A New Model of Social Activism

A study of social movements against extrajudicial killings in Nairobi's informal settlements

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LIST OF ABBREVIATIONS

CBO  Community-Based Organisation
EJK  Extrajudicial Killing
GHRD Grassroots Human Rights Defender
HRD  Human Rights Defender
IJM  International Justice Mission
IMLU Independent Medico Legal Unit
INGO International Non-Governmental Organisation
IPOA Independent Police Oversight Authority
KNCHR Kenya National Commission for Human Rights
MGM Mathare Green Movement
MSJC Mathare Social Justice Centre
NGO Non-Governmental Organisation
PAR Participatory Action Research
RBA Rights-Based Approach
RFA Rights-Frame Approach
SJC Social Justice Centre
UDHR Universal Declaration of Human Rights
UN United Nations
UN OHCHR Office of the United Nations High Commissioner for Human Rights
1 \hspace{1em} \textbf{INTRODUCTION}

1.1 \hspace{1em} \textbf{Background}

Extrajudicial killings (EJKs)\footnote{An EJK is an “unlawful and deliberate killing carried out by order of a government or with its acquiescence. Extrajudicial killings are killings which can reasonably be assumed to be the result of a policy at any level of government to eliminate specific individuals as an alternative to arresting them and bringing them to justice. These killings take place outside any judicial framework.”(Amnesty International, 2001, 4)} have deep historical roots in Kenya. In 1972, Kenya’s first president Kenyatta declared “My brothers, let us say it loudly, thieves shall be hanged; hanged until they die” (Hornsby, 2013, 266). Kenya has been repeatedly noted for its post-election violence. Each election, demonstrators are killed by the police; in 2007, 1,133 people were killed (Waki & CIPEV, 2008). This violence is not limited to elections. The executive power is encouraging resorting to EJKs through “shoot to kill orders” framing them variably as an answer to crime, terrorism or the use of firearms (BBC News Africa, 2005; Mukinda, 2013; Mwahanga, 2014). Over the years, governments have developed special police units: the Flying Squad in 1995 to tackle armed robberies; an anti-terrorism police unit in 2003. Not least, the Kwekwe police unit in 2007 cracked down on Mungiki gang members (Murithi & Chacha, 2-3). During this crackdown, the Oscar Foundation documented 8,040 EJK cases (Oscar Foundation, 2007). Those death squads were all given carte blanche to eliminate ‘suspects’ (Alston, 2009, 2). EJKs have also been used to silence human rights defenders (HRDs). In 2009, the founder and CEO of the Oscar Foundation were killed following the release of their report on EJKs (Rice, 2009). Those practices have deeply engrained a culture of state sanctioned violence, making EJKs and enduring phenomenon. The Office of the UN High Commissioner for Human Rights qualified this an “ongoing pattern of extrajudicial killings” (UN OHCHR, 2016).

Recently, EJKs have been rising particularly in Nairobi’s informal settlements where over 60% of the city’s inhabitants live (UN HABITAT, 2005). Police death squads operate in those areas and kill poor people daily. For example, in November 2018, 24 settlements dwellers were killed in 21 days (Kimuyu, 2018). This thesis focuses on the case of EJKs in Nairobi’s informal settlements, but also seeks to explain the newer forms of activist mobilisations arising to contest them.
I first heard about EJKs in Nairobi’s informal settlements in September 2017. Peris Jones had invited an activist to talk about his work in Mathare, a Nairobi informal settlement. Little did I know that I would end up working for his organisation -Mathare Social Justice Centre (MSJC)- for 3 months and write a thesis on this topic. What struck me the most during the talk was the considerable number of deaths and the fact that no one in a room of approximately 30 students studying human rights had heard about those killings. In Mathare only, one young man dies every week under police bullets (MSJC, 2017a). I was both shocked that those community members were abandoned to their own fate and impressed by the power of their inclusive grassroots action and holistic approach. It was the first time that I was confronted so directly, concretely and vividly to the limited effectiveness of the global human rights system.

Kenya has ratified most UN human rights treaties and its 2010 constitution was praised globally as a “new narrative for social justice” (Domingo & Wild, 2012, 3). The constitution prompted institutional and police reforms leading to the creation of a police oversight body and national human rights watchdogs. Nairobi hosts country offices for multiple INGOs working on the right to life: Amnesty International Kenya, International Justice Mission (IJM), Peace Brigade International (PBI), Safer World and the International Commission of Jurists for example. Nonetheless, EJKs in informal settlements have continued in all impunity. From 2013 to 2015 MSJC documented 803 cases (MSJC, 2017a). Since the creation of the Independent Policing Oversight Authority (IPOA) in 2012, 9000 cases have been lodged but only 4 cases have led to convictions. The alarming number of deaths and the almost immunity of the police has led informal settlements mothers to ask “Why do we even give birth?” (MSJC, 2017a, 8). Given the situation, and the ineffectiveness of human rights, this raises questions about the human rights approach and how best to implement it.

Grassroots activists decided to take the matter into their own hands because a contributory factor to the lack of effectiveness of human rights is INGOs approach to human rights. Their professionalisation of human rights has created a gap between them and the communities suffering from EJKs: rights do not connect with people anymore. Hence, grassroots human rights defenders (GHRDs) organised to shape a new form of social mobilisation that looks at the link between socio-economic issues and EJKs: social justice centres (SJCs). Since 2015, following the precursor MSJC, SJCs have been mushrooming in Nairobi’s informal settlements: Dandora, Githurai, Kamukunji, Kariobangi, Kayole, Kiambiu, Kibera,
Korogocho, Madakara and Mukuru. This thesis examines this new form of activism as a particular response to the limitations of the human rights paradigm mostly visibly represented by INGOs in Kenya.

While there is a lot of media coverage of EJKS resulting from Duterte’s war on drugs in the Philippines or Brazil’s militarisation of Rio’s favelas, Kenya’s EJKs rarely make it to international news. National media report EJKs but instances triggering outrage are cases of middle class victims living outside of informal settlements; the high profile Willie Kimani IJM lawyer case in 2016 for example (Gettleman, 2016).

There is scholarly literature on Kenya’s police violence (Mutunga, 1990), but most writings on EJKs focus on post-election violence (see for example: Branch, 2011; Hornsby, 2013; Osborn, 2008).

Jones, Kimari and Ramakrishan (2017) deplore that the literature does not explore everyday killings in informal settlements and do not study their link with social justice issues. They investigate social justice activism in Mathare and criticise civil society’s limited answers, highlighting their disconnect from the grassroots. This pioneering study is limited to Mathare and does not examine SJCs from other settlements.

In her PhD on the protection of HRDs in Kenya, Ichim adopts a socio-political and economic frame to examine the power relations between professional human rights actors and grassroots activists (Ichim, 2017). However, her research does not examine SJCs’ mode of activism. She submitted her thesis in August 2017, three months after MSJC launched its report on EJKs. Therefore, she only covers the organisation of a community dialogue by what was to become MSJC.

This master thesis is therefore another step in the effort to bridge this research gap and specifically one of the very few concerning the rise of SJCs.

1.2 Objectives, scope and research questions

This thesis explores why there was a perceived need for a new kind of mobilisation in response to the rise in EJKs and covers the emergence of SJCs. It investigates the strategies and frames used by the centres and their holistic approach of connecting socio-economic concerns and EJKs. In seeking explanations, the dynamics between those SJCs and INGOs and their respective approaches are compared and contrasted. This thesis also analyses whether INGOs’ resolution of working with GHRDs is successful, and if together those actors
manage to reconnect rights with people experiencing violations. Finally, the thesis scrutinises
the challenges faced by human rights actors working on EJKs. This will enable concluding on
whether human rights have potential to adapt to become more efficient.

The scope of the thesis is limited to the study of two actors: SJC and INGOs; SJC being the main focus as until now they have been understudied. Because of pragmatic reasons I was not able to extend this study to the work of national human rights institutions.

The general research question is then:

What explains the rise of social movements against extrajudicial killings in Nairobi’s informal settlements?

To answer this question and in line with the objectives and scope of this study, I developed sub-questions:

- Why and how did the social justice centres develop in response to EJKs in Nairobi’s informal settlements?
- What are the frames, strategies and tools for actions that the social justice centres use?
- Are those strategies and tools different from the ones used by INGOs and if so how?
- What is the nature of the relationship in between social justice centres and INGOs?

1.3 Thesis structure

This thesis is structured as following, from this introductory chapter, chapter 2 explains the rationale behind my methodological tools and their implementation. In chapter 3, I set a theoretical framework for the analysis of human rights work on EJKs. Chapter 4 then delves into the context of my study by explaining the roots of police violence and the normalisation of EJKs in Nairobi’s informal settlements. In, chapter 5, I analyse why and how SJC developed, and what symbolism, methods, strategies and tools they are using. Chapter 6 constitutes of a critical examination of the work and relationship between INGOs and the SJC.

2 METHODOLOGY

This chapter addresses the methodological tools applied during my research (2.1), before turning to an examination of ethical considerations (2.2) and reflecting on limitations of this research (2.3).
2.1 Research design

2.1.1 Field observations

From July to September 2018, I interned at MSJC, a grassroots initiative by community members to promote participatory forms of social justice in Mathare. MSJC’s goal is for Mathare residents to become agents of change and claim themselves their rights to life, security and dignity. The community-based organisation (CBO) is rooted in a “nothing about us without us” ideology because they believe “only the people can defend this struggle” (Jones et al., 2017, 15).

Through my work there, I gained an insight into MSJC’s participatory action research (PAR) methodology used to report experiences of people affected by police violence. It made sense to get inspired by PAR for my thesis research method. This approach to research was developed by Fals-Borda (1997b) who considers research as a tool for community action and social transformation. PAR was based on Freire’s (2000) critique of knowledge production and imperialist, oppressive research models. Freire advocates for developing critical consciousness through perceiving “economic political and social contradictions through inquiry, reflection and action” (Zeller-Berkman, 2014, 521). In PAR, the investigation is done by communities and not "on" them. This reduces the gap between "researchers" and "subjects" and puts the experience of people most affected by the research centre stage. “Common” people’s experiences become knowledge and tools for action (Zeller-Berkman, 2014, 521). Moreover, PAR aims for sustainability by focusing on capacity building and independence from outside researchers (Fals Borda, 1997a).

I took part in MSJC’s PAR on the right to water and was put in charge of coordinating the mapping out of water points in Mathare. When walking around Mathare for this process, we interviewed residents to gather information about the price, quality and accessibility of water as well as their personal experiences.

As a member of MSJC’s police brutality campaign, I facilitated the organisation of awareness raising events and a community dialogue in Mathare during which police abuses and security issues were covered through music, dancing and spoken word by local artists. Members of MSJC educated people about their constitutional rights and explained MSJC’s reporting work.
The floor was then open for community members to voice their concerns and share their experiences of police violence.
I also attended a community dialogue organised by the Korogocho SJC between reformed criminals and police officers to improve the relationship with the police. One of the infamous Korogocho killer-cops joined the dialogue.

My internship allowed me to engage with both local and global HRDs. I mostly interacted with members from SJC's in other Nairobi informal settlements during the weekly Justice Centres Working Group meetings. On top of MSJC, I personally visited Dandora, Kayole, Kibera and Korogocho’s SJC’s.
I interacted with global actors by taking part in trainings organised by INGOs on documenting police violence together with GHRTDs: a three days training, and a day training. Moreover, I co-coordinated the 70 years celebration of the Universal Declaration of Human Rights (UDHR) which entailed meeting with UN representatives, GHRTDs, national human rights institutions and INGOs. Finally, INGOs and national actors often took part in awareness raising events that I attended.
Those experiences gave me an insight on how those actors work together in the campaign against EJKs, what strategies they use and how they depend on one another.

During those three months, I felt completely emerged in MSJC and the socioeconomic and political context of Mathare and other informal settlements. I attended MSJC and the justice working group’s weekly meetings and joined the Mathare Green Movement (MGM), a socio-environmental justice movement that fights the normalisation of police violence through soft power. MGM members became friends with whom I spent most of my free time in Mathare. I also became close to artists from Dandora and women activists from Kayole. We would all meet at events such as the ones organised by Pawa 254, a cultural centre led by young artists and activists -or artivists- that use artistic expression to advocate for human rights.
I experienced police violence directly with friends being arbitrarily arrested, harassed, slapped and threatened with a weapon by police officers in front of me. On the last day of my first stay in Nairobi, my friends and I gathered in a bar in Pangani for goodbye drinks. A group of police officers were holding an informal meeting in that bar. Rashid -a Mathare killer cop- greeted my friends and told them he knew them and their work well. After this half-disguised threat, he turned to me to ask what I was doing here and gave me a chilling
hug. Rashid has killed some of my friend’s friends and family members. He also frequently threatens to kill MSJC activists.

I have therefore experienced EJKs indirectly through activists and my friends’ stories and experiences, continuous messages on Whatsapp solidarity groups, and through reports during GHRDs meetings. However, this experience took a more personal turn with the suspicious death of Carol Mwatha, a founding member of the Dandora SJC that I had attended trainings, meetings and events with. Carol went missing a few days before my return to Nairobi in February 2019. Her body was found at the City Mortuary a week later, on the second day of my stay. I attended vigils in Dandora and the mass held in her honour at the Freedom Corner. Although the post-mortem concludes to a death from excess bleeding of her ruptured uterus possibly during a botched abortion, a lot of grey areas remain. This has led many to believe in an EJK. Former members of parliament and chiefs of justice, journalists, HRDs and influencers have all expressed this opinion publicly; so have SJC’s. Moreover, a couple of INGO members that I interviewed and preferred to remain anonymous expressed the same view. They all reject this as a police narrative produced to scandalise and discredit Carol in the public eye.

Throughout my stay, I developed strong emotional reactions: anger, shock. I was lucky to be granted the Fritt Ord Student Stipend for writing my thesis which allowed me to travel back to Nairobi in February. The few months in Oslo between the two fieldworks were useful to process what I had witnessed and experienced in Nairobi and read more theory. This made me a bit less emotionally involved. This relatively more distanced or neutral approach made me idealise less SJC’s work. I do believe that personal involvement is of paramount importance for action but should impact research less. I am certain that this second trip resulted in a more balanced and nuanced analysis of the context and social movement actors’ roles.

2.1.2 Semi-structured interviews

In parallel to my field observations, I pursued semi-structured interviews to get information not accessible otherwise. Because my questions implied answers grounded in personal experiences and opinions, I chose this approach to follow up on angles developed by interviewees. This allowed them to be “interested, active, disobedient, fully involved in what is said about themselves and others” (Latour, 2000, 116).
In total, I interviewed 18 people. For trust and confidentiality reasons I preferred individual interviews; nevertheless, I had 2 group interviews, with each time 2 representants of the same INGO.

The interviewees were:
- 10 GHRDs from 4 different SJC s. All of them have directly been affected by police violence and lost close ones to EJKs
- 5 members of 3 different INGOs
- 2 journalists
- 1 Mathare resident that condones EJKs

The interviews were all done in English, audio recorded and transcribed. They lasted between 35 minutes and 2 hours.

The interviewing process was divided in two periods: August/September 2018, at the end of my three months internship and two weeks in February 2019 during my follow up fieldwork.

I decided to write my thesis on this topic in the middle of my internship. Therefore, by the time I carried out the interviews I had acquired a rather good knowledge of the context. Moreover, I had gained the trust of the interviewees whom I knew personally. It was easier for them to share personal experiences of violence. In September, I mostly interviewed GHRDs about context, experiences of police violence, the normalisation of EJKs and the grassroots methodologies to de-normalise them.

By the time I travelled back to Nairobi in February, the angle of the thesis had become more precise, therefore I also interviewed INGOs members. It was interesting to go back for numerous reasons. First, I had been working on my literature review, and had an in-depth understanding of the context after my internship and the first round of interviews, so my questions were more orientated and precise. Second, I was able to follow up on the work of SJC s that were only a few months old during the first fieldwork. This allowed me to better assess the successes of those organisations and evaluate their impact on de-normalising police violence. Third, because of my previous work for MSJC and the fact that I had come back, the interviewees considered me as an ally and trusted me more; they were more open. Finally, I felt more confident in my researcher position and dared asking more challenging/critical questions.
2.1.3 Document analysis

On top of academic documents, I decided to analyse newspaper articles and social media comments because of my one-dimensional view on EJKs. In my daily work with MSJC I was only confronted with anti-EJKs activists but apart from one interviewee, I never met people condoning them.

To understand the way informal settlements victims of EJKs are portrayed in mainstream media, I analysed the language used in newspaper articles. I was inspired by Smiley and Fakunle’s work (2016) on the de-victimisation and criminalisation of unarmed black male victims of police killings in America. I focused on the most read newspapers in Nairobi: The Daily Nation, Kenya Today, The Standard and The Star. I looked up for keywords in their databased: informal settlements names, “dead”, “gang”, “gun”, “gunned down”, “kill”, “police”, “slum”, “shot”, “thug”. To analyse the content of the articles, I looked at the words used to describe the victims and perpetrators, the themes referred to, the information given and the one missing. I also reflected on which deaths were reported and which ones were not.

Moreover, to get a better idea of public opinion on EJKs, I regularly scanned through comments sections of various Facebook pages run by Nairobi killer cops that call themselves “Hessy”. Those pages contain warnings and threats by the police with pictures of “crime suspects”, and then pictures of the bodies of victims killed by the police.²

Those are not objective systemic analysis that aim to convert qualitative data to quantitative data as they are neither neutral nor unbiased. For the newspaper articles, I searched for words that kept appearing, such as “thugs” or “gangs” that presuppose a criminalising narrative. For the Facebook pages, most of the people following those pages support EJKs. The aim was only to get other perceptions of EJKs than the ones I was confronted to during my field work and get a general understanding of the general narrative around EJKs.

² For example: Dandora crime free, Hessy Wa Dandora, Hessy Wa Eastleigh, Hessy Wa Kayole, Kayole free crime, Nairobi crime free (crime free society)
2.2 Ethics

Collecting data raised ethical challenges. For instance, interviewing informal settlement residents that do voluntary activist work and do not have a stable income can influence their incentives for participation in research. Moreover, I am and was perceived as an economically privileged over-seas foreigner. I wanted to give something to recognise and show respect for interviewee’s time, but this something could not become the main drive for taking part in interviews (Nygaard, 2017, 40). I decided not to compensate interviewees and preferred paying for their transport fee, and for chai and lunch.

My thesis research is approved and registered with the Data Protection Official for Research at the Norwegian Centre for Research Data (NSD). I insured informed consent through sharing an information sheet with all interviewees and also explained orally the aim of the research. Interviewees signed a consent form and agreed to be audio-recorded. Concerning the participant observation, I informed the participants of my thesis research, made clear orally that I was taking notes, described how the data would be used and explained that it was voluntary to participate. I have shared my contact information with all participants.

Participating in this research can be dangerous for GHRDs. To protect the data collected, I anonymised the interviewees’ identities. In addition, after submission, I will delete audio-recordings and anonymise observation notes and interview transcripts before storing them in a file with restricted access.

Another ethical concern was my multiple roles as an MSJC intern, a friend and a researcher. It was impossible to be a completely detached researcher after a 3 months internships. Moreover, I have developed friendships with some of the interviewees. One could argue that this has made me step out of my researcher role during interviews. However, I believe that the trust stemming from our friendships made interviewees more comfortable. I am inspired by my encounter with the anthropologist researcher Naomi van Stapele and her take on friendships and ethics in research. She has been living between Nairobi and the Netherlands since she was a child and has developed long-term friendships with her research participants. She explains preferring “non-formal atmospheres” that resemble her “day-to-day chitchat” with the participants because she believes it diminishes “suspicious, formal and
distant” answers, and fosters trust and intimacy, as well as empowers the interviewees to describe their stories as they prefer (Stapele, 2015, 18).

2.3 Research limitations

I had to restrict the scope of this study to an analysis of SJC's and INGOs’ work. This is not fully representative of the campaign against EJKs which is more complex and varied in terms of actors. Local grassroots activism is not reduced to SJC's, moreover many national institutions and NGOs work on EJKs.

I was not able to interview members of national NGOs as planned during my February fieldwork because they were overworked with the death of Carol Mwatha. Moreover, IPOA, the Independent Medical and Legal Unit (IMLU) and the Kenyan National Commission for Human Rights (KNCHR), all supposedly independent national institutions working on EJKs, refused my interviews as they required a national research permit which I applied for but never got. I have been told that this permit is extremely hard to get when working on sensitive issues such as EJKs. My attempts to get in touch with these institutions through emails, in person by going to their offices, and with the help of a journalist that knew members of those institutions personally were unsuccessful. For those reasons I decided to focus on SJC's and their partnerships with INGOs. Because of word restrictions this is probably for the best, but more research would be necessary to map out the movement against EJKs in its entirety.

Moreover, this study was carried out during a 10 months long period, within this short time there were constant changes in the actors and strategies studied. It is a mushrooming field; future study is thus necessary to analyse the evolution of the work of SJC's and other actors and the successes/failures of the campaign.

3 THEORETICAL FRAMEWORK

I aim to examine how SJC's emerged as a new model for activism in the campaign against EJKs in Nairobi’s informal settlements. To understand why there was a need for those centres, what their philosophy and strategies are, which tools they use, and why/how they work with INGOs, it is important to take a step back and recontextualise this in theory. This section covers academic discussions on human rights, social justice and human rights actors to set a frame of understanding for contextualised discussions.
3.1 Competing interpretations and uses of human rights

In a short time period, human rights have become the dominant approach to understanding and solving moral and political issues. Before the 1948 UDHR, this concept was rarely referred to. However, by the 1990s, international human rights law and NGOs had developed creating a new frame and agenda for activism and international justice. They are now the most globally pervasive rhetoric (Cmiel, 2004, 117-118). Human rights “have come to define the most elevated aspirations of both social movements and political entities […]. They evoke hope and provoke action” (Moyn, 2010, 1). Yet, they are neither unambiguous nor uncontroversial (Dembour, 2010, 2). Human rights can be interpreted and used differently.

There are competing interpretations of human rights. Dembour (2010) distinguishes four models of understanding human rights.

Natural scholars believe that human rights are transcendentally grounded and automatically given to people because of their human nature. This makes them universal. Positive law is considered a proof of the existence of these rights.

Deliberative academics view human rights as values that societies have agreed upon. Their existence is limited to their legal embodiment; hence, their universality is dependent on political will and their adoption as norms.

Alternatively, the protest school, mainly composed of activists, maintains that human rights must be fought for to challenge the status quo and redress inequalities that oppress the marginalised and unprivileged. Rights are thought as the perpetual making of new claims for human rights. Human rights law is criticised for its elitism, institutional high jacking, bureaucratisation as well as for its failure to efficiently protect rights.

Finally, discourse scholars perceive human rights as something merely talked about to articulate political claims. They are nihilist and consider that human rights law is not different from other kinds of law. This school criticises the imperialistic and individualistic nature of human rights.

As human rights actors can adopt different understandings of human rights, they can also have different uses for them. Human rights can represent a goal in itself or an instrument for a higher goal (Lettinga & Troost, 2015, 74). Miller (2010) differentiates the rights-based approach (RBA) from the rights-framed approach (RFA).
Since the mid-1990s, human rights actors have applied a RBA. They have used human rights law as a basis from which to draw priorities and develop policies (Miller, 2010, 916). The realisation of human rights is here the end-goal, but with the process and strategies to reach it anchored in the legal system. Participation and empowerment of the right holders are encouraged.

However, other actors merely use human rights as a frame. Snow and Benford (2000) define frames as schemes of interpretation selected to interpret various aspects of the world (611). Miller (2010) explains that in RFAs, human rights law is not used as a basis from which to draw goals. Human rights are only used at the operational level, to strategically repackage an organisation’s goals and advance them. Human rights are instrumentalised to benefit from their universality, legitimacy and the influence of legal standards (920-923). Snow and Benford (1992) highlight the importance of framing by social movements for collective action. Collective action frames either “underscore and embellish the seriousness and injustice of social condition or redefine as unjust and immoral what was previously seen as unfortunate but perhaps tolerable” (137). Because of its power, versatility and efficiency, they consider the human rights frame a “master” frame that provides a “ready-made” tool for social mobilisation (2000, 619). O’Brien (1996) roots the efficiency of the human rights frame in the clarity of the duties established under international human rights law and the identification of the duty bearers (31). Even though GHRDs often privilege non-institutionalised approaches, they sometimes strategically opt for more institutionalised human rights methodologies (Madlingozi, 2014, 13).

Miller (2010) concludes, however with the key point that if adopting a RBA to human rights, the people concerned may not truly identify with those rights. However, the RFA can be useful for grassroots and CBOs as it allows them to “identify and defend human rights of ‘just cause’” (924). Human rights can become a tool to advance a cause that activists have identified themselves, believe in and want to defend.

3.1.1 Adapting or rejecting human rights

Briefly, human rights have been heavily criticised, on various levels: foundation, form and results.

The very foundations of human rights are tainted with Western imperialism. Mutua (2008) claims that the UDHR –cornerstone of the international system of human rights- cannot
be a "common standard of achievement for all peoples" (1031) considering it was written when most of the global South was ruled by colonial European states. He enumerates the Western values that guide and restrict human rights: liberalism, individualism and a bias towards civil and political rights. The emphasis is put on individuals as rights holders and their individual claims to the state (1028-1030). Consequently, Kennedy (2012) explains that collective social justice issues such as poverty and health are not easily translated in rights claims (24).

Those imperialist roots have negative impacts in human rights practice. In the current human rights regime, there is a general “problem of speaking of others” (Alcoff, 1991). Kennedy (2012) describes the orientalist nature of representation with the global West claiming to speak for the global South in “self-serving sentimentalism” and how INGOs are painted as “heroic agents for an authentic suffering elsewhere” (2002, 121). Mutua (2002) understands INGOs’ will to save “victims” in the global South in continuum with the missionary actions of civilising the ‘Third World’, and criticises this “savage-victims saviours” construction (10-38). Finally, Madlingozi (2010) explains that this representation perpetuates the disempowerment and marginalisation of people experiencing human rights violations.

Kennedy (2002) condemns the narrowness of human rights and its focus on the legal formalisation of rights. He deplores the disregard of socio-political contexts when interpreting rights which either limits their efficiency or has negative effects (109-110). Moreover, this legalistic approach brings in technicalities, bureaucratisation and professionalisation of human rights issues which transforms them into elitist ones. This reduces the variety of actors able to contribute to human rights work as they do not have the necessary expertise (Arenas Catalan, 2015, 42).

Finally, Kennedy (2012) considers that we tend to idolatrise the human rights movement (22). Posner (2014) believes that “human rights law has failed to accomplish its objective” (7) as there is no evidence supporting that human rights have efficiently enhanced people’s well-being. To exemplify this, he describes the normalisation of EJKs in numerous democratic countries, signatories of most human rights treaties, with robust court systems. Kenya could have been one of the countries cited.
There are two principal ways for the human rights regime, however, to adapt to tackle those criticisms: to localise and to adopt a holistic approach to human rights, more sensitive to socio-political contexts.

Merry (2006) admits that human rights are rooted in a Western perspective, but she believes they can be useful concepts for groups to articulate their needs, gain legitimacy and attract funding. Therefore, she advocates for “vernacularisation” or the translation of global rights into local values. She argues that this makes human rights relevant and meaningful locally from a sociocultural point of view. Merry then examines the work of the “translators” who redefine local experiences into international human rights law violations. Those are often NGOs. She highlights the undertones of elitism of this transnational knowledgeable class of HRDs and the power that experts have on the people they represent (39-40).

To counter the narrow legalistic understanding of human rights and insure their implementation and efficiency, some scholars are pushing for a politicisation of human rights actors. Human rights NGOs, for example, are governed by neutrality and impartiality principles rooted in the idea that human rights issues are the domain of national executive powers. Moyn (2010) criticises this approach that restricts human rights to the legal domain. To implement human rights, some believe that they should be reconstructed into guidelines for political action; human rights would then no longer be reduced to neutral and technical solutions. For example, Casla (2015) advocates for accepting the political nature of rights which entails that “all public policy ought to be inspired by the ultimate goal of making human rights real” (38). He argues that violation and justiciability approaches do not address the structural roots of human rights violations, but that a shift from human rights actors to considering human rights as guidelines for political action would unleash their transformative potential (35-38). Casla also explains that a democratic political approach helps localise human rights because it implies considering the needs of local people as a basis for interpreting human rights norms and implementing them (39).

Casla’s critique of human rights implies that they are considered as the end-goal. However, if one takes Miller’s RFA (2010), the tackling of the structural roots of human rights violations can be the end-goal but are strategically framed as human rights goals (924). In this sense, with the RFA, human rights can become what Casla advocates for: tools for political action and eventually lead to transformational change. Activists can use the
legitimacy and power of universal human rights to motivate others to address structural issues and put pressure on governments to act.

3.1.2 Social justice and human rights: separate causes?

The previous section addressed human rights’ ambiguity: they can be interpreted and used differently. This ambiguity and a heavy reliance on the RBA partly explain human rights’ limited effectiveness in practice, especially when it comes to social transformation issues. Therefore, this section discusses social justice as an approach to discuss structural issues. Do human rights and social justice have to be separate?

I define social justice as: “the relative distribution of rights, opportunities and resources within a given society, and whether it deserves to be regarded as fair and just” (Cramme & Diamond, 2009, 3). I understand the “fair and just” component of social justice as the alleviation of societal oppression and structural violence (Hansen, 2009, 6). More concretely, social justice activists fight gross inequalities by standing up for the “poor, oppressed, discriminated and powerless”(Waweru, 2017).

Some authors reduce social justice to socio-economic rights, yet this implies taking a RBA. If departing from this approach, which I chose to do, social justice can imply socio-economic rights, but is not reduced to them as social justice is broader than human rights law.

Moyn (2010) rejects human rights as a tool to reduce inequalities because he believes that they are too individualistic to permit societal change and that human rights law is compatible with gross inequalities (213). Therefore, many reject human rights as an instrument to tackle socio-economic structural inequalities and prefer the social justice frame. I believe that a RFA to human rights and human rights actors can still be useful in reducing inequalities if they adopt a more social justice sensitive interpretation of human rights.

Scholars differ also therefore on what role professional human rights actors should take regarding social justice issues. Some believe that those actors can achieve social justice without taking on those causes directly. This is done through defending and supporting social justice activists. Others consider human rights and social justice indivisible because “human rights violations are the symptoms and not the cause of profound and enduring social inequalities and injustice” (Moon, Hynes, Lamb, Short, & Waites, 2012, 885). According to
them, all human rights actors, including professional ones, should full heartedly address socio-economic structural inequalities (Saiz, 2009). This entails proposing political system orientated solutions to governments to address the structural roots underlying human rights violations (Lettinga & Troost, 2015, 75-77).

Lettinga and van Troost (2015) explain that a social justice approach to human rights enables looking at the power imbalances, systemic government failings and structural roots of injustices, which is necessary to realise the rights of the marginalised and provide locally thought and system-oriented answers. Because social justice language is less technical than human rights law; it is more accessible and universal. Thus, they argue that it has better chances of appealing to people suffering the most from social injustices: the poor and marginalised. It could also facilitate NGOs partnerships with more varied activists community groups including the ones experiencing violations (71-74). Taking a RFA to human rights, Lettinga and van Troost examine how Amnesty - a typical professional human rights organisation- is using human rights to achieve social justice. For example, in Amnesty’s 2009 international “Demand Dignity” campaign, poverty and marginalisation were framed as human rights issues. Amnesty seems to detach itself from its initial legal understanding of human rights to a broader one i.e. justice and equality (72-75).

To summarise, while human rights have become the prevalent rhetoric, however, they are neither unambiguous nor uncontroversial. In their implementation, they often perpetuate the marginalisation of people experiencing human rights violations, especially because of the global West’s orientalist claim to represent the global South. Moreover, human rights are too often understood in a socio-political vacuum. Those criticisms partly explain the lack of efficiency of human rights to achieve social change locally. The question is whether human rights have the potential and capacity to adapt to do that. If taking Miller’s RFA, human rights can become an instrument for a higher goal. This higher goal could be social justice as it is better at addressing power imbalances and the socio-economic structural roots of human rights violations. Human rights can thus strategically be used to repackage social justice goals to benefit from human rights’ universality and influence. In that sense, human rights become a tool for political action to achieve social justice.

It is now important to examine the human rights actors that tackle human rights issues in practice. What approach to human rights do they adopt? What is their end-goal? An examination of their characteristics, methodologies and roles might help understand whether they are participating in causing or remedying human rights’ lack of efficiency.
3.2 Human rights actors

This literature review focuses on one global and one local human rights actor: INGOs and local grassroots organisations.

Moon (2012), for example, characterises NGOs through their expertise in international human rights law, their specific methodologies and procedures, and their impartiality and objectivity. The main methodology is the documenting and reporting of human rights violations necessary to monitor those violations. Reports become statistics and testimonies for advocacy and naming and shaming (876-878).

O’Flaherty and Ulrich (2010) examine how NGOs’ expertise in international human rights law has professionalised the human rights field. They rely on Lewis’ definition of the process: “an informal process begun by practitioners who perceive there to be exacting standards required of their activities which make it necessary to exclude amateurs” (Lewis, 2008). O’Flaherty and Ulrich argue that structured hierarchies, fixed regulations, standardised procedures and accountability guidelines are useful in the unpredictable field of human rights (6). Yet, various academics have highlighted the negative aspects of professionalisation.

The authors themselves explain that professionalisation excludes less formal HRDs that are more marginalised, with less legal expertise and more limited resources. The professionalisation of human rights has pushed a Western elitist educated class into positions of power and control. Simmons (2014) questions how this can resonate with the oppressed in the shadows (193) which are the best placed to gather information and set up locally relevant strategies (Ottaway & Carothers, 2000). Moreover, O’Flaherty and Ulrich (2010) argue that NGOs’ technical and bureaucratic methodologies depersonalise and trivialise human rights work. It becomes “simply a job like any other” and is no longer driven by “passionate personal commitments and some element of personal sacrifice” (8). Kennedy (2002) writes that this creates a professional/client relationship.

NGOs are guided by the impartiality principle to encourage “irrefutable, morally unambiguous, universal” claims (Moon et al., 2012, 879). But Englund (2006) argues that the use of diplomatic language and a cautious depoliticised approach diminishes states’ responsibility in violating human rights and lessens the importance of abuses. He links this de-politicisation of NGOs to their dependence on donors to fund them. Englund regrets that
NGOs have become more accountable towards the latter than the communities experiencing human rights violations. Allen (2013) refers to this phenomenon as the mercantilism of human rights; where grant applications and results dictate agendas.

Following those criticisms, scholars have noted an evolutionary trend in NGOs philosophies and methodologies. In addition to the switch to a more political and social justice sensitive interpretation, Lettinga and Van Troost (2015) describe the recent reorientation of NGOs towards more participatory strategies. This entails working more with non-professional GHRDs by focusing on empowerment strategies. They examine how this “move closer to the ground” brings NGOs closer to social justice sensitive perspectives (73-75).

In summary, human rights’ lack of effectiveness in achieving social change locally mainly stems from INGOs’ approach to human rights. Their narrow legalistic understanding of human rights and their professionalisation of the field has led to limited mobilisation for human rights violations, and a disconnect between INGOs and the people represented.

Often in contrast to INGOs, Risse and Sikking (1999) demonstrate the importance of organisations working “from below” in forcing states to implement international human rights at the national level.

GHRDs have a different incentive for mobilising than professional actors. De Feyter (2011) explains that since they “face abuse in their personal experience and in their immediate surroundings [they] feel prompted, even ‘obliged’, to engage in collective action for the defence of their rights” (1). Contrary to INGOs, GHRDs are not experts in human rights law but their local experience and knowledge is an extremely resourceful form of expertise (Wong, 2012). Moreover, grassroots human rights work empowers human rights violations survivors (Alvarez & Escobar, 1992).

Grassroots organisations are often less hierarchical and structured than INGOs. Ababneh (2016) argues that this flexibility permits inclusiveness and expansive participation from local populations. Contrary to full-time professionals in INGOs, most local actors work on a voluntary basis. However, Jones, Kimari and Ramakrishan (2017) explain that CBOs are often forced to register and adopt similar structures as NGOs to obtain recognition (4).

Herman’s work (1996) examines grassroots organisations’ methods. He shows that they are more confrontational and disruptive than NGO’s advocacy techniques. He mostly expands on the critical role of public protests. Press (2012) explains that GHRDs can use
those methods without fearing to disappear under government repression. In repressive contexts, the smaller scale and looser structure of those organisations make them more fit for survival than NGOs. Finally, Wong (2012) argues that because less formally organised actors suffer less from bureaucracy, they can (re)act quicker. This is particularly useful when needing to mobilise for advocacy.

Classic INGOs and grassroots groups seem to have different views and implementations of human rights, yet they often work together. Tsutsui and Shin (2008) have demonstrated that the probabilities of success of human rights campaigns increase when various global and local actors cooperate. Hadden (2015) explains that connections between actors enable the sharing of information and resources, and the adoption of a common collective action frame for more impact. Those connections can be separated into horizontal and vertical ones.

Benson and Rochon (2004) have written about horizontal ties in social movements: the link between activists. They demonstrate that when there is an important degree of “interpersonal trust” between those actors, there is a rise in mobilisation. Moreover, a united, organised and continuous local social movement allows for greater impact (Tsutsui & Shin, 2008, 393). Loveman (1998) also explains that mass mobilisation and embedded social networks between GHRDs better protects activists from state repression, especially when the ties between HRDs are personal.

Vertical ties, alternatively, are links between activists and the elites including INGOs (Hafner-Burton & Ron, 2009). O’Brien (1996) analyses how activists strategically and opportunistically engage with those ‘structures of domination’ (31). Loveman (1998) describes this tie as the “missing links between feelings of deprivation and injustice, the ‘interpretation’ of these feelings through social networks and processes of identity construction, and contentious collective action” (484). INGOs can provide funding, material support, expertise, information, protection, access to physical and symbolic spaces for local activists.

In sum, while horizontal links permit mobilisation and advocacy, vertical ones permit leverage to realise political change (Chenoweth et al., 2017, 28-31).

INGOs and grassroots organisations mostly have different approaches to human rights. The former generally adopt a RBA to human rights, when the latter often have a broader and more instrumentalist view of human rights. Grassroots organisations do not restrict themselves to
legal human rights methodologies; they also use more disruptive ones. I believe that the limited effectiveness of human rights mainly stems from the domination of this field by INGOs and their use of a RBA to human rights that does not always consider structural social justice issues. Moreover, the professionalisation of human rights by INGOs has led to a bureaucratic, elitist and donor driven approach to human rights. This results in a gap between human rights and people experimenting violations. Therefore, alternative actors to INGOs are required. Grassroots organisations could be the ones bridging that gap by working from below. However, they do not always have the necessary tools for change; they generally lack funding, legal expertise, and GHRDs’ security is often at risk. While making sure to take centre stage, grassroots organisations could strategically develop their vertical ties with INGOs as those can provide them what they are lacking. By cooperating and sharing resources, actors would multiply their chances of success. In this sense, actors with different approaches to human rights could work together and reinforce each other.

This research examines the work of SJC as grassroots human rights actors, how they rely on and interpret human rights, and how they work with INGOs in the context of EJKs in Nairobi’s informal settlements.

4 UNDERSTANDING EXTRAJUDICIAL KILLINGS IN NAIROBI’S INFORMAL SETTLEMENTS

4.1 The context: Nairobi’s informal settlements

More than 60% of Nairobi inhabitants live in informal settlements (UN HABITAT, 2005) which represent 5% of Nairobi’s physical space (Mitullah, 2003). This explains their high population density; for example Kibera is estimated to muster 950,000 people in 2.5km² (Umande Trust, COHRE, & Hakijamii, 2007). This thesis focuses on informal settlements with SJC:
Under the colonial era, a 1948 Master Plan segregated Nairobi based on race and class; while Europeans and Asians were allowed to live in residential neighbourhoods, Africans were banned from them. With migration from rural areas to the capital, many Kenyans looking for employment ended up trapped outside of the city centre. This triggered the creation of informal residential settlements outside of the city centre (Amnesty International, 2009; Mitullah, 2003). Those settlements were explicitly ignored by the government that considered them to be outside any legal frame, or illegal. This informality/illegality label excluded them from city planning and budgeting. As a result, those areas still severely lack basic infrastructure such as adequate housing, access to clean water and energy, drainage and solid waste management (Umande Trust et al., 2007).

From independence in 1963 to the 1980s the executive launched “slum clearance” policies by massively evicting. Since the early 1980s, governments are claiming wanting to improve living conditions in settlement. However, those initiatives are mostly dependent on donors (Amnesty International, 2009, 18).

This denial of basic infrastructure and rights that can be framed as a form of structural violence has led to personal violence. Today, gangs violently compete to dominate the provision of resources such as garbage collection, water points and insure security (Pala, 2018).
The spectacular reporting of gang violence, crimes and informal work such as sex work and alcohol brewing in the media has reduced and caricatured informal settlements to lawless zones with high criminality rates. Participants to this research shared experiences of stigmatisation resulting from this distorted narrative:

If you go to any social gathering […] and you say that you’re from Dandora, people look at you like you are a criminal. (Personal interview with Samuel, September 11, 2018)

They think: this is the most dangerous place in Nairobi. You’ll be beaten up, threatened with firearms by people that are on drugs and might kill you. (Personal interview with Victor, September 16, 2018)

When I went to high school, I couldn’t find enough courage to say that I was from Mathare. I always told people I was from Pangani. (Personal interview with Mustafa, August 27, 2018)

One of the main challenges of structural violence in Nairobi informal settlements is when residents are confronted by the high rates of EJKs.

4.2 The issue: the normalisation of extrajudicial killings

EJKs are a structural problem: they are systemic and state sanctioned (4.2.1). I argue that their frequency in informal settlements can be explained by the criminalisation of poverty (4.2.2), and that EJKs have become normalised in those settlements (4.2.3.).

4.2.1 Systemic and state sanctioned extrajudicial killings

The police is considered the most corrupt and least trusted Kenyan public institution (Hornsby, 2013). Kenyans perceive it as the greatest human rights violator (Amnesty International Kenya, 2018, 10). Informal settlements are particularly policed; for example, Mathare is encircled by police stations located in Muthaiga in the North, Huruma to the East, the Moi Airbase military camp in the South and Pangani to the West. This can be analysed as a “legacy of colonial institutional omnipresence” (W. Mwangi, 2018).

3 This name and the names of all other participants have been anonymised
All activists living in informal settlements that I have worked with or interviewed have lost someone to police killings: classmates, friends, cousins, sons, brothers, … One of the persons I interviewed knew personally twenty people killed by the police (Personal interview with Mary, September 26, 2018).

It is commonly accepted that EJKs were highest during Mwai Kibaki’s first term in the early 2000s, after a decrease they have been intensifying since Uhuru Kenyatta’s entry in office in 2013 (Jones et al., 2017, 560). Precise figures differ drastically from one organisation to another. In 2015, IMLU (2017, 4) counted 126 EJKs in the whole of Kenya while MSJC counted about 50 killings in Mathare only. From 2013 to 2015, MSJC documented 803 deaths in Nairobi’s informal settlements, that’s an average of 5 EJKs a week in Nairobi, including one per week in Mathare (MSJC, 2017a).

IMLU and Amnesty International have drastically lower numbers because they do not document on the ground: IMLU bases its numbers on post mortems, and Amnesty documents based on press coverage, yet not all informal settlements EJKs make it to the news. SJCIs document EJK cases using primary evidence and witness statements. Still, this is only “the tip of the iceberg” (Wambui, 2018), as those are cases verified through multiple sources. In addition, numerous factors deter the systematic reporting of police abuse including witness harassment by police.

Those numbers prove that EJKs are not isolated incidents. I argue that this is not the action of a few killer cops but is part of a larger systemic state sanctioned strategy of killing instead of arresting and investigating. The executive power has a long history of “shoot to kill orders” as answers to crime, terrorism or the use of firearms (BBC News Africa, 2005; Mukinda, 2013; Mwahanga, 2014). For example, in the mid-2000, police death squads were established to crackdown on the Mungiki, a Kikuyu organisation with religious and political activities that took over Nairobi informal settlements and controlled service provision. This resulted in about 8000 EJKs (Stapele, 2015). More recently, a “shoot to kill” order was issued to tackle Al Shabab terrorism. The UN OHCHR (2016) denounced those strategies as an “on-going pattern of extrajudicial killings”. I believe that those shoot to kill orders have had rippling effects; they have legitimised police use of lethal force and have engrained a culture of state sanctioned killing without accountability.

EJKs in Kenya have been an enduring concern; they are systemic and widespread. Documentation efforts show particularly high numbers of EJKs in Nairobi’s informal settlements. I argue that this can be explained by the criminalisation of poverty.
4.2.2 Criminalisation of poverty

I analyse EJKs in informal settlements as the result of a criminalisation of poverty. Both the executive and media frame those killings as methods to curb crime. It could be argued that this “war on crime” is actually a “war on the poor”. An MSJC member comments on 800 EJKs documented between 2013-2015:

We don’t say this, but these are the statistics of a war, not a figurative, metaphoric war of poverty against the poor, which exists, but a targeted actual social conflict, organised by the states to pick off and kill members of Kenya’s poorest […] in the name of fighting crime. (ROAPE, 2019)

As 81% of Kenyans trust the media (Amnesty International Kenya, 2018, 12), investigating media coverage is paramount in understanding public opinion on EJKs. Mainstream media reports tend to devictimise victims of EJKs by labelling them as “thugs”, “gangsters” or “suspects”, and referring to the areas they are from: informal settlements, generally perceived as poor, crime-stricken areas. The names, ages and activities of victims are rarely referred to. This marginalises and dehumanises victims; it also normalises and desensitises EJKs in the public’s eye. Moreover, this narrative provides a justification for their deaths; the police are portrayed as doing their job, curbing crime (Smiley & Fakunle, 2016, 351). More recently, there has been a slight positive change in news reports. However, even journalists that are attempting to be more critical of EJKs and adopt a more humanising narrative seem to suffer from this bias. For example, when reporting the case of 6 victims of EJKs in Dandora in October 2018, journalists differentiated between victims that were not crime suspects and the ones that were. Whilst the former were named, their families interviewed and some background on their lives was provided, the latter are reduced to “suspects” (Otieno & Akeyo, 2018). This demonstrates that police killings are considered acceptable if the victims are suspected criminals.

Most of the time, crimes legitimising EJKS are suspicions of petty theft or drug dealing with little evidence. Sometimes, they are more severe and involve gangs and gun violence. In any case, this should not preclude the police from respecting due process and laws. In many cases, victims were not “criminals” but young men between the age of 13 and 25 with no criminal record or people that were mistaken for someone else (MSJC, 2017a, 13-14, 36). For example, Carilton Maina, a Leeds university student was shot dead in Kibera
coming home from a football game. Alex Githuku -a scrap metal dealer- and a 16 years old deaf boy were both killed at the Dandora’s dumpsite (Cherono, 2017; M. Mwangi, 2018; Wakaya, 2018). All three were falsely described by the police as taking part in criminal activities when killed. Those cases are examples of killings that caused local outrage and got media coverage. Unfortunately, MSJC (2017a) documented many similar cases where young boys were killed during daily activities such as going home from school or walking to friend’s places (36).

To cover up the killings of innocent people, the police frequently say they have found drugs on the victims, or that they committed crimes such as theft or rape, or plant weapons on the bodies.

I witnessed the criminalisation of informal settlement residents on a daily basis. My artist friends with dreadlocks and camouflage or colourful clothes were profiled by the police and harassed because they were suspected of drug dealing. Not being able to instantly provide the receipts for a camera, phone or other technological equipment led to multiple arrests; the police presumed that those were stolen goods because they assume people from Dandora or Kayole cannot afford them. Similarly, being outside at night is a reason to be arrested even if there is no formal curfew, because the police consider that if you are out at night, you must be “up to no good”. A GHRD explained: “You are innocent until proven guilty, that one is for the rich. But in Mathare, it’s like you are guilty until proven innocent” (Justice Center Working Group, 2018).

Because of the criminalisation of settlements residents, EJJs spike in those areas, this has resulted in a normalisation of those killings, which makes it harder to combat them.

4.2.3 Normalisation of extrajudicial killings

In informal settlements, so many residents are affected by EJJs that mothers are questioning “why do we even give birth?” (MSJC, 2017a, 8). The frequency of those killings has made them part of residents’ everyday life. Das’ work (2007) on the normalisation of police violence sheds light on the process of “absorption of everyday violence” and explains how it leads to a “descent into the ordinary”, reflected in interview accounts:

When you hear someone has been killed, it doesn’t move you because two days before some other two people had also been killed. You’ve grown up
seeing people getting killed […]. You have a community of people who have that kind of reality, that’s what they know. That’s what their grandmothers knew, that’s what their mothers knew, and also that’s what they know. When someone gets shot, we just bury them, cry about it, and life moves on. And life has moved on for so long that, that has become normal.

(Personal interview with Victor, September 16, 2018)

Because of this absorption of everyday violence, what should intuitively be considered as illegal is often considered as the norm and hence remains unchallenged. Most killer cops are well known by the communities and there are numerous evidences of them illegally killing. For instance, in a video that became viral in March 2017, Rashid kills two boys in Eastleigh in public and in broad daylight. In a BBC documentary on him in 2018, still serving as a police officer, Rashid is not scared to say in front of the camera that his team needs to get suspects “whether alive or dead” or to threaten a student: “Do I look like someone who would hesitate from beating and killing?” (BBC News Africa, 2018). Another illustration of the normalisation of EJKs even though there is clear evidence is the Facebook Hesy groups previously evoked, where police officers post warnings and threats to “crime suspects”. Those who do not surrender are killed by the police officers who then post pictures of the bodies of the victims on the Facebook groups.

Those examples demonstrate the most negative impact of the normalisation of police violence: impunity. Before the existence of SJCks, because the affected communities have grown to consider EJKs as ordinary, there was no documentation of those killings:

[W]hen you are killed, no one cares. No one counts our dead. Our dead are not even registered. Like, we are just living and dying without anyone noticing. We don’t exist (Personal interview with Mustafa, August 27, 2018)

Without documentation, there can be no public outcry on this situation nationally. Because of the criminalisation of informal settlements dwellers, an average middle-class Kenyan might even defend this policy. Internationally, not much attention is given to Kenya, if not none. Thus, the persistent work of local HRDs on the front line is crucial in resisting the normalisation of those killings.
SJCs are now counting the dead and documenting and reporting them. Those CBOs emerged in a context where there was already a legal protection of the right to life as well as national institutions mandated to work on EJKs. Nevertheless, this section highlighted the rising numbers of EJKs in informal settlements and their normalisation. Therefore, those national actors do not seem efficient.

4.3 The framework: the right to life protection post 2010

Providing an in-depth analysis of the Kenyan protection regime of the right to life would be out of the scope of this thesis that focuses on SJCs and INGOs. However, it seems necessary to briefly describe the main legal protection of this right, as well as the national institutions protecting it to understand the context in which SJCs emerged and now evolve in.

Article 26 (1) of the Constitution holds that:

Every person has the right to life. [...] (3) A person shall not be deprived of life intentionally, except to the extent authorized by this Constitution or other written law

The Constitution also gave birth to two independent state institutions designed to play an important role in fighting EJKs.

IPOA was established to become a civilian oversight body of the work of the police. It is mandated to investigate deaths and serious injuries caused by police action, investigate police misconduct and monitor and investigate policing operations and deployment (IPOA, 2019). IPOA has been heavily criticised for its extremely low capacity. It is both understaffed and under-resourced because the budget is voted in parliament, which raises questions about its supposed independence. Moreover, police officers that have killed people are supposed to report this themselves to IPOA but are not punished if they do not do so. Without any incentive, most policemen do not do so. As a result, out of 9,000 cases lodged with IPOA, only 4 have led to convictions. (Rajab, 2018).

Another watchdog body institutionalised following the 2010 Constitution is KNCHR. Its core mandate is the investigation and redress of human rights violation by government officials, including police officers. Activists have criticised KNCHR’s professionalisation of human rights work and have highlighted the disconnect between KNHCR and people experiencing the examined abuses.
Hence, SJC activist Wangui Kimari questions:

In this era where we have a new constitution that guarantees the right to life […] and where there are loads of human rights NGOs […], how and why are the killings so rampant? (Social Justice Center Working Group, 2018)

The lack of efficiency of the constitution and of those national institutions in reducing EJKs partly justifies the emergence of SJC. The thesis now turns to an examination of other factors that prompted this new kind of mobilisation.

5 THE EMERGENCE OF A NEW MODEL: SOCIAL JUSTICE CENTRES

The rampant EJKs in informal settlements, and the ineffectiveness of classic professional human rights institutions provoked a new a kind of mobilisation at the grassroots level: SJC. This section examines how the perceived need for a new actor led to the development of SJC (5.1), the tools and strategies adopted by them (5.2) and the challenges that they face (5.3).

5.1 The need for social justice centres

With the raise of EJKs since 2013, informal settlements dwellers had grown frustrated over the work of professional organisations supposed to represent them and started to distrust them more and more (Jones et al., 2017, 8). There was a perceived need for a new kind of human rights mobilisation.

Even before the emergence of SJC, Nairobi informal settlements residents were already working on human rights issues. Some of them were part of the “Bunge la mwananchi” movement, a grassroots pro-poor social movement that addresses issues of social inequalities through participatory democracy. Members met up daily in the Jeevanjee Gardens park in Nairobi (Kimari & Rasmussen, 2010, 132). This is where activists and researchers that later formed SJC first met. The Bunge movement expanded by establishing chapters in various settlements (Gachichi, 2014, 29-30). In 2014, following the killing of four youths in Huruma, a first community dialogue was organised in Mathare by Bunge. This motivated Mathare HRDs to form a more permanent space for activism in Mathare as they felt

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4 The people’s parliament in Swahili
Slowly detaching themselves from Bunge, activists continued meeting every Saturday in *hotels* in Mathare. Little by little Mathare residents that had never done any human rights work joined those meetings. Many of them had lost someone to police killings. In February 2015, MSJC was officially registered as a CBO. They moved into their current office in January 2016 and launched their PAR report on EJKs in May 2017.

MSJC’s structure quickly became a model for organising human rights activism in settlements. Informal pre-existing human rights groups from various settlements around Nairobi started attending MSJC meetings to learn from their approach and strategies. In 2018, the SJC model was replicated in Dandora, Korogocho and Kayole. Today, there are eleven SJCs in Nairobi, together they form the Justice Working Group. The SJC model is based on three main features: their locations in informal settlements, their participatory community research methodologies, and the subject matters that they tackle: informal settlement specific issues which can vary form one settlement to another.

I interviewed current SJC members to understand what had led them to organise in the form of SJCs and what drove this new kind of activism.

The GHRDs evoked their frustration over the EJKs documentation gap. As discussed earlier (4.2.1), IMLU and Amnesty International’s numbers were nothing close to the reality experienced daily by settlements residents. At the time “organisations used to take sensational killings but did not care about young people dying everyday” (Personal interview with Jacqueline, February 19, 2019). This documentation gap can be explained by the fact that those organisations used to be almost absent from the ground where the killings where happening. For example, before the existence of SJCs, Amnesty International used to base their documentation of EJKs on media coverage, yet not all police killings in informal settlements make it to the news. Chege, a member of a SJC described that:

> The middle class was not linked up with the grassroots. […] Major human rights offices are in the rich areas while the majority of the human rights violations happen in the informal settlements. (Personal interview with Chege, February 16, 2019)  

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5 Small restaurants
For example, in order to report a case to the KNCHR, victims of police violence in Githurai had to go all the way to Westlands. Because most informal settlements residents cannot afford bus fare or a day off work, this geographic distance was a deterrent to reporting EJK cases. This pushed activists to come up with local answers.

Another factor that prompted GHRDs to mobilise was the professionalisation of human rights by existing human rights institutions such as KNCHR, and INGOs. Settlements GHRDs expressed feeling that those institutions’ approach dehumanised human rights work and that professional workers did not feel the emergency of the situation as they were rarely available when rapid reaction was needed. Victor explained this gap between GHRDs and professional HRDs:

> An allegation or even, a rumour that a police officer has shot someone, to us that’s an issue of concern. To them, it’s not. […] We follow every rumour and investigate because we understand their pain. Because you see for most of them it’s just a job, it’s something you went for school for, you are taught standards, and then you’re being employed. […] To us it’s our lives. If I don’t stand up for these guys’ lives, my life might just be next […]. It’s so important to us because we relate with the pain. We relate with the consequences of not dealing with that. (Personal interview with Victor, September 16, 2018)

This makes clear that, contrary to professional human rights organisations, community activists identify as victims which provides them with a strong incentive for action. All GHRDs I have been in touch with have lost someone to EJKs. They felt that they had no choice but to act themselves: “No one will do this work for us. […] Above all, we do this for ourselves and our community” (MSJC, 2017a, 10). This validates de Feyter’s findings (2011) that facing human rights violations personally prompts collective action for defending those rights. By using their own experience to fight this violence, settlements residents are also empowering themselves. This was one of the main ideas behind the development of SJCAs as community members felt the need to “reclaim their agency and become their own voice” (Personal interview with Chege, February 16, 2019).

In sum, faced with national institutions and INGOS’ inefficiency in documenting EJKs as well as their professionalisation of human rights work, settlements GHRDs felt the
need to reclaim their agency and organise locally to provide a grassroots answer to EJKs. To them, it was necessary to be present on the ground to make it easier for residents to report cases and to be able to react quickly. Moreover, they felt that they have a better knowledge of this environment. Finally, as GHRDs identify with victims, they are profoundly dedicated to human rights work.

In addition to the need for a grassroots approach, local activists pointed out the need for a broader basis for action. They were fed up with the narrow RBA adopted by INGOs and national watchdogs. Activists that later formed SJC s felt that the human rights language had been normalised and hijacked by lawyers. They professionalise human rights work, that’s why we needed to develop social justice centres. There’s no passion. People come here because they have a degree. […] They’ve lost touch with the people. […] As a grassroots movement, we must have a different radical framing to problematise our issues. […] We must talk about social justice issues that we face every day. We must be more than just human rights. Human rights are too limited. We must talk about what marginalises people in informal settlements: poverty, lack of water, healthcare, education, food. (Personal interview with Chege, February 16, 2019)

This distrust in professional organisations’ implementation of human rights pushed GHRDS to use a different basis for action: social justice. They intentionally called the centres Social Justice Centres to distinguish themselves from institutions like the Kenya National Commission on Human Rights. Grassroots activists preferred rooting themselves in social justice because they considered human rights too polite and individualistic (Personal interview with Jacqueline, February 19, 2019). They believe that a social justice perspective better addresses community issues and bigger structural issues than specific events of human rights violations. Indeed, the activists connect EJKs to other forms of violence experienced by residents. They understand police violence as grounded in structural injustices. Hence, they consider that those root causes must be addressed in priority, because police killings are only the consequences and could be addressed forever (Personal interviews with Chege, February 16, 2019; Kangare, February 20, 2019). For example, with unemployment peaking in informal settlements; and very little opportunities, youths are pushed to work in illicit economies or to commit petty crimes which exposes them to police brutality.
In brief, activists initiating SJC s felt that human rights had to be understood holistically and that one could not stop at the conclusion that EJ Ks are human rights violations but that this violation had to be connected to other violations. They wanted to look at the interconnections between those issues and felt that a social justice perspective allowed that better. MSJC (2017a) explains that the “register of young [EJK] victims is not separate from a larger fight for rights for all: land for the landless, food for the poor, houses, education, healthcare and [...] security of tenure” (9).

I do not understand this as a rejection of human rights as a tool for action (RFA), but I consider it as a rejection of human rights as an end goal (RBA). The SJC s’ end goal is social justice.

The lack of effectiveness of existing human rights actors that have professionalised the field and adopted a narrow view of human rights provoked a new kind of mobilisation: SJC s. Those centres aim to reconnect rights with people by applying a grassroots approach and replacing human rights issues in their socio-economic and political context. It is now necessary to investigate the symbols, strategies and tools used by those actors. If social justice is the end goal, what role do they attribute to human rights?

5.2 The symbols, tools and strategies used by social justice centres

The symbolism used by SJC s is rooted in the concept of struggle and revolutionary thinking. For example, the Justice Centre Working Group’s logo is a raised fist and SJC s members often wear red berets in reference to Thomas Sankara and Fidel Castro. Dandora’s SJC paid tribute to Sankara by painting his portrait on their office. Similarly, MSJC’s office is covered with quotes from radical activists such as Malcolm X and Che Guevara. Members call each other “comrades”, a vocabulary inherited from left wing underground movements from the 1980s (Ichim, 2017, 128). In their effort to decolonise human rights work, SJC s also often refer to the Mau Mau’s initial aspirations for Kenya. Each meeting ends with SJC members singing the “Wimbo Wa Mapambano” anthem of struggle with a hand on the heart, and a fist in the air.

6 The Mau Mau was a rebellion against British colonists in Kenya
This symbolism is linked to SJC’s understanding of human rights as a struggle. They are suspicious of human rights law: they believe that human rights exist on paper but must be fought for in practice to challenge structural inequalities. The idea that “the constitution is not for us” keeps coming up in community dialogues organised by SJC (Personal interview with Victor, September 16, 2018). Hence, SJC can be affiliated to the protest school of human rights. For example, a SJC activist explained:

On Friday we’ll be celebrating the UDHR. It was set there so that we don’t have to waste time explaining to people that human lives are important and equal everywhere in the world, and that you cannot just arbitrarily take someone’s life. […] Now, some issues you’ve stopped dealing with in Norway and in France […]. For you, it’s about deeper issues than very basic human necessities like to be alive, to drink water, to be treated fairly, that’s a normal thing. Here it’s not. We have to fight for all of those rights. Here you’re still trying to explain to a police officer and people that this person is an equal human being. You shouldn’t talk to them in such a manner. You shouldn’t behave to them in such a manner. They should feel human about you. They shouldn’t see you as a beast yeah? […] I feel that it’s quite unfortunate for me that this is where I have to start even with human rights. I wish I’d have to start at now everybody is equal.[…] When you’ve lost a neighbour, you’ve lost a brother, you’re even afraid for your own self, human rights in itself it becomes a void message. […] At the end of the day, our lives belong to us. It is upon us to stand up and say we care about our rights. (Personal interview with Victor, September 16, 2018)
Another factor that attaches SJC’s to this school is their criticism of the elitism and bureaucratisation of human rights. SJC’s consider that the conditions for effective protection of human rights have not been realised because the human rights system has failed to protect the right to life of the marginalised in Nairobi’s informal settlements. Moreover, the collective social justice issues that they experience daily are not dealt with by professional actors, hence, they believe that the struggle must continue and that they must push forward the SJC’s agenda to reach social justice (Personal interview with Jacqueline, February 19, 2019). SJC’s view of human rights is well represented by Kennedy’s comment (2012) on the tendency of the international human rights movement to act “as if it knows what justice means, always and for everyone. […] Justice is not like that it must be built by people each time, struggled for, imagined in new ways” (25).

Even though SJC’s are critical of human rights, they do not reject them. On the contrary, they often strategically use them. SJC’s draw their goals from social justice but sometimes articulate their needs through human rights. For example, since SJC’s partner up with INGOs, it is necessary to reframe issues in terms of human rights to speak the same language as those INGOs. The human rights vocabulary is also used when writing proposals for grants from foreign institutions. The SJC’s then evoke human rights “violations”, “monitors”, as well as “capacity building”, “mapping out” and refer to human rights standards (Personal interview with Jacqueline, February 19, 2019). SJC’s also use human rights standards when pursuing the legal route because human rights “is what the police will use, the judges will use and what you will be judged against” (Personal interview with Victor, September 16, 2018). Finally, activists use those standards for advocacy reasons to benefit from their legitimacy. The human rights frame redefines peoples’ daily experiences of EJKs, something “unfortunate but perhaps tolerable” (Benford & Snow, 1992, 137), in something unjust and illegal according to human rights standards. This de-normalises killings. For example, the report “Who is Next” mentions the constitutional right to life (MSJC, 2017a). Similarly, in demonstrations, protestors carry banners referring to this right. When framing issues as human rights ones, the centres prioritise referring to the Kenyan Constitution because international standards are far away from the residents’ realities; they do not identify as right holders (Personal interview with Samuel, February 14, 2019). During the 70th celebration of the UDHR, I realised that only a few SJC’s members know what the UDHR is. Therefore, SJC’s prefer to leave international standards out. However, people in informal
settlements all remember the 2010 Constitution and its promises. It is closer to home which makes it a more powerful tool for advocacy.

Hence, even though SJCs are critical of human rights, they often frame what they consider to be social justice issues as human rights ones. Human rights become a strategic tool for advocacy, developing partnerships and seeking legal redress.

SJCs do not limit themselves to criticising the professionalised elitist approach to human rights. Through their practices, they try to reconnect people with rights by pushing for expansive participation from local population. This is reflected both in the composition of SJCs and their participatory methodologies.

SJCs are managed and run by the communities they are set in. They are composed of people of different ages, genders, ethnicities, religions, and backgrounds. Some members are long term activists, others are students and artists; some are survivors of human rights abuses others are reformed criminals and ex-violent gang members. This shows a true commitment to integrate all residents and depicts a restorative/transformative understanding of justice where people are given a second chance. The overarching idea of those centres is for residents to take matters into their own hands. SJCs firmly believe that the people most impacted by human rights violations are the “experts” on the issue and the best situated to analyse them and create social change; therefore the centres use PAR. SJCs organise community dialogues to understand residents’ needs, identify the issues that should be addressed by the centres and think of solutions. For instance, the idea to document EJKs emanated during one of those dialogues. Those dialogues provide an open space where residents can express their concerns and share their experiences of police violence. Moreover, the Korogocho SJC uses community dialogues to mediate and build trust between reformed criminals and police officers. On top of empowering participants and de-normalising the abuses they are experiencing, dialogues are useful for raising awareness, advocacy and for the gathering of first-hand information.

Grounded in this participatory, grassroots thinking, SJCs use a mix of methods. On the first hand they use confrontational methods that defy the professional rules of human rights protection, on the other hand, SJCs use more institutionalised methods that they have learned from those professional human rights actors.

SJCs’ methodologies can be confrontational and disruptive.
For example, in February 2019, to request a post-mortem for their late colleague Carol Mwatha, SJC activists blocked the traffic by sitting on the road outside the City Mortuary and were teargassed by the police. SJC activists also often organise court appearances in police abuse cases to show solidarity.

The 7th July 2018 on the historical day of Saba Saba, SJCs organised the first “Saba Saba March for our Lives” to denounce EJKs in informal settlements. They chose to demonstrate on this day that has become a national day of protest for freedom. It originated on the 7th July 1990, when opponents to Moi’s regime illegally demonstrated at Kamukunji grounds to denounce the oppression of his regime, demand multiparty democracy and request free elections. Organisers were arrested and tortured (Ghai, 2018). July 2018 was the first time that the event was not organised by political parties but led by young poor grassroots activists from informal settlements. The Justice Centres Working Group had organised a press conference in Mathare in June in preparation for Saba Saba. This contrasted with traditional press conferences usually taking place outside of settlements and led by professional human rights institutions. On the 7th July, people from all settlements gathered and walked across Eastlands settlements where EJKs happen daily. The march ended up at the Kamukunji grounds. It was led by twenty mothers of victims of EJKs who shared their stories and experiences. Protestors also used powerful visual symbolism during the march. They had spattered fake blood on their clothes and bodies and were carrying coffins which is a common disruptive protest tactics used by Black Lives Matter and anti-AIDS social movements. Moreover, demonstrators performed “die-ins” by lying on the ground without moving, pretending to be dead (Schneider, 2017, 21). The march was highly successful. For two months following the protest, there was no killing in Nairobi’s informal settlements. This is exceptional considering that in average, one person is killed every week in Mathare only.

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7 Seven seven in Swahili, in reference to the date
The SJCs also organise demonstrations in informal settlements to protest individual killings such as the killing of Masai in Dandora in September 2018 or the killing of Evans Oduor and Bernard Otieno in Mathare in November 2018. Those marches organised by the SJCs have entrenched protesting as a medium for action. After a killing, informal settlements residents are now sometimes spontaneously marching without SJCs’ coordination. This is a proof of the slow de-normalisation of EJKs, and of residents’ will to become agents of change.

SJCs members also use social media strategically for rapid sharing of information and quick mobilisation. For example, when a person arrested by the police but not taken to the police station and disappeared, or when a suspected criminal is posted on the Hessy Facebook wanted list, activists tweet for solidarity and to put pressure on the police. In the tweets, the activists often directly tag IPOA, the National Police Service, the Directorate of Criminal Investigations and other national institutions and organs. Moreover, the SJCs ask people to massively call police stations to inquire about someone’s situation and show the police that they are being watched. This solidarity has led to the quick release of numerous activists and arbitrarily arrested people (MSJC, 2017c). In February 2019, Kevin Gitau was arrested by a killer cop and driven all night long in a probox car but was released after a Twitter campaign. Sadly, he was killed by the same officer on April 16th. In the longer term, social media
coverage spotlights human rights violations which is a necessary to curbing them (Roth, 2015). Professional human rights institutions are more cautious with their use of social media. They are more worried of losing credibility by posting too quickly some non-verified information. As GHRDs identify more with the victims, they consider that not acting is too much of a risk, and they do not have the luxury to take it.

In addition to those confrontational, disruptive methodologies, SJC’s have picked up some institutionalised strategies from INGOs. The predominant ones being documenting and reporting.

The idea to document killings emerged during the 2014 community dialogue organised in Mathare by Bunge la mwananchi. Participants agreed that it was necessary for Mathare residents to document themselves the killings to prove the widespread and systemic existence of EJKs in informal settlements. As an activist cleverly put it, by counting EJKs, they were hoping to make them count (Personal interview with Alex, August 23, 2018). SJC’s have decided to document EJKs in a more humanising way than INGOs whom they learned it form. SJC’s activists want those killings to be visible and acknowledged for people to understand that they are widespread, but they also want them to become something more than statistics (Personal interview with Mary, September 26, 2018). For example, the report “Who is Next?” includes names and photos of the victims. SJC’s have also made signs with the names, ages, photos of the victims and the circumstances of their deaths that they display at events attended by politicians, journalists, INGOs and national institutions members. For example, MSJC exposed them during Amnesty International Secretary General Kumi Naidoo’s solidarity visit. This is a way to rehumanise victims and bring a counter-narrative to the police, media and executive’s criminalising one.

![Images of signs with names, ages, and photos of victims](image1.png)

Even though, documenting and reporting have become a mainstay of SJC’s work, they do not completely master those tools picked up from professional institutions. For example, the day before the launch of MSJC’s “Who Is Next” report (2017a), a researcher that was helping them in the process noticed that though the report compiled an assortment of cases it had not
analysed them. The researcher advised them to draw general patterns which were included in the final versions. This section is one of the most powerful ones of the report as it highlights that the people being killed are poor, 13 to 20 years old young men that were shot at close range or in the back while conducting regular everyday activities (13-14). In other words, it proves the criminalisation of poverty. Since that 2017 report, MSJC has meticulously documented cases of EJKs. However, even though their database is up to date, they have not analysed those cases to see if EJKs have increased or reduced since the publication of the report almost two years ago. Other SJC s have not done that either. Contrarily to INGOs, SJC s are not pushed by donors that require constant assessments and results. On the one hand, this makes it hard to evaluate the impact of SJC s, but on the other hand it insures that SJC s’ goals remain the process and not its measurement.

In addition to protests, mass mobilisation, documenting and reporting, SJC s also use soft power methods to do human rights work in a less direct, often more accessible way. At each community dialogue or awareness raising event, social justice issues are covered through music, theatre, dance and story-telling performances by local artists. This is a way to raise awareness about EJKs and develop positive narratives countering the criminalisation of poverty in a more accessible way than the technical language of rights. Moreover, because SJC s consider that physical environment directly influences the normalisation of human rights violations, different groups are working on making informal settlements cleaner, greener, safer, and are transforming public spaces. Beautification of the environment helps to deconstruct the oppressive narrative that those who live in informal settlements are not worthy of rights. This initiative has proven successful. For example, MGM, a branch of MSJC has transformed a youth base in Mathare. Since the cleaning, repainting of the walls and the planting of trees, the members of the youth group have been harassed less by the police (Personal communication with Pirates Youth Base members, February 16, 2019). SJC s from Korogocho and Dandora are also working on transforming public spaces.

Furthermore, SJC s plant trees to dignify and honour the memory of informal settlements residents killed by the police. This helps reduce the mundanity of killings. Those memorial trees symbolise regeneration and resistance. They are planted with community members and the families of the victims.
Finally, since killer cops often target, even though not exclusively, criminals and gang members, the SJC are working on creating income generating activities and accompanying reformed criminals. For example, the Korogocho centre developed various initiatives to provide employment for reformed criminals: a car wash, a pig farm, as well as paper recycling, bead work and garbage collection programmes. This is an illustration of the centres’ social justice sensitive understanding of human rights work, and their will to tackle the socio-economic and political structural roots of EJKs.

To summarise, SJC believe that human rights are a struggle and must be fought for. Because they are critical of the elitism and professionalisation of the human rights field, they prefer to base their actions on social justice objectives. This does not indicate that they reject human rights per se, but only means that they reject the RBA to human rights used by most professional actors. In order to develop partnerships with INGOs and seek legal redress SJC often strategically repackage their goals as human rights ones. The centres use a mix of institutionalised, soft power and confrontational methods to further those goals.

After having examined the development of SJC and their methodologies, the thesis now turns to a study of the challenges faced by the centres in their human rights work.

5.3 The challenges faced by social justice centres

SJCs criticise INGOs’ lack of efficiency. However, the centres’ efficiency is also hampered by two types of challenges: internal challenges linked to the specific nature of their organisations, and external challenges emanating from the environment they work in.

An important internal challenge is the lack of resources of the SJC. For example, the centres are lacking funds to transport victims to hospitals and help them with recuperation costs (Jones et al., 2017, 11), or to finance computers, phone credit and transport fare for
Apart from membership fees, the CBOs are mainly dependent on the reception of grants from international institutions. The SJC s do not receive a lot of grants. This is partly due to the fact that they want to remain independent and do not want to be dictated by funding circles (Personal interview with Jacqueline, February 19, 2019), but is also explained by the members’ lack of skills in writing grant proposals. The members that do have those skills are overworked with those applications.

Moreover, all SJC s members work voluntarily. SJC s activists are mostly poor settlements residents that must hustle for an earning and are sometimes not even able to provide for their most basic needs. They take up informal jobs such as selling second hand-clothes, garbage collection, construction work or selling vegetables. During interviews, various members expressed their will to be paid for their human rights work within the SJC s. Yet, many also stated that they did not want this work to become money-driven. Without money involved, the intentions of the activists are clear: they want to create social change. The SJC s’ variety and inclusivity in members is both a strength and a challenge. Indeed, the organisations regularly deal with cases of misuses of funds or theft of material. For example, three members of one SJC were dismissed of the secretariat for similar issues.

This brings me to briefly discuss another weakness of the SJC s: their poor accountability mechanisms. To become member of a SJC, each person must sign a code of conduct but there is no established procedure of what happens if this code is not followed. This leads to non-transparent practices and a double standard in terms of punitive measures. For the same action, one member can be suspended or banned of the SJC whereas another will be allowed to remain in the organisation often if they are more useful to the centre, for example if they are more connected or knowledgeable. This harms the legitimacy of SJC s as I believe that any human rights organisation should make sure that they are irreproachable and should apply the ethics they believe in within the organisation before holding others accountable to them.

SJC s also face external challenges. The Kenyan middle-class’ disinterest and/or condoning of EJKs was already evoked, but I have not touched upon people within informal settlements that share this opinion. Many community members accuse SJC s of sympathising with criminals. Some of those EJKs supporters are victims of crime and gang violence. The BBC documentary on Mathare killer cop Rashid exposes some of their arguments. A doctor maintains that “desperate times call for desperate measures”. In that spirit, local community leaders lobbied a local police chief to make Rashid the new leader of a police unit to kill suspected criminals. During a meeting with the police, a representant of the Eastleigh business
district expresses his gratitude for the: “quick response that Ahmed Rashid and his colleagues have done”. The journalist then interviews a crowd of residents about the police unit’s job. One claims: “They brought security. We support them 100%”, another states that “this man is hunting and killing thieves and not taking bribes. This man is an honest guy for Eastleigh” (BBC News Africa, 2018).

Communities are highly divided on those issues: crime victims mostly support EJKs, whereas EJK victims will mostly oppose them. However, it is often more complicated than that. For example, I interviewed an informal settlement resident who had lost two close friends to EJKs. He had himself almost gotten killed by the police on his way home, a couple of weeks before the interview for being outside at night. Nevertheless, he is still part of a local security organisation that reports thefts to the police that then resort to EJKs. He explained:

We can’t accept anyone to rob around here. We have to report to the police.
So we decide to let the police deal with this guy who is doing crime […]
Sometimes you know, I feel that the community, they need someone like [Rashid]. Sometimes, they themselves they say, without him, the situation would have been even worse. […] That’s how it goes here because, sometimes it’s too much… (Personal interview with Charles, September 5, 2018).

This case illustrates the normalisation of killings and that killing as a strategy to curb crime has become deeply engrained in people’s minds and legitimised. Those are concepts that SJC’s activists have to fight against daily.

The paramount external barrier to SJC’s working efficiently is the HRDs’ security. The police are making their work extremely difficult and dangerous. MSJC’s website was hacked and in March 2017, a witness of EJK was killed by the police after having talked to MSJC about the killing of Christofer Maina (Personal interview with Mustafa, August 27, 2018). Because of witness intimidation, not many people are willing to come forward to witness as they fear exposing themselves to becoming victims. SJC’s members are also harassed by the police. For example, a member of MSJC was arrested twice in a week, the second time in front of his house, confirming that the police had been surveying him (MSJC, 2017b). Other activists have had to go into hiding after receiving threats in person or on the Hessy Facebook page for “sympathising with criminals” (Osen, 2019). At least five SJC’s activists received direct threats. In most SJC’s only a couple of field coordinators document EJK’s cases,
therefore it is extremely easy for the police to identify and target them. GHRDs take those threats very seriously as the police has killed HRDs in the past: Oscar Kamau Kingara and John Paulo Ouslo, members of the Oscar Foundation that documented the crackdown on Mungikis in 2009, and Willie Kimani, an IJM lawyer who was defending a client in a police harassment case in 2016. More recently, many believe that Carol Mwatha, the late activist and founding member of the Dandora Community Justice Centre was also killed by the police. The weeks following her disappearing in February 2019, SJC members had to stay at friends’ houses and change places every day to insure their security. One of them told me:

Since Caro’s death we have been thinking of our own safety, protection and security. […] The feeling of uncertainty, being worried, anxious... There is so much. I have been just wondering who could be next yet as justice centres don’t have mechanisms of how to protect our own (Personal communication with Mary, March 31, 2019)

Witnessing police abuses and killings, interviewing traumatised survivors and receiving threats from the police, can be traumatic for GHRDs. Mental health is another issue that often came up when discussing challenges experienced by different SJC members.

In summation, in reaction to the lack of efficiency of the existing human rights system in tackling EJKs, SJC emerged in urban settlements where the violations were taking place. The CBOs have adopted a people-driven, social justice sensitive approach to human rights that they implement through a mix of confrontational and institutional methods. By using those methods at the grassroot and sometimes strategically using a human rights-frame, SJC force human rights to adapt. Working on the frontline implies a lot of challenges for those actors including a lack of resources and important security risks. Therefore, SJC decided to partner with INGOs to help them tackle those issues. The next section examines this partnership and investigates whether it permits a more efficient use of human rights in the context of EJKs in Nairobi’s informal settlements.

6 SOCIAL JUSTICE CENTRES AND INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS

This thesis has highlighted that, in the context of EJKs in Nairobi informal settlements, human rights’ lack of efficiency mainly stems from the approach adopted by
professional human rights organisation. INGOs are not present on the ground where the killings are happening, therefore their documentation is not complete. Moreover, GHRDs felt that their professionalisation and bureaucratisation of human rights as well as their elitist approach trivialise human rights work and dehumanise the communities affected. Before the developments of SJC, the rights of those communities were protected by educated, higher class people from privileged areas. Informal settlements residents did not feel represented by those actors:

They only recognise the people ‘up there’, whereas we feel we are not being supported as we are ‘down here’ […] And the NGOs act as cartels for their own self-interests; [they] work with bigger people and do not address our issues. (Jones et al., 2017, 10)

This provoked mobilisation and the emergence of SJC as new human rights actors with a grassroots approach. In 2017, the publication of MSJC’s report on EJKs was a “wake-up call for existing civil society organisations that understood that there was a need to step up their game in terms of documenting and reporting and reconnecting with the grassroots” (Personal interview with INGO representative, February 18, 2019).

Since their emergence in 2015, and more prominently since 2017, SJC have nevertheless been engaging with INGOs for support. Because they want to bridge the gap between human rights actors and affected communities, SJC is pushing for a redistribution of the roles within the Nairobi human rights apparatus. SJCs want to be, and are becoming, central actors in the fight against EJKs. They are the ones working with the affected communities. The SJC want INGOs’ function to become one of strengthening and empowering grassroots organisations by giving them the necessary tools to do their work. This new role for INGOs goes in line with what scholars have analysed as INGOs’ general “move closer to the ground” trend and change to more participatory methodologies (Lettinga & Troost, 2015, 73-75). This section examines to what extent this reorientation is implemented in practice, and the extent to which professional and grassroots actors work together and how it affects human rights work.

SJC activists perceive INGOs as a “collective of resources, knowledge and networks” that can offer them protection (Personal interview with Samuel, February 14, 2019).

INGOs are supporting SJC materially and financially. For example, the centres accepted economic support from Amnesty for the organisation of Saba Saba and stipends for human
rights monitors from IJM. However, because SJC's want to remain independent in their agenda, they do not want to become monetary dependent on INGOs and are cautious of what money they accept. Because the CBOs are lacking resources, this implies difficult choices (Personal interview with Jacqueline, February 19, 2019). Within the SJC's, opinions vary on what is the right balance between accepting INGOs resources and remaining independent. This often leads to heated debates between activists. More and more SJC's members accuse the centres of NGOisation and call for them to “emancipate [themselves] from the threat of NGOs taking over the movement” (Whatsapp group message by Peter, April 15, 2019).

INGOs’ material support to SJC's is less of a contested subject. INGOs have provided computers, furniture and books to the SJC's. The INGOs also let GHRDs meet in their offices for special occasions such as annual strategic planning meetings. IJM has also provided a permanent office space for Dandora’s SJC in the settlement.

Even if on the organisational level the SJC's are prudent not to accept too much money from INGOs, on the individual level that is certainly not the case. Money is often a source of conflicts between professional actors and local ones. INGOs workers are often perceived by GHRDs as “muzungus with money” (INGO representative, February 19, 2019). This conception is reinforced by the trainings that they organise and host in luxurious locations with flowery gardens and swimming pools, where unlimited buffets are provided, and hot water bottles are laid between the participants’ sheets before bed. This significantly contrasts with GHRDs’ standards of living in informal settlements. Therefore, at each event at least one GHRD hustles an INGO worker for money.

So, INGOs’ resources have been crucial in making SJC's work more practical and efficient, however it is a constant source of conflicts within the SJC's.

Professional organisations are an important source of expertise for SJC's. This knowledge is shared with local activists in the form of trainings and legal assistance. SJC's are mostly composed of informal settlements residents that, in contrast to professional actors, do not have the legal expertise to bring cases to court; therefore, they rely on INGOs. IJM is the main INGO providing legal assistance to SJC's. It has attached a lawyer to the SJC's who they can contact for legal advice. Moreover, IJM has sued a class action for 22 mothers and widows of victims of EJKs. This may eventually get more rapid answers for the victims but also sheds light on the systemic nature of EJKs in informal settlements. In addition, IJM requested a judicial commission of inquiry on EJKs to investigate all other EJK cases nationally.
To strengthen GHRDs’ capacities, INGOs organise trainings on human rights methodologies such as documenting and reporting human rights violations, power mapping and security management workshops. This has ameliorated SJC’s work by making it more methodological, reliable and efficient, which in the long run will ameliorate the chances of prosecution and sanctioning of EJKs. Moreover, SJC appreciate the sustainable aspect of those initiatives. However, because of a lack of coordination between INGOs, similar trainings are organised by different organisations. The same GHRDs are being trained over and over on the same subjects (Personal interview with Kangare, February 20, 2019). I myself attended two of those trainings. During those trainings, while half of the room was focused, the other was not at all, half falling asleep. One participant even had earphones on, listening to her music. Ichim (2017) describes a similar experience with participants fidgeting on their phones and walking in and out of the room. She explains that this is partly due to the “high level of conceptual and linguistic difficulty of the material being taught” (153-154). During the trainings I attended, the INGOs referred to human rights jargon, international treaties and national laws and handed out constitutions and national law extracts. Ichim also explains this low level of attention during training by the fact that gaining knowledge is not what motivates participants to attend (154). A few participants admitted to me that they came for the food, to sleep in comfortable hotels, mingle with friends and to take selfies during the breaks in luxurious environments. Trainings would be more efficient if INGOs coordinated more and asked SJC what they need to be trained on. For feedback, INGOs limit themselves to an anonymous questionnaire or going around the table at the end of each training. I noticed that participants felt prompted to be overly positive most likely because they did not want to seem ungrateful after having been provided with nice treatment. The feedback often contrasted with the discussions that I had with participants during breaks. Hence, even though the rationale behind trainings by INGOs is laudable, because they are thought top-down, their implementation only allows for a limited amelioration of GHRDs’ human rights work.

For GHRDs, accessing INGOs’ networks is resourceful in two ways: advocacy and protection.
Nationally, INGOs can reach people living outside of settlements who do not experience EJKs in their daily lives, but only through media reports. Their views on EJKs are biased by the criminalising narrative fed by mainstream media. The middle and upper classes do not listen to GHRDs that they consider to be supporting criminals. However, they listen to INGOs that they perceive as more legitimate. Therefore, in order to sensitishe on EJKs, Amnesty
International is organising awareness raising events and debates in privileged areas such as Kilimani. Moreover, INGOs are SJC’s link to an international platform. For example, PBI organises yearly speaking tours in Europe for SJC’s activists working on EJKs. This gives SJC’s visibility but is also an opportunity for them to expand their network. During those tours, GHRDs meet with political organisations, embassies, INGOs and UN bodies. PBI also facilitates field visits. In 2016, the INGO invited the UN OHCHR to a field visit in Mathare. Since then, SJC’s and the OHCHR have developed an enduring relationship and are not relying on PBI as an intermediary anymore.

Those networks “offer international security but also to a certain extent protection [to SJC’s activists]. They are not nobodies. It’s difficult to hurt someone when you know as a potential perpetrator that they really have good powerful contacts with others.” (Personal interview with INGO representative, September 20, 2018). To show their support to the centres, INGO representatives have been coming for the launches of each SJC, standing by their sides. Their presence brings both visibility to the centres and a sense of protection.

PBI is the only INGO to provide more advanced and concrete protective methods. PBI members act as international observers by physically accompanying local activists when necessary, for example when reporting cases to the police. Moreover, PBI workers regularly show up to SJC’s weekly meetings and events. PBI calls this ‘protective presence’ but I believe it is also a way of empowering grassroots efforts, showing solidarity and offering moral support.

In summary, SJC/INGOs partnership is beneficial in terms of advocacy; people not directly concerned by EJKs can be reached and sensitised. However, in terms of protection, apart from PBI, the INGOs’ protection is mostly symbolic. This is problematic considering how dangerous it is for SJC’s to do this work.

In contrast to PBI, other INGOs’ dedication to empower the grassroots to become agents of change is perceived to be superficial. A SJC activist, explained the SJC’s vision and how INGOs were reluctant to pursue that assigned role:

The role of NGOs is not to work here in Dandora but to come and support people who are working here, but they want to do both. We want them to be facilitators. Because only us can understand where the problem is. (Personal interview with Kangare, February 20, 2019)
INGOs seem to have a hard time accepting not being the ones deciding, coordinating, and being centre stage. In many events organised by SJC s that I attended, INGOs talked more than GHRDs, stealing the spotlight. Local activists refer to this phenomenon as an ‘NGO hijack’ (Personal interview with Chege, February 16, 2019). GHRDs are trying to resist this. For example, on Saba Saba, SJC s organised their own press conference and were the sole organisers of the march. Again, this is a tough balance to reach for SJC s between visibility and ownership.

I believe that even though NGOs’ are claiming to want to work more with the grassroots, in practice and more specifically in the cases of working on EJKs, this reorientation is only implemented at the margin. For example, when interviewing representatives of an INGO about whether they applied participatory and inclusive processes, they held that participation was insured through having a GHRD on their board committee (Personal Interview with INGO 1 representative, February 18, 2019). Even though this is a good thing, this is not enough in itself, and it is still a top-down approach that does not permit meaningful extensive participation from the affected communities. It appears that SJC s activists are not being asked what their needs are, leaving them with the impression that INGOs are using the same blueprints from country to country. An activist told me:

> NGOs are trying to impose a programme on us without first asking us: ‘Do you think this is the right thing to do?’, or ‘What do you think should be done?’, or ‘How should it be done?’ […] For them it’s more boardroom meetings without going to the ground. […] It’s just another campaign on extra-judicial killings like the ones you see online from other countries. But the ways they are doing the campaigns in Iraq might not be the best way to do it in Kenya.[…] They should work with us and have their programmes really come down to people. (Personal interview with Samuel, September 11, 2018)

SJC s members feel that INGOs believe that they know what is best for local activists. A worker from a partner INGO confessed that he personally catches himself taking that “paternalistic position” and that it is difficult for him not to act as a “teacher” when faced with non-professional actors from informal settlements that are often very young (Personal interview with INGO representative, February 19, 2019).
This section has explained how SJC benefits from their partnerships with INGOs, but vice versa those actors also benefit from working with CBOs. SJC are good mass mobilisers for events that INGO organise. Most importantly, GHRDs can document human rights abuses on the ground and pass on the information to INGOs. The literature review touched on Merry’s argument that INGOs exert a power on the people they represent. The findings of my research validated her theory. SJC fear becoming ‘guns for hire’ for NGOs and be used as ‘ammunitions’ to push for those organisations’ agendas because INGOs have the resources to co-opt and influence SJC (Oktoh, 2012). SJC are extremely aware of this power imbalance in favour of INGOs. GHRDs are critical of what they perceive to be INGO’s real motivations for working with the grassroots. They described:

We become their appendage. They take our reports and say they work with us to get more funding. (Personal interview with Chege, February 16, 2019)

[NGOs] are fundraising using our gospel, travelling all over different continents singing praise and worship of social justice movement but what do they bring back to the real organs… Nothing but selective justice. (Whatsapp group message by Gathua, April 16, 2019)

You never know if INGOs are doing something for the communities or because some donors somewhere tells them to. (Personal interview with Samuel, February 14, 2019)

Organisations do their work with the grassroots to tick their boxes. (Personal interview with Kangare, February 20, 2019)

In sum, similarly to Englund, SJC believe that INGOs are more accountable towards funders than the affected communities.

An INGO worker explained: “being a membership organisation we work better when we have numbers. We depend on the grassroots heavily in terms of our work” (Personal interview with INGO I representative, February 18, 2019). In the same context as the one explored in this thesis, Jones and others (2017, 12-13) have referred to NGOs’ reliance on the grassroots to produce data as ‘data mining’. The professional organisations need evidence-based results of their engagements with GHRDs to report to donors and insure funding. Documenting is more efficient when done by GHRDs because as they are part of those communities, witnesses trust them more than outsiders. INGOs require a high threshold of
evidence; some require a minimum of three witnesses. This standard is not often achievable considering the realities of the ground: documenting police killings exposes both witnesses and HRDs to high security risks. SJC s feel pressured to produce ‘water-tight’ cases for INGOs without the insurance of being protected by those organisations:

NGOs are pushing us to document and get data, but then they don’t protect us or provide us safety. They are supposed to be our partners but when we ask them to accompany us to the police with a victim they don’t. (Personal interview with Samuel, February 14, 2019)

Following the death of SJC activist Carol Mwatha that many believe to be an EJK, SJC s have decided to bring this topic to the table with INGOs.

To summarise, SJC s emerged because of the lack of efficiency of professional human rights actors including INGOs. Nevertheless, they later partnered with those INGOs. On the one hand, the sharing of resources, information and solidarity between INGOs and SJC s increases the probabilities of success of the campaign against EJKs. On the other hand, the differences in ideologies, strategies and tools between actors can hinder progress and are causing recurring identity crises for SJC s. A growing number of GHRDs accuse this partnership of causing an NGOisation of SJC s which precisely built up in opposition to this approach to human rights.

CONCLUSION

In Nairobi’s informal settlements, EJKs have become normalised to the extent that well-known killer-cops can kill in public and broad daylight and post pictures of the bodies on Facebook with all impunity. This thesis analysed these systemic state sanctioned killings of young settlements residents as a result of the criminalisation of poverty. The fieldwork research established that the communities affected by EJKs were critical of the lack of efficiency of existing national human rights institutions and INGOs in de-normalising and reducing EJKs and their lack of sense of urgency. It transpired that because INGOs were not on the ground, their documentation of EJKs was not accurate. Moreover, their bureaucratic and legalistic and approach to human rights did not connect with people experimenting police abuse. Does the limited effectiveness of professional human rights actors entail that human rights themselves are inefficient?
Because of INGOs’ limited effectiveness, there was a perceived need for a more grassroots and non-RBA to human rights that understood EJKs in a socio-political context and addressed their structural roots. This explains the rise of alternative human rights actors working on EJKs. The thesis investigated the emergence and development of SJCs in 11 different informal settlements in Nairobi. The centres are characterised by their location in informal settlements, their participatory approach and their understanding of human rights as a struggle. Because of what they consider a ‘hijack’ of human rights by INGOs, they prefer identifying as social justice activists. I analysed this as a rejection of a RBA to human rights but not a rejection of human rights themselves. Indeed, SJCs use human rights as a strategic tool for advocacy, developing partnerships and seeking legal redress. In other words, they use a RFA.

The findings suggest that the emergence of SJCs has challenged the existing human rights system. To make it more efficient in addressing EJKs, SJCs redistributed the roles between human rights actors, themselves taking centre stage. This allows the affected communities to reclaim agency and reconnect with their rights. It is evident that SJCs’ presence on the ground has become essential: SJCs’ grassroots approach generates more support from the communities, quicker responses, more accurate figures and the gathering of more information. Moreover, because they do not shy away from using disruptive and confrontational methods, SJCs have a bigger set of tools than INGOs. For example, they organise demonstrations, symbolic operations, sit-down protests, Twitter campaigns and court solidarity actions. Those methodologies have often proven to be successful in stopping and reducing EJKs. SJCs are thus forcing human rights to adapt and reconnect at the grassroots with the people affected by violations. However, they suffer from a lack of resources, connections and are exposed to serious security threats. This negatively impacts their human rights work.

Because of those challenges, SJCs are partnering with INGOs for support and to benefit from their resources, knowledge and networks. For example, the CBOs have learned documenting and reporting methodologies from INGOs and brought them down to the grassroots level. According to SJCs’ restructuration, the PBI/SJC cooperation is an example of a well-working partnership where an NGO accompanies GHRDs and provides them with the tools to achieve their aspirations without interfering with their agenda. However, more generally it is evident that those INGO/SJC partnerships are not as efficient as hoped for. GHRDs have criticised INGOs for not working enough together. This lack of coordination causes an important waste
of fund and hinders efficiency. Moreover, the findings suggest that INGOs remain ‘structures of domination’ (O’Brien, 1996, 31); they have a hard time adopting an assisting position and not pushing for their own agenda. GHRDs have denounced this as a paternalistic approach. The power imbalance between INGOs and SJC is a concern for GHRDs that fear becoming NGOs’ ‘guns for hire’. They feel that INGOs are benefitting more from their partnerships more than SJC are, notably documentation wise. Feeling pressured to document by INGOs but not being protected by them in return and seeing the amounts of money spent by INGOs on futilities, GHRDs are questioning INGOs’ incentives for working with them. Many consider that professional organisations engage with the grassroots more to satisfy their donors than for the sake of settlements’ residents. They are calling for INGOs to adopt more participatory methods.

Nevertheless, even though it is difficult to assess the results obtained by SJC in this short time period, there is evidence that their work is impactful. Thanks to the coupled efforts of INGOs and SJC in awareness raising and sensitisation, mainstream media is slowly evolving towards a less criminalising and more humanising narrative of EJKs. Moreover, it is impossible to assure that there has been less EJKs in total, but it is apparent that there have been periods with less killings because of SJC’s work. For example, after the Saba Saba march, there was a period of almost two months without killings. Finally, because of SJC’s participatory approaches, the communities affected by EJKs seem to reconnect with their rights. For example, they have organised spontaneous demonstrations in answer to EJKs. This proves that EJKs are slowly becoming de-normalised and that residents are becoming actors of change. Because of those successes, SJC are becoming a model for activism and are replicated outside of Nairobi with centres opening in Mombasa, Kisumu and others.

This research demonstrates that human rights have potential to promote social change if they are adapted. I advocate for a long overdue reorientation of human rights. First, they should be interpreted holistically to become more sensitive to the socio-economic and political structural roots of violations. In that sense, human rights can become strategic tools for political action and eventually lead to transformational change. Second human rights should turn to bottom-up and participatory implementation methods. People that experience violations should become the principal human rights actors. By partnering with INGOs, GHRDs can become more efficient, but INGOs should restrict themselves to a supporting
position. Finally, to increase the chances of success human rights actors should couple disruptive, institutionalised, legal and soft power methodologies in a same campaign.
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**Press Release**

**Audiovisual Material**


**Podcast**

APENDICES

APPENDIX 1: INTERVIEW LIST

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<td>Mustafa - SJC activist</td>
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All names have been anonymised

APPENDIX 2: LETTER OF INFORMATION

INFORMATION LETTER

Master thesis on social mobilisation against EJKs

This is an inquiry about participation in a research project where the main purpose is to investigate the social mobilisation against EJKs in Nairobi’s informal settlements. In this letter we will give you information about the purpose of the project and what your participation will involve.
**Purpose of the project**

This is a master’s thesis project.

The purpose of the project is to cover:

- the normalisation of EJKs in informal settlements and its roots
- the start of the campaign at the grassroots with the emerging of the different social justice centres
- the developing of the campaign with international NGOs getting involved
- do an anatomy of social mobilisation against EJKs
- the relationship in between international NGOs/ local organisations
- the frame international NGOs and local social justice centres are using (human rights discourse, political frame…)
- analysing the challenges faced when fighting EJKs
- assessing how successful this campaign has been
- assessing whether there's been a change of the narrative of informal settlements residents victims of EJKs as "thugs" and "criminals" in the mainstream media

**Who is responsible for the research project?**

The University of Oslo’s Norwegian Centre for Human Rights is the institution responsible for the project.

**Why are you being asked to participate?**

You have been asked to participate in this research as an actor in the campaign against extra-judicial killings.

**What does participation involve for you?**

**Interview**

If you chose to take part in the project, this will involve that you will participate in an interview. It will take approximately an hour. The interview will notably include questions about your work in fighting the normalisation of EJKs, the strategies you are applying, the framework you are using, your cooperation with other actors and the challenges you are facing.

Your answers will be audio-recorded and then transcribed.
Participant observation

If you chose to take part in the project, this will involve that you will be part of the participant observation during my fieldwork in Nairobi from July to September 2018. This mostly consists of observations through my internship at Mathare Social Justice Centre.

- As a Social Justice Centre member, this includes observations of community dialogues, meetings, awareness raising events and any activities organised by Nairobi’s informal settlements’ social justice centres. I want to observe interactions in between social justice centres during events organised by/with other social justice centres in Eastland. Moreover, to analyse the relationship in between social justice centres and NGOs I will observe trainings organised by NGOs for grassroots human rights defenders

- As an NGO member, for you this would particularly include observations of instances where NGOs and social justice centres work together: trainings organised by NGOs for grassroots human rights defenders, awareness raising events, meetings in between NGOs and grassroots social justice centres.

Participation is voluntary

Participation in the project is voluntary. If you chose to participate, you can withdraw your consent at any time without giving a reason. All information about you will then be made anonymous. There will be no negative consequences for you if you chose not to participate or later decide to withdraw.

Your personal privacy – how we will store and use your personal data

We will only use your personal data for the purpose(s) specified in this information letter. We will process your personal data confidentially and in accordance with data protection legislation (the General Data Protection Regulation and Personal Data Act).

- Myself, Margritt Clouzeau the student writing the master thesis, and my supervisor Peris Jones will be the only people having access to the personal data.

- I will replace your name and contact details with a code. The list of names, contact details and respective codes will be stored separately from the rest of the collected data.

Your occupation will be published in the master thesis. However, I will make sure that you will not be identifiable by changing some personal information such as your name and age.

What will happen to your personal data at the end of the research project?
The project is scheduled to end by May 2019. At the end of the project, your anonymised data will be kept for future research purposes such as publications related to this study after the completion of the study.

Your rights
So long as you can be identified in the collected data, you have the right to:
- access the personal data that is being processed about you
- request that your personal data is deleted
- request that incorrect personal data about you is corrected/rectified
- receive a copy of your personal data (data portability), and
- send a complaint to the Data Protection Officer or The Norwegian Data Protection Authority regarding the processing of your personal data

What gives us the right to process your personal data?
We will process your personal data based on your consent.

Based on an agreement with the University of Oslo, NSD – The Norwegian Centre for Research Data AS has assessed that the processing of personal data in this project is in accordance with data protection legislation.

Where can I find out more?
If you have questions about the project, or want to exercise your rights, contact:
- The student Margritt Clouzeau, by email: margritt.clouzeau@gmail.com or by telephone: +47 48 67 18 42
- The thesis supervisor Peris Jones by email p.s.jones@nchr.uio.no or by telephone: +47 94 86 22 50
- Our Data Protection Officer at UiO: Maren Magnus Voll by email: m.m.voll@admin.uio.no or by telephone: +47 22 85 97 78
- NSD – The Norwegian Centre for Research Data AS, by email: (personverntjenester@nsd.no) or by telephone: +47 55 58 21 17.

Yours sincerely,
Margritt Emilie Clouzeau
APPENDIX 3: CONSENT FORM

INTERVIEW CONSENT FORM

Master thesis on social mobilisation against EJKs 
in Nairobi’s informal settlements

Thank you for reading this information sheet. If you are happy to participate then please complete and sign the form below. Please tick the boxes below to confirm that you agree with each statement:

I understand that my participation is voluntary and that I am free to withdraw at any time without giving any reason and without there being any negative consequences. ☐

I understand that I can refuse to answer any particular question or questions. ☐

I have had the purpose and nature of the study explained to me and I have had the opportunity to ask questions about the study. ☐

I have had the purpose and nature of the study explained to me in writing and I have had the opportunity to ask questions about the study. ☐

I understand that I will not benefit directly from participating in this research. ☐

I agree for this interview to be tape-recorded. ☐

I understand that the audio recording made of this interview will be used only for analysis. ☐

I understand that extracts from the interview may be quoted in Margritt Emilie Clouzeau’s master thesis as well as any conference presentation, report or journal article developed as a result of the research. I understand that no other use will be made of the recording without my written permission. ☐

I understand that my responses will be kept strictly confidential. ☐

I understand that my name will not be linked with the research materials and will not be identified or identifiable in the report or reports that result from the research. ☐

I agree that my anonymised data will be kept for future research purposes such as publications related to this study after the completion of the study. ☐

I voluntarily agree to be interviewed by researcher Margritt Emilie Clouzeau. ☐

Name of participant ___________________________ Date ___________________________ Signature ___________________________

I believe the participant is giving informed consent to participate in this study

Name of researcher ___________________________ Date ___________________________ Signature ___________________________
APPENDIX 4: INTERVIEW GUIDES

SOCIAL JUSTICE CENTRES MEMBERS

INTRODUCTION

- **Interviewer’s background**
  The interviewer is a second-year master student at the Norwegian Human Rights Centre, University of Oslo. From July to October 2018, she interned at Mathare Social Justice Centre.

- **Project overview**
  This research is done for the interviewer’s master thesis that is due mid-May: “A study of the social mobilisation against extra-judicial killings in Nairobi’s informal settlements.”

  The thesis should cover:
  - the normalisation of EJKs in informal settlements and its roots: criminalisation of poverty, police impunity, framing of victims as criminals, EJKs as a systemic problem
  - the start of the campaign at the grassroots with the emerging of the different social justice centres (why do we need them, how they emerged, how those centres work together, what their strategies are)
  - the developing of the campaign with international NGOs getting involved (IJM, PBI, Amnesty International, the Missing Voices initiative)
  - do an anatomy of social mobilisation against EJKs (social justice centres but also all actors using alternatives to the legal route through artivism, creation of public spaces, community dialogues with the police…)
  - the relationship between international NGOs/ local organisations (how they cooperate, how they mutually need each other)
  - the frame international NGOs and local social justice centres are using (human rights discourse, political frame…)
  - analysing the challenges faced when fighting EJKs: witness and HRDs' security, public support for EJKs, not many convictions in court, IPOA understaffed and under-financed
  - assessing how successful this campaign has been (cases in court, class action, evolution of number of killings, documenting and reporting police abuses to IPOA/KNCHR…)
- assessing whether there's been a change of the narrative of informal settlements residents victims of EJKs as "thugs" and "criminals" in the mainstream media

**Purpose and duration of interview**

This interview will help the interviewer collect data and get an in-depth understanding of the social mobilisation against extrajudicial killings in Nairobi’s informal settlements.

Extracts of the interviews might be quoted in the thesis.

This interview should last about an hour.

**Consent**

The interviewer:
- Tells the interviewee that they can ask any question
- Tells the interviewee that they can refuse to answer any question
- Tells the interviewee that they are free to withdraw their consent to participate at any time without any reason
- Asks the interviewee whether they agree to be tape recorded.
- Tells the interviewee that the responses are confidential, and data will be anonymised.

Both the interviewer and interviewee read and sign the consent forms.

**KEY QUESTIONS**

This is a semi-structured thus some questions might lead to others or change according to the answers of the interviewee.

**Context: EJKs in informal settlements**

Why did you decide to work on EJKs?
Why do you think that there is so much police violence in informal settlements?
What is your personal experience with the police?
How does your community perceive EJKs?

**Development of Social Justice Centres**

How and why did this organisation develop?
- How did they first organise?
- Why at this specific time?
- Why were they needed when the constitution and human rights should be covering those issues, and NGOs and national watchdogs deal with them?

**Role in campaign against EJKs**

How does your organisation take part in the campaign against EJKs?

**Actors of the campaign against EJKs**

Who are your international, national and local allies in the fight against EJKs? How do you work together?

How do you perceive NGO’s work on EJKs?
- Do you have the same interests?
- Do you feel that you participate enough in the process/ have a say?

How do you perceive national institutions work on EJKs (IPOA, KNHCR…)?
- Do you have the same interests?

How dependent are you (if at all) on NGOs and national institutions?

What do you think about the fact that they are professionals?

How are you seen by the communities affected by EJKs?
- Do you think you represent them?

**Human rights frame**

Why did you chose to include social justice in your name and not human rights?

How do you understand and interpret various claims articulated in the language of human rights?

To what extent, and in what ways, do you accept or reject human rights frameworks in campaign practice?
- In what circumstances and why?
- Do you use the human rights framework with all your allies?
- What do you hope to gain as a result of this?

Do you think that human rights are a useful or a constraining tool?

**Legal route**

To what extent do you think the legal route is efficient?

Do you use other strategies?

**Challenges**
What are the main challenges you face when working on EJKs?

- **Change**

How successful do you think the campaign against EJK is?
- Have you witnessed a diminution in EJKs?
- Do you think it is more criticised?
- Have you witnessed a change in the mainstream narrative of informal settlements inhabitants as thugs / criminals / thieves?

Why do you think there is little talk about the issue internationally?

What do you think is necessary to do on a local/national and global level to diminish EJKs?

**INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS**

**INTRODUCTION**

- **Interviewer’s background**

The interviewer is a second-year master student at the Norwegian Human Rights Centre, University of Oslo. From July to October 2018, she interned at Mathare Social Justice Centre.

- **Project overview**

This research is done for the interviewer’s master thesis that is due mid-May: “A study of the social mobilisation against extra-judicial killings in Nairobi’s informal settlements.”

The thesis should cover:
- the normalisation of EJKs in informal settlements and its roots: criminalisation of poverty, police impunity, framing of victims as criminals, EJKs as a systemic problem
- the start of the campaign at the grassroots with the emerging of the different social justice centres (why do we need them, how they emerged, how those centres work together, what their strategies are
- the developing of the campaign with international NGOs getting involved (IJM, PBI, Amnesty International, the Missing Voices initiative)
- do an anatomy of social mobilisation against EJKs (social justice centres but also all actors using alternatives to the legal route through artivism, creation of public spaces, community dialogues with the police…)
- the relationship between international NGOs/ local organisations (how they cooperate, how they mutually need each other)
- the frame international NGOs and local social justice centres are using (human rights discourse, political frame…)
- analysing the challenges faced when fighting EJKs: witness and HRDs' security, public support for EJKs, not many convictions in court, IPOA understaffed and underfinanced
- assessing how successful this campaign has been (cases in court, class action, evolution of number of killings, documenting and reporting police abuses to IPOA/KNCHR…)
- assessing whether there's been a change of the narrative of informal settlements residents victims of EJKs as "thugs" and "criminals" in the mainstream media

• **Purpose and duration of interview**
This interview will help the interviewer collect data and get an in depth understanding of the social mobilisation against extrajudicial killings in Nairobi’s informal settlements.
Extracts of the interviews might be quoted in the thesis.
This interview should last about an hour.

• **Consent**
The interviewer:
- Tells the interviewee that they can ask any question
- Tells the interviewee that they can refuse to answer any question
- Tells the interviewee that they are free to withdraw their consent to participate at any time without any reason
- Asks the interviewee whether they agree to be tape recorded.
- Tells the interviewee that the responses are confidential, and data will be anonymised.

Both the interviewer and interviewee read and sign the consent forms.

**KEY QUESTIONS**

This is a semi-structured thus some questions might lead to others or change according to the answers of the interviewee.

• **Role in campaign against EJKs**
How does your organisation take part in the campaign against EJKs?
What do you think the role of an international NGO should be when addressing EJKs in Nairobi’s informal settlements?

Who are your local allies in the fight against EJKs? How do you work together?

How do you perceive other NGO’s work on EJKs?

How do you perceive social justice centres work on EJKs?

How dependent are you (if at all) on grassroots work?

How are you seen by the communities affected by EJKs?
  - Do you think you represent them?

**Human rights frame**

How do you understand and interpret various claims articulated in the language of human rights?

To what extent, and in what ways, do you accept or reject human rights frameworks in campaign practice?
  - In what circumstances and why?
  - Do you use the human rights framework with all your allied?
  - What do you hope to gain as a result of this?

Do you think that human rights are a useful or a constraining tool?

**Challenges**

What are the main challenges you face when working on EJKs?

**Change**

How successful do you think the campaign against EJK is?
  - Have you witnessed a diminution in EJKs?
  - Do you think it is more criticised?
  - Have you witnessed a change in the mainstream narrative of informal settlements inhabitants as thugs / criminals / thieves?

Why do you think there is little talk about the issue internationally?

What do you think is necessary to do on a local/national and global level to diminish EJKs?

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**JOURNALISTS**

**INTRODUCTION**

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The interviewer is a second-year master student at the Norwegian Human Rights Centre, University of Oslo. From July to October 2018, she interned at Mathare Social Justice Centre.

• Project overview
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- the frame international NGOs and local social justice centres are using (human rights discourse, political frame…)
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- assessing whether there's been a change of the narrative of informal settlements residents victims of EJKs as "thugs" and "criminals" in the mainstream media

• Purpose and duration of interview
This interview will help the interviewer collect data and get an in depth understanding of the social mobilisation against extrajudicial killings in Nairobi’s informal settlements.

Extracts of the interviews might be quoted in the thesis.
This interview should last about an hour.

- **Consent**
  The interviewer:
  - Tells the interviewee that they can ask any question
  - Tells the interviewee that they can refuse to answer any question
  - Tells the interviewee that they are free to withdraw their consent to participate at any time without any reason
  - Asks the interviewee whether they agree to be tape recorded.
  - Tells the interviewee that the responses are confidential, and data will be anonymised.

Both the interviewer and interviewee read and sign the consent forms.

**KEY QUESTIONS**

This is a semi-structured thus some questions might lead to others or change according to the answers of the interviewee.

- **Coverage of EJJKs in the media**
  How are informal settlement EJKs covered by mainstream media?
  Have you witnessed an evolution of the coverage of EJKs?
  Do you believe that your coverage affects people’s perceptions of EJKs? In what ways?
  What do you think is the role of the media in the campaign against EJKs?

- **Challenges**
  What are the main challenges you face when writing on EJKs?

- **Change**
  How successful do you think the campaign against EJK is?
  - Have you witnessed a diminution in EJKs?
  - Do you think it is more criticised?
  Have you witnessed a change in the mainstream narrative of informal settlements inhabitants as thugs / criminals / thieves?
  Why do you think there is little talk about the issue internationally?
  What do you think is necessary to do on a local/national and global level to diminish EJKs?
APPENDIX 5: NSD APPROVAL

NSD
NORSK SENTER FOR FORSKNINGSDATA

Prosjekttittel

The emergence of the social justice centres model: A study of the social movement against extrajudicial killings in Nairobi's informal settlements

Referansenummer

567386

Registrert

12.02.2019 av Margritt Emilie Clouzeau - m.e.clouzeau@student.jus.uio.no

Behandlingsansvarlig institusjon

Universitetet i Oslo / Det medisinske fakultet / Norsk senter for molekylermedisin (NCMM)

Prosjektansvarlig (vitenskapelig ansatt/veileder eller stipendiat)

Peris Jones, p.s.jones@nchr.uio.no, tlf: 94862250

Type prosjekt

Studentprosjekt, masterstudium

Kontaktinformasjon, student

Margritt Emilie Clouzeau, Margritt.clouzeau@gmail.com, tlf: 48671842

Prosjektperiode

10.07.2018 - 15.08.2019

Status

25.03.2019 – Vurdert
BACKGROUND
Based on information given in the Notification Form and correspondence with the student, we understand that the processing of personal data has begun.

The personal data were first collected in July 2018 and will be processed until 15.08.2019. The project is processing special categories of personal data about political opinions and philosophical beliefs, and general categories of personal data.

BREACH OF COMPLIANCE AND MEASURES
For the first part of the data collection the information was given to the informants orally. They were informed generally of the study, how the data would be used and that it was voluntary to participate. In addition the master student’s contact information was given in writing.

For the second part of the data collection information in accordance with the requirements of the law was given, but this did not include information about the collecting of personal data though observation. The participants were informed about the observation orally.

Even though information has been given, it does not meet all of the requirements of art. 13. Having discussed the breach with the student we find that updated information letters should be sent to the informants. The student confirms.

In addition, projects that process special categories of personal data have a duty to consult with a data protection officer or equivalent in advance. There has been a breach of this duty (Personal Data Act § 9-11). As the study now has been evaluated by NSD the duty is fulfilled.

RELATIVELY LOW RISK
We find that the processing of personal data that has taken place was of relatively low risk to the rights and freedoms of data subjects. Even though the informants weren’t notified about all their rights it has been clear from the start that participation is voluntary, and that they could withdraw at any time. They were informed about the purpose of the study and they all
had contact information to the student. Only the student had/has access to the personal data and it was/is being stored securely.

NSD finds that the breach is not of a nature that requires notification to the Norwegian Data Protection Authority

RESPONSIBILITY OF THE DATA CONTROLLER
We draw attention to the fact that it is the data controller, University of Oslo, that has the responsibility to ensure that personal data are processed in accordance with data protection legislation. University of Oslo is responsible for making sure that correct knowledge is transferred to its students and employees.

LEGAL BASIS
As the informants will be updated, NSD finds that the further processing of personal data in this project will comply with data protection legislation, so long as it is carried out in accordance with what is documented in the Notification Form and attachments, dated 25.03.2019, as well as in correspondence with NSD. Everything is in place for the processing to continue.

The project has gained consent from data subjects to process their personal data. We find that the consent meets the necessary requirements under art. 4 (11) and 7, in that it is a freely given, specific, informed and unambiguous statement or action, which will be documented and can be withdrawn.

The legal basis for processing special categories of personal data is therefore explicit consent given by the data subject, cf. the General Data Protection Regulation art. 6.1 a), cf. art. 9.2 a), cf. the Personal Data Act § 10, cf. § 9 (2).

NOTIFY CHANGES
If you intend to make changes to the processing of personal data in this project it may be necessary to notify NSD. This is done by updating the Notification Form. On our website we explain which changes must be notified. Wait until you receive an answer from us before you carry out the changes.

PRINCIPLES RELATING TO PROCESSING PERSONAL DATA
NSD finds that the processing of personal data is in accordance with the principles under the General Data Protection Regulation regarding:
- lawfulness, fairness and transparency (art. 5.1 a), in that data subjects will receive sufficient information about the processing and will give their consent
- purpose limitation (art. 5.1 b), in that personal data will be collected for specified, explicit and legitimate purposes, and will not be processed for new, incompatible purposes
- data minimisation (art. 5.1 c), in that only personal data which are adequate, relevant and necessary for the purpose of the project will be processed
- storage limitation (art. 5.1 e), in that personal data will not be stored for longer than is necessary to fulfill the project’s purpose

THE RIGHTS OF DATA SUBJECTS
Data subjects will have the following rights in this project: transparency (art. 12), information (art. 13), access (art. 15), rectification (art. 16), erasure (art. 17), restriction of processing (art. 18), notification (art. 19), data portability (art. 20).
NSD finds that the updated information that will be given to data subjects about the processing of their personal data will meet the legal requirements for form and content, cf. art. 12.1 and art. 13.
We remind you that if a data subject contacts you about their rights, the data controller has a duty to reply within a month.

FOLLOW YOUR INSTITUTION’S GUIDELINES
NSD presupposes that the project will meet the requirements of accuracy (art. 5.1 d), integrity and confidentiality (art. 5.1 f) and security (art. 32) when processing personal data.
To ensure that these requirements are met you must follow your institution’s internal guidelines and/or consult with your institution (i.e. the institution responsible for the project).

FOLLOW-UP OF THE PROJECT
NSD will follow up the progress of the project underway (every other year) and at the planned end date in order to determine whether the processing of personal data has been concluded/is being carried out in accordance with what is documented.

Contact person at NSD: Kajsa Amundsen
Data Protection Services for Research: +47 55 58 21 17 (press 1)
Personopplysninger er behandlet slik at det foreligger brudd på

- Prinsippet om lovighet, rettferdighet og åpenhet (art. 5 a)
- Informasjonsprikten (art. 13 eller 14)
- Rådføringsplikten (personopplysningsloven § 9-11)