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Police Brutality and Solidarity during the COVID-19 Pandemic in Mathare

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Abstract: This paper analyses how state responses to the covid-19 pandemic shaped security and policing of residents living in Mathare informal settlements. Relatedly, it focuses on how these residents, facing a repressive police force, mobilised and coordinated responses that protected lives and livelihoods.

Once the first positive case of COVID-19 was reported in Kenya on March 13, 2020, the government instituted policy and legal order to address the pandemic. These orders, which included a night time curfew and cessation of movement in some Counties, nevertheless evolved to be less of managing a health pandemic and more of a national security issue with the police and security agencies have an expanded role to enforce the public health directions.

Based on interviews and observations, this paper establishes how residents of Mathare informal settlement protected themselves from police violence and the Covid-19 pandemic in an environment where service delivery by the State has historically been limited and the police often been more present in its violent nature. It argues that the covid-19 interventions intertwined with wider themes of inequality and police violence, impacting on the relationship between the state and its citizens who live in poverty and daily navigate insecurity and repressive security agencies.

Introduction

On the night of June 1, 2020, James Mureithi—popularly known as Vaite in Mathare informal settlement—was allegedly shot and killed by police after he was found outside during curfew time. “The man was unarmed and it is well known by the community that he works at the Wakulima market (Marikiti),” noted a resident of Mathare (Interview, June 2, 2020). James was among the ten people who, according to activists at Mathare Social Justice Centre said (interview, September 23, 2020), had been allegedly killed by the police since March 27, when the curfew started been enforced. “They [police] are killing us and not corona,” remarked a Mathare resident (Journal entry, June 1, 2020).

On March 26 2020, the Kenyan government announced a 7 P.M.-5 A.M. curfew which was revised on August 27 to 9 P.M.-4 A.M. to manage the spread of Coronavirus Disease 2019 (COVID-19).¹ Invoking the Public Order Act (State Curfew) Order 2020, President Uhuru Kenyatta called upon the police to enforce the regulations and ensure those who violate the curfew are arrested. This order expanded the role of the Kenyan police to not only uphold existing laws on public order management but to also enforce new public health directions. This had the immediate effect of securitizing a health issue. What followed was a rise in police brutality and killings. In videos captured by the media and citizens who circulated them through WhatsApp video messages, police officers were kicking and whipping people who were late to get home before putting them in vehicles disregarding social distance directives. Following criticism by the public, President Uhuru Kenyatta apologized on March 30 about police use of force. “I want to apologise to all Kenyans, maybe for some excesses which were conducted or happened,” he said (Asamba 2020). However, the violence continued and by the end of July 2020, the Independent Police Oversight Authority (IPOA), a civilian oversight body that investigates misconduct, deaths and injuries caused by police action, said that it had received more than 95 complaints of police misconduct and confirmed 30 deaths during enforcement of the curfew (Zhu 2020).²

Pandemics do not equally afflict societies but rather reproduce the power inequalities that already exist. Previous research has outlined that police presence and action in Nairobi’s poor neighbourhoods like Mathare is characterized by tougher measures such as raids, increased use of “stop and search” and of surveillance (Ruteere 2008; Ruteere et al 2011). The police actions are often characterised by the indiscriminate use of excessive force including extra-judicial killings and other serious human rights violations (Andvig & barasa 2014). Further, the police are known to respond to protests in these neighbourhoods with high levels of violence and repression, sometimes firing live ammunition at unarmed protesters and there is little accountability undertaken (Mutahi & Ruteere 2019; Osse 2016).

Thus, while historically protests on police killings are common in Mathare, they became intertwined with the enforcement of the COVID-19 health guidelines, in an environment where residents have a tense relationship with security agents due to harsh policing

¹ By the time this paper was finalized, the curfew hours had been revised from 11:00 P.M. to 4:00 A.M.

² Some have argued that IPOA and police accountability efforts at large are ineffective due to lack of police cooperation, court delays and tampering of evidence by the police. See among others Osse (2014); Hope (2019).

strategies deployed there. Further, while the Kenyan government called upon citizens to regularly wash their hands or sanitize them, wear a mask and avoid crowded areas, the reality for those living in Mathare has been different. This is because the settlement is overcrowded and has few basic services such as running water, which also came under strain as demand increased due to the health requirements. Under such conditions, enforcing mitigation interventions of COVID-19 posed acute challenges for the residents.

Drawing data from interviews and observations, this paper analyses and draws insights from local level experiences of those living in Mathare on how they framed, contested and otherwise engaged with security actions undertaken in the name of enforcing COVID-19 public health measures. The paper starts by outlining the cases of human rights violations by police before establishing different ways in which individuals and neighbourhood-level networks in Mathare mobilised to protect residents against both the police violence and the COVID-19 pandemic.

Police Violations and Brutality

According to human rights defenders and residents of Mathare, cases of police killings, harassment and arbitrary arrests were on the rise as the security agencies sought to implement the COVID-19 laws, especially those about enforcing the curfew, cessation of movement in and out of Eastleigh³ estate which is next to Mathare, and wearing of masks. Several people lost their lives and scores are still nursing injuries in their houses with no one to support them but their families. For example, 13-year-old Yassin Moyo was shot by a police officer while standing on the balcony of his family's home in Kiamaiko, one of Mathare estates. After investigations by IPOA, a police officer, Duncan Ndiema Ndiwa, was charged with Yassin's murder. In another case, 36 year-old Vitalis Owino was suspected to have been killed by the police on the night of May 3, 2020, as he went to a public toilet and buy dinner for his family. His body was found the next morning at Mradi Area Market. Owino's widow Esther Achieng' said her husband left the house some minutes past 6 P.M. to buy them food for dinner as he went to the toilet, which is a few meters away from their house. "We do not have toilets where we stay so we walk to Mradi where there are public pay toilets. He said he needed to go there and would bring supper with him on the way back," Achieng' said (Odenyo 2020).

Those found guilty of contravening the Public Order Act 2020 are liable to a fine not exceeding KSh 10,000 (\$100) or to imprisonment for a term not exceeding three months, or to both. The Public Health Act 2020 also provides that the state can hold people in isolation and provides for fines. Those taken to isolation centres are supposed to cover their daily costs which at the government centres amount to KSh 2,000 (\$20) per day, which for 14 days makes a total KSh 28,000 (\$280). These amounts are high in an area where the average

³ Geographically, Juja road separates Eastleigh and Mathare neighbourhoods. Eastleigh is located in the eastern part of Nairobi and was in the colonial times inhabited Asians and elite Africans who worked as clerks, builders or shoemakers. Over the years, it has grown to be a big economic hub largely settled by Somali immigrants, who have in turn provided economic opportunities for residents of Mathare who work there for example in the shops and as house helps, amongst other jobs.

income is less than KSh 300 (\$3) a day (Muungano Support Trust et al. 2012), most of the residents have no stable income or had lost job opportunities due to the COVID-19 pandemic. Hence, according to some of the respondents, it is cheaper to bribe the police than go for the compulsory quarantine if found outside during the curfew hours or not wearing a mask. “When you are arrested without a face mask or after 7 P.M., you bribe your way out quickly. You call your mother or friend to give money to the police for your freedom. If you are taken to quarantine what will your children eat?” (interview with a Mathare resident on June 2, 2020). Another one noted how police had taken advantage of the COVID-19 regulations to harass people. “They [police] can arrest you and accuse you wrongly for not adhering to the COVID-19 safety guidelines. They just want money” (interview with a Mathare resident June 2, 2020).

During the day, most of the young men in Mathare are found in areas locally known as “bazes,” where they bond with their peers, engage in economic activities like car wash, managing toilets and any other types of work and businesses. Bazes, as Van Stapele noted, are central to the lives of young men in Mathare “since it is where they can articulate and respond to popular notions and expectations of manhood” (2016: 305). However, the presence of young people “hanging around” in the bazes contributes to profiling and police harassment especially due to the current restrictions on public gatherings. According to respondents, the police would go to the bazes and arrest those found there for contravening COVID-19 regulations. “Sometimes you are just a few, like three people and they say it is a gathering” (interview with a youth in Mathare, May 21, 2020). “We were used to sitting in our baze with our friends but nowadays you cannot and the police have taken advantage to harass us” (interview with a youth in Mathare, May 21, 2020).



Baze in Mathare 3c. Art done by Mutua. Picture taken on 4 May 2020 by Kate Wanjiru.

These everyday policing practices in Mathare are due to the state’s historical attempts at managing crime and disorder in informal settlements. Due to widespread poverty and lack

of livelihood opportunities in this area, the police have profiled Mathare as prone to high levels of crime and violence in Nairobi, and its residents as generators of crime (Ruteere et al. 2013; Van Stapele 2016). As a result, the police have over the years deployed harsh measures including extrajudicial killings, raids, stops and searches especially on the young men residing in Mathare. This has nevertheless led to fear of and hostility to the police whose presence is seen as a problem rather than the solution. “We are wearing masks not because we fear corona but the police” (interview with a Mathare resident, June 21, 2020). Reflecting on the police enforcement of COVID-19 regulations, another Mathare resident recounted how the community members have suffered in the hands of the law enforcers and this has led to bad relations with the police. “The police-community relationship is sour because the police think that every youth in Mathare is a criminal and this has continued for so long and we have lost so many friends as a result,” he noted (interview in Mathare, May 3, 2020).

Punitive actions by the police in Mathare over the years have therefore shaped how the residents imagine the state and negotiate with it to ensure they are secure. Increased police presence in the informal settlement during the pandemic assumed that people will adhere to the health guidelines and follow them. At the same time, it was anticipated that the police would act professionally but as the above examples show, corruption and involvement of some police officers in human rights violations continued to undermine public trust and confidence in them. This is largely because the police have more powers to enforce health guidelines in an environment where accountability is limited, if not totally absent.

The Centrality of Police in Enforcing Guidelines

Despite police inefficiencies and inadequacies in their work, residents still expected the police to enforce the COVID-19 guidelines. One of the respondents said that the police have a role to protect the people in the community by reminding them to wear a mask, keep social distance, and wash their hands. “Their role is to arrest and charge those who flout the laws and take them to court and let the law take its course,” he noted (interview with a Mathare resident, June 21, 2020). Understandably, since the number of COVID-19 positive cases started increasing, some members of the public called for stricter enforcement of the curfew laws. These are not requests for harsher policing, but public expression that the state maintain law and order. Essentially, the public expects the government to act for their security.

The police authority was key and sought for when residents needed permission to travel in and out of Eastleigh estate during the 30 days it was under lockdown. Eastleigh in Nairobi and Old Town in Mombasa were under lockdown from May 6 until June 7 2020, to halt the rising infections in these neighbourhoods. However, Eastleigh is a major source of employment for many residents of Mathare who engage in small scale businesses, house chores, and cleaning services amongst other menial jobs. Its closure posed a dilemma for the poor in Mathare who on the one hand were willing to protect themselves and their families by adhering to the lockdown, but, on the other, faced hunger if they adhered to the lockdown.

While announcing the lockdown and curfew orders, the government authorized people medical professionals, health workers, transporters and others offering critical services to continue operating normally. Nevertheless, these employees had to have official letters and staff identity cards showing their employment status in companies that provide essential goods and services suppliers. It is these letters that they presented to the police at various checkpoints to gain entry. However, the police denied some people carrying these letters movement in and out of the restricted areas while allowing others who did not have them, but who could bribe the police instead.

That is the situation faced by Maria (pseudonym), a house help in Eastleigh. Despite a heavy presence of security officers in all parts of the estate, with 11 roadblocks mounted at major entry points, she was able to move in and out of the neighbourhood without having a letter. “It was easy since one needed only to bribe the police. They did not require to see a letter showing that you are part of the essential services,” she recounted (interview, May 21, 2020). Maria used to pay KSh 50 (\$0.5) per trip and according to her, this was reasonable since her children were guaranteed food at the end of the day. “Many residents of Mathare are low-income earners whose earnings cannot sustain them at home since they need food and have to pay rent. Bribing the police to access the neighbourhood was the only option” (interview, May 21, 2020). We argue that this type of interactions between citizens and the police was an important part of the negotiation of relationships and everyday survival for Mathare residents, since the Eastleigh lockdown was affecting their livelihoods.



Food distribution in Kiboro in Mathare in June 2020. Picture by Kate Wanjiru.

Solidarity during the Pandemic

The COVID-19 pandemic led to the loss of job opportunities and livelihoods across many sectors of the country. 133,657 formal jobs had been lost by April 2020 according to the Ministry of Labour and about half a million people had been sent on unpaid leave (Mwita 2020). President Uhuru Kenyatta warned that by the end of 2020 over half a million Kenyans might have lost their jobs (ibid). Most of the businesses closed because of low sales, inter-county movement restrictions as well as due to the night curfew, which means they could not (and still cannot) operate at night unless given a special authorization.

The closures and reduced workforce have significant consequences for Kenyans in general but are even more likely to affect those who precariously live in poverty and daily

navigate insecurity and violence that disproportionately characterize informal settlements like Mathare. Most of the residents in the informal settlements largely depend on casual jobs for their livelihoods—the kind of jobs that were at risk or lost due to the COVID-19 pandemic. As noted by some of our key informants, the closure of businesses and economic downturn would likely leave most, especially the youth, more vulnerable to crime and participation in illicit economies such as drug peddling. The situation was made worse by the fact that the state intervention in terms of providing funds for business stimulus did not focus on the informal economy, where most of the residents get their daily wages.

As a result, Mathare residents took measures to support each other socially and economically, from spreading COVID-19 and getting information about the pandemic. Tailors based in the informal settlement started producing affordable face masks long before public health officials started offering them. Local artists painted vivid murals on walls and other public surfaces to remind people to wash hands, wear masks and keep social distance. As noted by an artist from Mathare roots youth initiative, “in the ghetto, it is hard to get information and most of the families do not have access to television and radio or social media. That is why we draw graffiti in public places where there are traffic and a vast movement of people,” (interview, May 21, 2020). Youth in the bazes were also sensitizing each other and the community on the importance of following the health guidelines.

Various community-based organizations and NGOs also started sensitizing people on the COVID-19 protocols, set up handwashing stations and facilities where residents were using—most of whom have no running water at home. Other organisations mobilized and coordinated distribution of cash and non-perishable foodstuff like flour, cereals and soap to families living in Mathare. For example, Ghetto Foundation, a local NGO, provided support to residents of Mathare through cash transfers and food. It worked with Mutual Aid Kenya which is a grassroots disaster relief network. The groups opted for cash transfers to avoid overcrowding and to observe the social distancing rules as advised by the Ministry of Health (journal diary, June 27, 2020). According to the respondents, the local support was welcome due to the lived experience of the absence of government interventions for those living in the informal settlement. “The government will not help me but Mathare Social Justice Center⁴ and Ghetto Foundation⁵ are the ones who remember us. They bring flour, cooking oil and other foodstuffs that’s why am thankful to them,” said Susan, a Mathare resident after she was given a two-week ration of flour, cooking oil, and beans (interview, August 21, 2020).

Collectively, Mathare residents and human rights activists continued protesting police brutality and demanding justice for those killed by security officers while enforcing the curfew. As captured in the journal diary of June 7, most of the people said they were tired of police harassment during a health crisis and took part in the Saba Saba March for Our

⁴ The Mathare Social Justice Center is an initiative by young members of the community to promote social justice in Mathare.

⁵ The Ghetto Foundation works with young people in Mathare to develop their skills and knowledge in building peace and protecting human right. The organization also works to connect young people in Mathare with educational, social and economic opportunities.

Lives⁶ in solidarity with all those who have lost their lives during the pandemic. The Saba Saba March, which was violently disrupted by the police, saw the protestors presenting a petition to Parliament on the continued killings of young men in Nairobi's informal settlements. According to one of those who marched, "the police have killed more people than Corona and to show we are tired, we also purchased two coffins and wrote all the names of victims of extrajudicial killings in all the informal settlements. The pain and anger we have for this government are too much because we have documented and reported all these cases but no action has been taken. We want justice for all the victims of extrajudicial killings" (journal entry, June 7 2020).



Police officer removing a coffin outside parliament that had been left by protestors. Picture taken on June 8, 2020 by Kate Wanjiru. NB: The coffins were empty and were used to symbolize those killed by police as they enforced curfew guidelines.

These solidarity activities highlighted above, draw our attention to the contested nature of the Kenyan state whereby the provision of services is shared with other actors, working in collaboration and contestations with it. The state—as Timothy Mitchell (1991: 94) has argued—is not a unitary system or a thing, but is a dynamic process where different actors

⁶ The Saba Saba March for Our Lives is held on July 7 and is organized by Social justice Centers to highlight cases of police violence and killings targeting youth in the informal settlements. It borrows its name from the Saba Saba Day public rally held on July 7, 1990 at the Kamukunji Grounds to protest former president Moi's undemocratic rule and press for constitutional reform by repealing section 2A of the constitution and re-introduce the multiparty system.

are negotiating and competing over the institutionalization of power relations. In such an environment, “claims to power and logics of order co-exist, overlap and intertwine and the state does not have a privileged position as the political framework that provides security, welfare and representation” (Boege et al 2008: 10). As field data show, Mathare residents expected the government to protect them from the economic disruptions brought about by COVID-19 and from police officers suspected of extrajudicial killings. Even though the government has largely been absent in the informal settlement, people look upon it to provide protection and social services since it has the authority and mandate to do so. Nevertheless, Mathare residents, NGOs and CBOs undertook efforts to mitigate themselves from the COVID-19 effects, filling the space left by the government. Through the protest and marches, the residents contested the state’s legitimacy of using police violence to enforce the curfew. Yet they simultaneously articulated the need for more accountable police service.

Conclusion

Since the first positive case of COVID-19 was reported in Kenya on March 13, 2020, the government has taken policy and legal measures to address the pandemic. These orders have nevertheless evolved to be less about the management of the health pandemic and more about the criminalization of those who do not follow them. The measures taken, including neighbourhood-level lockdowns, curfews, and other coercive responses, have increased the already existing pressures and insecurities faced by the Mathare (already) vulnerable residents. Security responses have continued to undermine trust between the community and police and reinforced perspectives of security officers’ being violent and unaccountable.

The responses have however led to the mobilisation of networks that contest and engage with the state beyond the COVID-19 crisis. Rather than posing a threat to state sovereignty, this local mobilization for support during the COVID-19 pandemic is part of a dynamic process of state formation in Kenya where public authority is claimed and contested, and, as a result, help to expose the limits of the state. As the government attempted to assert control over the management of the pandemic, a wide range of individuals, groups, and communities engaged in actions that contributed to building their political subjectivities, thus exercising authority beyond the state. This notion of overlapping and different sovereignties is particularly useful for considering citizens’ everyday practices in Mathare, which were deployed to enforce the COVID-19 health guidelines.

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