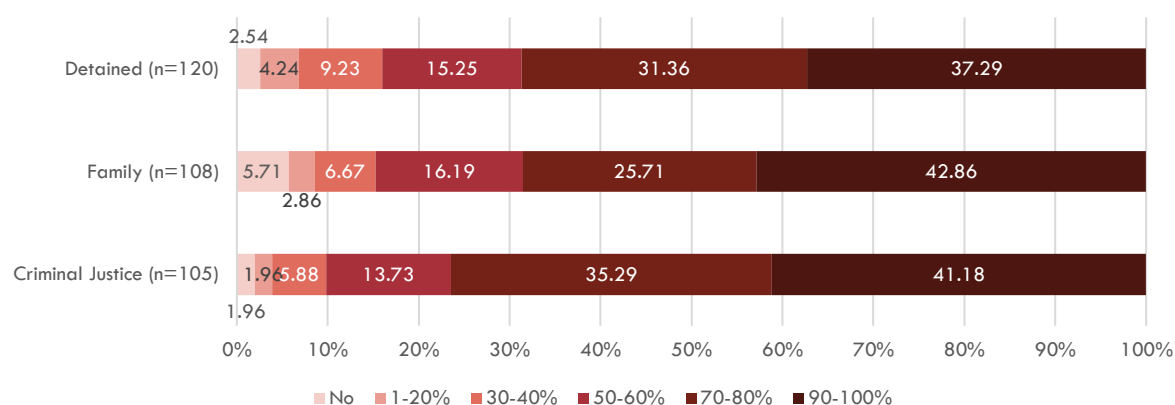


Figure 46. Need to be protected against a foreign enemy

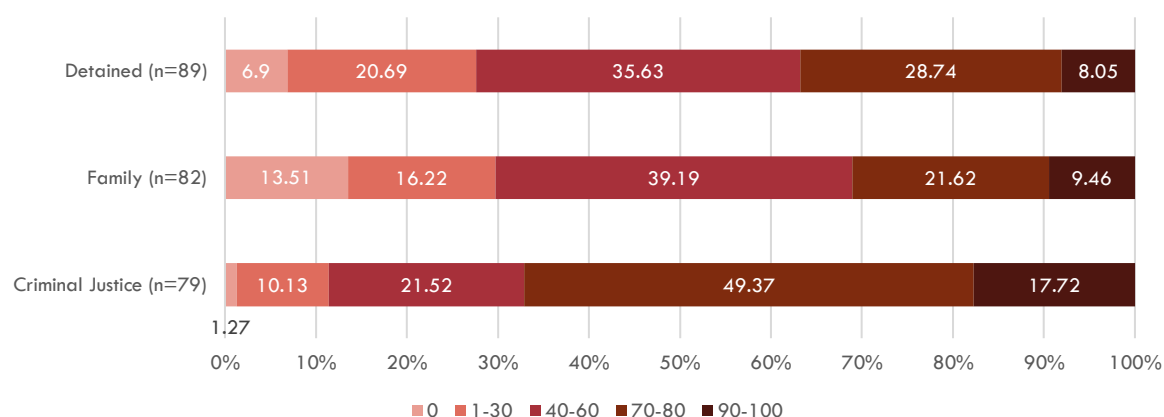


Figure 47. Success of the Kenyan government to protect citizens against foreign enemies

8.5 Safety from domestic enemies

Respondents were asked to assess the most pressing security challenges in Kenya. Although these individual threat perceptions will be presented under the relevant headings, it is important to note that according to both families and friends as well as detained respondents, unequal access to land and natural resources was regarded as the primary threat to domestic security. This was followed by terrorism, historic grievances based on ethnicity and religion, criminal activities and political grievances. Criminal justice respondents rated the latter as the overall most pressing security threat, followed by unequal access to land and natural resources, historic grievances based on ethnicity, criminal activities and terrorism. Only a small minority of respondents – representing all three samples – considered conflict as a result of climate change and cattle rustling as a serious threat.

Starting with terrorism as a main threat to domestic security, it is interesting to note that instead of criminal justice actors, it was respondents being part of family members and friends who rated the threat of terrorism the highest. A possible explanation for this high threat perception on the particular group was found in one focus group discussion when participants noted that threats from terrorists, due to its indiscriminate nature was as serious as indiscriminate countermeasures by security agents.

In a follow-up question in the questionnaire respondents were asked to rate the threat of al-Shabaab and Islamic State attacks in Kenya.

In contrast to al-Shabaab, the majority of respondents representing all three samples did not recognise the possibility of Islamic State executing attacks in Kenya.

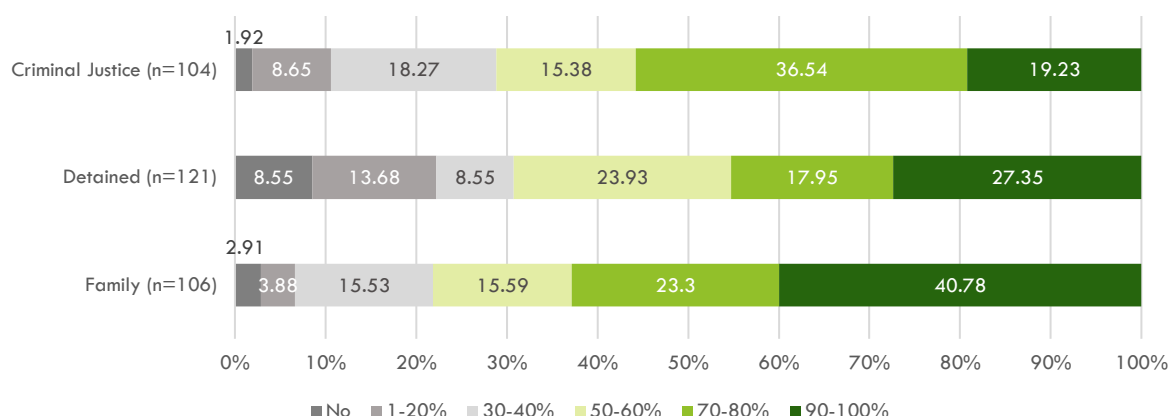


Figure 48. Terrorism as a main threat to domestic security

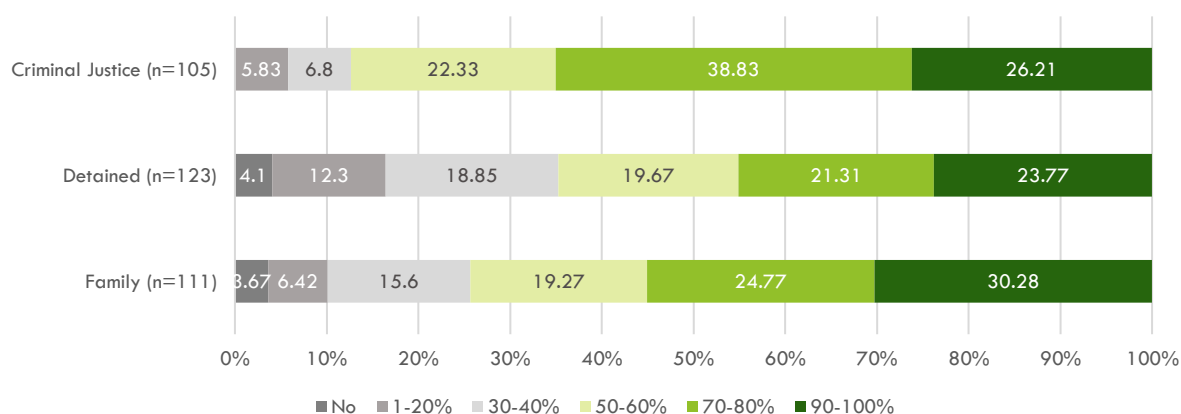


Figure 49. Threat of al-Shabaab attacks in Kenya

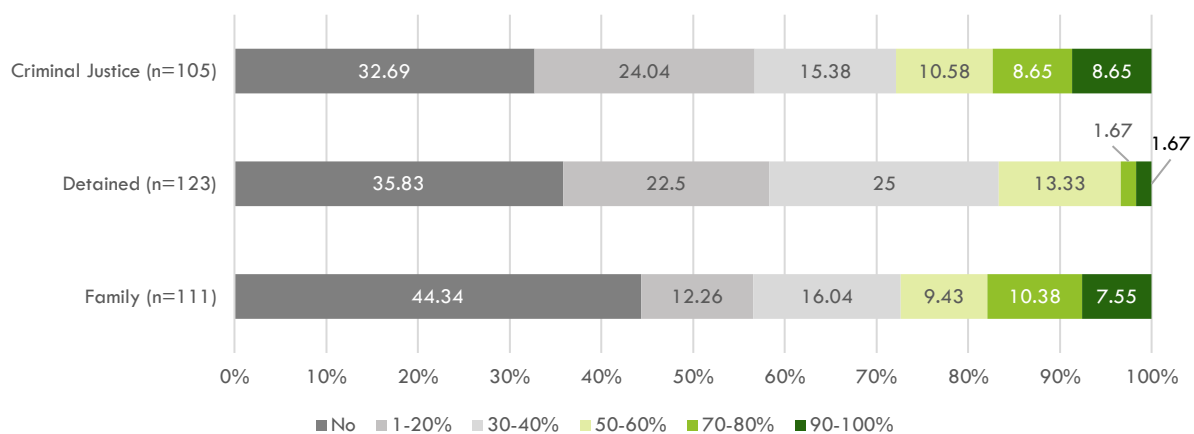


Figure 50. Threat of Islamic State attacks in Kenya

With reference to other criminal activities when compared to terrorism, criminal justice respondents rated this threat to domestic security higher. This sentiment was however not shared by respondents being part of the detained and family and friends samples. A possible explanation for this different threat perception may be that in the mind of criminal justice actors al-Shabaab was unable to execute a major terrorist attack (on the same level as Westgate), while members of the community (including security officials) had been the victims of smaller attacks executed by al-Shabaab operatives in remote areas.

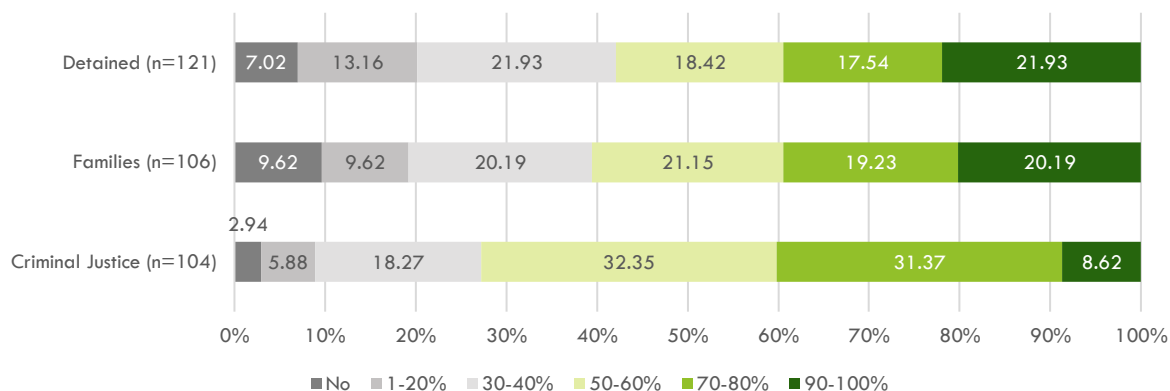


Figure 51. Crime as a threat to domestic security

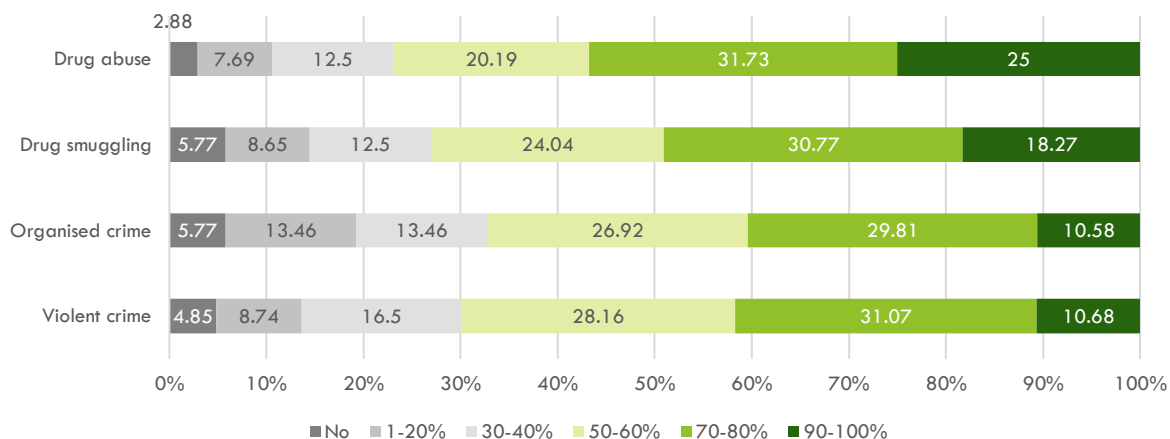


Figure 52. Serious nature of criminal activities: Criminal justice respondents

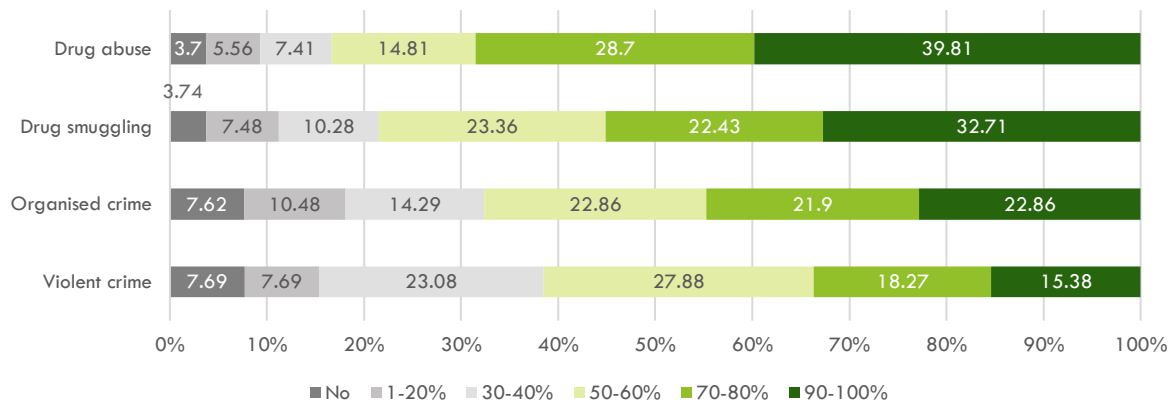


Figure 53. Serious nature of criminal activities: Family and friends respondents

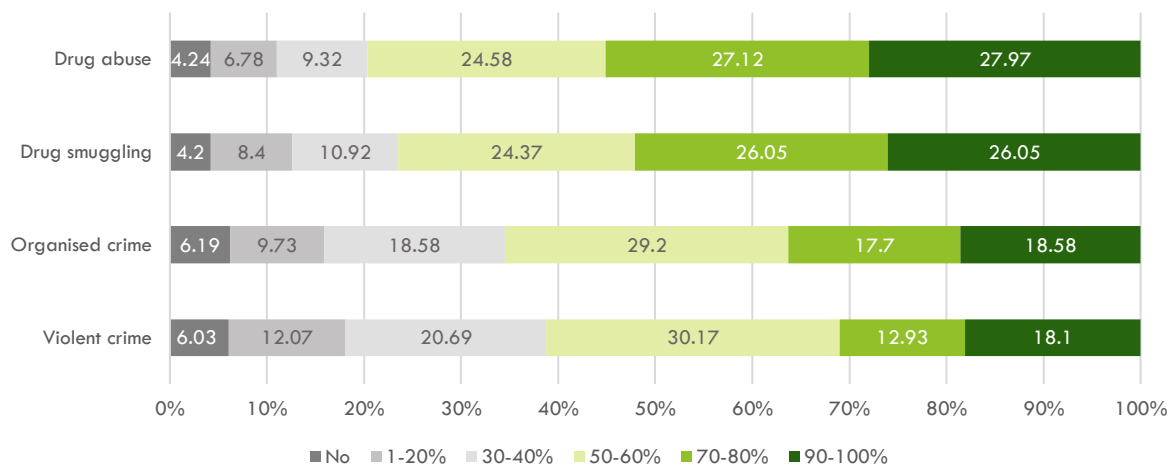


Figure 54. Serious nature of criminal activities: Respondents history of being detained

The above prompted the question whether threats presented by illegal organisations were being accurately assessed. It is important to note that while the majority of criminal justice actors (43%) and family members and friends (39%) regarded the threat presented by illegal organisations as being underestimated, the majority within the detained sample (43%) considered the threat presented by illegal organisations as being overestimated. The fact that the majority of respondents as part of the detained sample were being implicated in terrorism-related offences (and not regarded as ‘victims’ of al-Shabaab) may shed light on this perception. Despite these differences 41% amongst criminal justice actors, 37% amongst family members and friends and 36% amongst the detained sample considered the threat presented by illegal organisations as being assessed accurately.

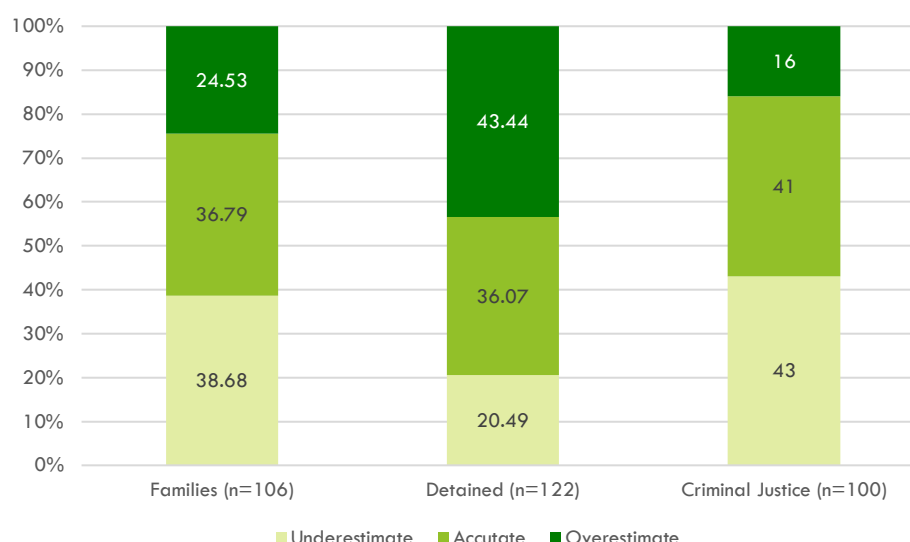


Figure 55. Security threat overestimated

8.5.1 Radicalisation and recruitment into illegal organisations

Under Section 12D of the Prevention of Terrorism Act, radicalisation is defined as ‘a person who adopts or promotes an extreme belief system for the purpose of facilitating ideologically based violence to advance political, religious or social change commits an offence and is liable on conviction, to imprisonment for a term not exceeding thirty years.’ Considering the serious consequences of radicalisation, recruitment and the later possible involvement of those radicalised in acts of terrorism in and outside Kenya, especially respondents representing the families and friends who went through the criminal justice system recognised the serious nature of Kenyans being recruited into illegal organisations such as al-Shabaab. 68% of the said group classified the serious nature of the recruitment of Kenyan nationals above average (70-100%) (see **Figure 57**).

This section can be divided into two primary sub-sections: in the first, the objective will be to identify why individuals may be vulnerable to be recruited into illegal organisations. Answers from all three samples were based on perceptions to guard against potential concern on the part of the two community-based samples that might incriminate themselves or a person close to them. The second part will focus on whether respondents were aware of initiatives to prevent radicalisation and recruitment and how it was being perceived.

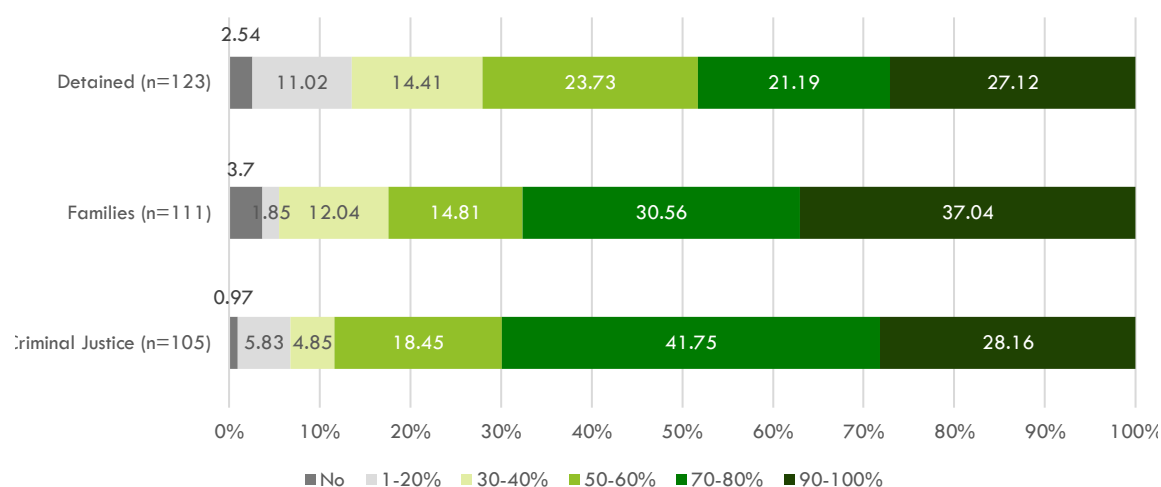


Figure 56. Seriousness of Kenyan nationals being recruited into illegal organisations

Considering the above average concern surrounding the potential recruitment of Kenyan nationals into illegal organisations, respondents were asked to identify the primary reasons that might motivate individuals to join these organisations. The most critical reasons – most notably anger towards government and its security forces – will be discussed separately. **Table 5** compares perceptions amongst the three samples in relation to above average indicators. What is particular noticeable is the different perceptions on the part of criminal justice actors in relation to the other two samples, considered to be closer to understanding the driving factors that facilitate radicalisation. Although financial incentives play an important role (according to detained respondents rated as fourth most important (59%), it is a long way from being the primary incentive (81%) according to criminal justice respondents.

Table 5. Reasons for joining illegal organisations based on priority

Priority	Detained (n=117)	Family (n=105)	Criminal Justice (n=103)
1	Anger towards the police (66.96%)	Anger towards the police (75.97%)	Financial incentives (80.8%)
2	Anger towards the government (60.18%)	Employment (71.29%)	Religious ideology (65.34%)
3	Employment ⁴⁸ (59.63%)	Financial incentives (68.32%)	Political ideology (63.63%)
4	Financial incentives (59.46%)	Anger towards the government (62.5%)	Anger towards the government (63.36%)
5	Treatment from security forces since arrest (56.88%)	Religious ideology (60.78%)	Anger towards the police (59.4%)
6	Religious ideology (52.3)	Treatment from security forces since arrest (52.47%)	Frustration over situation at home (57%)
7	Anger towards AMISOM (43.39%)	Frustration over situation at home (50%)	Anger towards the military (56%)
8	Anger towards the military (41.96%)	Anger towards intelligence agencies (47.47%)	Anger towards AMISOM (54.45%)
9	Means to settle personal disputes (40.37%)	Anger towards AMISOM (44.9%)	Becoming friends with existing members (52.04%)
10	Anger towards intelligence agencies (39.82%)	Anger towards the military (44.55%)	Treatment from security forces since arrest (52%)
11	Political ideology (36.7%)	Political ideology (43.56%)	Anger towards intelligence agencies (49.5%)
12	Frustration over situation at home (36.36%)	Becoming friends with existing members (38%)	Being isolated from other opinions (46%)
13	Conditions in prison (34.61%)	Being isolated from other opinions (33.33%)	Means to settle personal scores (36.28%)
14	Being isolated from other opinions (34.29)	Means to settle personal disputes (31%)	Protection from the group while in custody (35%)
15	Becoming friends with existing members (30.84%)	Sense of belonging (27.55%)	Protection to family – by the group – while in custody (35%)
16	Sense of belonging ⁴⁹ (30.56%)	Protection from the group while in custody (24.24%)	Respect members of the organisation (31%)
17	Protection from the group while in custody (30.19%)	Conditions in prison (24.24%)	Conditions in prison (27.27%)
18	Need to be respected (27.1%)	Need to be respected (22.77%)	Need to be respected (19.19%)
19	Protection to family – by the group – while in custody (25%)	Protection to family – by the group – while in custody (22.55%)	
20	Respect members of the organisation (21.3%)	Respect members of the organisation (22.45%)	
20	Respect members of the organisation (21.3%)	Respect members of the organisation (22.45%)	

48 Not included in Criminal Justice questionnaire that referred to financial incentives

49 Not included in Criminal Justice questionnaire, easier to determine a sense of belonging from a community perspective.

Since respondents being part of the detained sample who went through the criminal justice system were not directly asked how they had been radicalised, **Table 6** summarises the facilitators respondents perceive to be furthering radicalisation and recruitment.

Table 6. Radicalisation facilitated through:

Priority	Family (n=105)	Detained (n=116)	Criminal Justice (n=103)
1	Social media	Between friends	Internet
2	Internet	Social media	Social media
3	Videos / CDs	Internet	Between friends
4	Between friends	Videos / CDs	Mosque
5	Interaction with foreigners in Kenya	Interaction with foreigners in Kenya	Videos / CDs
6	Refugee Camps	Poor neighbourhoods	Madrasa
7	Madrasa	Refugee Camps	University / Colleges
8	Mosque	Within families	Refugee Camps
9	Poor neighbourhoods	Madrasa	Poor neighbourhoods
10	University / Colleges	Mosque	Interaction with foreigners in Kenya
11	Prison	Community Centers	Secondary school
12	Secondary school	University / Colleges	Community Centers
13	Within families	Prison	Prison
14	Community Centers	Secondary school	Within families
15	Primary school	Primary school	Primary school

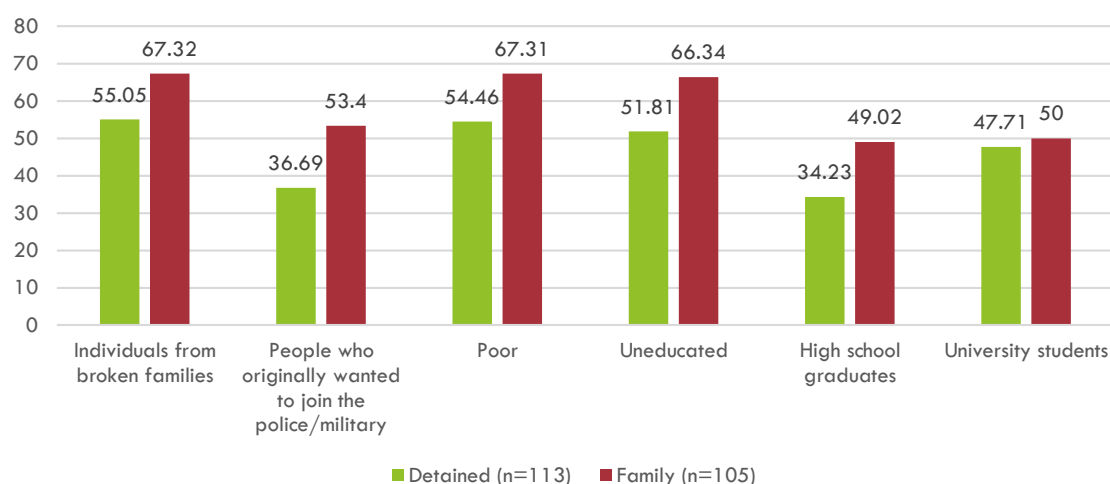


Figure 57. Most vulnerable to be recruited into an illegal organisation

In the following part of the discussion the focus will be on counter strategies. To be effective, people, especially those who are vulnerable, need to be aware of its existence. Although the majority of all three samples were aware of counter initiatives at the time of the interviews, 32% of detained respondents were not aware of counter initiatives.

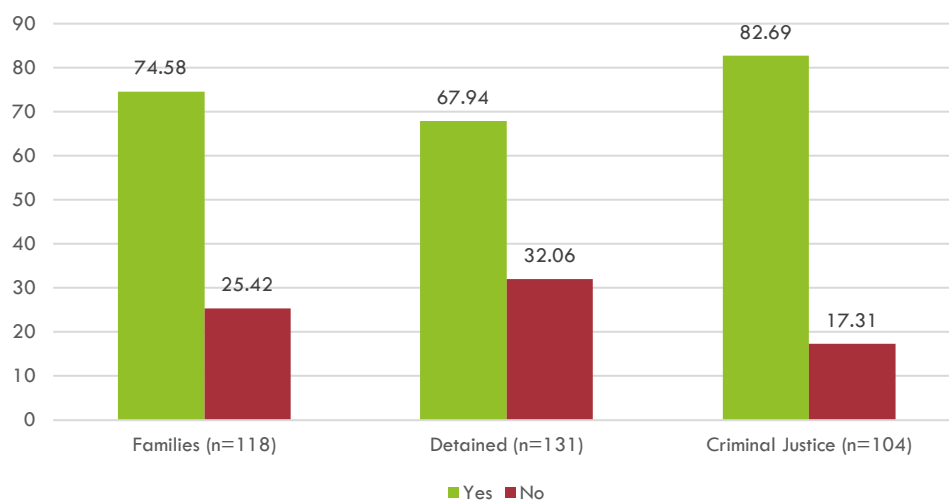


Figure 58. Aware of initiatives to prevent people from joining illegal organisations

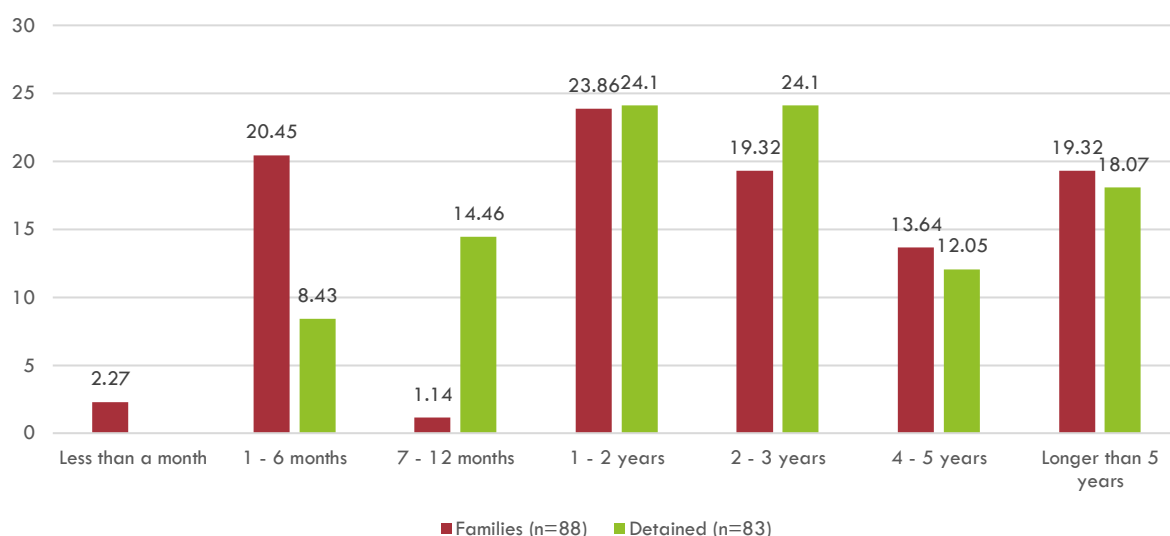


Figure 59. Duration being aware of counter measures

The majority of both samples had been aware of counter initiatives for a year and longer.

Respondents representing families and friends as well as the detained sample identified non-governmental and religious organisations as taking the lead, while criminal justice respondents referred to the Kenyan government, NGOs and religious organisations (see **Figure 61**). All three samples referred to community dialogue as the leading initiative, followed by religious dialogue and education and skills development.

All three samples referred to community dialogue as the leading initiative, followed by religious dialogue and education and skills development.

Of above initiatives, criminal justice respondents (n=95) participated in 65% of initiatives, followed by 62% of family and friends (n=107) and 53% of detained respondents (n=120).

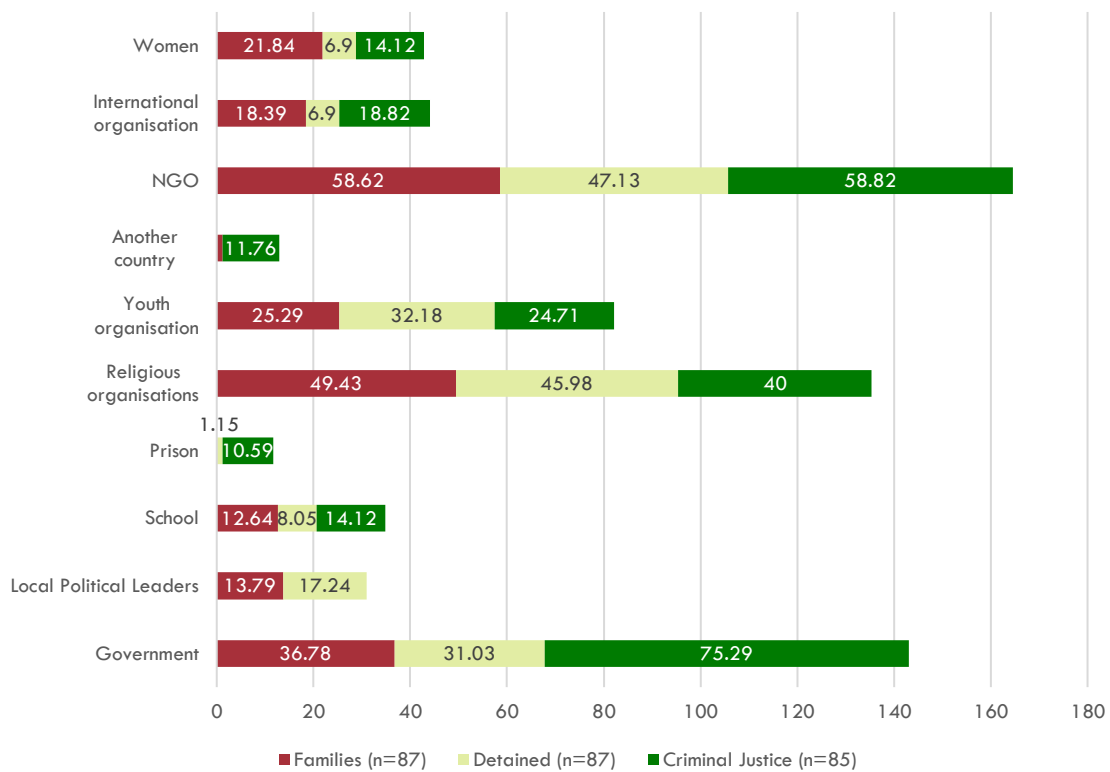


Figure 60. Leading agency responsible for counter initiatives

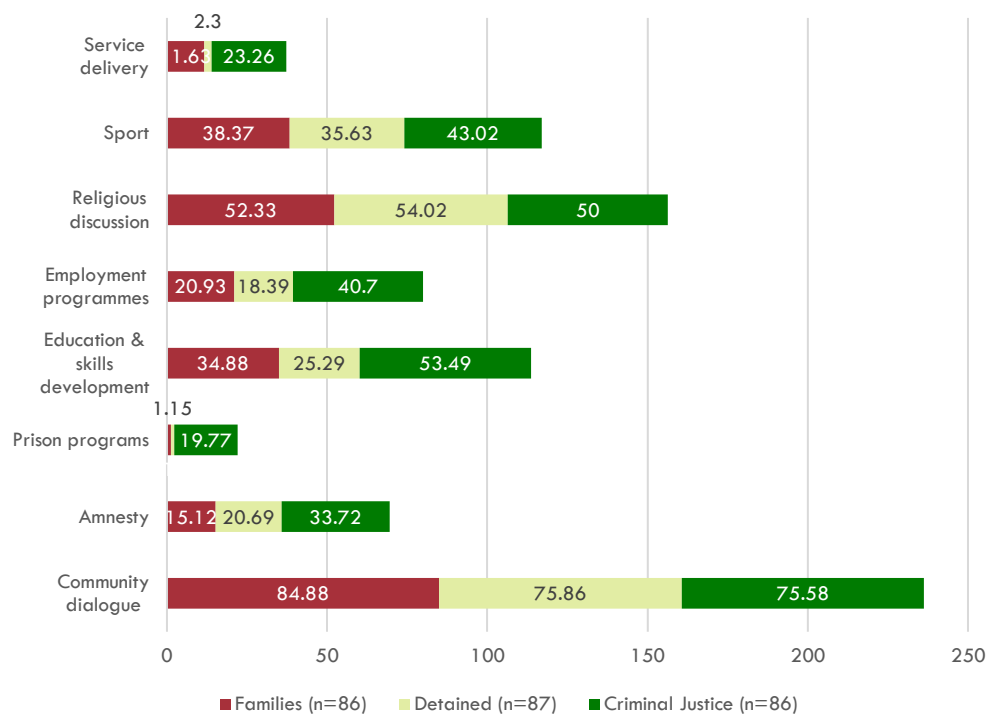


Figure 61. Type of initiatives

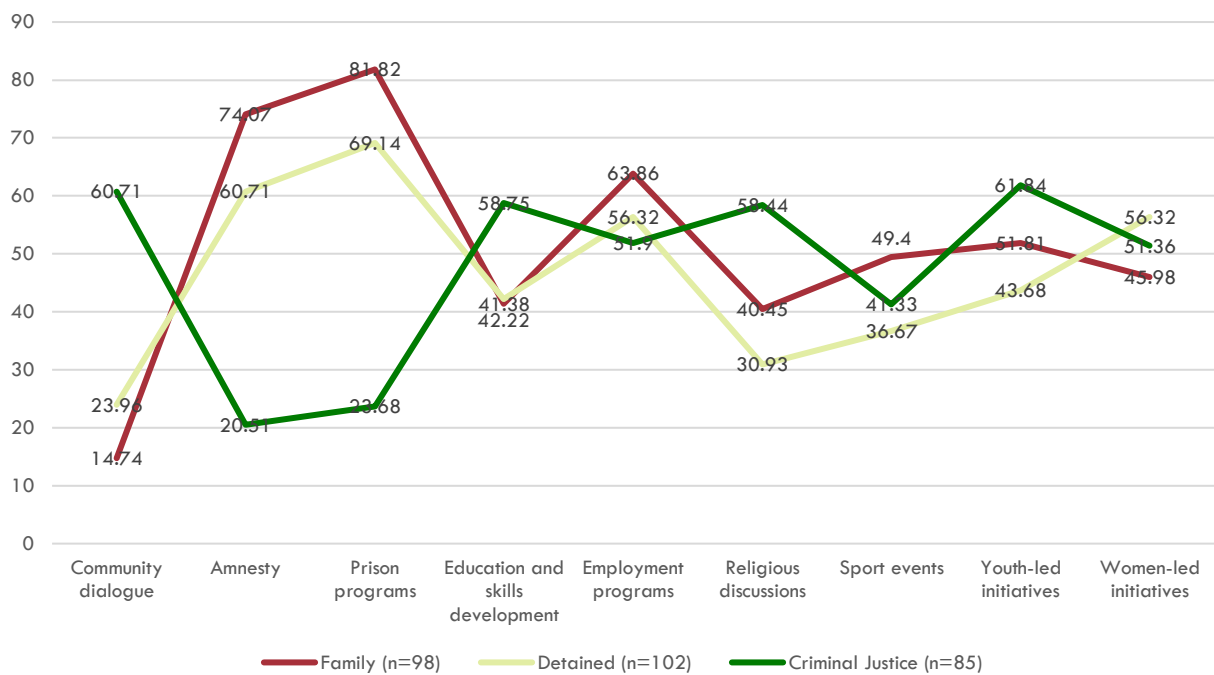


Figure 62. Assess the success of counter-initiatives (70-100% success rate)

Criminal justice respondents overall expressed more trust in counter initiatives than respondents being part of the family and friends sample. The latter particularly had suspicions of the success of community dialogue initiatives (15%), whereas prison programs (82%) and the amnesty process (74%) received the most support. In contrast criminal justice actors expressed the least trust in the success of amnesty and prison projects. Detained respondents expressed limited trust in community dialogue (24%) and religious discussion. These results are particularly important considering the emphasis placed on these initiatives. It therefore calls for an evaluation into the reasons why those most at risk did not consider the said initiatives.

Considering the limited perception of success, respondents were asked why these counter measures were not successful. According to both the detained (61%) and family and friends (49%) samples, friends were more convincing countering the arguments presented by those offering counter-messaging. Although not supported by the majority, 55% of criminal justice respondents supported this perception. Criminal justice respondents were largely under the impression that the ideals of the illegal organisation (59%) were more convincing, a perception that was not completely supported by the other two samples. Therefore, instead of relying on counter-messaging through the media, peer pressure is far more convincing. What makes counter-messaging through peers particularly challenging relates to the basic principle of socialisation as people (irrespective of age) associate with others who share similar opinions. Consequently, as a result of groupthink that often emerges, the possibility of a different perspective being presented to the rest of the group and others being open to this different opinion will become 'controversial' in the counter opinion. In other words, since friends share a particular opinion (for example more extreme views), the possibility of one or two people being accommodated with moderate opinions becomes less. It is especially for this reason that the changing of friends is a relatively common occurrence in the radicalisation process.

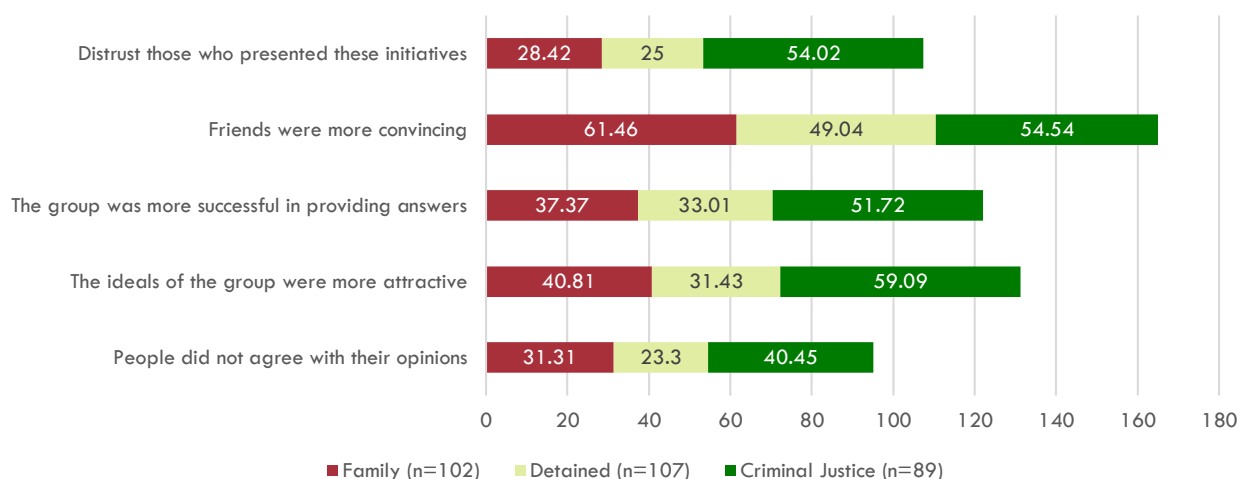


Figure 63. Reasons why counter initiatives may not be successful



Figure 64. Aware of the Kenyan Government's Strategy against violent extremism

The Kenyan government informed the majority of criminal justice respondents of the strategy, whereas the majority of the community-based samples were informed through radio and television.

In addition to being informed of the strategy, the question should rather be whether respondents were informed of its contents. While the majority of criminal justice respondents were aware of the contents of the strategy, the majority of the remaining two samples were not.

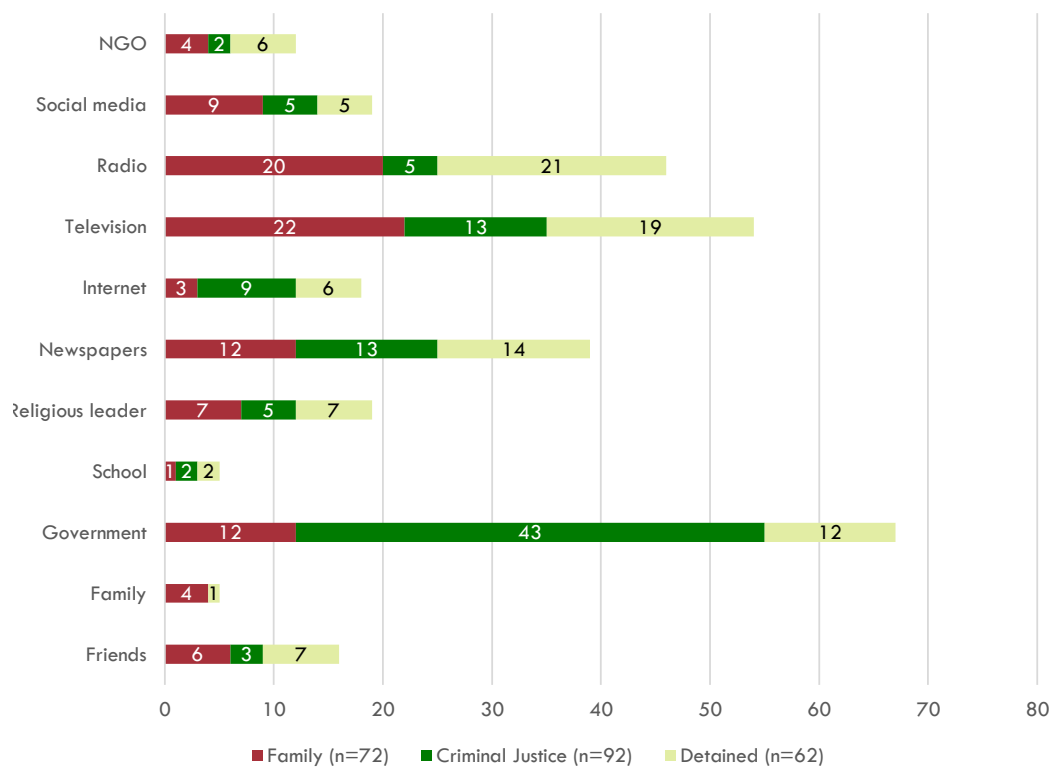


Figure 65. Aware of the Kenyan Government's Strategy against violent extremism

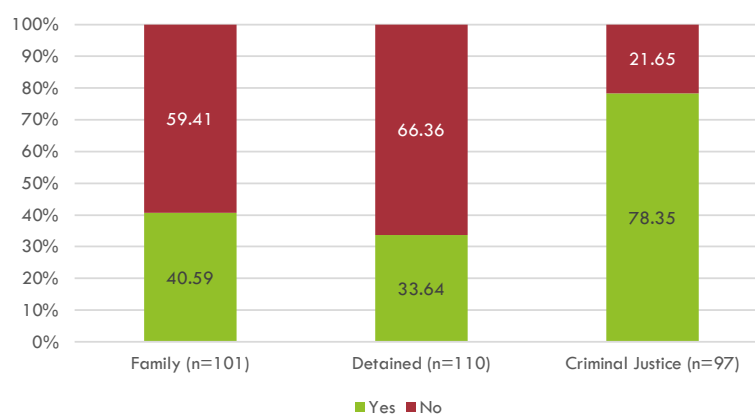


Figure 66. Aware of the content of government's strategy

When respondents were requested to rate the importance of counter measures, criminal justice respondents held a high regard for the majority of possible counter strategies (see **Table 7**).

Asking respondents to identify who should take the lead, both the detained and family samples identified the family and community leaders to take the lead, and that government and security agencies should stay away. The family and friends sample also expressed more trust in international donors than what was expressed by criminal justice actors (see **Table 8**).

Respondents were also asked to prioritise on what government should spend more money and (human) resources. Although data covered in **Table 9** are being presented throughout this report, this table presents priorities in relation to others. Some proposed changes have serious human rights implications and respondents were asked to determine the acceptance (70-100%) of these negative measures.

Table 7. Priority of counter strategies

Importance	Detained (n=117)	Family (n=105)	Criminal Justice (n=103)
1	Community policing (68.22%)	Research into violent extremism (66.08%)	Promote patriotism in Kenya (89.42%)
2	Building trust between security forces and public (66.97%)	Building trust between security forces and public (58.62%)	Community policing (89.42%)
3	Government support to local communities (63.97%)	Government support to local communities (53%)	More research on radicalisation (87.38%)
4	Research into violent extremism (61.68%)	Community policing (50.86%)	Economic development (85.58%)
5	Promote patriotism in Kenya (59.63%)	Promote patriotism in Kenya (50%)	Countering extremist ideologies (81.55%)
6	Government-led early warning (57.27%)	Countering extremist ideologies (48.3%)	Rehabilitation and reintegration (78.21%)
7	Counter extremist ideologies (51.37%)	Prosecute radicalisers (46.96%)	Train religious leaders to identify those at risk (73.08%)
8	Community-led early warning (49.08%)	Rehabilitation and reintegration (45.69%)	Train teachers to identify those at risk (67.31%)
9	Law enforcement against radicalisation (49.07%)	Law enforcement against radicalisation (42.74%)	Harsh punishment (63.1%)
10	Rehabilitation and reintegration (47.75%)	Government-led early warning (39.82%)	Focus on families of radicalised (61.16%)
11	Prosecute radicalisers (44.55%)	Community-led early warning (39.82%)	Hold communities responsible (24.28%)

Table 8. Who should take the lead implementing the strategy

Priority	Families (n=119)	Detained (n=129)	Criminal Justice (n=85)
1	Families (81.74%)	Families (67.2%)	Local religious organisations (85.85%)
2	Community leaders (79.82%)	Community leaders (66.67%)	Local youth organisations (83.81%)
3	Media (75.86%)	Local religious organisations (66.4%)	Local women organisations (78.09%)
4	Local religious organisations (71.79%)	Media (59.02%)	Intelligence (70.76%)
5	International donors (63.47%)	Local youth organisations (58.07%)	Department of Education (64.76%)
6	Local women organisations (61.21%)	Local women organisations (50.83%)	Police (58.49%)
7	Local youth organisations (60.71%)	Department of Education (47.16%)	Military (47.17%)
8	Department of Education (55.46%)	International donors (40.67%)	International donors (43.81%)
9	Police (49.57%)	NCTC (38.02%)	
10	Intelligence (47.83%)	Intelligence (36.98%)	
11	NCTC (44.74%)	Police (31.14%)	
12	Military (37.17%)	Military (26.83%)	
13	Political leaders (34.48%)	Political leaders (23.57%)	

As will be presented later in the report, respondents recognised the need to better train and equip, especially for the police to develop an improved relationship with the public and successfully fulfil its mandated tasks. It is equally necessary to recognise the importance (percentages) respondents as part of the criminal justice sample placed on changes and needs associated with security agencies. It is however particularly interesting to note the level of support respondents gave to very intrusive counter measures, most notably the monitoring of religious institutions (which can be interpreted as an infringement on religious freedom and freedom of expression) and the monitoring of all telephone calls. Both counter measures have serious implications on privacy and currently require legal permission (Section 36 of the Prevention of Terrorism Act). Monitoring of the internet and social media is seen as a priority when read with **Table 6** in which all three samples identified social media and the internet as radicalisation facilitators.

Table 9. Priority of proposed changes to enhance the effectiveness of counter measures

Priority	Families (n=111)	Detained (n=119)	Criminal Justice (n=105)
1	Train police to better conduct investigations (86.24%)	Train police to better conduct investigations (79.31%)	Provide better equipment to police officers (89.52%)
2	Train police to serve and protect the community (85.32%)	Provide training on human rights (74.36%)	Enhance intelligence capabilities (89.32%)
3	Provide training on human rights (83.34%)	Train police to serve and protect the community (73.27%)	Train police to better conduct investigations (88.46%)
4	Provide better equipment to police officers (69.44%)	Enhance border security (70.28%)	Provide better equipment to military officers (87.5%)
5	Enhance intelligence capabilities (68.22%)	Provide better equipment to police officers (67.83%)	Train police to serve and protect the community (85.44%)
6	Enhance border security (66.66%)	Improve conditions in police stations (65.22%)	Enhance the training of police officers (83.81%)
7	Enhance the training of police officers (64.81%)	Enhance intelligence capabilities (61.95%)	Enhance border security (82.69%)
8	Improve conditions in police stations (62.39%)	Enhance the training of police officers (61.4%)	Provide training on human rights (74.76%)
9	Change the criteria for recruitment of police officers (55.96%)	Monitor the movement of foreigners (53.98%)	Enhance the training of military officers (73.08%)
10	Provide better equipment to military officers (55.14%)	Improve conditions in prisons (53.16%)	Increase the monitoring of the Internet (72.11%)
11	Improve conditions in prisons ⁵⁰ (54.9%)	Change the criteria for recruitment of police officers (52.14%)	Monitor the movement of foreigners (71.43%)
12	Increase the monitoring of all foreign financial transactions (54.2%)	Enhance counter messaging (48.67%)	Increase the monitoring of all foreign financial transactions (70.87%)
13	Enhance the training of military officers (53.34%)	Increase the monitoring of the Internet (47.37%)	Increase the monitoring of social media (69.23%)
14	Monitor the activities of religious institutions (53.33%)	Increase the monitoring of all foreign financial transactions (45.61%)	Install more CCTV cameras (67.96%)
15	Enhance counter messaging ⁵¹ (50%)	Provide better equipment to military officers (43.36%)	Monitor the activities of religious institutions (51.96%)
16	Increase the monitoring of the Internet (49.06%)	Enhance the training of military officers (42.11%)	Monitor the activities of NGOs (48.54%)
17	Increase the monitoring of social media (49.06%)	Increase the monitoring of social media (41.11%)	Increase the monitoring of all telephone calls (45.63%)
18	Monitor the movement of foreigners (48.6%)	Install more CCTV cameras (36.52%)	Change the criteria for recruitment of police officers (44.23%)
19	Install more CCTV cameras (46.79%)	Change the criteria for recruitment of military officers (35.97%)	Change the criteria for recruitment of military officers (38.84%)
20	Change the criteria for recruitment of military officers (45.19%)	Monitor the activities of NGOs (35.97%)	Recruit police officers from the region (25.49%)
21	Recruit police officers from the region (43.12%)	Monitor the activities of religious institutions (33.62%)	Change police stations (20.19%)
22	Monitor the activities of NGOs (42.05%)	Close refugee camps (29.2%)	Close refugee camps (19.23%)
23	Increase the monitoring of all telephone calls (41.13%)	Recruit police officers from the region (27.82%)	
24	Close refugee camps (27.1%)	Increase the monitoring of all telephone calls (26.79%)	

50 Exclusive to primary and family and friends samples

51 Exclusive to primary and family and friends samples

8.6 Corruption

Corruption – perceived and actual – is one of the most prominent factors determining legitimacy of any institution. Consequently, the lack of trust, reduced legitimacy and lack of confidence in public institutions can both be a cause and an effect of corruption, leading to a vicious cycle of decline.

Assessing the prominence of corruption in the mind of respondents, all three samples were asked to rate the level of corruption across the different levels of government and critical institutions. This question was asked to establish perceived corruption and the following discussion will identify the five most perceived to be corrupt. According to respondents being part of the family and friends sample, employees of national government are the most corrupt (87%), followed by police officers (86%), traffic police (84%), local government (79%) and Home Affairs, with specific reference to official documentation (71%). To respondents as part of the detained sample, police officers were the most corrupt (87%), followed by national government (84%), traffic police officers (83%), and lastly Home Affairs (54%). Finally, criminal justice respondents perceived traffic police officers to be most corrupt (76%), followed by local government employees (76%), national government (65%), police officers (61%) and Home Affairs (50%).

After determining who respondents perceived to be corrupt, the two non-government samples were asked whether they ever had to pay a bribe, of which 59% of the detained sample (n=124) and 58% of family members and friends answered in the affirmative. Asking respondents to indicate if they had to pay a bribe to the already identified institutions while at the same time indicating the number of times they had to pay a bribe, an interesting trend emerged.

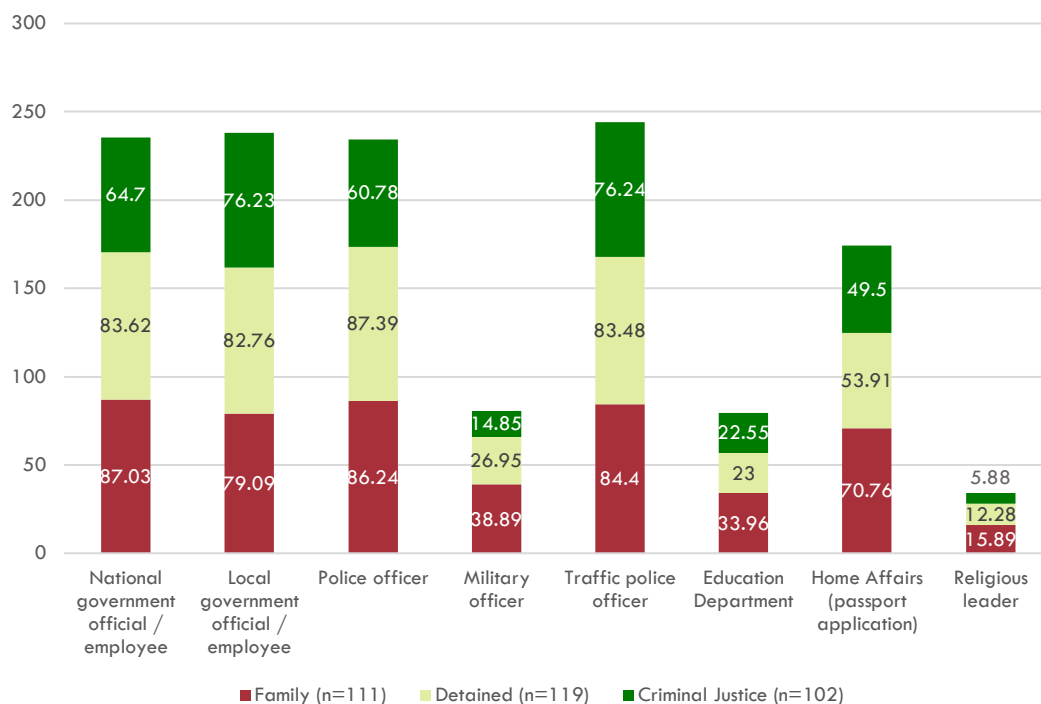


Figure 67. Perception of corruption per level of government, department or institution

After determining who respondents perceived to be corrupt, the two non-government samples were asked if they ever had to pay a bribe, of which 59% of the detained sample (n=124) and 58% of family members and friends answered in the affirmative. Starting with the 86 respondents who indicated that they had to pay a bribe, the majority of respondents (58%) had to pay a bribe to a police officer and even more than five times. Despite being fifth on the list of being perceived to be corrupt, 45% had to bribe a Home Affairs official, 43% had to bribe a national government official, while 26% had to bribe a local government official and only 25% had to pay a bribe to a traffic police officer (see **Figure 69** for more information).

Although the actors implicated by family members and friends are very similar to the detained sample, the numbers are different, especially with reference to the police. Of the 97 respondents who had to pay a bribe, the majority (65%) had to bribe a police officer of which 31% had to pay a bribe five times and more. In reinforcing the sentiment that religious and ethnic minorities are being further marginalised, ethnic Somali Kenyans complained in the aftermath of the Westgate attack regarding their treatment at the hand of the police: we suffered at home in Somalia at the hands of al-Shabaab, while in Kenya, the security forces became like another 'al-Shabaab' in the way they treated us. Police fully understand that most of us have nothing to do with al-Shabaab but we are the cash cow, like a bank ATM. Once you are arrested, money is your solution and your innocence is nothing.⁵²

Similar to family and friends, despite being fifth on the list of being perceived to be corrupt 49% had to bribe a Home Affairs official and 43% had to bribe a national government official. However, according to the detained sample, 37% had to pay a bribe to a traffic police officer while 27% had to bribe a local government official (see **Figure 70** for more information).

Although some actors - most notably traffic police officers - are being perceived to be more corrupt than they actually are, others were expected to do better, but expectations were misplaced with reference to, for example, Home Affairs. At the same time, it is important to also take note of the percentages of respondents who were not required to pay a bribe to officials representing the mentioned institutions.

After determining some of the realities surrounding corruption in Kenya, especially the overestimation of perceptions associated with corruption, it did not come as a surprise that government's attention was called for when respondents were asked where government should divert more resources in an attempt to address security challenges. Both respondents part of family members and friends (n=110) and the detained sample (n=128) placed a call for resources in the security forces (specifically the police) on the top of the list with 85% of family and friends and 80% of the detained sample placing this need at 'major' and 'severe'. Although criminal justice respondents placed resources addressing corruption in security forces at seventh place after the training of security personnel (95%), corruption in government (90%), nation building beyond ethnic differences (89%), securing Kenya's borders (89%), internal security (88%) and corruption in local government (87%), addressing corruption in security forces still received 87%. Considering that family and friends perceived local government to be more corrupt, 85% placed assistance to address corruption at local government level second and assistance to address corruption in national government third (82%). After 80% of the detained sample who called for assistance to address corruption in security forces, 79% asked for assistance to address corruption at local government level and 76% to deal with corruption at national government levels.

52 ENCA. Harassment haunts Somalis in Kenya a year after Westgate attack. 19 September 2014. Available at <https://www.enca.com/harassment-haunts-somalis-kenya-year-after-westgate-attack> (accessed on 10 October 2014).

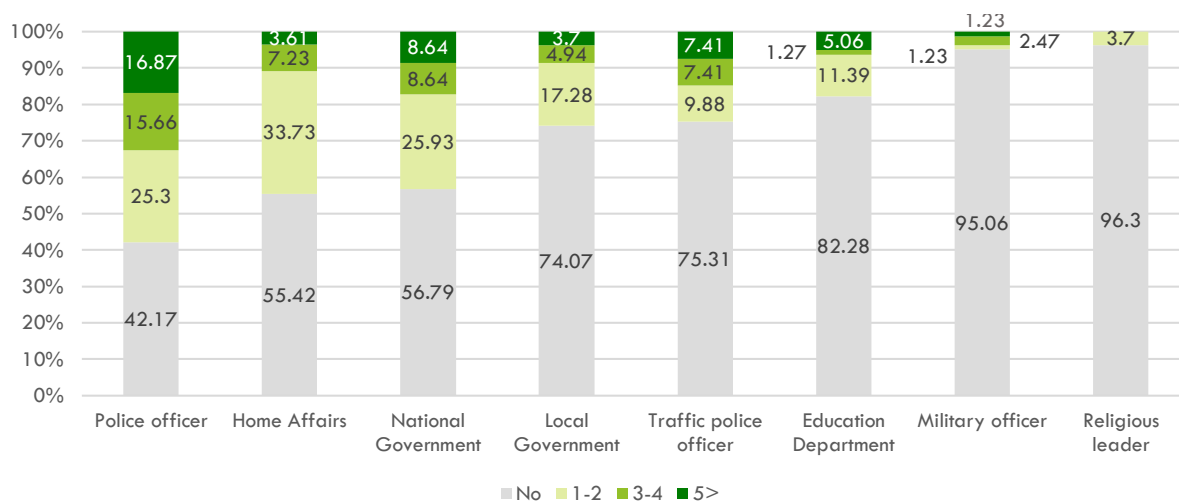


Figure 68. Actual corruption – family and friends sample

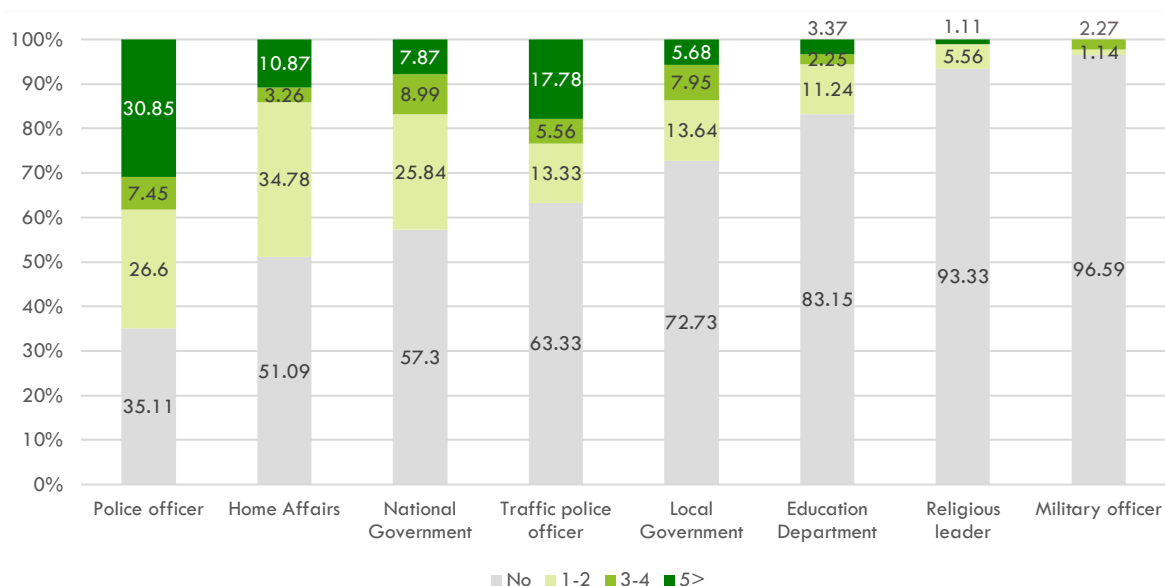


Figure 69. Actual corruption – detained sample

9. Interaction with security forces

Before assessing the police's legitimacy and perceptions related to the police and security forces, it is important to frame the type and extent (number of times) of respondents' interaction with the police. Both samples recalled being stopped and searched (40% amongst detained sample and 38% of family members and friends) and asked for identity documents (47% family members and friends and 44% amongst detained sample) more than five times. Both samples also recalled other intrusive experiences: amongst family members and friends, 46 respondents (74%) were detained at least once; of 61 respondents, close to 64% were arrested at least once and 25% were arrested twice; of 68 respondents who answered the question, 63% were called at least once by the police followed by 12% for four and five times. Of 75 respondents, 60% indicated that their place of residence was searched at least once while 21% indicated that their homes were searched twice and of 58 respondents (close to 60% of respondents) indicated that their vehicles were searched, followed by 17% who recalled five occasions and 14% referred to their vehicles being searched twice.

Of the 127 respondents who went through the criminal justice system (detained sample), 59% were arrested, 32% were questioned, 8% indicated that a family member was arrested, while 1% indicated that he was in a rehabilitation centre and the other one percent indicated that he received amnesty. Of the 103 respondents that were part of the family and friends sample, 44% identified being a family member of an arrested person, 23% were questioned, 19% were arrested themselves, 9% indicated that they were a family member of a person who had been killed while 3% was related to a person who had disappeared and similar to the detained sample, 1% indicated that he was related to a person in a rehabilitation centre and the other one percent indicated that the family member received amnesty.

As presented in **Figure 72**, the majority of the detained sample (64%) as well as the person referred to by family members and friends (detained 2) sample (62%) were arrested for belonging to a terrorist organisation; 20% of the detained 2 sample were implicated in the execution of a terrorist attack and 10% of the detained sample were implicated for the same type of offence. Section 24 of the Prevention of Terrorism Act deals with membership of terrorist groups and states that: A person who is a member of or professes to be a member of a terrorist group commits an offence and is liable, on conviction, to imprisonment for a term not exceeding thirty years. Although easy to charge a person for being a member, it is traditionally a very difficult offence to prove in court.

Of the family member or friends sample (see **Figure 74**), 34% indicated that they were arrested after the arrest of a sibling (31%), partner (25%), a parent (22%) or another family member (14%) (see **Figure 75**). Although there might have been valid reasons for arrests, there is also a concern that these arrests were made for investigation purposes or to facilitate interviewing that has the risk of becoming an interrogation. If it was the case, this practice contradicts two basic elements when making an arrest, namely that there always has to be a lawful basis for arrest and detention (alleged offence) and that there must be a clear link between the suspect and the offence. Arrest should rather be the result of an investigation in which evidence support the need to make an arrest. In case a police officer has reasonable suspicion (meaning that officers have an objectively reasonable basis for suspecting criminal activity before detaining someone) a person can be stopped and searched. It is also advised that before conducting a search, officers must reasonably suspect that the person is, for example, armed and dangerous. Police officers can however ask a person to stop and answer questions without having reasonable suspicion. The importance of prior information and intelligence before making an arrest was also emphasised by a family member who was interviewed: In fighting violent extremism,

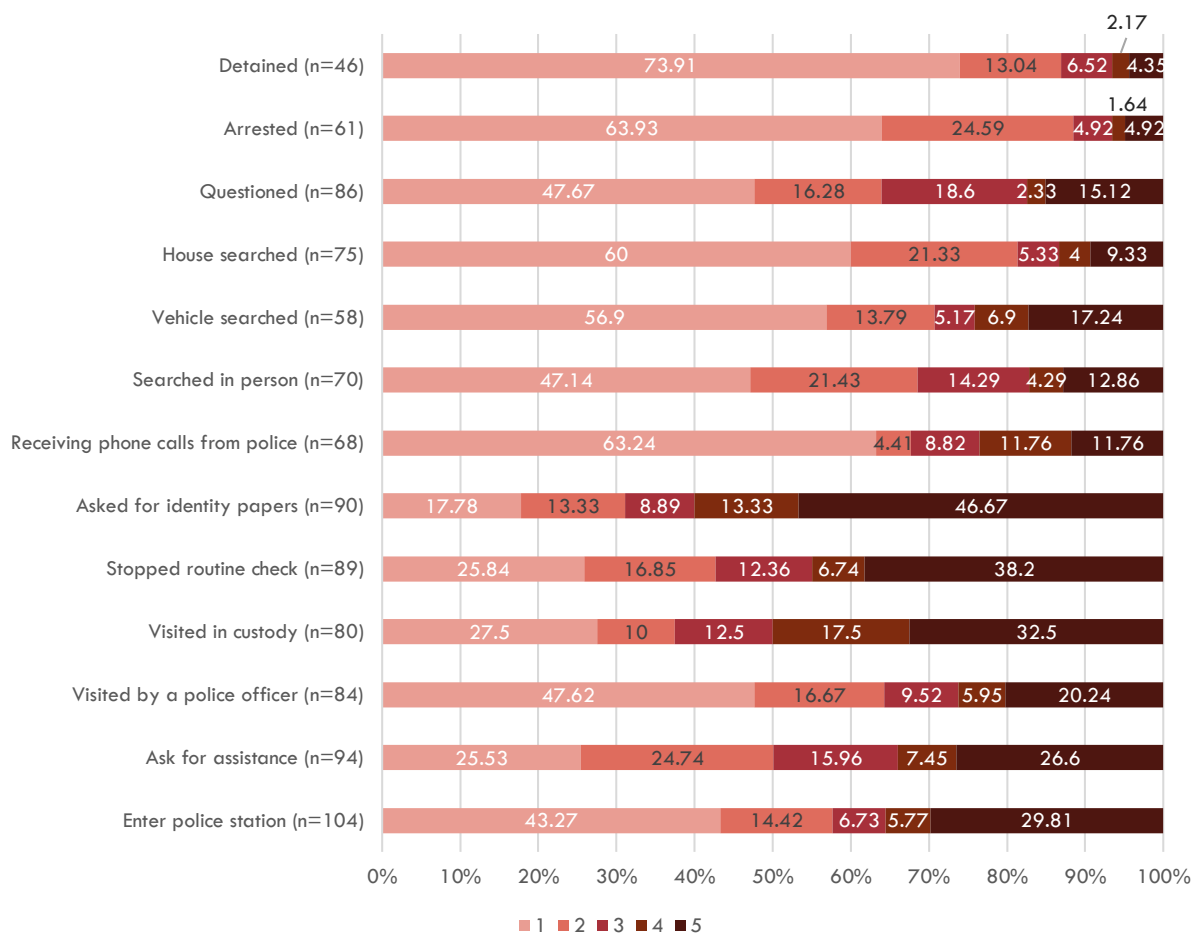


Figure 70. Number of times family members and friends interacted with the police

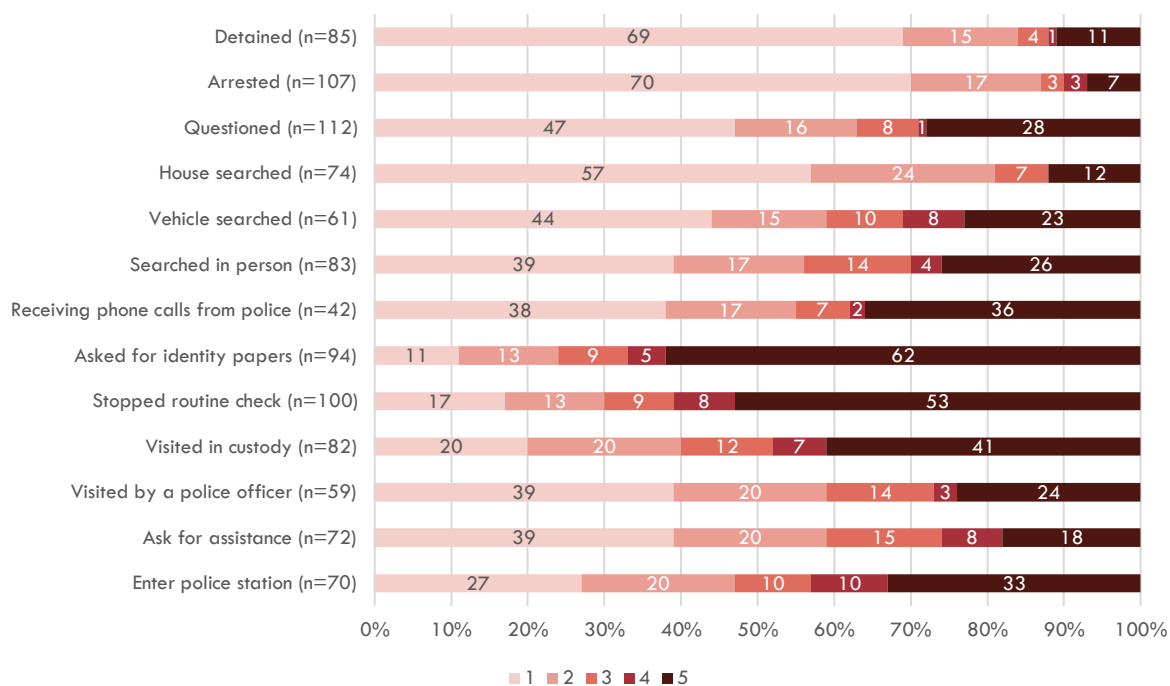


Figure 71. Number of times detained respondents interact with the police

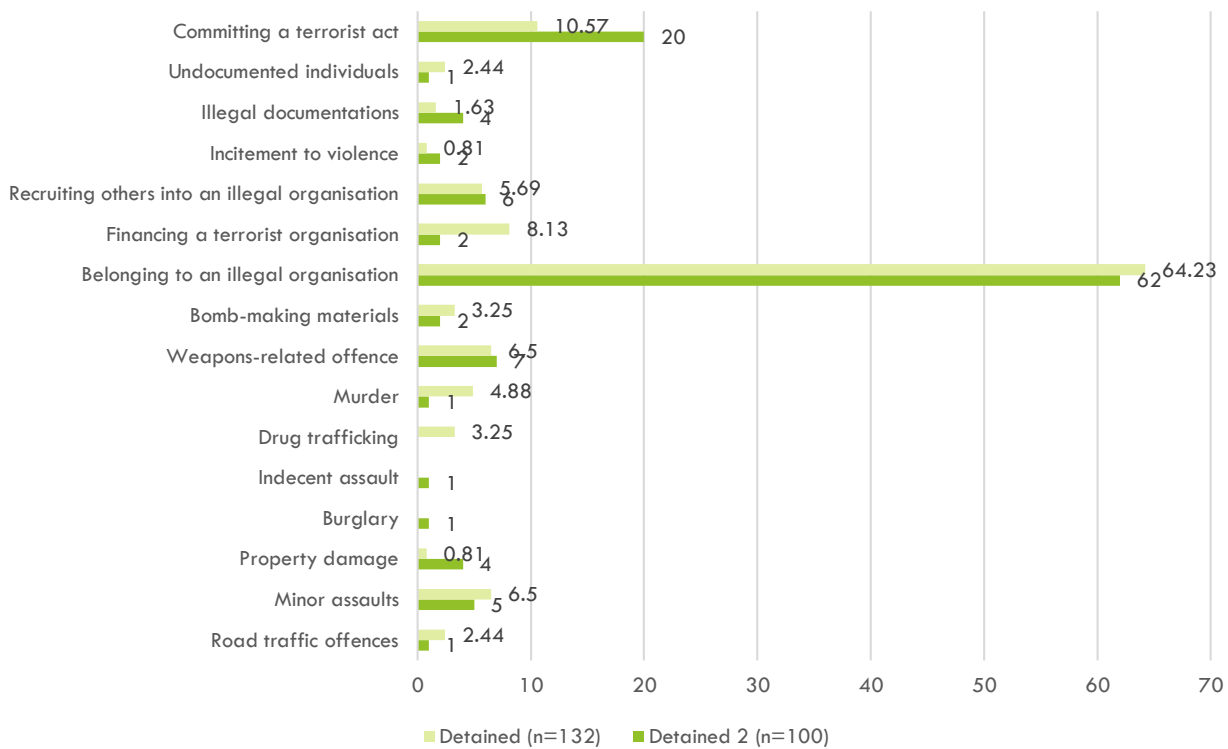


Figure 72. Offences for being arrested



Figure 73. Arrest followed by another arrest

government should invest so much [more] in intelligence and investigations to ensure that people are not victimized on the basis of mere allegations but from well investigated evidence.

Considering the arrest of parents and other family members, ages at the time of arrest were higher for the family sample while the detained sample included younger individuals with the largest component (13%) being between 22 and 23 years of age.

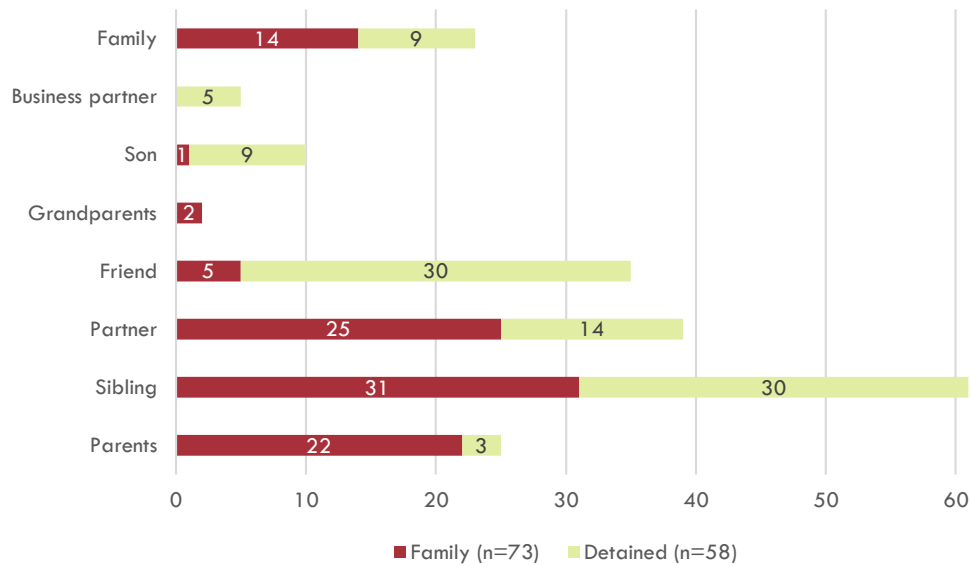


Figure 74. Relationship to the person arrested first

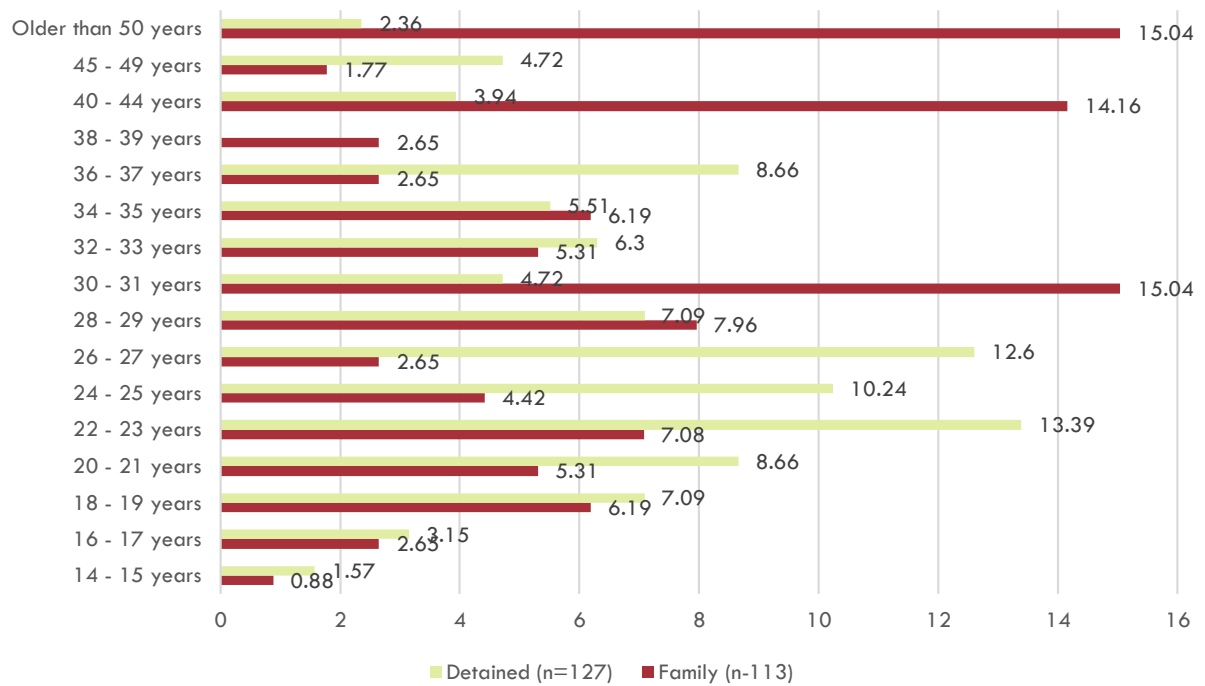


Figure 75. Age arrested for the first time

9.1 Police Legitimacy

Police legitimacy measured in terms of the public's acceptance to obey law enforcement is grounded on the police's interactions with the public and the fairness of police procedures.⁵³ Police legitimacy can thus be studied from the viewpoint of citizens, looking at their perceptions of fairness in policing and the impact on citizens' willingness to cooperate with the police. Furthermore, from an organizational point of view, is in how the police as an organization deal with the demands placed on them. This study focusing on the public's perceptions about the lawfulness and legitimacy of law enforcement provides important criteria for judging the police. Lawfulness means that police comply with constitutional, statutory and professional norms, whereas legitimacy is linked to the public's belief about the police and the willingness of the public to recognize their authority. Trust can be described as the 'belief that someone or something is reliable, good, honest and effective.'⁵⁴ High levels of trust promote healthy interactions, whereas low levels of trust undermine the possibility of a constructive relationship. Trust in law enforcement is essential for the belief in the legitimacy of law enforcement or a feeling of obligation to obey the law and adhere to decisions made by legal authorities.

In measuring trust all three samples were asked to rate their trust in law enforcement in relation to other institutions (government and community) of which both detained sample (n=91) and family and friends (n=84) expressed the least trust in the police with 6% and 8% respectively. In contrast, criminal justice representatives (n=80) rated their trust in the police at 55.7%. Despite this positive reflection, trust in the police was lower than in the military (63%), intelligence agencies (63%) and prison authorities (61%).

On a practical level, respondents were asked if they would come forward with information regarding the suspected involvement of a friend and/or family member in an illegal organisation of which 52% of respondents representing family members and friends and 61% of respondents representing individuals who went through the criminal justice system answered in the affirmative. In a follow-up question, respondents representing both samples were asked to whom they would report it. As explained in **Figure 77** both samples expressed most trust in community leaders followed by the police and religious authorities.

However, when respondents were asked to rate possible reasons for not coming forward with information, fear of being arrested and harassed by security forces rated very high within both samples. The majority (52%) of the family and friends sample expressed fear for their lives as well as that of their family. In light of this finding, it is important to note that people who believe that police are performing their duties with professionalism and integrity are more likely to obey laws and support the system by coming forward with information and act as witnesses.⁵⁵ As one respondent part of the detained sample explained: "If you report to police, they will start questioning you on things you are not aware of. For instance, what type of gun did they have? Where are they from? Questions you cannot answer." This concern was echoed by others: "When we offer information to the police, they will try to fix you as being part of the illegal activity you report to them." "Being a victim of security agencies the reason behind was that before I was suspected to be member of terror group I have reported an incident that happened near my home village. Immediately thereafter they start investigating me and relating me to that terror incident which I have reported to them. Therefore, I fear if I do again same will happen."

53 Jannie Noppe, Antoinette Verhage, Anjuli Van Damme, (2017) "Police legitimacy: an introduction" *Policing: An International Journal*, Vol. 40 Issue: 3, pp.474-479

54 Michael Friedman. What Happens When We Don't Trust Law Enforcement? The Importance of Law Enforcement's Role in Our Society's Well-Being. *Psychology Today*, 9 September 2014. Available at <https://www.psychologytoday.com/us/blog/brick-brick/201409/what-happens-when-we-dont-trust-law-enforcement-0> (accessed on 28 December 2018).

55 Horowitz, Jake. "Making every encounter count: Building trust and confidence in the police." *National Institute of Justice Journal* 256, no. 1 (2007): 10

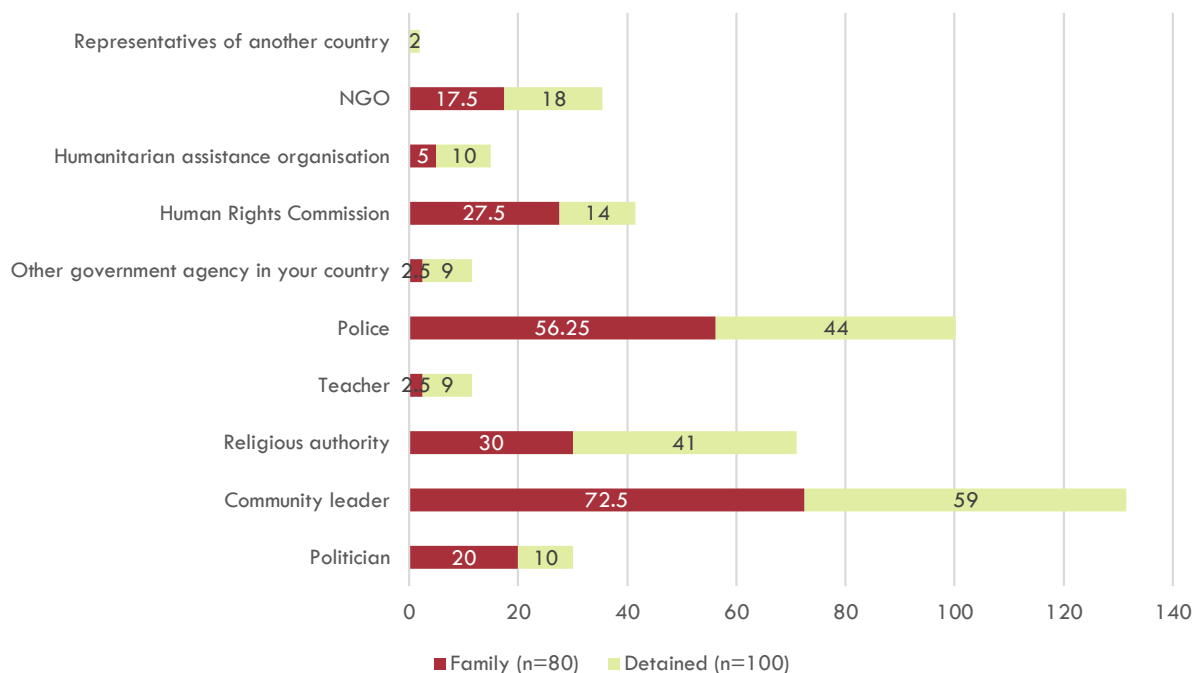


Figure 76. Who will be trusted with this information

In another example police officers went further in treating the person coming forward as a suspect. Although not a common occurrence, a mother as part of the family sample in her explanation why she would not come forward, provided the following disturbing testimony: I volunteered to tell the police that my son joined al-Shabaab but what we went through in the hands of police and ATPU only God knows. We were all victimised. Several male police [officers] came [to] search my house and told my girl to remove her clothes and remain naked in order to be searched and [they] later raped her. Recognising this serious allegation and the fact that it was not supported by legal action, the reader is reminded that similar to other testimonies, it is reflective of how respondents experienced and perceived the actions of police officers.

In the absence of trust in the police, the latter would have to resort to other tactics – for example arresting witnesses or even worse, abuse – to initiate interaction with the public. As one detained respondent explains: “I was arrested together with my elder brother, in as much as (he) was not the target, what I witnessed my brother going through was very traumatizing. Firstly, the reason of our arrest was not explained and secondly, my brother was slapped at the back of his neck almost going unconscious, assaulted like an animal. The beating became severe whenever he tried to ask why we were arrested. That time we were all handcuffed. Eventually we were released without even going through the court, I feel bitter and ever since I learnt not to respect or rely on any police for help.” Another testimony: “I am fed up with police, I don’t trust them because of how they treated me during [a] raid. They brutally punished me, almost killing me and imagine we were just suspects, what if we were true criminals. Even the guilty ones are not supposed to be treated this way.”

The unfortunate circumstance of these practices is the fact that it will enforce existing negative perceptions of the public. Especially ‘targeted’ communities will foster a negative attitude towards the police leading to a cycle of not wanting to assist law enforcement. In the worst cases, these perceptions will lead to a perception that the police become the ‘enemy’ or ‘them’, but on the other side in the mind of law enforcement officials the public, especially these communities will equally be categorized as ‘them’ and by association the ‘enemy’.

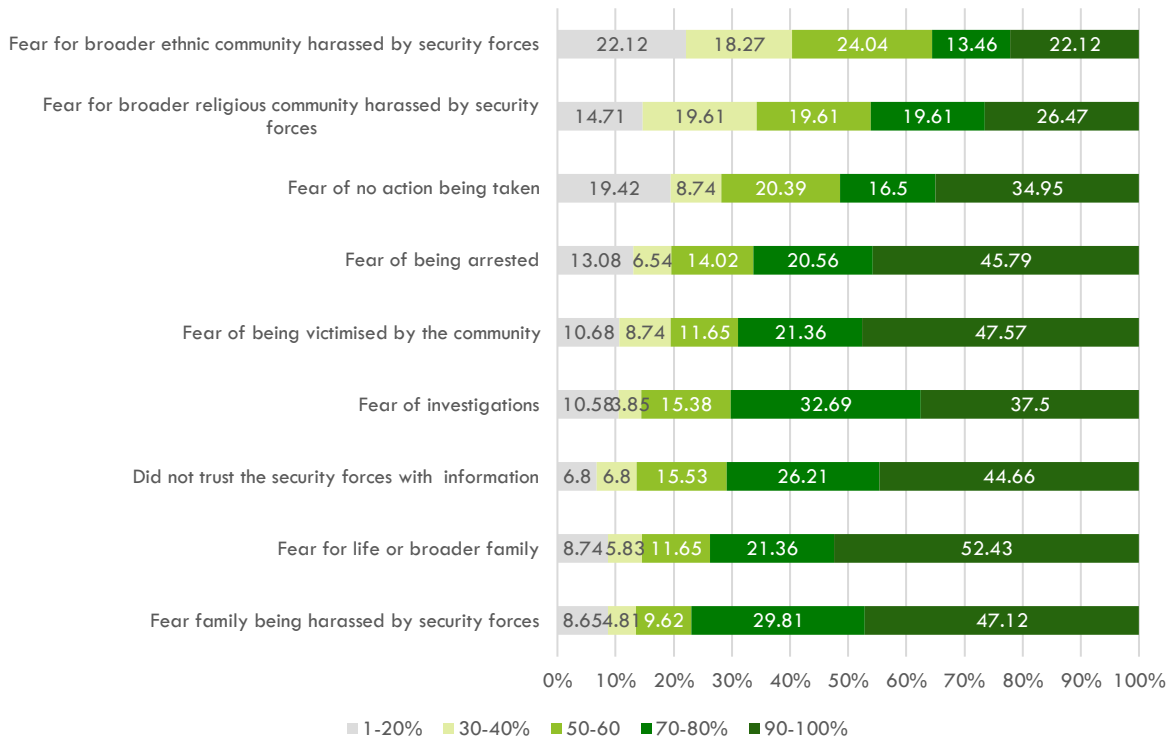


Figure 77. Prevent family members and friends to come forward with information

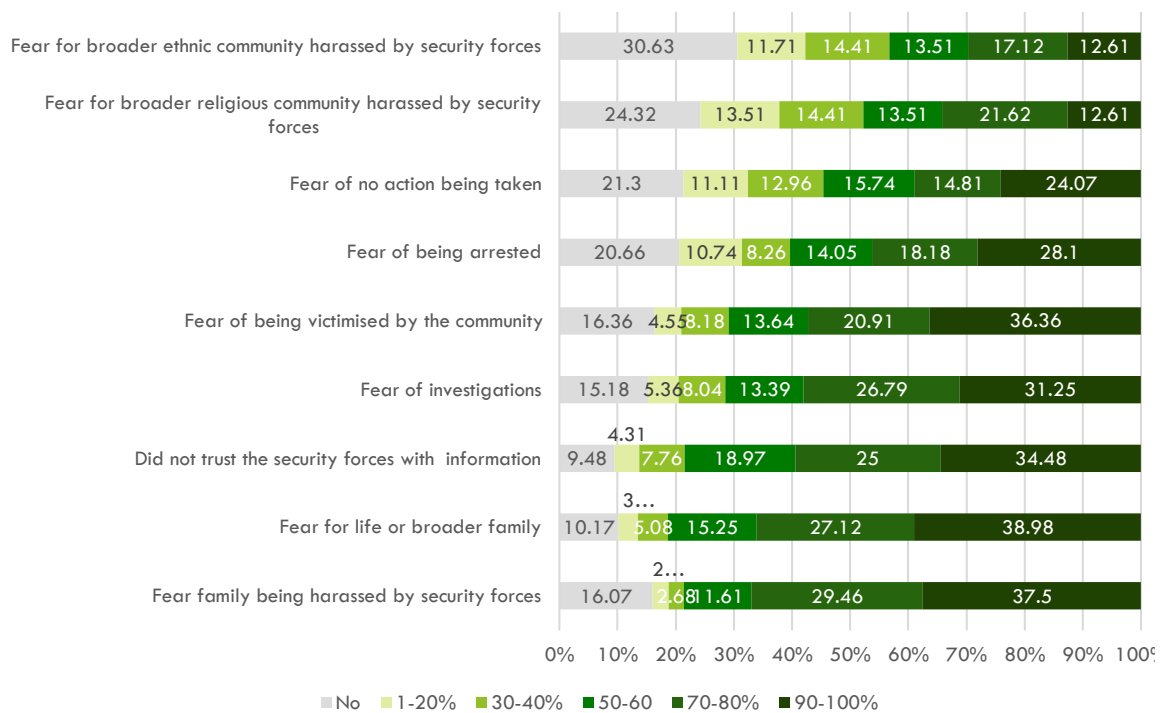


Figure 78. Prevent respondents previously detained from coming forward with information

9.1.1 Personal interactions

Personal interactions have the strongest impact on perceptions as explained throughout this section. People form opinions of the police based on their own interactions with them or those of close family and friends or from experiences with the broader community, especially if the community is not diverse.⁵⁶ In other words, when people form opinions of the police based on their interactions, they tend to focus on the process more than the outcome. Impressions of police encounters are influenced by the demeanour as well as the actions of the officer. People pay close attention to the “neutrality of decision making, respectful and polite interpersonal treatment, and opportunities for input into decisions.”⁵⁷ For example as one detained respondent explained after coming forward with information: “During interrogation [that should have been an interview], police ask questions with a harsh tone.”

Considering the fact that people form opinions of the police based on their interactions, in a series of questions assessing respondents’ interaction with security forces, respondents were asked if they felt that the treatment received from the police was ‘fair’. Respondents of both samples were of the opinion that they did not receive fair treatment from security forces.

Research also shows that an officer’s demeanour⁵⁸ and actions are crucial to perceptions of police legitimacy. Should officers communicate well, listen and treat citizens with respect, citizens would respond in kind.⁵⁹ This view was also echoed by Weitzer (2005), but unfortunately not experienced by respondents in vulnerable communities.⁶⁰

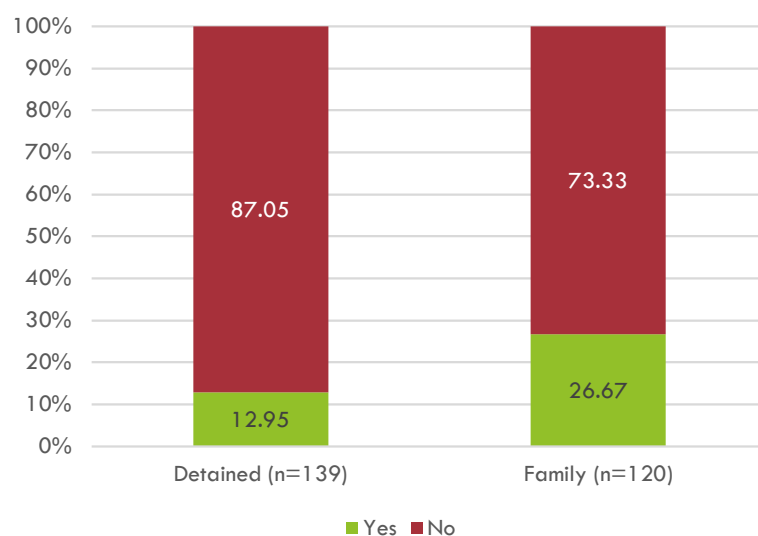


Figure 79. Were you treated fairly by security forces

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- 56 Schuck, Amie M., and Dennis P. Rosenbaum. “Global and neighborhood attitudes toward the police: Differentiation by race, ethnicity and type of contact.” *Journal of quantitative criminology* 21, no. 4 (2005): 391–418.
- 57 Horowitz, Jake. “Making every encounter count: Building trust and confidence in the police.” *National Institute of Justice Journal* 256, no. 1 (2007): 8–11.
- 58 Rosenbaum, Dennis P., Amie M. Schuck, Sandra K. Costello, Darnell F. Hawkins, and Marianne K. Ring. “Attitudes toward the police: The effects of direct and vicarious experience.” *Police quarterly* 8, no. 3 (2005): 343–365.
- 59 Horowitz, Jake. “Making every encounter count: Building trust and confidence in the police.” *National Institute of Justice Journal* 256, no. 1 (2007): 8–11.
- 60 Weitzer, Ronald, and Steven A. Tuch. “Determinants of public satisfaction with the police.” *Police quarterly* 8, no. 3 (2005): 279–297.

Whereas members of the community preferred to call on the assistance of family when in danger, criminal justice actors express a particular high preference to call the police when in danger. Working for and being in contact with police officers as criminal justice actors, presented a positive image amongst criminal justice respondents that increases trust in the institution. In turn it enhances the expectation of receiving assistance. Referred to as a police subculture, every police agency around the world demonstrates a subculture that consists of a set of beliefs, attitudes and behaviour that bind members of law enforcement. Working under the same circumstances, being confronted with similar challenges and threats police officers tend to view members of the public as untrustworthy and potentially hostile. At the same time fellow officers look at their colleagues (but also in some cases to members of the broader criminal justice system) for support and unity, forming a 'brotherhood'. As a result, 'us' (the police) versus 'them' (the public) is being created. Although there is a positive in the form of comradeship being formed between officers, there is also a negative side to a police subculture in that it can lead to some values and behaviour that deviate from what can be considered as acceptable in the broader society.⁶¹

When asking respondents to rate their experiences with potential actors they might have come across during their experiences with the criminal justice system, both samples rated the police as 'poor'. Most notably respondents part of the detained sample rated the police (80%), followed by intelligence agencies (38%) and prosecutors (33%) as 'poor'.

Family and friends rated the police (57%) followed by intelligence agencies (35%) and prison officials (23%) as 'poor'.

Considering the circumstances around above interaction, it is to be expected that respondents may harbour ill feelings towards those part of the judicial process. However, to what extent criminal justice actors played a part in the radicalisation of people will be assessed below.

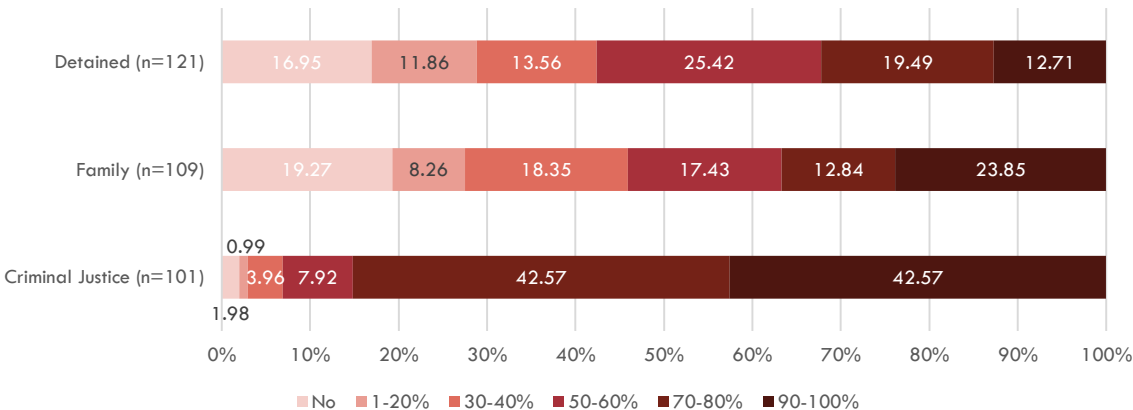


Figure 80. Call the police when in danger

61 Paoline III, Eugene A. "Shedding light on police culture: An examination of officers' occupational attitudes." Police quarterly 7, no. 2 (2004): 205-236.

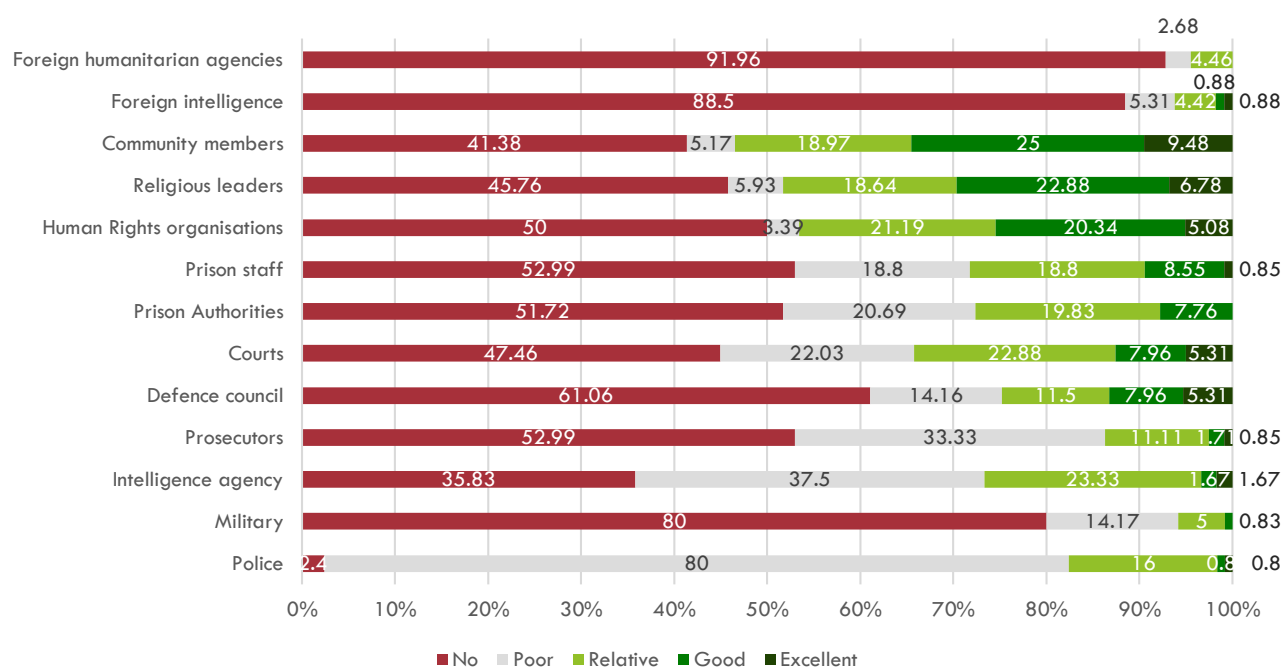


Figure 81. Personal experience of individuals previously detained

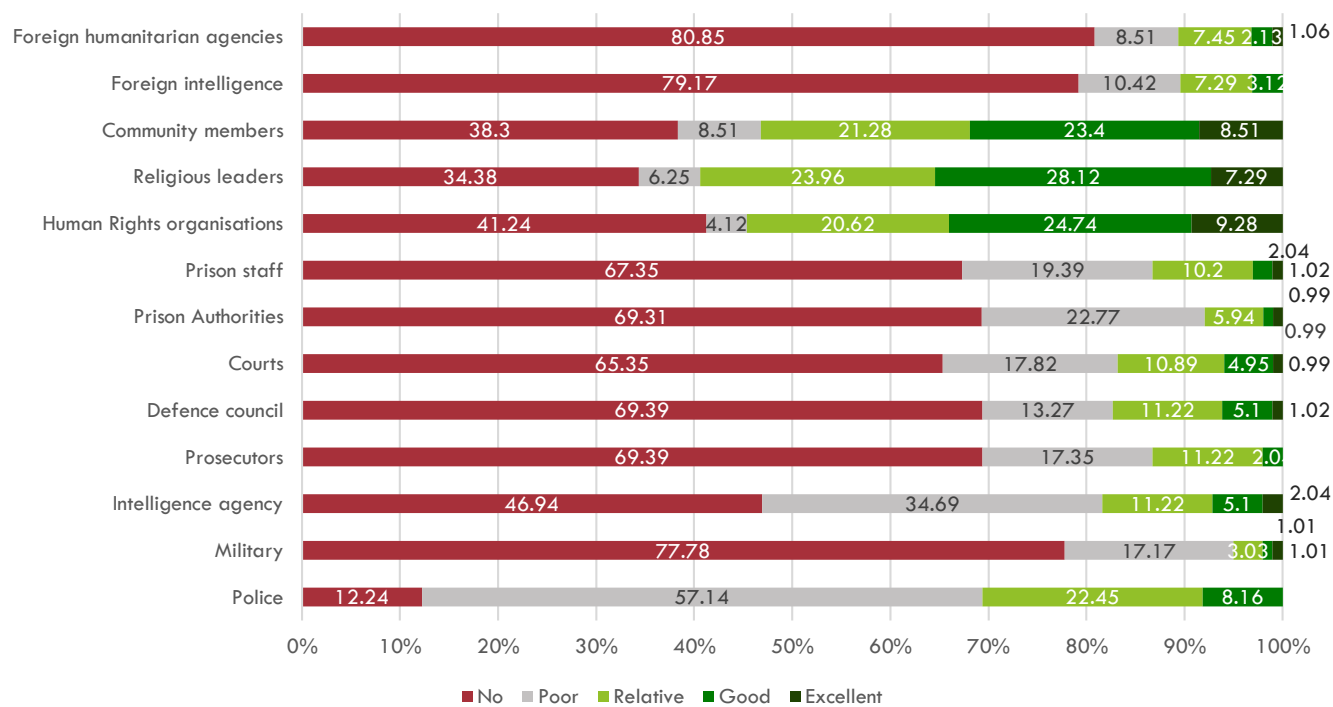


Figure 82. Personal experience of family members and friends

9.1.2 Procedural justice

Procedural justice is the notion that the judicial process is fair, free of bias and that people are represented equally (treated politely and respectfully), have the opportunity to be heard and are judged by a neutral system.⁶²

The following elements will influence police legitimacy:

- Ability to conduct investigations and other basic police functions
- Abuse of force
- Profiling based on ethnicity and/or religion
- Accountability of managers and supervisors
- Equal treatment of all members of the public
- Citizen accessibility to the police
- Corruption – as presented in a separate section above, corruption in the police is cause for concern, impacting on the legitimacy of the police, but equally seriously hampering the functions of the police.

Hough made a distinction between normative legitimacy that exists when authorities meet certain objective criteria, such as the absence of corruption and empirical legitimacy, that is based on the perceptions of civilians.⁶³ Although corruption in the police was discussed under a separate heading as part of corruption throughout government institutions, abuse of force – actual and perceived – requires specific attention.

As mentioned above, the procedural conduct of officers, in this case following the criminal procedural code, will also impact on police legitimacy. According to respondents, while the twenty-four hour rule was followed in the minority of cases, the majority of detained and the sample of family and friends, recalled periods stretching from days to three months or even never being arraigned. In a few tragic cases, families reported that the person ‘disappeared’ from police custody or was found dead.

62 Tyler, Tom R., and Jeffrey Fagan. “Legitimacy and cooperation: Why do people help the police fight crime in their communities.” *Ohio St. J. Crim. L.* 6 (2008): 231.

63 Hough, M. (2010), “Policing, new public management and legitimacy”, in Brookes, S. and Grint, K. (Eds), *The New Public Leadership Challenge: The Rhetoric and Reality of Public Reform*, Palgrave Macmillan, Basingstoke, pp. 70-84.

Detention order

According to Article 49 of the **Constitution** under 'Rights of arrested persons'

An arrested person has the right—

(f) to be brought before a court as soon as reasonably possible, but not later than—

(i) twenty-four hours after being arrested; or

if the twenty-four hours ends outside ordinary court hours, or on a day that is not an ordinary court day, the end of the next court day.

Article 49 of the Constitution is reiterated in the **Prevention of Terrorism Act** under Section 32 'Right to be released'

(1) A person arrested under section 24 (referred to as the suspect) shall not be held for more than twenty-four hours after his arrest unless —

(a) the suspect is produced before a Court and the Court has ordered that the suspect be remanded in custody; or

(b) it is not reasonably practicable, having regard to the distance from the place where the suspect is held to the nearest Court, the non-availability of a judge or magistrate, or force majeure to produce the suspect before a Court before the expiry of twenty four hours after the arrest of the suspect.

(2) A police officer holding a suspect under subsection (1) may release that suspect at any time before the expiry of twenty four hours on condition that the suspect appears before the Court or such other place as may be specified, in writing, by the police officer and may, for this purpose, require the suspect to execute a bond of a reasonable sum on the suspect's own recognizance.

9.1.3 Abuse of force and radicalisation

How police officers treat citizens, especially when using force, is critical in assessing and understanding police legitimacy or lack thereof. Determining the way respondents experience the actions of the police, all three samples were asked to rate a list of possible reasons why individuals will join an illegal organisation. Anger towards the police was the most prominent reason both the detained sample (67%) and family and friends (76%) identified as reasons for joining illegal organisations. As a follow-up question, respondents were asked if they thought there had to be a catalyst that finally motivated a person to join the organisation. The majority of both the detained sample and family and friends answered in the affirmative (see **Figure 84**).

According to family members and friends (n=80) the killing of a family member or friend (55%) was the most prominent, followed by government action (51%) and the arrest of a family member or friend (45%) as the most influential in going over into action. This sentiment was echoed by the detained sample (n=87), but government was rated first (54%), followed by the killing of a family member or friend (52%) and the arrest of a family member or friend (39%). The following testimony from a father was echoed by many: The security forces are not good people. They arrested my boy (but) they did not find any evidence they released him. But later on come and took him and made him disappear, I can't tell whether he is dead or alive. I don't trust them at all.

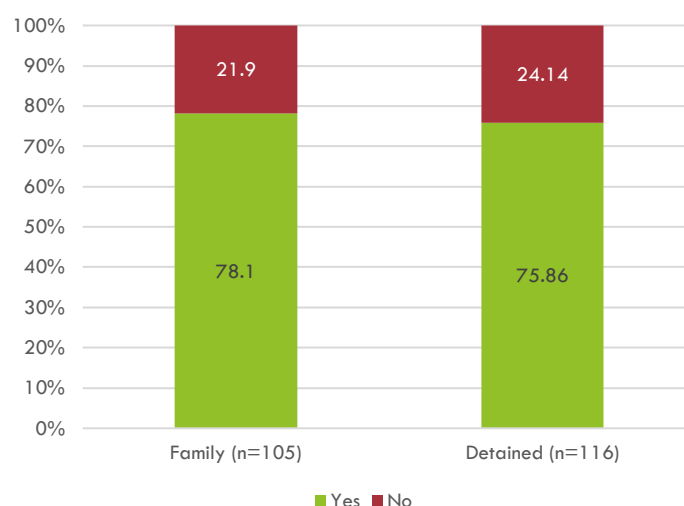


Figure 83. Presence of a catalyst to initiate joining of an illegal organisation

When comparing the perception of criminal justice actors, an interesting trend emerges: This sample rated anger towards the police in the fifth place (59%) as the most prominent reason, after financial incentives, religious ideology, political ideology and anger towards government. However, when criminal justice respondents (n=85) were asked to shed light onto potential catalysts, the majority (60%) identified the killing of a family member or friend, government action (56%) and the arrest of a family member or friend (45%). Therefore, although criminal justice actors are reluctant to recognise anger towards the police as a reason for joining an illegal organisation, it is prepared to acknowledge the way the police respond to the threat as catalyst.

As a possible consequence, family members and friends (n=133) listed the police and military (36%) first when asked to identify 'them'. Respondents part of the detained sample (n=136) placed the police and military in the fourth position (23%) after another ethnic group in Kenya, government and another religion in Kenya.

In this 'us' versus 'them' mind-set, the police can easily start to interpret the legal framework – especially human rights – as working against 'them', developed to protect criminals or to tie the police's hands behind their backs. As a result it can become 'acceptable' for officers to see themselves as being above the law to 'allow' them to work around the criminal justice system, seeing that it is being perceived as protecting criminals rather than actively facilitating the prosecution and conviction of criminals. In other words, rather than investigate, gather evidence and follow criminal procedure to secure a conviction, officers resort to taking justice into their own hands through eliminating (executing) a possible suspect, instead of acting within the boundaries of the law. In becoming the 'judge, jury and executioner' by resorting to extrajudicial killings, these police officers become part of the problem and criminals themselves. According to a report by Amnesty International, Kenya was ranked as the country with the most cases of police shootings and killing of civilians in 2017. The report indicated that by October 2016, a total of 122 out of 177 cases of extrajudicial killings in Africa had been reported in Kenya. This placed Kenya ahead of fourteen other African nations namely Botswana, Burundi, Cameroon, Chad, Côte d'Ivoire, Gambia, Mauritania, Nigeria, Somalia, South Sudan, Sudan, Tanzania, Togo and Zambia where cases of police harassment and deaths had also been recorded.⁶⁴ In addition to extrajudicial killings, Kenyan security forces had also been implicated in the disappearances of terrorism-related suspects especially after the state was unable to offer sufficient evidence

⁶⁴ Silas Apollo. Amnesty report says Kenya tops Africa in extrajudicial killings', Daily Nation, 23 February 2017. Available at <https://www.nation.co.ke/news/Kenya-top-Africa-police-shootings/1056-3824890-1183k27/index.html> (accessed on 24 February 2018).

in legal proceedings. As a result the perception under communities most affected is that security agencies rather eliminate terrorism-related suspects than going through the effort of building a successful case. In one of the most prominent cases, lawyer Willie Kimani, his client Josphat Mwenda and their driver Joseph Muiruri were abducted and subsequently executed in July 2016.⁶⁵

Against this background, it is not surprising that during focus group discussions the sentiment was raised that there existed an 'unofficial policy' to rather eliminate suspects associated with terrorism offences. This perception was echoed by respondents. For example, according to one respondent: Automatically terror suspects will be murdered without any detailed investigations which is wrong according to me. That's why I may hesitate to report on terror suspects. Not coming forward with information is being perceived by the police as being part of 'them', but even more important to take note of, it is a criminal offence according to Section 10 of the Prevention of Terrorism Act: A person who harbours or conceals, or prevents, hinders or interferes with the arrest of a person knowing, or having reason to believe that such person –

(a) has committed or intends to commit a terrorist act; or

(b) is a member of a terrorist group,

commits an offence and is liable, on conviction, to imprisonment for a term not exceeding thirty years.

However, considering existing personal experience on how those who previously came forward with information were treated, the public finds itself in a catch-22 situation.

"Moto tatu" – the triple threat

In one focus group discussion, participants referred to "moto tatu" (triple effect) that vulnerable communities are confronted with: At one end, Al-Shabaab presents a threat to the community in the sense that they do not discriminate when executing attacks that lead to the community paying the price. In another manifestation of being a target, 29 respondents (41%) part of family members and friends sample indicated that either they or another family member were harassed at the hands of the illegal organisation following the arrest of a family member or friend. 16% were abducted or disappeared, 11% were approached by the illegal organisation and threatened and 13% were killed. It is however interesting to note that in 19% of the cases members of the illegal organisation approached the family and offered support.

On the other end, the security agents are not any better since they too target communities. To illustrate this concern, of the 49 respondents part of the family sample, 39% indicated that they or another family member were harassed by security forces following the arrest of a family member or friend, 25% were assaulted, 23% disappeared and 13% were killed. Being referred to as 'collective responsibility' as one respondent explained: The police use the aspect of collective responsibility. They arrest everyone including the one forwarding the information. Knowing the treatment that will follow for coming forward with information, can one really blame people for not coming forward?

This all occur in areas that are underdeveloped, without any sign of development, as the third onslaught.

Consequently, the community bears the brunt of this 'triple effect'.

65 Irene Ikumu. Extra-Judicial Killings and Enforced Disappearances in Kenya: Balancing the Respect for Human Rights and Maintaining National Security. Heinrich-Böll-Stiftung, 10 April 2018. Available at <https://ke.boell.org/2018/04/10/extra-judicial-killings-and-enforced-disappearances-kenya-balancing-respect-human-rights> (accessed on 18 September 2018).

Another contributing factor for this division relates to the expectations the public has towards police officers as defenders, protectors and the explicit responsibility to enforce the law within the framework of human rights. Consequently, the police are seen as an extension of the government implying that the public will scrutinise the actions of individual officers. This kind of scrutiny often leads to criticism, and criticism from the public and the media feeds into the idea of 'us' versus 'them'.

To the more extreme, as a consequence of extrajudicial killings, forceful disappearances and kidnappings by security agents the only way for some citizens to push back out of revenge is to join terror groups. In addition to the effect it has on the public, officers need to be reminded that they are not above the law, especially with the introduction of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) that Kenya signed on 6 February 2007 (not yet ratified).

Falling Short on Human Rights Standards

While Kenya signed the **International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED)**, it has not ratified the Convention, and consequently the existing legal framework falls short of international human right standards, and is thus unable to comprehensively deal with the problem. The Convention requires that state parties must enact specific laws establishing the crime of enforced disappearance. They must investigate complaints and reports of enforced disappearance and bring those responsible to justice. Other obligations are of a preventive nature, such as the obligation to detain persons only in officially approved and monitored institutions in which all prisoners are registered, the absolute right to Habeas corpus (a legal action, through which a prisoner can be released from unlawful detention, that is, detention lacking sufficient cause or evidence), the interdiction of concealment of the whereabouts of arrested persons which are in this way placed outside the protection of the law, as well as the right to receive information on prisoners. The Convention recognises the right of victims and their families to know the truth regarding the circumstances and fate of the disappeared person. It also treats the unlawful abduction of children whose parents were victims of enforced disappearance as well as the faking of these childrens' identities and their adoption.⁶⁶

9.1.4 Conduct investigations and collect evidence

Respondents were asked if the prosecution was able to present physical and forensic evidence in court. Of the 55 detained respondents who answered the question, 60% indicated that no physical evidence and no (79%) forensic evidence were presented in court; whereas of the 26 respondents – part of the family sample – 85% indicated that no forensic or physical evidence were presented in court. For any case to be successfully prosecuted, the police must have sufficient evidence to establish that the suspect committed the crime he/she is being charged with. In the absence of strong enough evidence, the case will be dismissed. In an interview with Daily Nation, Mr Raphael Daudi Musau, a director at Hawk Eye Technologies Ltd, a private investigations firm in Nairobi, explained that even after the nine-month training, the police lacked hard skills to carry out investigations. Consequently, shortcuts, laxity and impatience when information is not readily available often lead to the failure of an investigation.⁶⁷

⁶⁶ Human Rights Information Platform. International Convention for the Protection of All Persons from Enforced Disappearance. 21 May 2014. Available at <https://www.humanrights.ch/en/standards/un-treaties/disappearance/> (accessed on 10 August 2018).

⁶⁷ Millicent Mwololo. With evidence, there is no room for false steps. Daily Nation, 20 September 2016. Available at <https://www.nation.co.ke/lifestyle/dn2/Why-cases-collapse-in-court--/957860-3388322-4jylso/index.html> (accessed on 10 January 2019).

For example, according to one detained respondent who explained why he would not come forward with information: The security agencies are not well trained to handle any person who report information hence the reporter will be the first victim hence fear for my life. According to another: The police will always arrest the person (who) reported the information without proper investigation.

Consequently, 74% of families (n=110) and 63% of the detained sample (n=128) felt strongly (support of between 70–100%) that the Kenyan government should divert more resources to the training of security personnel. According to criminal justice respondents (n=106) this ‘need’ was listed first by receiving 95% support. In a later question, respondents were asked whether there was a need for more security personnel and whether security personnel should be retrained to deal with the security challenges Kenya is being confronted with. Of the 107 respondents part of the sample representing family and friends, 62% strongly supported the proposal that security officials should be retrained, while 56% strongly supported the idea that more security officials should be recruited. Amongst 122 respondents being part of the detained sample the retraining of security personnel was listed third on the list of priorities by receiving 60% of overwhelming support, while only 40% supported (listed as the least important) the proposal of more security officials. Respondents part of the criminal justice sample (n=104) called for more security officials (72%) and the proposal for security officials to be retrained received 70% support.

Splitting up recruitment, training and other forms of assistance, respondents further were asked to shed light on what the police need to address in order to enhance its effectiveness in addressing security challenges in Kenya; training on how to better conduct investigations was one of the first priorities amongst all three samples. Criminal justice respondents rated the training second (88%) after the need to receive better equipment (90%). Second (74%) to the list detained respondents noted the need for police officers to receive training on human rights, but this need was placed third (83%) by the sample representing family and friends after calling for training for the police to better serve and protect the community (85%). It is important to note that 85% of respondents part of the criminal justice sample recognised the priority for the police to better serve and protect the community to be followed by initiatives to enhance the training of police officers (84%), human rights training (75%) and lastly to change the criteria recruiting new police officers. Although the changing of the training criteria for police officers received more support from the other two samples, it was also placed last.

Training is not only required to be more effective, it is also a matter of life and death as one family member explained: You know once you are murdered, and it’s established later on that you were mistaken with the true suspect that doesn’t help, it in fact makes the bitter feeling severe to those left behind. Police should be trained well on conducting proper investigations.

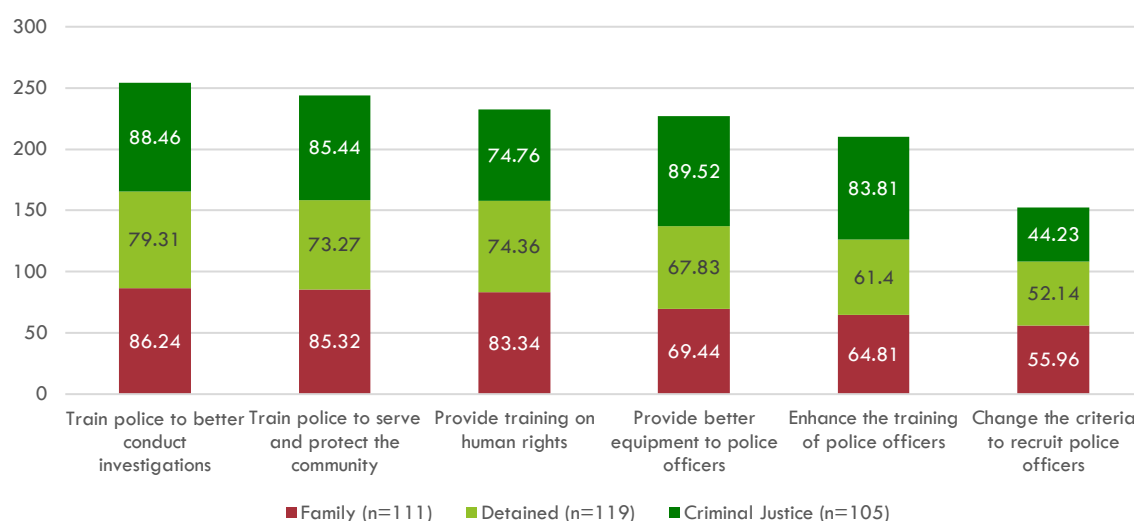


Figure 84. Enhancing the abilities of the police to be able to address security challenges

In **Figure 85** respondents identified the type of training they hope to see within the police to enhance its abilities in addressing security challenges in Kenya. In yet another set of questions police officers, part of the criminal justice sample, were asked to rate the training they had received and whether they felt confident in dealing with the different facets of tasks associated with countering terrorism. With reference to **Table 4**, although 64 respondents part of security forces did not receive specialised training (financing of terrorism, cyber investigations, training in improvised explosive devices (IEDs) and hostage situations), respondents expressed confidence in training in community policing and associated interactions with the community, human rights, the appropriate use of force etc.

Table 10. Level of confidence in training

(n=64)	Not provided	Limited	Only theory	Moderate	Excellent
Community policing	5,08	3,39	11,86	25,42	54,24
Human Rights	1,67	1,67	16,67	28,33	51,67
Appropriate use of force	8,33	5	3,33	31,67	51,67
Treatment of youth	5,17	3,45	5,17	37,93	48,28
Building trust with community	5	3,33	15	30	46,67
Treatment of women	3,33	3,33	8,33	38,33	46,67
Proportional use of force	5,17	8,62		41,38	44,83
Community engagement	11,48	3,28	9,84	32,79	42,62
Dealing with large crowds	11,26	8,06	9,68	29,03	41,94
Intelligence gathering	5,08	11,87	11,86	35,59	35,59
Crime scene management	18,64	10,17	8,47	35,59	27,21
Active shooter incidents	25,42	16,95	8,47	28,81	20,34
Advanced investigation techniques	21,67	21,67	13,33	23,33	20
Terrorist tactics in the country	22,22	19,05	7,94	33,33	17,46
Hostage survival	26,98	19,05	12,7	23,81	17,46
Convoy planning	38,1	11,11	11,11	23,81	15,87
IED counter-measures	41,27	23,81	9,52	11,11	14,29
Differentiate between civilians and terrorists in crowds	26,98	19,05	17,46	25,4	11,11
Aftermath of a roadside IED	46,67	18,33	15	11,67	8,33
Cyber crime investigations	58,33	13,33	6,67	13,33	8,33
Financing of terrorism investigations	46,67	21,67	15	10	6,67



Figure 85. Ability of security officials to work with vulnerable communities

With **Figure 86** and **Table 4** in mind, the immediate question that comes to the forefront is whether security officials see themselves as 'able' to deal with vulnerable communities and whether the training that officers received really was sufficient to deal with practical challenges when deployed. Considering the overwhelming experience of family members and friends of those who went through the criminal justice system and the experiences of respondents who themselves went through the system (detained sample), the concern is that security officers might well be overconfident in both their training and the abilities they had mastered since. Being detached from the public, officers' hope to protect and serve can have severe consequences in broadening the divide between 'us', security officials, and 'them' the public, most notably the vulnerable communities.

Despite placing changes to the criteria in recruiting police officers last, everything starts with recruiting the right person with the right temperament to join law enforcement. Worldwide the challenge has been to attract the right person to join law enforcement as a profession and not just as another job. This requirement is particularly important considering the type of pressures, demands and expectations the community has for police officers, while at the same time keeping in mind that it is a dangerous career with little financial rewards (although often with good benefits such as medical aid and housing). Despite these challenges, law enforcement presents a vast array of career opportunities. Recruiting the best candidate to serve in law enforcement is important, but the focus has to be on civil service overall and the candidates' aim should be to serve their country and the community. This internal drive to serve the community is further supported by the ability to effectively communicate (considering that most officers interact with the public at one stage or another) and the ability to think on his/her feet. This level-headedness is required when the officer needs to respond to highly stressful situations by remaining calm. The latter also touches on the need to be mentally and physically strong. Being called on to deal with the most tragic of situations and its human toll on police officers manifests in high divorce rates, alcohol abuse and suicides. When criminal justice respondents (n=101) were asked to rank the reasons why they joined civil service, the five most prominent reasons are as follows: To serve my country and community (89%), to protect my country and community (82%), making a difference (75%), always wanted to be a police officer, prosecutor etc. (54%) and the sense of belonging he/she experiences (46%).

When criminal justice respondents (n=104) were asked to rank the reasons why they wanted to remain a civil servant, the five most prominent reasons are as follows: Responsibility to humanity (94%), responsibility to Kenya (93%), being part of change (88%), to stand up for something he/she believes in (85%) and the belonging the person experiences being part of the organisation he/she is part of (66%). Financial benefit received 49% and being respected 36%.

9.1.5 Religious and tribal representation of law enforcement

Before discussing above profiling based on ethnicity and religion it is necessary to determine the importance respondents placed on religious and ethnic/tribal identity as well as diversity within security forces to reflect the religious and ethnic demographic profile of the geographical areas where the study was conducted.

Diverse societies are traditionally difficult to police, especially when police interact with communities different to the main biographic profile the police in that area represents. These communities consistently have less trust in police for two primary reasons: firstly, diverse communities often report having direct negative personal experiences with police officers. Secondly, there is often evidence of discrepancies in the procedures officers refer to when dealing with communities different than the majority. Although a minority can be a majority in a particular geographical area, the challenge comes down to whether the police deployed in that area represent the majority the public can relate to.

Racial and ethnic minority perceptions that the police lack lawfulness and legitimacy, based largely on their interactions with the public, can lead to distrust of the police. Distrust of police has serious consequences. It undermines the legitimacy of law enforcement; without legitimacy, police lose their

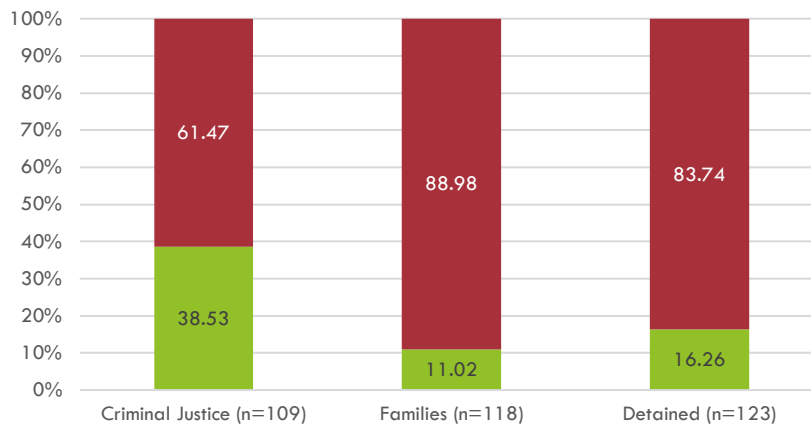


Figure 86. Did security forces in the area reflect the main religious affiliation found in the community

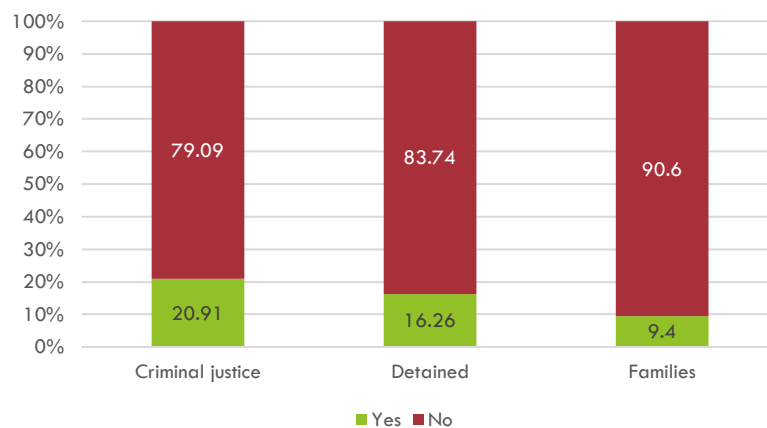


Figure 87. Majority of police officers represent ethnic groups in the area

ability and authority to function effectively. Legitimacy, in turn, has been found to influence legal compliance and people's willingness to support the police in fighting crime.

Assessing whether the police is representative of the community, respondents were asked if the police in the area is representative of their religion and ethnicity. Starting with religion, the dominant religion of the areas most affected by violent extremism is Islam. When respondents were asked if criminal justice actors represented the majority religion in the area, all three samples answered in the negative as presented in **Figure 87**. It is important to note that according to criminal justice respondents 39% were under the impression that security forces reflected the same religion as those in the area they were deployed.

It is especially interesting to note that 61% of criminal justice actors as opposed to 89% of family members and friends of individuals who went through the criminal justice system were under the impression that the majority did not represent the same religion as that of the community.

Not representing the demographic profile of the community can manifest in religious insensitivity that often manifests in the conduct of police officers when they interact with members of a faith not their own.

Similar to religious representation, the overwhelming perception amongst all three samples was that the police are not representative of the communities they serve.

Despite the fact that police officers did not reflect the ethnic/tribal or religious composition of the geographical area they serve, the suggestion to recruit police officers from the region was only supported by 25% of respondents part of the criminal justice sample (n=105) and 28% of detained respondents (n=119). Respondents part of families and friends (n=111) were more open to this suggestion as 43% rated this suggestion between 70–100%.

9.1.6 Profiling based on religion and ethnicity

Family members expressed a greater concern for being singled out by the police based on religious affiliation when compared to gender, age, nationality, physical appearance and political affiliation. Perceptions of being singled out correspond with unjustified disparities in the rates of stops, searches and arrests.

Comparing being singled out based on religion versus ethnicity, respondents expressed a greater concern towards being singled out on the basis of religion than ethnicity. In the aftermath of 9/11, the global Muslim community complained of increased Islamophobia that can broadly be described as, ‘indiscriminate negative attitudes or emotions directed at Islam or Muslims’.⁶⁸ On a local level, Islamophobia resulted in poor public-police relations and outrage against counterterrorism measures that were framed as evidence of anti-Muslim discrimination. Within security agencies, especially the police, the term ‘institutional Islamophobia’ was introduced to describe poor relations the state has with the Muslim community, targeted police stop and search powers, and the subsequent distrust found within Muslim communities.⁶⁹

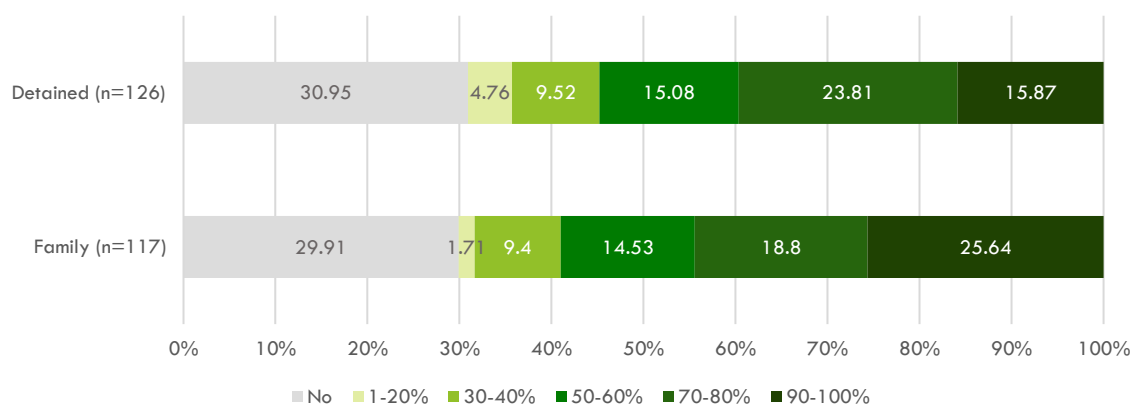


Figure 88. Singled out based on religious affiliation

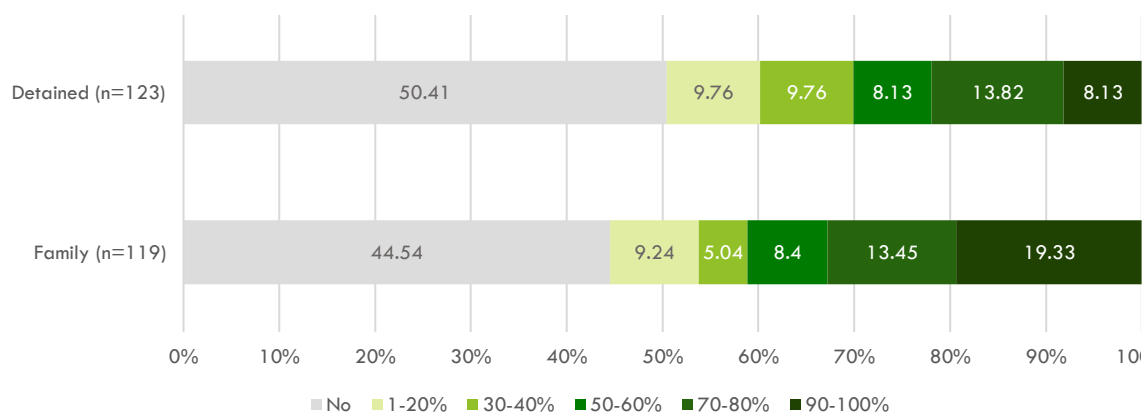


Figure 89. Singled out based on ethnic/tribal affiliation

68 Bleich, E. ‘What Is Islamophobia and How Much Is There? Theorizing and Measuring an Emerging Comparative Concept’, *American Behavioral Scientist*, 55, 2011: p. 1582.

69 Julian Hargreaves; *Police Stop and Search Within British Muslim Communities: Evidence From the Crime Survey 2006–11*, *The British Journal of Criminology*, Volume 58, Issue 6, 5 October 2018, Pages 1281–1302

9.2 Other security agencies

In comparison to the police, other security agencies had a better track record based on the analysis of questionnaires. However, during focus group discussions (presented later in this section) respondents provided context to their personal interactions that were not always positive. Starting with questionnaire analysis, 21% of the family and friends sample (n=84) rated their trust in the military between 70–100%, in contrast with the 8% the police received. 15% expressed the same level of trust in intelligence agencies and 13% in prison authorities. Similarly, 21% of the detained sample (n=91) rated their trust in the military between 70–100%, followed by prison authorities (15%) and intelligence agencies (13%). A mere 6% expressed the same level of trust in the police. In comparison, 63% of criminal justice respondents (n=80) had between 70–100% trust in both the military and intelligence agencies, followed by 61% in prison officials and 56% in the police.

According to one participant, three of his grandchildren disappeared three years before at the alleged hands of the Kenyan Defence Force (KDF). The young people were on their way to see their father who was sick. They were then arrested by KDF personnel who were manning a roadblock. When the reports of their arrests reached their family they decided to go and search for the children. They were referred to almost all the police stations in the area, but it was in vain. There was no one willing to inform them of the children's whereabouts. A month later a man called the grandfather informing him that he knew where his children were and asked if he would want to see him. The grandfather quickly organised to meet him and indeed he introduced himself as a KDF member that had been sent by his commanding officer to come and get Kshs 200000 if he wanted his children. After further consultation, they settled on Kshs 100000 which was to be paid in instalments. The grandfather paid instalments of up to Kshs 85000 within two months; during that time, he was assured that his children were safe and sound. The KDF man requested him to give him clothes for the children and Kshs 3000 to buy them shoes, which he did. He was then requested to wait for his children by the roadside at midnight where a vehicle would drop them. The participant waited a week for the children and since then (three years past) had not seen his grandchildren or the alleged KDF officer. According to the family and friend sample, corruption in the military however is the exception to the rule as 95% never had to pay a bribe to a military officer. Yet, 1% had to pay a bribe between one and two times, 2% between three and four times and 1% five times and more. Amongst the detained sample, 97% never had to pay a bribe, but 1% had to pay a bribe between one and two times and 2% between three and four times.

In another focus group discussion, participants made reference to an al-Shabaab attack in July 2017 targeting KDF vehicles at Handaki East that resulted in the injury and death of two soldiers. In retaliation, KDF allegedly started beating community members and destroying the only water hole that was their source of water. Community members alleged that they had shared information with the KDF prior to the attack and they failed to take heed of their warnings. One community member was killed as a result of the operation and scores injured.

Although the mandate of any military is to protect the country against foreign enemies, respondents were asked to rate their willingness to call on a number of actors (including family members and friends) when in physical danger – the military was included in this list. Recognizing that it is not traditionally the mandate of the military, all three samples listed the military last. It is however important to note that 30% of criminal justice respondents (n=101) rated the likeness of calling the military between 70–100%. In contrast, 6% of respondents part of the family and friends (n=109) and 5% of the detained (n=121) samples expressed the same level of eagerness to call on the military when in danger. When the detained and family and friends samples were asked to indicate how poor their interactions had been with the different criminal justice actors, including the military, of the 31 respondents part of the family and friend sample and 71% respondents of the 24 respondents who interacted with the military rated this interaction as 'poor'. It is important to note that whereas detained respondents considered the police as worst, respondents part of the family and friend sample identified the military as worse (see **Table 11**).

Considering the section on police legitimacy, the vast majority (82%) of the 122 respondents being part of the detained sample rated their interactions with the police as 'poor', in comparison with 65% of the 86 respondents, part of the family and friends sample. Both samples placed intelligence agencies fourth as 58% of the detained and 65% of family and friends samples rated their interaction with intelligence agencies as 'poor'. Considering the exposure of detained respondents to legal proceedings 77% of the 55 respondents who interacted with the prosecution authority rated it as 'poor'. Families and friends due to their negative interaction with prison authorities placed prisons second (74%) after the military. In contrast with the family and friends sample, the majority of detained respondents rated prison authorities, courts and prison staff between 'relative' and 'good'.

Table 11. Negative interactions with criminal justice actors

Position	Detained	Family
1	Police (n=122) 82%	Military (n=22) 77%
2	Military (n=24) 71%	Prison Authorities (n=31) 74%
3	Prosecutors (n=55) 71%	Police (n=86) 65%
4	Intelligence agency (n=77) 58%	Intelligence agency (n=52) 65%
5	Prison Authorities (n=56) 43%	Prison staff (n=32) 60%
6	Courts (n=62) 42%	Prosecutors (n=30) 56%
7	Prison staff (n=55) 40%	Courts (n=35) 52%
8	Defence council (n=44) 36%	Defence council (n=30) 43%

10. Recommendations

At the end of the study, recognising that the study confirmed earlier results while also identifying a few surprises (for example the disconnect between criminal justice actors and the other two samples), the value of any study should be to present solutions instead of only identify and validate known challenges. Finding a lasting solution will however require the involvement of both government and civil society, with the emphasis on the former. Reading Kenya's counter violent extremist strategy one observation is an unequal balance between what the government of Kenya expect others to do, while there is limited introspection on the role government and its security agencies play in the radicalisation and recruitment process. It is however important to note that at the time of writing, the NCTC the was in the final stages of 'refreshing' the strategy.

Being aware of counter strategies is one step in the right direction in reaching out to those who are vulnerable. Secondly, what programs are being presented and by whom directly impact on success. Lastly, what vulnerable communities want to see being implemented and why existing counter and preventative strategies were not successful completes the equation.

10.1 Government of Kenya

1. While the reasons behind the radicalisation and recruitment into violent extremist organisations were highlighted in quite a few independent studies, the first suggestion to the Government of Kenya is to consider these findings in revising its strategy to prevent and counter radicalisation into violent extremist organisations. This suggestion is in line with the 'Theory of Change' as presented in Kenya's CVE Strategy: "our assumption of what it will take to attain the strategic end state – is that evidence-based counter- and de-radicalisation efforts that are collaborative, accountable, sensitive to the risks and mandates of national and human security, and focused on engaging and empowering the public will sharply reduce and eventually end radicalisation and recruitment into violent extremist groups." As well as the eighth priority under 'research': "Ensure that Kenya's CVE actors have the benefit of a dynamic, action-ready and research-informed understanding of the evolution of violent extremist ideologies, organisational models, and radicalisation methodologies."
2. Research findings can equally be useful approaching vulnerable communities in addressing identified concerns and challenges to enhance the legitimacy of government and associated agencies.
3. Although the office of the presidency attained the most trust amongst all three samples, the Government of Kenya needs to implement dedicated steps to enhance the public's trust in government departments. Vulnerable communities were the first to refer to unequal treatment when applying for identity cards, passports and other critical documentation.
4. Identified as the second priority in the national CVE Strategy, enhancing patriotism and building a sense of nationhood start with creating a feeling of belonging and acceptance. This should start with assessing vulnerable communities' access to identity documents, passports, etc. In other words, more resources should be directed at minority and vulnerable communities instead of less.

10.2 Kenya Police Service

Often the most obvious advice is the most constructive. To start with, returning to the basic principles of policing is a sure way to build and strengthen police legitimacy.

Implement the nine principles of policing

In 2011 Sir Robert Peel provided nine principles of policing as a guideline to enhancing legitimacy and secure public acceptance of the police that is equally relevant to Kenya:⁷⁰

1. To prevent crime and disorder is an alternative to the repression as a result of military action.
2. The power of the police to fulfil their duties and function is dependent on public approval of their existence, actions and behaviour and on the ability of the police to secure and maintain the respect of the public.
3. For the police to recognise that to secure and maintain the approval and respect of the public means to secure the willingness of the public to cooperate in upholding the law.
4. To recognise that the extent to which the police can secure cooperation from the public diminishes proportionally with the use of physical force.
5. To secure and enhance public support will not be achieved by calling on public support, but to continuously demonstrate the impartial application of the law independent from political interference, social and financial status of the subject of the investigation and relationships the person may have. Police members also need to demonstrate their willingness to sacrifice themselves in protecting the public.
6. The use of physical force can only be justified as the last resort to restore order within the framework of the law. Force should be limited to what is absolutely necessary in that particular situation for the police to achieve its objective. In other words, physical force should be limited and proportional.
7. For the police to remember that the police are the public and the public the police. Members of the police are members of the public who are employed and paid to act in the interest of the existence and welfare of the community.
8. Police to strictly adhere to police-executive functions and to refrain from infringing from interfering in the responsibility of the judiciary by judging and punishing those perceived to be guilty.
9. Police efficiency should be measured by the absence of crime and disorder and not the visible evidence of police action in dealing with it.

Police officers reflecting the demographics of the community

The overall sentiment is that appointing police officers who know and understand the community, requesting officers to build better relationships with neighbourhoods they serve, reducing officers' use of aggressive tactics and increasing officer training will enhance police legitimacy. At the same time, the concern is that placing officers in the communities they originate from will facilitate favouritism and corruption. A potential solution can be to rotate officers within the station or between stations in the same geographical area on a regular basis. Furthermore, in an atmosphere of mutual responsibility, commanders and other officers should be able to come forward with information regarding abuse and the misuse of powers of colleagues to a separate command tasked with investigating these allegations.

70 Bronitt, Simon H., and Philip Stenning. "Understanding discretion in modern policing." *Criminal Law Journal*, Vol. 35 No. 6 (2011). p. 331.

Creating a friendlier environment for the community to interact with the police

Community policing starts with the traditional interception point, the police station. Through creating a separate area where members of the community can interact with an officer(s) outside the vision of other members of the public, a 'safe space' will be created. These areas should however not give the impression of being an interrogation room. Additionally, members of the public should receive the same treatment irrespective of social standing, gender, religious affiliation and ethnic/tribal origins. Respect for gender roles and ethnic/tribal backgrounds will imply that officers reflecting these differences will be tasked to interact with the respective members of the community. Through this strategy people will be more inclined to ask for assistance, report suspicious activities etc. Since a common perception is that police officers do not respond to information provided, even the slightest inclination that the matter at hand will not receive the required attention should be prevented and addressed. Officers should keep a 'brought forward' register that should be inspected on a regular basis and when tasks were completed, the members of the public who reported the matter should receive feedback.

Enhanced training of police officers in investigation techniques, human rights and intelligence

According to Mwazighe (2012), the effective combating of violent extremism requires a delicate balance between enhancement of security on the one hand and respecting of individual rights and freedoms on the other.⁷¹ The latter is not only critical in so far as ensuring that innocent suspects are not victimised but also in creating confidence in the criminal justice system. Due process should also be seen in light of international and domestic human rights obligations imposed on the state. The key obligations to be observed include: the presumption of innocence, non-discrimination, right of access to legal counsel; prohibition of torture, inhuman and degrading treatment, right against self-incrimination/right to remain silent, protection from incommunicado and arbitrary detention and right to bail. The right to bail has been particularly controversial especially when viewed from a public safety perspective. In *Republic v Salim Said Nassow and two others*, a High Court decision in 2016, it was noted that the seriousness of the offence is not a ground per se to deny bail⁷² but that the potential of alleged terrorists to cause further harm influences decisions (*Oluseye Oledaji Shittu v Republic*, 2016).⁷³

When respondents were asked where the Kenyan government should divert most of its resources, criminal justice respondents (n=106) requested emphasis on the training of security personnel (95%). Less than 74% of respondents part of family members and friends sample (n=110) called for training of security forces while 63% of respondents part of the detained sample (n=128) identified the same need. Regarding the type of training, training in how to conduct better investigations rated high amongst all three samples, followed by training in human rights and how to protect and serve the community better. Training offered to criminal justice actors in religious literacy and how to differentiate between Islam as a religion and extremist ideology will also avoid identifying religion as the real cause of domestic instability. Training in cultural/tribal and religious diversity (in itself a form of community dialogue) will send the right signals that the security agencies are serious in enhancing trust between itself and the community.

Although above initiatives form only one approach in building a relationship of trust between the public and the security agents, other initiatives should be invested in. This will bridge the gap of mistrust that has been an impediment to safety and security in especially vulnerable communities.

Public sensitization forums, information sharing and community policing will further enhance police legitimacy if conducted in a manner that is honest and not a one-sided interest to collect intelligence.

71 *R v Salim Said Nassoro & 2 Others* High Court at Nairobi Misc. Criminal Application No. 351 of 2016.

72 *Oluseye Oledaji Shittu v Republic* High Court at Nairobi Misc. Criminal Application No. 130 of 2016.

73 Bronitt, Simon H., and Philip Stenning. "Understanding discretion in modern policing." *Criminal Law Journal*, Vol. 35 No. 6 (2011). p. 331.

Community involvement

The nature of police attitudes toward citizens and vice versa will determine whether the two will be able to work together. The reality is that a negative relationship between the police and the community will result in negative attitudes that will consequently manifest in mutual ill feelings, lack of respect, disorder, and inefficient police functioning.⁷⁴

The need for community involvement in countering violent extremism is recognised globally as captured in the UN Plan of Action to Prevent Violent Extremism.⁷⁵ In the absence of community support and involvement, initiatives to counter violent extremism, will be hampered. Furthermore, without community involvement the early detection of radicalisation and identification of suspects will equally be severely hampered. Similarly effective long term responses require collective community action seeking to address underlying reasons for individuals to be vulnerable to violent extremism. Community involvement should take place at regional and national levels with the involvement of both community members and community leaders representing all sectors (religious leaders, youth and women organisations, etc.).

10.3 Agencies involved in counter violent extremist activities

Civil society organisations and local government operational in vulnerable communities have a very important role to play, especially in preventing radicalisation into violent extremist organisations while addressing the underlying causes or conditions conducive to radicalisation and terrorism.

Criminal justice respondents regarded initiatives initiated by civil society as more important and successful with specific reference to community dialogue, youth-led initiatives, religious discussion and education and skills development. Family and detained samples on the other hand identified amnesty and prison programs as the most important. In contrast, criminal justice actors expressed the least trust in the success of amnesty and prison projects. These results are particularly important considering the emphasis placed on the initiatives. The perception of importance and success of counter initiatives directly relates to the motivations respondents identified as the reasons behind radicalisation. This is particularly evident in the religious and financial incentives criminal justice actors identified as the reasons why individuals joined violent extremist organisations. It therefore calls for an evaluation into the reasons why those most at risk expressed limited trust in community dialogue, religious discussions, sport events and education and skills development.

Online CVE Strategies

The increased reliance of online modalities for recruitment of violent extremists and perpetuation of their agenda demands robust online counter violent extremism strategies.⁷⁶ This should include prevention and responsive mechanisms. This being said, there is a difference between the more face-to-face recruitment strategy into al-Shabaab and the online presence of Islamic State. Consequently, counter messaging should be developed with the actual, instead of the perceived radicalisation and recruitment strategies of each organisation in mind even in the same region within a country.

74 Radelet, L. *The Police and The Community*. New York, NY: Macmillan Publishing Co. (1986). p. 280.

75 UN Secretary-General Plan of Action to Prevent Violent Extremism (2016).

76 Sarah Ladbury, "Women and Extremism: the Association of Women and Girls With Jihadi Groups and Implications for Programming" (2015), 8 accessed March 1 2019, https://assets.publishing.service.gov.uk/media/57a0897fed915d622c000245/61578_Women-Extremism-Full-Report.pdf.

Gendering CVE

As envisaged by UN Security Council Resolutions 1325 and 2242, CVE strategies should be gendered. There is need for a gender lens in designing CVE to adequately capture approaches that address female involvement in violent extremist activities as well as their role CVE⁷⁷. The involvement of women may be particularly strategic with regard to building bridges between the State and communities. Furthermore, there is need to empower women in the communities to identify and deal with family members involved in extremist activities.

77 HORN and CSCR, Mapping Dynamics and Perceptions of Violent Extremism A Study of Nature, Drivers and Perceptions of Muslim Women and Girls Towards Violent Extremism in Kenya (HORN and CSCR) 24; Sarah Ladbury, "Women and Extremism: the Association of Women and Girls With Jihadi Groups and Implications for Programming" (2015), 7 accessed March 1 2019, https://assets.publishing.service.gov.uk/media/57a0897fed915d622c000245/61578_Women-Extremism-Full-Report.pdf.

11. Conclusion

The main objective of this research project was to advance a deeper understanding of the ways in which violent extremist organizations use the breakdown of trust between local communities and the state and criminal justice system to harness support for their activities and to recruit individuals at risk. In doing so, interviews were conducted with respondents representing individuals who had been arrested, detained or convicted on terror charges in Kenya (referred to as the detained sample), their immediate families and friends, communities in the targeted counties as well as officials representing the Kenyan government and criminal justice actors.

At the end of the study – based on information received through making use of above questionnaires, focus group discussions and validation meetings – findings confirmed that perceptions of unjust treatment and a history of mistrust between criminal justice actors and local communities is an unfortunate reality. Starting with the reasons for joining illegal organisations, anger towards the police was identified as the main reason for joining illegal organisations such as al-Shabaab. Despite initiatives to reform the police in Kenya, in practice it is especially the youth that continue to have run-ins with the police over accusations of violent extremism and terrorism. Experiencing a history of extra-judicial killings and forced disappearances, many are still fearful of being identified as potentially involved in violent extremist activities and be a victim of these practices. Most concerning is the fear that getting onto the radar of security forces is based on perceptions. Similarly, prosecutors highlighted concerns over the quality of case dockets brought before them for prosecution and challenges associated with securing successful prosecution due to limited evidence as a result of insufficient investigations and an inability to turn intelligence into evidence. Consequently, prosecutors increasingly rely on plea bargaining instead of initiating prosecutions.

Secondly, this breakdown of trust between vulnerable communities and security agencies – in particularly law enforcement – places a questionmark over the success of initiatives such as community policing that is built on a positive relationship between the police and the public.

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