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The Efficacy of State Responses to Terrorism: A Critical Analysis of the US and Kenya's Counterterrorism Approaches

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Declaration

This project is my original work and has not been submitted for a degree award in any other University.

Signed.. Date ...11th November 2013.....

LEONARD NGEYWA BOIYO

The project proposal has been submitted for examination with my approval as University supervisor.

Signed.................................. Date .12 Nov 2013.....

AMB. PROF. MARIA NZOMO

Dedication

I dedicate this project to my wife for the support and encouragement she has accorded me, even when the chips were down and I was on the verge of giving up. Vero, I can't thank you enough.

Acknowledgments

I would like to express my profound gratitude and appreciation to my supervisor Amb. Prof. Maria Nzomo for her tremendous support, guidance and encouragement from the time I submitted my proposal to date. I have immensely benefited from her deep and extensive knowledge, experience and insight. May God bless you abundantly Professor.

I would also like to thank all my colleagues and friends for their encouragement, without which this project would not have come to fruition.

Abbreviations

ADF	-	Allied Democratic Front
ALF	-	Animal Liberation Front
AMISOM	-	African Union Mission in Somalia
CTD	-	Counter Terrorism Division
DHS	-	Department of Homeland Security
DIME	-	Diplomacy Information Military and Economics
DNI	-	Director of National Intelligence
DOJ	-	Department of Justice
EACTI	-	East African Counter Terrorism Initiative
ELF	-	Earth Liberation Front
ETA	-	Basque Fatherland and Liberty
FBI	-	Federal Bureau of Investigations
FIG	-	Field Intelligence Group
GWOT	-	Global War on Terrorism
HARA	-	Horn of Africa Relief Agency
ICNA	-	Islamic Circle of North America
IED	-	Improvised Explosive Devices
IFLO	-	Islamic Front for the Liberation of Oromiya
IGAD	-	Inter-Governmental Authority on Development
IPK	-	Islamic Party of Kenya
JTTF	-	Joint Terrorism Task Force
KDF	-	Kenya Defence Forces
LRA	-	Lords' Resistance Army
MSF	-	Médecins sans Frontières
NATO	-	North Atlantic Treaty Organization
NCTC	-	National Counter Terrorism Centre
OLF	-	Oromo Liberation Front
PLO	-	Palestine Liberation Organization
RAND	-	Research and Development Corporation
SPLA	-	Sudanese Peoples' Liberation Army
TFG	-	Transitional Federal Government
UK	-	United Kingdom
UNHCR	-	United Nations High Commissioner for Refugees
US	-	United States of America
WFP	-	World Food Programme
WMD	-	Weapons of Mass Destruction
WMD	-	Weapons of Mass Destruction

Abstract

For nearly two decades, international terrorism has remained a considerable challenge to international peace and security, to which states have responded in a variety of ways. The 11 September 2001 Al-Qaeda directed attacks in New York, Washington and Pennsylvania elicited responses from the US that have had tremendous ramifications the world over. The 12 October 2002 attacks in Bali, Indonesia; the 23 October 2002 Moscow theatre hostage crisis; the 11 March 2004 train attacks in Madrid, Spain; the 7 July 2005 attacks in the London underground train system; the 11 July 2010 attacks in Kampala, Uganda – all these elicited significant responses from their respective governments.

In Kenya, the 7 August 1998 attack in Nairobi, the 28 November 2002 attack in Mombasa and the string of attacks directed or inspired by Al-Shabaab since October 2011 have brought forth significant responses by the state.

Notwithstanding these state responses, the challenge of international terrorism continues, even as states continue to pursue varied counter terrorism measures. Which begs the question: Why does international terrorism continue to pose a problem to national and international security in the face of the myriad measures?

This study attempts to answer this question by critically examining the various counter terrorism measures adopted by Kenya and the US and determine how effective these measures have been.

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Chapter One: Background to the Study

1.1   Introduction

In order to facilitate any discussion of terrorism, it is necessary to define the term at the outset. Indeed, a common thread in most literature on terrorism is the considerable space accorded to the various definitions and their relative merits. Suffice it to say that one of the key problems inherent in debate on the subject is the very definition of the term terrorism. In fact, fine variations in the specifics of the definition have precipitated the creation of the law enforcement approach evaluated in this effort. For the purpose of this research therefore, terrorism will be defined as premeditated, politically motivated violence against noncombatant targets by sub-national and or clandestine agents intended to influence an audience.

Terrorism is not a recent phenomenon. It has been occurring in some form or another for over 2000 years[1]. Yet for all this time, there has been no consensus on the definition of terrorism. The conceptual dilemma surrounding the terrorism phenomenon is amply demonstrated by the fact that there have been well over 100 different definitions of terrorism documented[2]. Such is the predicament that Hoffman admits that perhaps the only point of convergence is that terrorism is a pejorative term, with intrinsically negative connotations generally applied to one's enemies and opponents[3].

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[1] Schulze F, 'Breaking the Cycle: Empirical Research and Postgraduate Studies on Terrorism' in Andrew Silke (ed) Research on Terrorism: Trends, Achievements and Failures, (London: Frank Cass, 2004) p. 209

[2] Neumann P. R & Smith M.L.R, The Strategy of Terrorism: How it Works and why it Fails, (London: Taylor & Francis, 2008) p. 8

[3] Hoffman B, Inside Terrorism (Columbia University Press, 1998) p. 32

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The onset of the post-Cold War period and particularly the emergence and exploits of Al-Qaeda in the 1990s has seen terrorism become a subject of intense interest and controversy. Attacks directed or inspired by Al-Qaeda in Kenya and Tanzania (1998), the United States of America (2001), Indonesia (2002), Russia (2002), Spain (2004), and the United Kingdom (2005) elicited significant responses from the respective states that engendered tremendous global ramifications to date. It has indeed been argued that the 11 September 2001 attacks on the World Trade Centre and the Pentagon in the USA fundamentally changed the world in view of the extraordinary security measures that were subsequently instituted. Significantly, these attacks marked the onset of a new phase of Western foreign policy by the governments of the United States and the United Kingdom[4].

It is instructive that nations make laws about terrorism based on their own legal traditions. Problems arise when nations with differing legal traditions and histories try to reach a consensus on how to deal with terrorists who commit acts worldwide or from one nation to another. The differences between nations affect the ability of the community of nations to reach a consensus on how to define and react to international terrorism. In the US, elected officials and policy makers have trouble reaching a consensus on terrorism policy because of differences in their political orientation, religious beliefs, ethics and worldview.

Some of the tactics utilized by the US in the past to deal with terrorists have included; making no concessions to their demands, diplomatic negotiations with terrorist groups or nations

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[4] Guelke A, Terrorism and Global Disorder: Political Violence in the Contemporary World,(New York: IB Tauris. 2006) p.2

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which support terrorists, economic sanctions against nations supporting terrorists, and military strikes against nations or the terrorists themselves. These approaches have succeeded or failed to varying degrees, but for the last thirteen years, the US government has primarily depended on the law enforcement method in dealing with terrorists.

Some scholars argue that terrorists have targeted the US more often than any other country, thanks to its geographical scope and diversity of overseas commercial interests and the large number of its military bases on foreign soil[5]. But it was the 11 September 2001 attacks in New York and Washington, arguably the most destructive terrorist events of the modern age[6] that unleashed the most profound ramifications.

On the other hand, despite the 1998 US Embassy bombing in Nairobi demonstrating the presence of terrorist groups in Kenya, the response by the government was not robust. The ease with which Al-Qaeda members had operated in the country highlighted the weaknesses in the government's employment of instruments of power to effectively combat international terrorism. However, Kenya has since then endeavoured to put in place varied mechanisms to deal with terrorism.

The subject of counterterrorism and how to effectively conduct it has become a popular topic in current literature. Some elements of an effective counterterrorism strategy relevant to this research, cited by various authors, are public diplomacy and information campaigns;

[5] Hoffman B, 'Terrorism Trends and Prospects', in, Lesser I.O et al (eds) Countering the New Terrorism, (Washington, Rand Project Air Force 1999) p.35
[6] Silke A, 'An Introduction to Terrorism Research' in, Silke A (ed) Research on Terrorism: Trends, Achievements and Failures. (London: Frank Cass 2004) p.25

legislation; financial controls and socioeconomic development; use of military force; and creation of a specialized judicial system for terrorism suspects.

Money is the lifeblood for terrorist groups and without it the likelihood that they could sustain transnational attacks is remote. However, unlike narcotics smuggling or money laundering, the salient characteristic of terrorism is that it is cheap. For example, the first attempt to topple the World Trade Center in 1993 is estimated to have cost only $400. The small sums involved made the movement of money difficult to track. As Pillar asserts, financial controls are primarily of symbolic significance.[7] Contrary to Pillar's opinion, the use of financial controls is not primarily of symbolic significance but is effective when applied rigorously. For example, the 11 September 2001 terrorist attacks in the US cost between $400, 000 and $500,000 to execute, and operatives spent more than $270,000 in the US. But, in terms of loss of life and property, insurance companies alone lost an estimated $40 billion. Al-Qaeda had many sources of funding with a pre-11 September annual budget estimated at $30 million.[8] Had an effective financial-control system existed in the US, the millions of dollars transacted in the banks and through the *hawalla* systems of money transfers to fund Al-Qaeda operations would most likely have been detected.

Military action is one of the tools available to counterterrorism and is the most effective measure to physically eliminate terrorists, as witnessed in Operation Enduring Freedom in Afghanistan where Al-Qaeda structures were dismantled and many terrorists were killed or captured. However, those military actions were at times actually counterproductive. Far from

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[7] Pillar P, Terrorism and U.S. Foreign Policy, (Washington, DC: Brookings Institution Press, 2001)
[8] Kean T. H et al, The September 11 Commission Final Report of the National Commission on Terrorist Attacks upon the United States Executive Summary. (Washington DC: United State Congress,2004)

serving as deterrents, such strikes served to further some of the political and organizational purposes of terrorist leaders; increase publicity for their cause; bolster their sense of importance; and reinforce the message that the US is an evil enemy that knows only the language of force. In the final analysis, such strikes are almost always message-sending exercises rather than a means of significantly crippling terrorist capabilities.

1.2 Statement of the research problem

As global and sub-regional hegemons, respectively, the US and Kenya have both had experience with international terrorism. How has this phenomenon manifested itself in the two countries? How have they responded to it and with what success? What priority have the two countries accorded the threat of international terrorism within their national security strategies?

In the aftermath of the 7 August 1998 attack at the US embassy in Kenya and the 11 September 2001 attacks in the US, it was apparent that the focus of Kenya's and US counterterrorism policies would no longer be placed solely on the law enforcement approach, but would encompass other measures. As the memories of the two attacks fade, arguments for a return to strictly law enforcement approaches to combating terrorism will gain acceptance.

Kenya and the US have responded to the challenge of terrorism through a raft of legal, institutional and operational measures with varied results. The responses by the two states

have not just been limited to their jurisdictions, but extended to other countries and regions, especially in respect of the US.

While the responses to terrorism in both cases have in a large measure been state-driven, Kenya and the US continue to grapple with terrorism in its different manifestations.

Terrorism as a subject of research and comment has been growing steadily, more particularly since the 11 September 2001 attacks in the US. While several studies have been carried out on varied aspects of terrorism in, and responses by Kenya and the US, there has been no comprehensive study undertaken comparing the efficacy of the Kenyan and US counterterrorism measures. The current study therefore seeks to fill the gap by assessing the effectiveness of the US and Kenya's response to combating international terrorism. Such an assessment will validate the current approaches or suggest ways to recalibrate them and explore alternative ways and means to combat international terrorism. The findings will ultimately propose approaches that Kenya and the US may pursue to effectively combat the threat of international terrorism

This study will be guided by the following research questions:

1.3 Research questions

i.   What is the challenge of terrorism to Kenya and the US?

ii.   Is Kenya's and the US' response to combating terrorism effective?

iii. How can the two governments minimize the strategies' shortcomings while maximizing their overall effectiveness?

1.4 Objectives

The objectives of this study will therefore be:

i.   To examine the challenge of terrorism to Kenya and the US;

ii. To determine the effectiveness of response to terrorism by Kenya and the US;

iii. To establish how Kenya and the US can minimize the shortcomings of the strategies to combat terrorism while maximizing their overall benefits.

1.5   Justification of the study

The impetus for this study emanates from the assumption that terrorism is one challenge that the world will continue to experience for long. Indeed, as Laqueur puts it, "terrorism will be given less attention if a full scale war breaks out. But no war lasts forever; it is too expensive in every respect in our day to day age, whereas terrorism is relatively cheap and will be with us for as long as anyone can envision, even if not always at the same frequency and intensity"[9].

It is instructive that terrorism and counter-terrorism have almost invariably been subjects closeted within the realm of security, intelligence and military establishments. This study

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[9] Laqueur W, Terrorism in the Twenty First Century (London: Continuum Publishing Group 2004) p.7

seeks to add onto the emerging academic research with a view to developing broader perspectives into the phenomenon.

Why undertake a comparative study of Kenya and the US? First, both states have experienced terrorist attacks within and without. Second, the two states have forged considerable cooperation in countering terrorism, with Kenya being considered as one of the key allies in the US Global War on Terrorism (GWOT). Third, in responding to the challenge of terrorism, both states have exerted their influences beyond their borders, the US in Afghanistan and Iraq and Kenya in Somalia.

Finally, terrorism as a subject of research and comment has been growing steadily, more particularly since the 11 September 2001 attacks. This study seeks to contribute towards the growing research into this discipline.

From a policy perspective, by critically examining the efficacy of state responses to terrorism, albeit on the basis of two states, this study aims at providing invaluable lessons from which future counter terrorism approaches may borrow.

1.6   Literature review

1.6.1 Introduction

The literature pertaining to this study will be classified into three broad categories: first, literature on terrorism in the USA, encompassing the history and manifestations of the phenomenon in and against the USA; second, the history and manifestations of terrorism in

Kenya, where there is paucity of literature; and third, the response by the USA and Kenya to

terrorism, highlighting the measures the two countries have pursued in relation to terrorism.

Besides, literature on the effects of the counter terrorism measures by the two countries will

also be examined.

1.6.2 Manifestation of Terrorism in the US

The literature on terrorism is fairly nascent, with more than 85% of all books on the topic

having been written since 1968[10]. Schmid and Jongman illustrate this position thus: "...as

much as 80% of the literature on terrorism is not research-based in any rigorous sense; instead

it is too often narrative, condemnatory and prescriptive"[11]. Nevertheless, as Silke observes,

published literature on terrorism has been expanding at an impressive rate, a rate accelerated

even further by the events of 9/11[12].

Amongst the areas that have pre-occupied terrorism scholars include the quest for a definition

of terrorism, the rationale for terrorism, the quest for a theory to explain and predict terrorism,

the psycho-analytical approach revolving around the psychological profile of terrorists as well

as specific aspects of terrorism and individual movements. There is also an emerging

obsession of the future of terrorism with emphasis on the likelihood of terrorists acquiring

weapons of mass destruction (WMD)[13].

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[10] Schulze F, 'Breaking the Cycle: Empirical Research and Postgraduate Studies on Terrorism in (ed) Silke A, Research on Terrorism: Trends, Achievements and Failures (London: Frank Cass 2004) p.162
[11] Schmid A.P & Jongman A.J, Political Terrorism: A New Guide to Actors, Concepts, Databases, Theories and Literature (New Brunswick, New Jersey: Transaction Books 1988) p.179
[12] Silke A, 'The Road Less Travelled: Recent Trends in Terrorism Research' in (ed) Silke A, Research on Terrorism: Trends, Achievements and Failures (Op.cit) p.186
[13] Laquer W. The Age of Terrorism (Boston: Little, Brown, 1987).

There is a plethora of literature on the threat of terrorism to the USA. According to Lessor[14], the terrorist threat to US interests can be perceived in four key dimensions: direct, indirect, systemic and asymmetric. Lessor notes that the US has been a leading target of international terrorists, with numerous attacks directed against US citizens and property overseas or on US territory. Besides, the US is a fertile environment for fundraising and associated political activities[15]. The terrorist motives for direct attacks of US targets may, in his[16] view, be practical, systemic and symbolic.

The indirect attacks affecting US interests include attacks on US allies such as Israel, which has adverse implications on the Middle East Peace Process, a key US diplomatic interest, and threatens the stability of the West Bank and Gaza while attacks on Turkey affect the stability of a key NATO ally[17].

How has the US responded to these attacks? Highlighting the US counter terrorism policy, Lessor[18] identifies seven key measures, namely, use of force (including air power in various forms such as cruise missile strikes against terrorism-related targets in Afghanistan and Sudan); operations targeting individuals implicated in terrorist attacks against US citizens (for instance strikes against Bin Laden's infrastructure in Afghanistan); application of economic sanctions against state sponsors of terrorism multilaterally and through domestic legislation

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[14] Lessor I.O, 'Countering the New Terrorism: Implications for Strategy' in (eds) Lessor et al, Countering the New Terrorism (RAND Project Air Force 1998) p.88-89
[15] Ibid
[16] Ibid
[17] Ibid. p.92
[18] Ibid

(such as The Omnibus Terrorism Act of 1986); counter terrorism legislation; maintaining a policy of 'no-negotiation' with terrorists; and refocusing the collection and analysis of intelligence on terrorist risks and hardening of air travel[19].

Assessing the utility of these measures, Lessor paints less than satisfactory outcomes. The US airstrike against Libya in 1986 (Operation El Dorado Canyon) in response to Libya's involvement in the bombing of a Berlin discotheque frequented by US military personnel was designed to send a broad political signal, reduce Libya's enthusiasm for sponsorship of international terrorism and demonstrate a willingness to act. Yet the airstrike did not dissuade Libya from similar acts and after some respite, Libya indeed increased its involvement in international terrorism. He points to subsequent incidents linked to Libya, including the bombing of Pan Am 103 aircraft over Lockerbie in 1988 that killed 278 people[20].

With respect to the 'no-negotiations with terrorists' policy, Lessor avers that it has often been challenged by numerous pressure for resolution of terrorist-related situations through negotiations[21].

Pillar outlines the counterterrorism instruments employed by the US as diplomacy, the criminal justice system, interdiction of financial assets, military force, intelligence and covert action and coordinating the instruments[22].

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[19] Ibid. p.112-114
[20] Ibid. p.112
[21] Ibid. p.113
[22] Pillar P.R, Terrorism and US Foreign Policy (Washington: Brookings Institution Press, 2003) p.73

Sloan observes that terrorists have a form of decentralized command and control that has enabled them to plan and execute complex global operations; yet the targets of these operations "often seek to utilize in the war on terrorism, an organizational doctrine characterized by a ladder hierarchy, top-down command and control, bureaucratic layering and jurisdictional complexity"[23]. He cites the US response of 9/11 specifically the creation of the Department of Homeland Security, bringing forth yet another bureaucracy as an illustration[24].

Sloan proposes the development of counterterrorist organizations that are small, flexible and innovative, which calls for unity of action at regional and international levels. He suggests that it requires to draw upon the resources of non-state actors such as multi-national corporations and non-governmental organizations. He points out that such organizations "acting in concert, must seek to pre-empt, instead of primarily reacting to threats and acts of terrorism"[25]

Critiquing the US responses to terrorism, Arquilla and Ronfeldt[26] note that the response to 9/11 entailed strategic bombing of Al-Qaeda and the hunt for Osama Bin Laden, and subsequently, use of special forces teams, unmanned drones, use of indigenous forces among others; which succeeded in driving the Taliban and Al-Qaeda out of their bases in Afghanistan

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[23] Sloan S, 'Foreword: Responding to the Threat' in (ed),. Bunker R.J, Networks, Terrorism and Global Insurgency (New York: Routledge, 2005) p.xxv
[24] Ibid.
[25] Ibid.
[26] Arquilla J and Ronfeldt D.F, 'Netwar Revisited' in (ed), Bunker R.J, Networks, Terrorism and Global Insurgency, Op.Cit. p9

and disrupting their planning. Yet, this only worked to disperse Al-Qaeda, whose decentralized structures began to focus on smaller but more widespread attacks[27].

1.6.3 Manifestation of Terrorism in Kenya

Writing about the threat of terrorism in Kenya, Otenyo[28] attributes the increase of terrorism in Kenya and the region to the emergence of new terrorist waves globally and not, as argued by some commentators, to poverty.

The history of terrorism in Kenya mirrors the definitional dilemma of this phenomenon. The Mau Mau peasant uprising (1952 - 1958) was described by the colonial rulers as terrorism; yet to some historians it is indeed the colonial actions against the Mau Mau that fit the description of terrorism[29].

But it was in December 1980 that Kenya experienced, perhaps the first incident of international terrorism, when terrorists sympathetic to the Palestine Liberation Organization (PLO) bombed part of the Norfolk Hotel in Nairobi, killing at least 16 people and injuring many others. Eighteen years later, in August 1998, the US Embassy building in Nairobi was bombed (simultaneously with that in Dar-es-Salaam, Tanzania), resulting in at least 250 deaths and over 5,000 injuries. The attack was directly linked to Al-Qaeda. In November 2002 suicide bombers carried out an attack at the Kikambala Paradise Hotel, owned by an Israeli

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[27] Ibid
[28] Otenyo E.E, 'New Terrorism: Toward an Explanation of Cases in Kenya' in Africa Security Review 13(3) (2004) p.77
[29] Ibid. p.75

national, killing 13 people and injuring many others. Almost simultaneously, another team of attackers shot at an Arkia Airline, also owned by an Israeli company while taking off from Mombasa International Airport for Israel. None of the 271 passengers in the plane was injured and Al-Qaeda was blamed for the attacks[30].

Since the attack at Kikambala, Kenya has consistently been grappling with threats of further terrorist attacks emanating from Al-Qaeda and allied groups notably Al-Ittihad Al-Islamiya and Harakat Al-Shabaab Al-Mujahidin (simply Al-Shabaab), with Somalia serving as an operational base. This was given further impetus by the entry of the Kenya Defence Forces (KDF) in Somalia in October 2011 and its direct participation in anti-Al Shabaab military campaigns. A series of attacks through improvised explosive devices (IED), grenades and firearms have consequently been carried out in Nairobi, the Coast and the North Eastern counties targeting public gatherings, entertainment establishments, churches and security personnel.

Even more worrying, according to the UN Monitoring Group on Somalia and Eritrea, Al-Shabaab has erected extensive networks in Kenya which not only recruit and raise funds for the organization but also conduct orientation and training events inside Kenya. The reports observes that whereas in the past, Al-Shabaab's presence in Kenya has been concentrated primarily within the ethnic Somali community, since 2009 the group has rapidly expanded its influence and membership to non-Somali Kenyan nationals who today constitute the largest and most structurally organized non-Somali group within Al-Shabaab[31].

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[30] Ibid., p.76
[31] 'Report of the Monitoring Group on Somalia and Eritrea Pursuant to Security Council Resolution 1916 (2010) p.24

In response to the threat of terrorism, Kenya, according to Otiso, instituted legislative, security, social and diplomatic measures. These included anti-terrorism legislation, enhanced security patrols by police and the military; social outreach programmes by government and donors; expending efforts towards the resolution of the Somalia conflict[32].

He however points out that these responses have been received with skepticism. The Suppression of Terrorism Bill (2003) for instance provoked tremendous outrage and was largely perceived as having been influenced by the West. Meanwhile, civil action by the US military including rehabilitation of clinics, construction of classrooms, provision of portable water, donation of medical services has not always been welcome. In February 2004 for example, Muslims rejected a US offer to fund Islamic schools out of fear that the offer was insincere and intended to influence the schools' curriculum[33].

Prestholdt observes that Kenya is both a frontline state in the global war on terror and America's most important ally in the greater Horn of Africa. While pointing out that that Kenya has suffered two major Al-Qaeda attacks and shares a porous border with Somalia, he nevertheless suggests that Kenya's counter terrorism activities have been in response to American pressure coupled with security aid[34]. He argues that the Kenya government has pursued the domestic war on terrorism by means that are often heavy handed and ineffective, pointing out that "...instead of addressing the ease with which terrorists enter Kenya or the limitations of Kenya's intelligence apparatus, authorities have often articulated the problem of

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[32] Otiso K, 'Kenya in the Crosshairs of Global Terrorism; Fighting Terrorism at the Periphery' in Kenya Studies Review (2009) p.126
[33] Ibid. p.127
[34] Prestholdt J, 'Kenya, the United States and Counterterrorism' in Africa Today, Vol.57, No.4 (Indiana University Press, 2011) p.4

terrorism narrowly, as one nurtured by Kenya's Muslim minority...Kenya has convicted only one of its citizens on charges related to recent terrorist activities, but many Kenyans have been delivered to foreign security forces without due process, thousands more Kenyan Muslims have been harassed and illegally detained"[35]

Summarizing the complex nature of terrorism, Sloan posits that terrorism is a manifestation of the transformation of the international system, the changing nature of war and a means of fundamentally transforming entire regions, not merely as a means to seize state power. With terrorists not confined within clearly delineated geographical areas, adopting technology and innovative forms of attack, the responses should equally be innovative. Thus, counter-insurgency techniques cannot work as there is no clear area to pacify, and "rather than the 'hearts and mind' campaign, the battle is for 'hearts and souls', transcending territory and life with the promise of a version of eternal paradise"[36]

1.7 Hypotheses

1. The measures employed by Kenya and the US have succeeded in combating the threat of terrorism in the two countries.

2. The measures employed by Kenya and the US have not succeeded in combating the threat of terrorism in the two countries.

3. The measures employed by Kenya and the US have partially succeeded in combating the threat of terrorism in the two countries.

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[35] Ibid. p.5
[36] Sloan S, 'Foreword: Responding to the Threat' in (ed), Robert J. Bunker R,J, Op.Cit. p.xxiv

1.8 Theoretical framework

This study is anchored in the Instrumental approach in terrorism which has been proposed by Crenshaw[37]. This approach posits that an act of terrorism is a deliberate choice by a political actor; that terrorist organizations act to achieve political ends. Different acts of terrorism are perceived as responses to external stimuli, for instance government policies; and governments in this case are perceived as rivals. The proponents of this theory, such as Sandler Todd, Landes and Enders hold that violence is not the end as suggested by some other approaches like the psychological theories. They assert that terrorists are not lunatics who violate for the sake of violation. Rather, terrorism is a tool for these actors to achieve political ends. In a nutshell, terrorist acts aim at changing governments' decisions, actions and policies by use of force[38].

According to Herman and Herman and Sick, terrorist groups make cost and benefit analysis in shaping their actions and violence is merely a means to an end. They calculate the cost of doing and not doing an action and the probability of success in their actions[39].

Proponents of this theory define success in terms of accomplishing the political ends for a terrorist organization. Such success may not necessarily be full attainment of their demands, but the achievement of tactical aims such as publicity and recognition[40].

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[37] Crenshaw M (ed.), Terrorism in Context, (University Park, PA: Pennsylvania State University Press, 1995) p.208
[38] Ozdamar O, 'Theorizing Terrorism Behaviour: Major Approaches and their Characteristics', in, Defence Against Terrorism Review Vol.1 No.2 Fall 2008, pp.91-92
[39] Ibid.
[40] Ibid.

This theoretical underpinning supports both deterrent and defensive policy responses to terrorism discussed in this study, that is, denying opportunities for terrorism and affecting incentives to use it.

1.9 Methodology

This study is qualitative in nature. This methodology emphasizes detailed conceptual analysis of a limited number of events or conditions and their relationships in a given time period (Yin 1984, 23). The purpose of the case study in this thesis is to investigate the US and Kenya's employment of the instruments of power to mitigate the transnational terrorism threat. The steps of the case study that this research will adopt involves determining and defining the research question; selecting the case studies and determining the relevant factors that are critical to fighting terrorism which are weighed against the most important elements and causes of terrorism; and finally, determining the effectiveness of the US and Kenya's response to international terrorism.

The first part of this research methodology determines and defines the research question and gathers data from various sources. The literature is then analyzed to ascertain the relevance of the information to the case studies. The analysis of the two governments' response in combating international terrorism is based on the two case studies. Finally, based on the analysis of the US and Kenya's employment of both traditional and nontraditional instruments

of power in fighting transnational terrorism, the factors that are critical to fighting terrorism will be weighed against the most important elements and causes of terrorism.

The study will employ desk review of secondary data which include published texts, journals, government documents, newspapers, periodicals and seminar papers and Internet research. In assessing the efficacy of counter terrorism measures, a number of benchmarks will be considered, notably the increase or decrease of terrorist attacks and threat of attacks; and increase in level of public awareness and participation.

1.10 Chapter Outline

Chapter One, **Background to the Study**, will comprise this proposal, examining the general issues about terrorism, identifying the problem, objectives and methodology.

Chapter Two, **Analysis of Kenya's Terrorism Experience** will focus on the nature and manifestations of terrorism in Kenya and the responses to the phenomenon.

Chapter Three, **Analysis of the US Terrorism Experience** will similarly focus on the nature and manifestations of terrorism in the US and its response.

Chapter Four, **Comparative Analysis of counter terrorism Measures by Kenya and the US** will be an assessment of the success of the counter terrorism measures adopted by Kenya and the US.

Chapter Five, **Conclusion,** will be a recapitulation of the salient issues in the study.

Chapter Two: Analysis of Kenya's Terrorism Experience

2.1 Organizational Structure of terrorism

Terrorist organizations are structured to function in the environment in which they are to operate. Unlike conventional forces, terrorists have only strategic and tactical levels of organization. By design, they lack the operational level of organization and are commonly described as horizontally structured organizations because of the hostile environment within which they operate. As a result, they are organized into small cells with each cell relatively isolated and performing specific functions, such as intelligence-gathering and logistical operations.[41] This organizational structure guarantees security in the event of the defection, capture, or killing of a member since no one member can identify more than a few others. This assures the organization's security and continuity.

Bruce Hoffman in *Inside Terrorism*, points that terrorism has reinvented itself in a more decentralized form.[42] As older established terrorists structures are dismantled, as happened in Afghanistan and Somalia more radical and decentralized organizations often take their place, as is happening in Iraq. The new types of small, decentralized transnational terrorists groups impose new challenges because they lack a discernible organizational structure with a distinguishable chain of command. This small, decentralized organizational structure guarantees the continued existence and survival of terrorists groups.

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[41] Joint Chiefs of Staff, Joint Publication 3-07-1-1, Department of Defense Combating Terrorism Program (Washington DC: US Government Printing Office 2000)
[42] Hoffman B, Inside Terrorism (New York: Columbia University Press 1998) Pp. 208-209

In "The Sociology and Psychology of Terrorism," Rex A. Hudson argues that most terrorist leaders tend to be well educated and capable of sophisticated, albeit highly biased, political analysis. For example, the new generation of leaders of terrorist organizations such as Osama bin-Laden, are well educated and motivated by their religious ideologies.[43] Leadership provides the strategic guidance - the ends, ways, and means to achieve the organization's strategic objectives. In the event of a loss of leadership, hierarchies exist to promote new leadership. This form of decentralized command and leadership has held Al-Qaeda together in spite of the GWOT. A decentralized organizational structure makes it difficult to detect and eliminate terrorist groups. An area counterterrorism strategy must focus on is identifying terrorists organizations' center of gravity, the most essential element(s), which must be identified and targeted to create the desired effects on neutralizing or destroying a terrorist organization's ability to act.

2.2 Contemporary terrorism in Kenya

New terrorism – especially when associated with Islamic fundamentalism and the struggle against Zionism and American interests – is a recent phenomenon in Kenya. Consensus is emerging on the main characteristics of new terrorism – particularly the increase in religious content and motivation.

Increased use of martyrdom, co-ordinated attacks, and escalation of terror networks characterize new terrorism.[44] Research suggests that, besides having comprehensible intentions, new terror is significantly more lethal in its methods. New terrorism is also more

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[43] Hudson A. R, The Sociology and Psychology of Terrorism: Who becomes Terrorist and Why? Report Prepared under Interagency Agreement by the Federal Research Division, Library of Congress. Washington, DC 1990, p.90
[44] Cilliers J, 'Terrorism and Africa' in, African Security Review, Institute for Security Studies (ISS), 12(4) 2004, p 2.

international in scope and takes advantage of available technological advances, including the extensive usage of cyberspace and cellphones.

In addition, modern terrorism is capable of using weapons of mass destruction (WMD), including biological, nuclear, and chemical agents. The terror attacks in the US in September 2001 and in Madrid, Spain, in March 2004 demonstrated the increased sophistication of the masterminds. Evidently, new terrorist organizations no longer explicitly lay credible claim to their criminal actions.

The first sign that Kenya had entered the terrorist circuit was in December 1980 when terrorists sympathetic to the Palestine Liberation Organization (PLO) bombed part of the world-famous five-star Norfolk Hotel in Nairobi. At least 16 lives were lost and hundreds of people were injured. A Jewish family owned the Norfolk Hotel. In August 1998 US Embassy buildings in Kenya and Tanzania were bombed, resulting in at least 250 deaths.[45]The attack was directly linked to Osama bin Laden.[46] In November 2002 suicide bomber terrorists calling themselves 'Army of Palestine' attacked, wounded, and killed patrons at another Israeli-owned hotel in Mombasa, Kenya. Almost simultaneously, the attackers shot at an Arkia Airline taking off from Mombasa International Airport for Israel. None of the 271 passengers in the plane was injured. Al-Qaeda was blamed for the attacks, which it indeed praised.

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[45] Williams P, Al Qaeda: The Brotherhood of Terror, (New York: Alpha Pearsons, 2002) pp 9–12
[46] Ibid

2.3 Causes of terrorism in Kenya

A number of factors help explain why Kenya has been a victim of past terrorist attacks. The main factors are geography, ethnic composition, political stability, unstable neighbors, poverty, Islamic fundamentalism, and lax law enforcement.

Several internal conditions and assumptions account for Kenya's vulnerability to terrorism. Terrorist activities occurred when the economy was at its lowest level, creating the fallacy that poverty triggers destitution and crime – including terrorism. A group of human rights activists have also supported the theory that poverty creates conditions conducive to terrorism.[47] That assertion is not plausible, however, because most African countries find themselves in a similar social-economic predicament. On the other hand, it is cannot be denied that religious and cultural sensibilities are at the root of how terrorism is framed and conducted.

In all probability, the increase in regional terrorism had more to do with the emergence of new terrorist waves globally. At least three waves are known to have been associated with the growth of terrorism, which is directly linked to fundamentalism. The first modern wave occurred after the 1967 war between Israel and the Arab world. The second, in 1979, was epitomised by the return of Ayatollah Khomeini to Iran and the fall of Shah Mohammed Reza Pahlavi. Khomeini's support for hostage-taking terrorism gave the world a frightening lesson in state-supported terrorism. The Ayatollah's support is important in the sense that it

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[47] Mutunga W, 'Development, Terrorism and Human Rights', Mellemfolkelight Samvirkr, Partner NEWS 7(1), <www.Kenya.ms.dk/partnews/visartikel. asp?id=298>

encouraged martyrdom. The third is associated with Osama bin Laden and the Palestinian Intifada, mainly at the end of the Gulf War of 1991.[48]

For Kenya, the third wave is particularly significant. Multipartyism emerged in Kenya after 1991. Fearing regime and state disintegration, then President Daniel Arap Moi banned the registration of parties based on ethnic and religious affinities. One of the parties denied registration was the Islamic Party of Kenya (IPK), which received support from Sudan, then home to Osama bin Laden. Sudan had a strong anti-Christian establishment, which was engaged in a military war with the Christian and Animist South.

Furthermore, in 1993 Sudan gave explicit support to the activities of Joseph Kony's Lord's Resistance Army (LRA) guerrilla organization in the North in order to undermine Uganda's support for the Sudan People's Liberation Army (SPLA), whose leader, Colonel John Garang, was ideologically associated with Uganda's secular leadership. On his part, Garang framed the Sudanese civil war as 'Arabism' versus Christianity.[49] Sudan's role in the war against terrorism must not be seen outside the framework of the intention to Islamize the Nile and Greater East African region. It is not surprising that Osama bin Laden found a home in Sudan before moving to Afghanistan. The Islamist government came to power in Sudan in June 1989 and immediately supported the spread of fundamentalism.[50] Among the ruling National Islamic Front (NIF) leadership were extremists Hassan el-Tourabi, Khalid Osman Moudawi and Abdel Rahim Hamdi at Feisal Bank. The top hierarchy also included hardliners - foreign

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[48] Nassar J and Heacock R (eds), Intifada: Palestine at the crossroads, (New York: Praeger, 1990) p.
[49] G Prunier, Armed conflict in the heart of Africa, Sudan's regional war, Le Monde Diplomatique, <www.mondediplo.com/1997/02/02sudan>
[50] Ibid

ministers Ali Osman Mohammed Taha and Ghazi Salahaddin Attabani. These radicals formulated Trotskyian revolutionary policies bent on spreading Islam, first to neighbouring countries and to South Africa by the year 2050.[51] Africa has quietly become the battleground for religious fissures. With several West African countries already members of the Islamic world, the religious battles are shifting south of the Sahara.

The Islamist radicals found some support in stateless Somalia, a country with an uneasy coexistence with the Nairobi power elite. In the 1960s Kenya's foreign policy was partly designed to check Somali irredentism. Then, there had been talk of creating greater Somalia, which would include parts of Kenya, Ethiopia, and Djibouti.[52] Strategically, links between Somali-based Islamic fundamentalists and the docile nationalists would always spell doom for Kenya. Now that Sudanese based fundamentalists were seeking a 'holy alliance' with factions in Somalia, the danger of instability was real. Further concern stemmed from Sudan's support to drought stricken Somalis rather than to Southern Sudanese Christians facing similar conditions.

Sudan's attitude towards terrorism in Kenya was complicated by the fact that its government provided support to the Islamist group Al-Ittihad al-Islamiya (Islamic Union). Al-Ittihad al-Islamiya was founded around 1991, at the end of Siyyad Barre's regime, with the objective of finding a minimal element of 'national' cohesion premised on Islamist ideology. Unfortunately, Al-Ittihad al-Islamiya became an instrument of Sudanese foreign policy,

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[51] Laqueur W, The New Terrorism: Fanaticism and the Arms of Mass Destruction, (New York: Oxford University Press, 1999) p.180

[52] See Adar K, Kenyan Foreign Policy Behaviour towards Somalia, 1963–1983,(Lanham: University Press of America, 1994)

declaring a 'jihad' against 'infidels' in the region. The organization conducted activities in Ethiopia through the intermediary of its large resident Somali population. The Ethiopian government reacted angrily to Al-Ittihad al-Islamiya's activities and arrested Somalis living in Addis Ababa and Gedo. The FBI still regards Ittihad al-Islamiya as a terrorist group with links to Al-Qaeda.[53] As for Kenya, police reports about the November 2002 bombing of the Kikambala Paradise Hotel in the north of Mombasa attributed the crime to the group's support. Still, Sudan supported ethnic Somali groups, including the Islamic Oromo Organization and Islamic Front for the Liberation of Oromiya (IFLO), based in Ethiopia. Ethiopia has a standing military treaty with Kenya to deter Somali secessionist movements commonly known as the *Shifta*.

Former president Siyyad Barre's government had seriously considered the possibility of unification as a right of the Somali people.[54] Traditionally, Kenya had reacted viciously to this possibility, suppressing dissidence. In the 1990s, Somalis were ordered to carry special identity cards. Human Rights Watch groups reported that Kenyan authorities treated thousands of Somalis in refugee camps inhumanely.[55] A number of Somalis in the camps were suspected of being agents of Islamic fundamentalism. Reports suggest that the Dadaab refugee camp with close to 120,000 Somalis was a haven for terrorists and bandits.[56] Kenya government security briefings were concerned that illegal firearms, other weapons, and a variety of telecommunication equipment were being sold in refugee camps.

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[53] Watson P and Barua S, 'Somalian Link seen to al Qaeda' Los Angeles Times, 25 February 2002, <www.why-war.com/news/2002/02/25/somalian.html>

[54] Adar K, 'Kenya-US Relations: A Recapitulation of the Patterns of Paradigmatic Conceptualization, 1960s–1990s'. in Munene M, Olewe-Nyunya J and Adar K (eds), The United States and Africa: From Independence to the end of the Cold War, (Nairobi: East African Educational Publishers.1995) p. 97

[55] A Parker, 'Kenya: crackdown on Nairobi's refugees after Mombasa attacks', Human Rights Watch, <www.hrw.org/press/2002/12/kenya1205.htm>

[56] Ibid

The situation was exacerbated by the UN's inability to provide sufficient funds for the needs of refugees. In addition, the World Food Programme (WFP) cut supplies to the camp. This provided an opportunity for the Saudi-based Islamic aid organization Al- Haramain Islamic Foundation to fill the void. Although the FBI claimed that Al- Haramain was a conduit for terror cells, Kenya and the United Nations High Commissioner for Refugees (UNHCR) disagreed.[57] Later, a connection was established between Al- Haramain and the 7 August 1998 embassy bombing in Nairobi.[58]

Al-Qaeda funds were siphoned to sympathizers through Al-Haramain. A court in Kenya ruled that the organization's registration be reconsidered, while the UN blacklisted it. In March 2002, the US blocked funds of the Somalia and Bosnia branches of Al-Haramain, claiming that those offices were diverting charity donations to terrorist groups. The idea that the camp was vulnerable to the possibility of radical ideas and training seeping in was never rejected. Not surprisingly, after the suicide bombing incident at Kikambala Paradise Hotel in November 2002, both the FBI and Israeli's Mossad moved into the refugee camps hoping to trace leads as to how two-surface-to-air missiles fired at the Israeli passenger jet were acquired.

On the social front, Kenya is characterized as a majority Christian nation (over 65%). In the eighties and nineties, the spread of Islam in Kenya was phenomenal, partly influenced by the feeling that the leadership was insensitive to Muslim citizens. Indeed, viewed against other

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[57] Views of UNHCR persons available at <www.hrw.org-/africa/kenya.php>
[58] US State Department, Patterns of Global Terrorism Report, Washington, DC, April 2004

regions of Kenya, Muslims regions were comparatively underdeveloped in many facets. At the primary and secondary levels for example, schools associated with Christian churches always performed better than others.

The growth of Islam in Kenya directly challenged the Christian oligarchy. Most of the money for expansion of Islam came from the Middle East and the West. As pointed out earlier, funds were channeled through a host of foundations, including the Islamic African Relief Agency of Columbia, Missouri, and the Horn of Africa Relief Agency (HARA). Others were the Islamic Foundation Kenya, Islamic Circle of North America (ICNA), ICNA's affiliate, the Relief-Helping Hand, Mercy Relief International, the Al-Haramain Foundation, Help African People, the Islamic Relief Organization, and the Ibrahim Bin Abdul Aziz Al Ibrahim Foundation.

Kenya's geographic location also contributes to making Kenya an attractive terrorist target. Its strategic location, for instance, makes it a significant gateway from the Middle East and South Asia to East Africa and the Horn of Africa. Kenya has developed a major seaport at Mombasa, international airports in Nairobi and Mombasa and extensive rail, road, and communications infrastructure throughout the country. In addition, it is relatively easy to enter and travel within Kenya undetected, because of its porous borders shared with its five neighbors, and its long, largely unmonitored coastline. This combination of infrastructure and porous borders makes Kenya an attractive target and an easy conduit for terrorist-related materiel, activities, and transit points.[59]

[59] Barkan, J. D and Cooke J.G Cooke, 'U.S. Policy Towards Kenya in the Wake of September 11, Can Antiterrorist Imperatives be Reconciled with Enduring U.S. Foreign Policy Goals?' Africa Center for Strategic Studies, 2001 web page article on-line available from www.csis.org/Africa/ANotes/ANotes0112.pdf.

The Kenyan coastal region is widely inhabited by Arabs who have strong historical and cultural ties with the Arabs in the Middle East. Because of the common religion and language, terrorists can easily blend into the coastal community. For example, Fazul Abdullah Mohammed operated from Siyu Island in the Lamu district on the Kenyan coast for a long time without the authorities detecting him. [60]

Kenya's political stability since independence, combined with its geostrategic importance, has led it to be recognized by Western countries as a major hub for economic, diplomatic, and humanitarian activities for the East African and Horn of Africa region. The US has maintained military access agreements with Kenya that have permitted the US military use of Kenyan sea and air bases for the past several decades. These facilities helped provide humanitarian assistance in the early 1990s to Somalia and Sudan and to Rwanda after the 1994 genocide and served as a power-projection platform to the Persian Gulf region.

Kenya is also home to the US Center for Disease Control and Prevention's largest operation outside the United States and one of the four countries targeted by the United States Agency for International Development to receive significant increases in resources to fight HIV/AIDS.[61] Because of its wildlife and well developed tourism sector, Kenya is also a significant tourist destination for Westerners. The many tourist's resorts, diplomatic missions, and business investments in Kenya present attractive terrorist targets because they are seen as soft targets.

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[60] Mutinga, Murithi, 2004. 'How Terrorist Attack was Planned and Executed'. *The East Africa Sunday Standard*, Nairobi, 27 November 204, Article on-line, available from www.eastandard.net/hm_news/news.php?articleid=789290802/content/ articles/article1c01.html. Internet.
[61] Barkan, J. D and Cooke J. G, 'U.S. Policy Towards Kenya in the Wake of September 11, Can Antiterrorist Imperatives be Reconciled with Enduring U.S. Foreign Policy Goals?' Africa Center for Strategic Studies 2001 web page article on-line available from www.csis.org/Africa/ANotes/ANotes0112.pdf.

Political instability in the neighboring country of Somalia enables expansion of terrorist interest into Somalia and, thus, into Kenya. For example, Somalia's collapse in 1991 tremendously affected Kenya's security. The lack of a government in Somalia for the last 14 years has allowed unimpeded movement of terrorists across the common border. Somalia's collapse brought an influx of Somali refugees into Kenya, allowing terrorists to blend in with the refugees, move freely across the border, and easily import terrorism into Kenya.

Poverty and widespread unemployment have made Kenyan youths vulnerable to indoctrination and recruitment for terrorist activities. Kenya has a young population (40.6 percent are under the age of 15) and an unemployment rate of 40 percent.[62] Terrorists also bring money into Kenya and are able to entice many from the unemployed and poverty-stricken to support their cause, wittingly or unwittingly, and to provide new recruits to the cause to enhance situational awareness and gather local intelligence for terrorist activities.

Elements of Islamic fundamentalism have been invading Kenya from the east through Somalia and along the Kenyan coast. This encroachment has resulted in a growing dissent among the Muslim population, making them easy recruits for terrorist activities. In Kenyan mosques, individual Imams preach about perceived injustice to their Muslim brothers in Afghanistan, the unresolved Israeli-Palestinian conflict, and the war in Iraq. Aided by technology, in the form of the Internet, satellite TV, and Kenyan's increased travel and employment around the globe, Muslims in Kenya are becoming more globally aware.

[62] Central Intelligence Agency. 2004. *The World Factbook.* Kenya. Book on-line. Available from www.cia.gov/cia/publications/factbook/geos/ke.html#Geo.

Individual Imams are using this increased global awareness to encourage Kenyan empathy with more extreme views of the needs, hardships, and philosophies of their core religion worldwide.[63]

Finally, lax law enforcement has made Kenya easily accessible to terrorist organizations. The Global War on Terrorism (GWOT) has dismantled terrorist sanctuaries, particularly in the Middle East and South Asia, but this has forced terrorists to look for safer and more accessible operational environments. Kenya has provided the ideal environment for terrorists to exploit and infiltrate into the country.

Terrorist groups need safe havens, intelligence on the environment they will operate in, training and recruitment bases, logistic support, and other infrastructure. These can only be achieved by obtaining external support to sustain their acts of terror. In *Terrorism and US Foreign Policy*, Paul Pillar identifies some of the external state sponsors of transnational terrorism, such as the former Taliban regime in Afghanistan, Iran, Sudan, Libya, and North Korea.[64]

In Kenya, terrorists have found readily available internal support from some sections of the population that have enabled them to conduct two successful attacks. External support, which is the lifeblood of terrorism, provides terrorists money needed for recruitment, training,

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[63] Moustapha Hassouna, 'Why Radicals Find Fertile Ground in Moderate Kenya, President Bush met with Kenya President Moi to Discuss Security issues', The Christian Science Monitor, 6 December 2002. Article on-line. Available from www.csmointor.com.

[64] Pillar P, Terrorism and U.S. Foreign Policy, (Washington, DC: Brookings Institution Press, 2001) p.

indoctrination, and execution of terrorist attacks. This is an area on which counterterrorism strategies and efforts should be focused to deny terrorists their lifeblood.

The grievances of minorities concerning their perceived lack of political and civil rights can trigger violence. In view of this, international experts, at a meeting in 2003 in Oslo, discussed terrorism's root causes. They determined that some of the causes included lack of democracy, inequality of power, illegitimate or corrupt governments, and the expression of social injustice and failure or unwillingness by the state to integrate dissident groups or emerging social classes.[65] They pointed out that terrorism occurs in wealthy countries as well as poor countries, and in democracies as well as in authoritarian states. Thus, there exists no single root cause or even a common set of causes. However, there are a number of preconditions and precipitants for the emergence of various forms of terrorism. In Kenya, there is a perceived political marginalization of some segments of the population, especially in coastal and northeastern regions, which gives terrorists groups a perceived legitimacy for agitating and spreading their form of rule through violence and indoctrination, as witnessed by the propaganda being spread by Bin Laden and his lieutenants. The government needs to confront the root causes of terrorism and act to reduce the perceived problem.

Religious extremist ideologies often lead to the spread of terrorism. Benjamin Netanyahu attributes the source of terrorism to the Soviet Union during the Cold War. The Soviets used terrorism as a weapon during communist struggles in many western strongholds.[66] However,

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[65] Bjorgo T, Finding for an International Expert Meeting in Oslo on Terrorism. Conference, Norwegian Institute of International Affairs 9-11 June 2003. Norway.
[66] Netanyahu B, Fighting Terrorism: How Democracies can Defeat the International Terrorist Network (New York: Farrar, Straus and Giroux, 2001) pp. 52-57

Netanyahu fails to analyze the development of terrorism during the 1980s when the Soviets invaded Afghanistan. That invasion triggered a war fought by Muslim volunteers (*Mujahedeen*) as a *Jihad* to counter and reverse Soviet expansion. According to John L. Esposito, the Soviet invasion of Afghanistan and the subsequent covert operations to dislodge them from the region propelled individuals like Bin Laden into international politics concerning Muslims.[67] Jakkie Cilliers and Sturman Kathryn claim that after the Soviet withdrawal from Afghanistan in 1989, the fundamentalism carried by the *Mujahedeen* returning from the Jihad spread rapidly in North Africa and Asia and soon affected Algeria, Egypt, and Sudan.[68] Therefore, one could logically claim that the current international terrorism is linked directly to the 1979-1989 wars in Afghanistan against the Soviets, which produced indoctrinated and hardened *Jihad* veterans who have since then been spreading their militancy to other parts of the world.

According to Moustapha Hassouna, in his article on why radicals find fertile grounds in Kenya, technology, such as the internet and satellite television, as well as increased travel and employment around the globe, has resulted in making Kenyan Muslims more informed of what is happening globally.[69] This increased awareness was especially highlighted in the conflict in the Middle East and Iraq and the unresolved Israeli-Palestinian conflict. It is important to note that many Muslims along the Kenyan coast share a common religion, language, and significant aspects of their culture with the Muslims in the Middle East.

[67] Esposito J. L, Unholy War, Terror in the Name of Islam (New York: Oxford University Press 2002) pp. 10-11
[68] Cilliers J and Sturman K, 'Africa and Terrorism, Joining the Global Campaign', Monograph 74, July 2002. Pretoria: Institute for Security Studies. Article on web page. Available online from www.iss.co.za/PUBS/MONOGRAPHS/NO74 /Chap1.html. Internet.
[69] Moustapha, Hassouna, 'Why Radicals Find Fertile Ground in Moderate Kenya, President Bush met with Kenya President Moi to Discuss Security issues' The Christian Science Monitor, 6 December 2002. Article on-line.

Because of these factors, an element of radicalism has invaded Kenya from the east through Somalia and along the Kenyan coast. This encroachment breeds dissent among some sections of the Muslim community, which makes them easy targets for terrorist activities.

Economic imbalance also contributes to terrorism. In their analysis of terrorism in Africa, Campbell and Flournoy acknowledge the roles marginalization and poverty play among the Muslims that invite sectarian and inter-ethnic strife, despair, and anti-Western resentment.[70] They also note the emergence of Islamic agencies, funded by Saudi and other Persian Gulf states and individuals, which are addressing the social problems of Muslim communities while sowing seeds of discord and anti-Western sentiment and recruiting and providing safe havens for terrorist organizations.

Pillar supports this view, noting that terrorism and terrorist groups "do not arise randomly and they are not distributed evenly around the globe".[71] He attributes the living standard and socioeconomic deprivation of some segments of society as the breeding stock for terrorists: "Terrorism is a risky, dangerous, and very disagreeable business." Few people who have a reasonably good life will be inclined to become terrorists. Pillar believes cutting out roots can be useful. However, he acknowledges that if all root causes were somehow removed, there would always remain a core of incorrigibles, such as Bin Laden and his inner circle.[72]

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[70] Campbell, K. M and Michele A. Flournoy M. A, To Prevail: An America Strategy for the Campaign against Terrorism (Washington DC: Center for Africa Strategic Studies, 2001) pp. 255-56
[71] Pillar P, Terrorism and US Foreign Policy, Op.Cit. p. 30
[72] Ibid, p 30-32

All of the authors mentioned touch on the common factors that cause some sections of the Kenyan population to lean toward joining terrorist groups - poverty and widespread unemployment. Kenyans are especially vulnerable to indoctrination and terrorist recruitment in exchange for financial gain. Thus, economic deprivation enables terrorist groups to exploit and recruit foot soldiers from the poor segment of the population.

2.4 Counter terrorism measures

The subject of counterterrorism and how to effectively conduct it has become a popular topic in current literature. Some elements of an effective counterterrorism strategy relevant to this research, cited by various authors, are public diplomacy and information campaigns; legislation; financial controls and socioeconomic development; use of military force; and creation of a specialized judicial system for terrorism suspects.

Military action is one of the tools available to counter terrorism and is the most effective measure to physically eliminate terrorists, as witnessed in Operation Enduring Freedom in Afghanistan where Al-Qaeda structures were dismantled and many terrorists were killed or captured. However, those military actions were at times actually counterproductive. Far from serving as deterrents, such strikes served to further some of the political and organizational purposes of terrorist leaders; increase publicity for their cause; bolster their sense of importance; and reinforce the message that the United States is an evil enemy that knows only the language of force. In the final analysis, such strikes are almost always message-sending exercises rather than a means of significantly crippling terrorist capabilities.

Netanyahu believed that the use of military action to defeat terrorists discourages dictators from undertaking terrorist campaigns against the West or its allies.[73] For example, the 1998 cruise missile attacks in Sudan by the United States signaled to the government of Sudan that if it continued to sponsor terrorism the United States would not hesitate to attack the country.

Netanyahu however, fails to address the second- and third-order effects of such actions, such as hardening the cause of the terrorists and the negative effects of using military strikes on an innocent populace to justify a cause. Conversely, Mark Juergensmeyer supports the hard-on-terrorism approach, suggesting that the use of violence to kill or forcibly control Bin Laden might deter persons from becoming involved in the planning of future terrorist acts.[74] On the other hand, the overt use of military force could elevate the possibility of more terrorist acts in retaliation.

Recent experience shows that the best military action in the war on terrorism is the use of preemptive strikes as opposed to retaliatory strikes, as happened in Afghanistan and Operation Iraqi Freedom. Such counterterrorism measures will discourage more states from supporting terrorists groups.

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[73] Netanyahu B, Fighting Terrorism: How Democracies can Defeat the International Terrorist Network, Op.Cit.

[74] Juergensmeyer M, Terror in the Mind of God: The Global Rise of Religious Violence, (California: University of California Press, 2001) pp.229-31

Public diplomacy and information campaigns are key aspects of counterterrorism measures. Pillar[75] examines the major fronts on which to fight terrorism, looking at the root causes and issues that give rise to terrorist groups. He examines what motivates individuals to join such groups and the ability of such groups to conduct terrorist attacks. According to him, any sound policy toward a terrorist group requires an understanding of what is and what is not important to that group, what drives its leaders and members, what stimulates it to attack, and what it would take to give up terrorism.[76]

Governments should place increased emphasis on this area to counter terrorists' propaganda, demystify terrorism, and correct the misperception that governments are hostile to Islam, since most counterterrorism efforts are directed at the Muslim community. This campaign can be successful if it addresses the concerns of Islamic leaders and scholars.

Socioeconomic development is one area where the causes of terrorism can be mitigated. In considering socioeconomic development, especially when coupled with the diplomatic and informational tools of national power in combating terrorism, Lee Wee Ling emphasizes the importance of social economic development to mitigate the root causes of terrorism and the use of diplomacy and information campaigns with the objective of winning the hearts, minds, and souls of the international Muslim community through the promotion of the Islamic culture and teaching.[77] Lee's arguments are supported by Campbell and Flournoy in their analysis of terrorism in Africa. They cite marginalization and poverty among Muslims as factors that

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[75] Pillar P, Op.Cit.
[76] Ibid, 34
[77] Lee L. W, (War Against Global Terrorism: Winning the Hearts, Minds, and Souls of the Muslim World, (Washington, DC: National Defense University, 2004) p. 66

invite sectarian and inter-ethnic strife, despair, and anti-Western resentment.[78] In several parts of Africa, Muslim communities have embraced Islamic charitable organizations because those organizations provide social amenities such as schools, health centers, relief food, and the like. Terrorist groups intending to spread hatred and radicalism used some of these organizations as fronts for their actions. Therefore, an area of focus in the counterterrorism campaign should be to address the socioeconomic disparities that terrorist groups exploit. Many developing countries do not have the enormous resources to address the problem; therefore, developed countries need to provide needed resources. Doing so might significantly reduce the number of recruits into terrorist organizations.

Legislation is one of the means of effectively countering terrorism. In this area, Bruce Hoffman and Jennifer Morrison cite the benefit of legislation in the development of an effective counterterrorism strategy.[79]

Their sentiment is supported by Netanyahu who offers advice on fighting terrorism through revising legislation to enable greater surveillance and action against organizations inciting violence.[80] However, such legislation needs to consider the concerns of the infringement of civil liberties. Specialized judicial process and training of those involved in administering justice play key roles in counterterrorism strategy.

[78] Campbell K.M and Flournoy M. A, Op.Cit, pp.255-56
[79] Hoffman B and Jennifer Morrison J, A Strategic Framework for Countering Terrorism, (England: Ashgate Publishing Company, 2000) pp.12-13
[80] Netanyahu B, Op.Cit, p.142

Terrorists' acts mostly affect an innocent population, directly and indirectly, which calls for special training for those involved in fighting the crime. In this area, Jeremy Shapiro and Suzan Benedict advocate specialized training for law-enforcement officers engaged in terrorist investigations and prosecutions and for judges who hear terrorist-related cases.[81] Shapiro and Benedict recommend establishing special courts in centralized locations to hear terrorist-related cases usually heard through the normal courts, where such cases frequently experience routine delays caused by judicial systems being grossly overburdened. As counterterrorism tools, these measures would allow effective investigation, prosecution, and conclusion of terrorist-related cases in a just and efficient manner.

2.5 Analysis of the Kenya's Response to International Terrorism

Although the 1998 US Embassy bombing in Nairobi demonstrated the presence of terrorist groups in Kenya, efforts by the government to counter the threat were not robustly discernible. The ease with which Al-Qaeda members had operated in the country highlighted the weaknesses in the government's employment of instruments of power to effectively combat international terrorism. This section analyzes Kenya's counterterrorism measures before and after the US Embassy bombing, based on the case study. The traditional and non-traditional instruments of power: diplomacy, information, military, and economics (DIME) along with law-enforcement, legislation, and financial controls are used to analyze the Kenya's response to the threat of international terrorism. Further, the efficacy of the counterterrorism measures are assessed relative to the threat factors.

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[81] Shapiro, Jeremy, and Susan B, The French Experience of Counterterrorism, (Washington, DC: The International Institute for Strategic Studies, 2003) p.89

2.6 Employment of the Instruments of Power

2.6.1 Use of Military power

The application of military force after a significant terrorist attack is understandable in light of the acute threat to security. There is, according to Sir Michael Howard a clear and 'thunderous political imperative: "something must be done".[82] It is difficult to resist this call for forceful action: 'the illusion of the offensive is critical in such situations. A liberal, democratic polity must be seen to respond to protect the life and property of its citizens.'[83] A terrorist attack challenges the state in the exercise of one of its core functions. According the Benyamin Netanyahu, former Israeli prime minister and well-known hawk, there should not even be a hesitation. Democracies do not have a choice when it comes to fighting terrorism.[84] The reason according to Daniel Byman is that: 'The painful answer might be that "doing something" is needed to reassure people after a massive attack . . . because a perception that the government was passive could contribute to a massive overreaction. Reacting may be necessary to prevent overreacting.'[85]

Current prescriptions for dealing with terrorism stress the importance of doing something, including using force. The recipe, formulated by two researchers of the RAND Corporation, and emblematic of the available prescriptive literature, looks as follows: 'first crushing the

[82] Howard,Michael, 'What's in a Name?'. Foreign Affairs 81, no. 1 (2002) pp.8–20.
[83] Donahue, Laura K. 'In the Name of National Security: US Counterterrorist Measures 1960–2000', Terrorism and Political Violence 13, no. 3 (2001) pp 15–60.
[84] Netanyahu B, Fighting Terrorism: How Democracies Can Defeat Domestic and International Terrorism. Op.cit
[85] Lum, Cynthia, Leslie Kennedy, and Alison S. Sherley, 'Are Counter-Terrorism Strategies Effective? The Results of the Campbell Systematic Review on Counter-Terrorism Evaluation Research'. Journal of Experimental Criminology 2, no. 4 (2006) pp. 489–516. Available at: http://www.campbellcollaboration.org/doc-pdf/Lum_Terrorism_Review.pdf

current terrorist threat and then bringing about changes to make terrorism's reemergence less likely'.[86] Furthermore, 'history also suggests that the crushing phase should be accomplished first (in part to avoid encouraging terrorism), but the groundwork for the more positive features must be begun early if the strategy is to bear fruit later'.[87]

After the 1998 terrorists attack, the military, as an instrument of power, was not effectively used to combat terrorism, partly because of the notion that terrorists activities were minimal at the time, that the initial incident was more of a criminal act than a terrorist act, and that it was an isolated incident. The reality that terrorists were using the porous land borders and coastline to enter the country had not dawned on the government. Also, the role of maintaining law and order had traditionally rested with the police in Kenya. Unlike today, the military had no training to combat terrorism. These factors might have caused the government not to employ the military for counterterrorism efforts after the 1998 bombing. Nevertheless, the military increased surveillance along the Kenya-Somalia border. Military intelligence also joined other intelligence communities in the country to assess the threat.

2.6.2 Use of Diplomacy

Diplomacy is the most frequently used and most successfully used form of counterterrorism. Numerous misconceptions exist about it. What diplomacy is NOT may be easier to describe, and things such as foreign policy and international law are definitely things involving other continuums. These areas might be called the "legislative" branch of diplomacy,[88] but policy and law are things best left to a President, his or her Cabinet, a Legislature, and a Judicial

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[86] Davis P. K and Jenkins B. M, Deterrence and Influence in Counterterrorism: A Component in the War on Al Qaeda, (Santa Monica, CA: RAND, 2002) p. 212
[87] Ibid
[88] Nicolson H, Diplomacy, (New York: Oxford University Press, 1964)

Branch. Instead, diplomacy is mostly "executive" in the sense that a seasoned team of professionals (called the Foreign Service or Diplomatic Service) are used who are dedicated to the practice of diplomacy and nothing else. Diplomacy is also NOT about negotiation, guile, or trickery, which might be expressed in such commonplace definitions as "the art of persuading others to do things that serve mutual interests." This is a bad definition of diplomacy, and in fact, the practice of diplomacy is often all about fixing the problems that nations get into by trying to deceive one another.

Diplomacy is the instrument of power that builds political will and strengthens international cooperation. Diplomatic exchanges promote counterterrorism cooperation with friendly nations that serve each other's mutual interests. International terrorism has no boundaries and requires governments to reach out to their neighbors and allies to forge a multilateral approach in the fight against the threat. Diplomacy supports the other instruments of national power in numerous ways. For example, extradition treaties help in the application of criminal law by facilitating the transfer of fugitive terrorist suspects. Intelligence sharing among nations potentially discourages terrorists from operating in those countries and facilitates the monitoring of groups operating in the region. After the 1998 US Embassy bombing, Kenya fully cooperated with the US in intelligence sharing and in giving US investigators access to investigate the incident. The government also helped apprehend and hand over the suspects to US investigators to stand trial in the US. Apart from the US, Kenya approached the Israeli government to obtain its assistance in rescue operations. This was followed by the dispatch of rescue teams and intelligence agencies to help track those responsible for the attacks.

In the East African region, Kenya took center stage internationally because of what was perceived as the terrorists' change in operations to focus on soft targets in countries where the phenomenon of terrorism had not yet been experienced. Kenya provided logistical support to the US to investigate the terrorist incident, which resulted from the perceived notion that Kenya was a victim of terrorism because of US interests in the country, and that the US had to play a major role in investigating the attacks. However, Kenya did not apply much effort to incorporate the countries in the Horn of Africa region in a unified regional counterterrorism strategy because of the belief that Kenya was a victim rather than a source of international terrorism. This denial was tied to the inability to acknowledge the wider context that led to the growth of terrorism - the erosion of the structure of governance, notably weak intelligence capabilities and law enforcement.[89] Furthermore, the government was afraid to alienate Kenya's Muslims who often complained of perceived marginalization. It was feared this group would bear the brunt of any counterterrorism efforts, since most of the terrorist suspects were almost invariably from the Muslim community.

The government was in a precarious position from the fears that there could be political risks if it engaged in a full-scale counterterrorism campaign. Within Kenya, several groups, some of which already felt marginalized and aggrieved by the Jomo Kenyatta and Moi regimes were reluctant to accept open-ended military and law-enforcement cooperation with the US. These groups openly urged the government to deny the use of Kenyan bases to the US government.[90]

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[89] Khadiagala, Gilbert, 'Kenya: Haven or Helpless Victim of Terrorism', in, United States Institute of Peace, Special Report 113, Terrorism in the Horn of Africa, 2004 ; web page. Article online. Available from www.usip.org/pubs/specialreports/sr113.html, 2

[90] Barkan J. D and Cooke J. G, 'U.S. Policy Towards Kenya in the Wake of September 11, Can Antiterrorist Imperatives be Reconciled with Enduring U.S. Foreign Policy Goals?' (Africa Center for Strategic Studies, 2001); web page article on-line. Available from www.csis.org/Africa/ANotes/ANotes0112.pdf.

In Mombasa and other coastal towns, where the population is largely Muslim, there were protests against US FBI agents sent to hunt down suspected terrorists. There was also the feeling that full cooperation with the US in the counterterrorism campaign might lead to the country being targeted again. Effective counterterrorism measures could potentially have destabilized the country. Despite evidence of the presence of terrorist cells and the involvement of Kenyans in terrorist activities, the hostility toward the government's counterterrorism measures and diplomatic cooperation with the US still exists. For example, in early 2004, Muslims leaders asked the government to expel the FBI from the country to allow Kenya to conduct its own investigations of terrorist activities in the country.[91]

The Muslims' concerns might be justifiable since they bear the brunt of counterterrorism measures. However, Muslim leaders are using counterterrorism measures as a veil. The real issue is that the communities depended on Islamic organizations for social welfare (medical, food relief, and Islamic education) and socio-economic support to marginalized communities, which the Kenya government hardly provides. There were also several Islamic institutions that were being sponsored by individuals and other Arab Muslim countries. As a result of the terrorist incident, there was focus on these Muslim NGOs. While some, such as Al-Haramain, were deregistered by the government, others closed after sponsoring nations stopped funding them when the US launched the Global War on Terrorism (GWOT). Many communities, including teachers and some Muslim clerics who worked for these organizations, were left without any other support, and the government did not come in to fill the gap. This denial of support contributes to the dissent.

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[91] Packard, Gabriel, 'Muslim Leaders Want FBI Thrown Out of Kenya', The New York Amsterdam News, 29 January-2 February 2004

2.6.3 Use of Information Campaign

An information campaign is critical to any counterterrorism strategy. When well employed, it can counter perceived marginalization among some communities by educating the populace about the government's plans to address the problem. After 1998, the government was in a state of denial and did not conduct a full-fledged information campaign to educate the public on the need to cooperate and expose terrorists within their midst. Terrorists do not operate in a vacuum; they are part and parcel of the community. A well-employed and effective information campaign could have helped mold the public's attitude and to expose foreigners. One can argue that there was a measure of information campaign; but, this was nonetheless confined to urban areas. In rural areas, especially in the coast and northeastern regions where many communities have no access to print or electronic media and where terrorists, disguising themselves as Islamic preachers, businessmen, and teachers, can blend easily into the community, an effective information campaign would have helped expose them. The lack of resources and the perception that the country was a victim, rather than a source of terrorism, can also be attributed to the failure to launch an effective information campaign.

2.6.4 Use of Legislation

Although transnational terrorism had started to establish roots in Kenya, the government made little progress in implementing appropriate domestic legislation on terrorism-related issues. The Suppression of Terrorism Bill 2003, similar to the US Patriot Act, met with stiff opposition from individuals, human-rights organizations, Muslim organizations, and some parliamentarians who feared it would infringe on basic human rights and target specific communities, especially the Muslim community. In the absence of counterterrorism

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legislation and prior to the enactment of the Prevention of Terrorism Act 2012, the government relied on the Penal Code and other existing legislations to prosecute those arrested for terrorist activities often with minimal impact. It was common for terrorism suspects, to be prosecuted under immigration-related offences and other minor offences. This is, however, not peculiar to Kenya as other countries, such as Canada, the United Kingdom, Germany, France, and Israel have often used general criminal courts to prosecute terrorist-related cases. However, they have also enacted a variety of special laws relating to terrorism. For example, under French law, certain criminal offenses are considered terrorism when the acts are intentionally linked to an individual or group whose purpose is to cause a serious disruption of public order through intimidation or terror.[92] Counterterrorism legislation is an important instrument of an effective counterterrorism strategy, and any government confronted with the threat of terrorism should enact such legislation. The enactment of such laws expresses the government's political will to combat the threat.

2.6.5 Financial Controls

Money has often been described as a key to international terrorism, thus tracking it is a key to counterterrorism. As an instrument of power, the government has not enacted any legislation on financial controls. However, it has established a task force on anti-money laundering and on the financing of terrorism.[93] The task force's intent is to review existing legislation and come up with a draft of a national policy on combating the financing of terrorism. It is also working closely with the US Interagency Terrorist Finance Working Group to develop a

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[92] Rabkin 2000, pp.9-10
[93] Khadiagala. Gilbert. 2004. 'Kenya: Haven or Helpless Victim of Terrorism, in, United States Institute of Peace, Special Report 113, Terrorism in the Horn of Africa; United States Institute of Peace web page, Article online. Available from www.usip.org/pubs/specialreports/sr113.html

comprehensive anti-money laundering and counterterrorist finance program.[94] In addition, administrative measures have been put in place by the Central Bank of Kenya to deal with identifying, tracing, and freezing financial assets belonging to persons identified with terrorist activities.[95] The lack of such legislation has made Kenya one of the countries where money laundering is on the rise, and the possibility of terrorists exploiting this weakness cannot be ruled out. The problem is further aggravated by the numerous *hawalla* systems of money transfer operating in the country.

The *hawalla* traditional system of money transfer is based on mutual trust and sometimes transactions are made by a phone call leaving no paper trails. For example, you deposit money in the United States then instruct the agents in the beneficiary country to issue the money to the beneficiary. A key component of antiterrorism strategy should be starving terrorists of the resources they need to operate. As a sign of commitment to fighting terrorism, financial controls should be enacted. Equally, all the *hawallas* operating in the country should be registered with the Central Bank for close monitoring. Regular checks of their operations would deter them from being used to remit terrorist finances.

2.6.6 Intelligence and Law Enforcement

Intelligence services and law-enforcement agencies are important in an effective counterterrorism strategy. The key to winning the battle against terrorism is winning the

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[94] Royce Ed, Chairman, 'Report of the House Committee on International Relations:Subcommittee on Africa holds a hearing on African Terrorism;, 1 April 2004. Article on-line. Available from https://web.lexisnexis.com/congcomp/document? _m=00f3d 637eb41800a4835f34f8690f32f2

[95] Greenstock Jeremy, 'Report of the Republic of Kenya Submitted to the Security Council Committee Established Pursuant to Resolution 13739 (2001)', 2002; Article on-line. Available from www.un.org/Docs/sc/committees/1373/k.htm.

intelligence battle. Intelligence enables early detection of terrorists in time for law-enforcement officers or the military to act. However, for it to be of any value, intelligence must be supported by effective law enforcement in conducting apprehensions and disruptions of terrorist cells. Before 1998, there was a failure on the part of intelligence and law-enforcement agencies to detect domestic and foreign terrorists freely operating within the country. The ease with which these terrorists were entering and leaving the country illustrated the weaknesses inherent in the intelligence and law enforcement agencies at the time. For example, effective intelligence and law enforcement should have detected the terrorists during their numerous planning activities including meetings at the up-market Runda Estate safe house rented by Fazul Abdullah Mohamed and the Hilltop hotel on River Road, filming of the US Embassy in preparation for the attack and the assembling of the bomb in the truck at Runda.

While intelligence agencies and police failed to prevent the attack or dismantle Al-Qaeda cells in the initial stages, there are other agencies that contributed to the failures. The fight against terrorism is not an intelligence and police battle alone; it also involves the Immigration Department. Most of the terrorist suspects were foreigners. Some of the foreigners living in Kenya had fake documents, including Kenyan national identity cards and passports.

Because of institutional corruption, a foreigner could easily obtain Kenyan national identity cards, passports, birth certificates, or other documents through Kenya's black market. Terrorists often exploit such loopholes to enter the country disguised as immigrants, tourists or businessmen.

Another area the terrorists exploited was the lack of security awareness at the country's entry points. The ease with which Mohammed Saddiq Odeh, a key logistician in the August 1998 US Embassy bombing who was traveling on a fake passport, left Nairobi via the Jomo Kenyatta International Airport on 6 August 1998 (later arrested at Karachi airport in Pakistan), is evidence of inefficiency on the part of the Immigration Department. Corruption within the Kenyan police force in the 1990s was rampant; failure of effective law enforcement also contributed to the problem. The police force was so ill-equipped it could not respond to emergencies because of a basic lack of transportation and communication resources.

Despite the shortcomings noted, after the 1998 terrorist attack, law-enforcement officials arrested several suspects a few days after the attack. These suspects were handed over to the US government to stand trial. While it can be argued that the FBI helped in the arrests, the Kenya government continued to track the terrorists and their supporters in the country after the FBI concluded its preliminary investigations. For example, in November 2001, the Kenya Police arrested more than twenty people in Lamu who were suspected of having links with Al-Qaeda along the Kenyan coast.[96] Although intelligence and law-enforcement agencies continued to track terrorist suspects and their supporters in the country, it is evident there was a missing link, either an effective approach was not applied or initial successes were the result of external pressure. The lack of effective intelligence and law enforcement contributed to the failure to deter the 2002 terrorist attacks.

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[96] Drake C. J. M, Terrorists' Target Selection, (New York: St. Martin's Press 1998) p.146

Chapter Three: Analysis of US Terrorism Experience

3.1 Introduction

The US State Department definition of terrorism will be analyzed because that definition has guided much of counterterrorism policy in the US – the country that has been the frontrunner in counterterrorism measures and research over the last decade.

3.2 US State Department definition of terrorism

The US government upholds more than twenty different definitions of terrorism, terrorist activity, acts of terrorism and (federal) crimes of terrorism.[97] The US State Department currently defines terrorism as "Premeditated, politically motivated violence perpetrated against non-combatant targets by sub national groups or clandestine agents usually intended to influence an audience".[98] The US Government has used this definition for analytical and statistical goals since 1983.

This definition captures some essential points of terrorism: political motivation, the violent act as a message, premeditation as opposed to an accident or a *crime passionel* and the goal of extending influence. While on the surface a clear and manageable definition, it nonetheless has been criticized for various reasons. According to Thomas Badey, the inclusion of *clandestine agents* is problematic in that clandestine activities of agents related

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[97] Nicholas J. Perry, 'The Numerous Federal Legal Definitions of Terrorism: The Problem of Too Many Grails', Journal of Legislation, vol. 30, no. 2 (2004) pp. 249-274.
[98] US Department of State, *Country Reports on Terrorism 2006*, April 2007, Code 22, Section 2656f(d). http://www.state.gov/s/ct/rls/crt/2006/82726.htm

to other governments are subject to their own taxonomy; covert action, sabotage and espionage or direct involvement in activities that are classified as international terrorism is extremely rare.[99] On the other hand, one could also argue that the reference to clandestine agents serves to include state-sponsored terrorist groups.

While this definition covers the phenomenon of 'political terrorism', not all forms of terrorism are politically motivated. Terrorism can be motivated by revenge, religious purposes or personal reasons as well. It will be more difficult to include those terrorist acts in this definition unless one finds a way to label them under political terrorism. Also, the relative merit of the sentence 'usually intended to influence an audience' can be questioned. It does not specify or distinguish any characteristics and thus, it does not add anything to the clarity of the definition. The biggest debate concerning the US State Department definition of terrorism centers, however, on the interpretation of 'non-combatant'. In the definition provided above, the State Department further explains this term:

> "For purposes of this definition, the term "non-combatant" is interpreted to include, in addition to civilians, military personnel who at the time of the incident are unarmed or not on duty. (...) We also consider as acts of terrorism attacks on military installations or on armed military personnel when a state of military hostilities does not exist at the site, such as bombings against US bases in Europe, the Philippines, or elsewhere."[100]

The implication of this addition is that military personnel are also considered to be non-combatants (even if they are armed) if they are not on duty. In other words, the US State Department adapts a very flexible interpretation of the term 'noncombatant'. All in all, this

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[99] Thomas J. Badey, 'Defining International Terrorism: A Pragmatic Approach', Terrorism and Political Violence, (10) 1, 1998 p. 92.
[100] US Department of State, Country Reports.

definition has its merits in that it includes a couple of essential elements of terrorism and because it is a short, manageable definition. Its weaknesses are its narrow focus on politically motivated terrorism, the vagueness of the sentence 'usually intended to influence an audience' and the controversy about the nature of non-combatants, blurring the distinction between armed conflict and terrorism.

Although terrorism is usually viewed as a collective activity,[101] the threat of individual terrorist actors frightens democratic states and calls for action within the nation's counter-terrorism strategy. Preventative counter-terrorism approaches often rely on intelligence, the visibility of actors within a network and the possibility to detect a threat in order to eliminate it. 'Lone wolfs', the appellation for individual terrorists, operate outside of a network, which makes it difficult for law enforcement agencies and intelligence services to discern radicalization and terrorist aspirations. Since the terrorist attacks on the US on 9/11, 2001, the US urge to strengthen its counter-terrorism policy has increased.

3.3 The US terrorism experience and Counter terrorism measures

The arrival of the new millennium was accompanied in the United States by fears of spectacular terrorist violence. Several agencies of the US government issued an unprecedented succession of warnings about possible attacks, and there were terrorism-related arrests in Canada, Jordan and the US.[102] The successful interdiction of these attackers and the passing of a date of unique significance will not, however, mean the end of

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[101] Instituut voor Veiligheids-en Crisismanagement (COT), "Lone Wolf Terrorism. Citizens and governance in a knowledge-based society", June 2007,
http://www.transnationalterrorism.eu/tekst/publications/Lone-Wolf%20Terrorism.pdf
[102] Jane Perlez and James Risen, 'Clinton Seeks an Opening to Iran, But Efforts Have Been Rebuffed', *New York Times*, 3 December 1999.

this concern. It will continue, and even intensify, because the old paradigm of predominantly state- sponsored terrorism has been joined by a new, religiously motivated terrorism that neither relies on the support of sovereign states nor is constrained by the limits on violence that state sponsors have observed themselves or placed on their proxies. The new terrorism has emerged during the Clinton presidency: the 1993 World Trade Center bombings in New York, and related conspiracies; the 1996 Oklahoma City bombing; the 1998 East Africa bombings; and the Tokyo sarin-gas attack in 1995.

These attacks were the unmistakable harbingers of a new and vastly more threatening terrorism, one that aims to produce casualties on a massive scale. Although the new terrorism stems from a welter of causes, and cannot be considered the invention of any one individual, the face of this phenomenon belongs to Osama bin Laden, the exiled Saudi who managed to marshall a network of operatives in more than 50 countries. US analysts believe that religiously-motivated terrorism will persist for many years, and that its Islamic manifestation will remain a threat regardless of bin Laden's demise. The resources which the US has devoted to combating the threat of terrorism reflect this view. In an era of predominantly straight-lined budgets, the US has doubled what it spends to fight terrorism since 1994, to more than $10 billion for fiscal year 2000. Already, the US spends $1.4bn each year on defensive measures against terrorist use of chemical, biological, radiological or nuclear (CBRN) weapons, by training and equipping 'first responders' (police, fire, medical and other emergency-services personnel) in the country's 157 largest metropolitan areas.[103]

This programme, which includes deployable federal decontamination and treatment teams as

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[103] Perlez J, 'US to Deport Saudi Suspect in a 1996 Terror Bombing, *ibid.*, 5 October 1999, p. A10.

well as stockpiles of medicines, is effectively a down-payment on the resurrection of a national civil-defence system.[104] Other initiatives include the dramatic expansion of the FBI's counter-terrorism division; more training programmes for law-enforcement and military personnel from outside the US; aggressive bilateral and multilateral diplomacy; increased security for federal buildings and military facilities; an intensive effort to develop and deploy high- technology equipment for aviation security; and an increased emphasis on counter-terrorism as a military mission. The tide of concern has not peaked: in its FY2001 budget submission, the Clinton administration requested $2bn for cyber-security, and the first installment for an ambitious $3bn multi-year programme to replace or harden vulnerable US diplomatic missions overseas.[105]

The increase in resources has been complemented by legislative and bureaucratic innovation. In 1996, President Bill Clinton signed the Anti-Terrorism and Effective Death Penalty Act, which authorized the creation of a special tribunal that can expedite the expulsion of foreigners from the US without disclosure of classified information to the deportee or his counsel. The law also made financial or material assistance to designated terrorist organizations a crime, raised various terrorism-related offences to the level of federal jurisdiction, and mandated the study of taggants that could help investigators in tracing the origin of explosives used in terrorist attacks. The administration pressed for this legislation despite sustained criticism from both the left and right about infringements of

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[104] Juergensmyer M, 'The Worldwide Rise of Religious Nationalism', *Journal of International Affairs*, vol. 50, no. 1, Summer 1996, p. 3.
[105] Ibid

civil liberties.[106] Under the old paradigm, the US had grown accustomed to dealing with terrorism on an operational level as essentially a tactical rather than a strategic problem. The development, implementation and coordination of offensive and defensive programmes, as well as terrorism-related budget requests, were left largely to agencies that worked on an *ad hoc* basis, with minimal coordination and relatively limited White House supervision.

The new paradigm has rendered such an approach obsolete. Between 1995 and 1998, the Clinton administration issued three ground-breaking Presidential Decision Directives on counter-terrorism, expanding and redefining departmental responsibilities while centralizing White House control over operational activities. As part of this effort, the White House created the post of National Coordinator for Counter-Terrorism, Critical Infrastructure Protection and Security to oversee the expanding panoply of federal counter-terrorism programmes. Although this 'czar' lacks the independent authority over budgets and programmes enjoyed by the White House drug czar, his presence at the White House and access to the National Security Advisor gives him significant leverage over executive-branch agencies.

The US code of law defines domestic and international terrorism as "Activities that..,. involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State and that appear to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a

[106] Jack Kelley, 'Saudi Money Aiding Terrorist bin Laden', *USA Today*, 28 October 1999, available at http://www.library.cornell.edu/colldev/ mideast/nwsthu01.htm

government by mass destruction, assassination, or kidnapping".[107] However, most offenders who are considered terrorists receive indictments and convictions as murderers, bombers, racketeers, arsonists, or other criminal violators. For instance, individuals arrested for arson may later become classified as terrorists if it is discovered that their motives were political.[108]

Law-enforcement officials, prosecutors, and the courts often define criminal acts as terrorism in an ex post act of judgment. How police authorities code crimes affects the count of terrorist incidents: Calling an attempted murder a hate crime may move it out of a terrorism classification. Some terrorist conspiracies involve the discovery or interdiction of what appear to be routine crime; for example, precursors of terrorist crime such as smuggling or identify theft. Charles Monroe[109] noted that, during the 1970-1980 period, prosecutors charged domestic terrorists most frequently with racketeering violations, not violations of terrorism statutes. Brent Smith and Kathryn Morgan showed that terrorism was the charge in 2 percent of 1,748 counts against domestic U.S. terrorists between 1980 and 1998 (1994). Racketeering, weapons, and explosives violations constituted more than half of all counts filed against domestic terrorists.[110] Obviously, different types of crimes qualify as terrorist incidents. Therefore, building a database for spatial analysis cannot fully identify the universe of terrorist incidents because determining that universe is impossible.

[107] Ettlinger, N., and F. Bosco. 2004. Thinking through Networks and Their Spatiality: A Critique of the US (Public) War on Terrorism and Its Geographic Discourse. Antipode 36 (2), pp. 249-271
[108] Ibid
[109] Monroe C. P, 'Addressing Terrorism in the United States', Annals of the American Academy of Political and Social Science 463 (1), 1982, pp.141-148.
[110] Smith, B. L., K. R. Damphousse, F. Jackson, and A. Sellers, The Prosecution and Punishment of International Terrorists in Federal Courts: 1980-1998, Criminology & Public Policy 1 (3), 2002) pp. 311-337

3.4 The current terrorism threat in the US

There is consensus that the US faces a terrorist threat that is fundamentally different from that prior to and in the years immediately following September 11, 2001.[111] The media oftentimes exaggerate disagreements regarding the nature of the threat, which in turn results in public debate related to the threat posed by Al-Qaeda and affiliate organizations. One side of the argument suggests that Al-Qaeda has survived the attempts of the US to destroy or dismantle it and that Al-Qaeda continues to represent the principal but not the only threat to the US.

The other position posits that much of Al-Qaeda's core leadership cadre has been captured or killed, and therefore the threat from the organization has been curtailed; instead today's threat is from relatively leaderless self-generating terrorist cells that operate independently of Al-Qaeda direction. If the former position is correct, the US can expect a continuation of dramatic, internationally-directed terrorist attacks that are sometimes years in planning, highly sophisticated, and strategically designed. The implication of the latter position is that the US can expect isolated cells with relatively less capability to conduct attacks based on opportunity rather than a broader strategy.

Today's threat therefore derives externally, from foreign entities like Al-Qaeda and other terrorist groups, as well from some portion of the American population that identifies with and has proven susceptible to Al-Qaeda's ideology. Americans should take little comfort in the fact that self-directed terrorists have not conducted sophisticated attacks in the homeland to

[111] Sciolino E and Schmitt E, 'A not very private feud over terrorism', *New York* Times (2008) p. 1 Retrieved from http://www.nytimes.com/2008/06/08/weekinreview/08sciolino.html

this point as acts of domestic terrorism and spree killings in the US during the last two decades vividly demonstrate that small self-radicalizing groups are very difficult to identify and have the capacity to conduct attacks that have devastating physical, social, and economic impact.

3.5 The theoretical context of terrorism geography

What is terrorism geography? Many terrorist campaigns have clear geographical motivations and spatial implications.[112] The occupation of contested territory defines the Palestinian struggle against the Israelis.[113] Controlling land was a primary motivation for the Shining Path's violence in Peru,[114] from the standpoint of Maoist guerilla strategy-for example, control first the countryside, then the cities-and as a more instrumental tactic to gain control over illicit drug production.[115] Using a similar strategy, the Khmer Rouge captured and controlled Cambodian land through systematic murders and disappearances of 1.4 million people.

The Tamil Tigers are engaged in the capture and control of land as part of their insurgency in Sri Lanka.[116] Spanish terrorism linked to Basque Fatherland and Liberty (ETA) is aimed at establishing sovereign status for land in northern Spain and southern France.[117] However, with few exceptions, analyses of political violence in these locations say little about how space is related to the conduct, places, and tactics of these struggles.

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[112] Murphy A. B, 'The Space of Terror, in, Cutter S. L, Richardson D. B and Wilbanks T. J (eds) The Geographical Dimensions of Terrorism (New York: Routledge 2003) pp.47-52
[113] Noble A. G and Efrat E, Geography of the Intifada, (Geographical Review 80 (3), 1990) pp.288-307
[114] Kent R. B, Geographical Dimensions of the Shining Path Insurgency in Peru. Geographical Review 83 (4), 1993) pp.441-454
[115] Gorriti G. 1999. The Shining Path: A History of the Millenarian War in Peru; Translated by R. Kirk, (Chapel Hill: University of North Carolina Press, 1999) p.264
[116] Gourevitch P, Tides of War: After the Tsunami, the Fighting Continues, (New Yorker, 2005) pp.54-63.
[117] Whittaker D. J (ed), 'Spain', in, The Terrorism Reader,(New York: Routledge 2005) pp.125-138

Space and place play remarkably low-key roles in most terrorism analyses,[118] and they deserve more attention. A useful theoretical portal with geographical components is the work of the sociologist Donald Black[119]. Expanding his earlier ideas about crime as a form of social control (2004), he conceives of terrorism as self-help among groups interested in addressing perceived problems, with one group waging collective violence on others to achieve something or to stop something.[120] Black invokes an arithmetic of inter-group relationships in which space is important to terrorist crimes. He focuses on the relationship between social geometry and physical proximity: His pure form of terrorism requires long social geometries (social distance in terms of ethnicity, religion, social class, corporate status, hierarchical authority, or some other form of extreme social polarization) and short physical proximity (people of different social geometries living in close proximity). Terrorism occurs where social distances are great and people are close. As Black notes, advanced technologies facilitate the spatial connection between victims and socially distant antagonists. Communications and transportation technologies shrink space, so persons once socially distant can now be close to their civilian enemies. Cellular technology and the Internet enable the coordination of attacks on civilians at long distances. Groups deliver attacks by using technologies such as letter bombs or toxins, shootings and assassinations, cyber-attacks, airplanes, and improvised explosive devices. However, Black offers no further consideration of the spatial elements of terrorists and victims. Early analyses of US domestic terrorism glanced briefly at the role of places.

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[118] Flint C, Terrorism and Counterterrorism: Geographic Research Questions and Agendas, (Professional Geographer 55 (2), 2003) pp.161-169.
[119] Black D, 'The Geometry of Terrorism' in Sociological Theory 22 (1) 2004, pp.14-25.
[120] Ibid.

An overview of US terrorism by an FBI agent paid limited attention to geography, although the spatial implications of his analysis were evident.[121] Monroe underscored the regularity of terrorist attacks in the United States (including Puerto Rico): 302 events across five years, an annual rate of sixty incidents. Geographical concerns elsewhere motivated much of the terrorist activity played out in the US. These acts dealt not with control of US land but with other nation's real estate: Puerto Rican nationalism, Croatian independence, or pro- and anti-Cuban violence. Monroe's summary of 1977-1981 terrorist events in the US suggested both predictability and randomness.

The usual spatial suspects-New York City and Los Angeles, for example-were places of planned political violence: 1981 bombings by Puerto Rican nationalists at New York's John E Kennedy International Airport, New York stock exchanges, and nearby banks; targeted assassinations by an Armenian group in Los Angeles and a Croatian group's bomb attack on the New York State Supreme Court building. Less obvious locales such as Fort Collins, Colorado, and Evanston, Illinois, were places where terrorists planned violence.[122] Christopher Hewitt's data span 1955 to 1998 and came from a file of "over 2,700 terrorist incidents that have occurred in the US and Puerto Rico since the early 1950s".[123]

This reflects an annual rate of about sixty-three incidents. He showed the fatality rate from terrorism for the contiguous forty-eight states, reporting that eleven states had no terrorist

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[121] Monroe 1982

[122] Samuel Nunn, Society Incidents of Terrorism in the United States, 1997-2005, (Geographical Review, Vol. 97, No. 1, 2007)

[123] Hewitt C, 'Patterns of American Terrorism, 1955-1998: An Historical Perspective on Terror- ism-Related Fatalities' in, Terrorism and Political Violence 12 (1), 2000, pp.1-14.

fatalities during this period. States with the highest fatality rate per million population (three or more) were highlighted, suggesting four clusters: a western grouping (California, Nevada, and Idaho); a south- eastern cluster (Louisiana, Alabama, Mississippi, and Florida); and two single states (South Dakota and New York). In a later analysis, covering U.S. terrorism to 2002, Hewitt did not mention terrorist incidents linked to the Earth Liberation Front (ELF) or the Animal Liberation Front (ALF), even though others had by then documented the spread of eco-terrorism.[124] Some methods of attack used in terrorism-bombing and lynching, for instance-have spatial roots. In his 1983 study of bomb-related crime in Dallas, Texas, Daniel Georges-Abeyie[125] examined the 361 bomb threats involving racially stratified neighborhoods that had been reported during 1975 and found that the greater the racial diversity in a neighborhood the larger the number of bomb threats it reported.

The socio-demographic structure of spatially bounded neighborhoods became linked to threats of violence. Georges-Abeyie found spatial differences in origin and receipt of bomb threats. He theorized that the racial composition of areas where crime occurs can be linked to a potential for terroristic violence 'the use of bomb threats to intimidate or coerce' and suggested that areas with more racial diversity showed higher levels of potential violence. In this case, particular places, because of their socio-geographical characteristics, became targets of different kinds of terrorist threats. Clusters of violent incidents are important to identify because terroristic violence in one area can affect surrounding areas. Stewart Tolnay, Glenn Deane, and E. M. Beck used county lynchings in ten southern states between 1895 and 1919-more than 2,200 lynchings during three five-year periods-to assess which of two models was

[124] Ibid
[125] Georges-Abeyie D. E, 'The Social Ecology of Bomb Threats: Dallas, Texas', in, Journal of Black Studies 13 (3), 1983, pp.305-320.

more accurate: a contagion model, in which violence in one county is followed by violence in nearby counties, or a deterrence model, in which lynchings in one county lead to less violence in nearby counties. Their empirical analyses favored the deterrence model:[126] "The intensity of mob violence in nearby areas was found to be negatively associated with the corresponding frequency in other areas".[127]

Over time, this model would lead to uneven clusters of violence among counties. The question then becomes finding the place clusters. These early analyses of terrorism geography fail to answer several questions. Terrorist violence focuses on specific people or places, and, in order to execute attacks, the agents of terrorism must cross paths with their victims at some point before or during an attack. The choice of targets is not unlimited but involves attack sites that satisfy the motivations and causes of terrorist groups, not to mention their need to execute successful attacks. Incident patterns result from the interaction of terrorist motivations, the places they attack, the target-site functions, and the methods they use.[128]

The geographical distribution of incidents linked to terrorist causes or motivations is slightly clustered. Furthermore, terrorist causes focus on different types of targets. The approach used to see these differences compares regional clusters organized as all incidents, and then compares the geographical distribution of religious and environmental causes. Mapping the US places that were sites of 1997-2005 terrorist incidents, revealed regional clusters.[129] The

[126] Tolnay S. E, Deane G and Beck E. M, 'Vicarious Violence: Spatial Effects on Southern Lynchings, 1890-1919' in, American Journal of Sociology 102 (3), 1996, pp.788-815
[127] Wilkinson P and Stewart A.M, (eds.), Contemporary Research on Terrorism, (Aberdeen, UK: University of Aberdeen Press, 1987) p. 138
[128] Tolnay S. E et al, Op.Cit.
[129] Samuel Nunn, Society Incidents of Terrorism in the United States, 1997-2005, Op.Cit.

clusters show regions composed of three cell-radius circular areas that distribute the sum of incidents per cell among a group of neighboring cells. Discrete clusters of incidents are visible along the Mid-Atlantic and West Coasts. The East Coast reflects the heaviest groupings of terrorist incidents in the New York City and Washington, D.C. metropolitan regions. US terrorism also clusters disproportionately in the San Francisco and Southern California regions, as well as the entire Oregon-Washington coastal region.[130] The most concentrated range of incidents occurred in the Boston-to-Washington urban corridor. The third pattern is centered around Chicago and the Great Lakes.

The population-weighted rate of incidence differs widely among the 113 places that witnessed terrorism-from less than 1 to 408 per 100,000 people. Normalizing rates into incidents per 100,000 people underscores how single incidents in small places inflate the rate of incidence. In larger population areas, this translates into low rates of incidence. Rural areas show higher rates.[131] The 1997-2005 incident rate per 100,000 people was 0.2 in New York City (thirteen incidents among a population of 8 million in 2000) but 408 in Shanksville, Pennsylvania, site of a 9/11 airline crash (one incident among 245 people). Smaller areas show much larger normalized impacts. This is linked to the rural nature of many environmental attacks and the more general phenomenon of terrorist incidents in smaller jurisdictions. Nonetheless, the preponderance of events occurred in large metropolitan areas on both coasts.

Ecoterrorism occurs in less dense areas (higher rates per 100,000 people). Ecoterrorism cluster on the Pacific Coast, with a few disconnected groups in the middle and upper Atlantic

[130] Ibid
[131] Ibid

seaboard and another visible cluster of incidents around the Great Lakes. Religious clusters follow a southeastern arc, cutting through Washington D.C. and New York City. The arc moves as a function of pro-life violence, but it is anchored in the East by the concentration of religious incidents in Washington, D.C. and New York City, including the events of 9/11 and the October 2001 anthrax attacks.[132]

Environmental groups use tactics that combine locational destruction and message delivery. Violence perpetrated against victims or their property commands them to honor the rights championed by terrorist agents. Areas with environmental amenities - national forests, scenic coastlines, and undeveloped or newly developing territories - often serve as targets. Sometimes the space itself is the object of violence; at other times the item destroyed is the primary message. A typical message advises people to stop developing certain kinds of resources. Animal-rights groups want organizations that affect nonhuman species to cease certain practices involving animals in processing or experimental facilities. To convince organizations not to use animals in laboratories, ALF activists burn or damage facilities that process animals and take actions against retail outlets that market mass consumerism and tourism.[133]

Environmental terrorism aims to stop activities or prevent events in certain spaces. Its primary focus is property; it seeks to protect life.[134] Environmental and animal-rights incidents

[132] Ibid
[133] Ibid
[134] Lessor I.O, 'Countering the New Terrorism: Implications for Strategy' in Lessor et al (eds), Countering the New Terrorism, (RAND Project Air Force 1998) pp.88-89

pinpoint specific spaces and seek to stop certain activities from occurring there. They seek not to capture and control certain spaces but to alter the land uses or functions occurring there.

Religious motivations evidently generate different targets and have less uniform objectives. Religious terrorism creates more regional clusters than does ecoterrorism, but per-population incident rates are lower than are ecoterror rates. Religious causes are largely twofold: anti-abortion violence and violence on behalf of Islamic causes. In anti-abortion violence, terrorist agents try to convince citizens to stop using spaces as sites for abortions and birth-control services. They aim to shut down activity spaces. Conversely, Islamic causes seek not to stop activities performed at targeted sites but to seriously disrupt routine activities and harm individual citizens and occupants of selected spaces.

Major urban areas-Los Angeles, New York, and Washington, D.C.-were the sites of three-quarters of the incidents with apparent Islamic causes. Big cities-dens of inequity, disorder, and chaos-were the preferred targets of Islamic attacks in sixteen of twenty-two incidents. Turning now to spatial dynamics, terrorist incidents in the United States during the 1997-2005 period occurred in remarkably few locales. Of the 25,000 or so towns, townships, cities, and villages in the United States, only 113 (reduced from 126 because geocoding consolidated some suburbs into central cities) experienced the 178 terrorist incidents catalogued here. The usual spatial suspects reflected more incidents, but unexpected places had high counts as well. One-fourth of incidents occurred in only seven places. New York City, Washington, D.C., Los Angeles, Philadelphia, and Miami were among expected locales by virtue of their status as large cities with diverse targets and high population densities, but instances of terrorism also

occurred in Richmond, Virginia, Bloomington, Indiana, Portland, Oregon, Albuquerque, New Mexico, Chico, California, and San Diego, California.

3.6 Conclusion

The foregoing review reveals that motives of terrorism in America differ regionally. Religious, environmental, pro-life, and right-wing terrorism reflected different cluster patterns. When the patterns of terrorist incidents from 1997 to 2005 are reduced to the scale of individual attack sites, certain land uses exhibited higher risks of attack, as well as preferred methods of attack. Terrorists turned toward particular targets - offices, clinics, or public spaces - to send messages to a wider audience. Right-wing violence targeted military, government, and infrastructure targets. Religious terrorism targeted commercial and special land uses. Commercial facilities and special land uses were the targets at greatest risk. When reduced to interactions across space, terrorist agents crossed paths with victims in different ways.

Socially differentiated metropolitan regions establish a wide variety of social distances-differences in class, equality, ethnicity, cultural practices, political differences, and extreme social polarization that result in large psychological and perceived sociological distances between those called "terrorists" and their victims-thus allowing terrorism to occur. Black argues that terror occurs in areas of great social distance and little physical distance (2004). Such combinations are most fruitful for terrorist violence. Another layer of social distancing to add to this is that, "between 1983 and 2004, refugees were resettled across many metropolitan areas in the United States, with 30 areas receiving 72 percent of the total.

Filtered through Black's ideas about social distance, it is possible that refugees from political conflict add to the social distances inherent in urban density, increasing the potential for terrorism. Clearly, U.S. border-control policies since 9/11, built on the fear that foreign conflicts can be imported from volatile world regions, have made the nation's borders less porous to foreign immigrants and refugees. Among the refugees whom Audrey Singer and Jill Wilson documented between 1983 and 2004 period, large numbers came from Russia, Yugoslavia, Iran, Somalia, Iraq, and Ethiopia, all nations experiencing significant levels of political, nationalist, and ethnic terrorism.

Chapter Four: Comparative Analysis of Counter-Terrorism Measures by Kenya and the US

4.1 Introduction

Government policies in response to terrorism extend beyond courses of action, to include resources and capabilities available in the pursuit of its policies. The means (or 'tools', e.g., police, legislation, equipment) and methods (use of tools) must be identified together with an assessment of their utility and effectiveness. While the solutions to the terrorist threat are complex and not easily devised, terrorism is absolutely intolerable, and it is imperative that governments that have been targeted for terrorist strikes mobilized their law enforcement, national security, and civil preparedness machinery to respond to such crises effectively.

This chapter presents the means and methods that Kenya and US governments have employed in dealing with terrorism. Whereas the US government has, to some extent, been able to counter terrorism, this chapter argues that Kenya still lacks the capacity to respond well to the threats posed by terrorism. The Kenya government's response to terrorism remains ad-hoc and reactive rather than decisive and strategic.

4.2 Counter-Terrorism

Counter-terrorism consists of all government actions which try to prevent terrorist attacks or curtail their consequences.[135] According to Ganor (2005), the three main goals of a government countering terrorism are to eliminate terrorism, to minimize damage caused by terrorism and to prevent the escalation of terrorism. Ganor says that eliminating terrorism

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[135]Pillar P.R, Terrorism and US Foreign Policy, Op.Cit. p.73

means removing the enemy's incentive to commit terrorist attacks and use violence against the state and its citizens. Minimizing damage may include sub-goals like reducing the number of attacks of the number of victims through reducing certain types of attacks (e.g. suicide killings). Preventing the escalation of terrorism includes stopping the terrorist organization's growth and development, preventing the organization from gaining political achievements and blocking support from foreign countries.

This study reveals that the American public faces tough questions about how to react to terrorism following the events of 9/11. Among the most pressing is how best to undertake counter- terrorism, defined as the "offensive measures taken to prevent, deter, and respond to a terrorist act, or the documented threat of such an act." Presently, there is a consensus among members of government and the armed forces regarding the need to use the military in a counter-terrorism role outside of U.S. borders. On September 14, 2001, the House of Representatives and U.S. Senate passed Public Law 107-40, the *Authorization for the Use of Military Force against Terrorists*, by a nearly unanimous vote. This law authorized military deployments to both Afghanistan and Iraq to fight the global war on terror (GWOT). Additionally, in the Horn of Africa, the military is involved in non- traditional humanitarian activities as part of a strategy to preempt the spread of terrorism to the region by 'aggressively waging peace.'

4.3 Effectiveness

Although no exact definition of "effectiveness" has been provided in the literature, there are implicit definitions, such as in Enders and Sandler (1993) who say that specific policies may have unintended consequences and may therefore not be effective and policies that verifiably reduce the number of attacks or the number of people killed in a specific form of attack can be classified as effective. They ask "How effective are metal detectors at airports? Do these metal detectors have unintended consequences on other types of terror attacks?"[136] They do not understand the definition of "effectiveness" as an absolute determined state but rather as the attribute of a specific counter-policy to be able to reduce a specific form of terror attacks. Perl (2005) stresses the importance of cost-effectiveness.

So using a minimal amount of resource to maximally reduce the number of a specific type of terror attacks and the number of fatalities according to this study is deemed effective. Whenever there is a method to further decrease the number of attacks and the number of people killed or injured with the same resources, from a government point of view, this measure would be more effective. According to Perl, incidents, attitudes and trends are the key variables for assessing how well the process of terrorism is disrupted.

According to Frey and Luechinger,[137] strategies are effective if they dissuade terrorists from attacking. They argue that an effective way to counter terrorism is to raise opportunity costs

[136] Enders and Sandler, 'Is Transnational Terrorism Becoming More Threatening? A Time-Series Investigation', p.1

[137] Frey, Bruno S. and Simon Luechinger, 'How to Fight Terrorism: Alternatives to Deterrence', in, Defence and Peace Economics 14(4), 2003, pp.237-249

rather than to raise the material costs to terrorists. When good outside offers are available to the members, the leaders tend to lose control. The terrorist organization's effectiveness is thereby reduced[138]. Zussman and Zussman (2006) say that the opposite of "effective" in the context of counter-terrorism measures is "counterproductive".

Zussman and Zussman also focus on a comparison of the number of terror attacks and fatalities before and after the implementation of a certain policy, so their view of "effectiveness" is in line with the implicit understanding of Enders and Sandler. Sandler and Lapan say that "nor does it change the perceived marginal effectiveness of deterrence expenditures in reducing the probability of an attack somewhere".[139]

An effective counter-terrorism measure is that policy where the number of successfully reduced terror attacks and fatalities in combination with a certain resource input by the government is higher than for another strategy and is therefore more effective. When the effectiveness is maximal, the potential of reducing the number of attacks and fatalities is maximal and the resources needed are minimal. When two strategies reduce the number of attacks by the same amount, the strategy that needs less resource is the more effective one. Similarly, when two strategies imply the same costs to the government, the more effective strategy reduces the number of terror attacks by a larger amount.

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[138] Ibid, p. 17
[139] Lapan Harvey E and Todd Sandler, 'To Bargain or Not to Bargain: That Is the Question." American Economic Review 78(2), 1988, pp.16-20

4.4 Structure of the strategies to fight terrorism by the US government

This study reveals that as a response to terrorism, the Bush administration issued the National Strategy for Combating Terrorism in 2003. Many however, suggest that this was not actually a strategy at all, but instead several disjointed ideas: "an approach to addressing a range of terrorist threats, a bureaucratic blueprint, a spending plan and a political statement".[140] A desk review of literature further indicate that succeeding plans by presidential administrations have likewise failed to take on the daunting political task of establishing a powerful central authority for the counterterrorism mission and have tended to look at the "battle of ideas" as an external conflict based principally on foreign-policy issues.

The Obama administration issued National Security Strategy 2010 which calls for the US to approach the counterterrorism mission as a whole-government challenge,[141] which reveals inherent challenges for the United States' national security structure, and particularly the domestic counterterrorism effort: DHS,[142] NCTC (United States National Counterterrorism Center [USNCTC], 2010), and the FBI (Federal Bureau of Investigation [FBI], 2010) still all have legitimate claims to primacy in "protecting the United States from terrorism."

According to a recent strategic review, the US faces systemic challenges in that the "national security system is organized along functional lines (diplomatic, military, intelligence, law enforcement, etc.) with weak and cumbersome integrating mechanisms across these

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[140] Gourevitch P, 'Tides of War: After the Tsunami, the Fighting Continues', in, New Yorker, 1 August 2005, pp.54-63.
[141] Obama Administration, 2010, p.14
[142] United States Department of Homeland Security [USDOH], 2008

functions.[143] None of these organizations incorporates domestic "counter-radicalization" into its mission statements. While these organizations do cooperate in preventing terrorist attacks, true collaboration and true prevention may be out of reach without a unified command and a holistic strategy.

Looking to the future, it is important to note that the 9/11 Commission Report took only the Federal government under its lens. This was appropriate at the time, considering the federal government's responsibility to provide for the nation's common defense, as set forth in the Constitution of the US, because terrorist acts by foreign powers are fundamentally acts of war. For these reasons and because of the disparate structures that support the counterterrorism mission at state and local levels, only the main components of the federal counterterrorism apparatus will be summarized here. It should be noted, however, that the structure necessary to execute a national strategy will necessarily include state and local authorities, nongovernment and community organizations.

4.5 Western Strategies for Counterterrorism

Several Western countries have coordinated governmental responses to the threat of terrorism. Their approaches vary, as does the applicability of these strategies in the US. The United Kingdom (UK) and the Netherlands have developed more specific "radicalization models" that identify key points where intervention might stop or reverse the radicalization process. The UK proposed community-based interaction with an aim "to reduce the risk to the state ... and its interests overseas from international terrorism, so that people can go about their lives

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[143] Locher J. R. III. (2010). 'Toward integrating complex national missions: Lessons from the National Counterterrorism Center's directorate of strategic operational planning' (Washington, D.C.: Project on National Security Reform, 2010). Retrieved, from http://www.pnsr.org/data/files/pnsr_nctc_dsop_report.pdf

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freely and with confidence".[144] Similarly, the Netherlands executes "a broad-based policy aimed at increasing resistance to radicalization... a society that is resilient enough to resist the growth of violent radicalization".[145]

The Netherlands, too, changed its way of doing business to fit the counterterrorism mission. A joint service center was created to coordinate the counterterrorism mission across multiple government agencies. Like the UK, counterterrorism specialists permeate the counterterrorism effort from the national level to local police boards that devise local strategies to counter radicalization. Local & municipal decision makers coordinate social strategies to prevent polarization in individual communities. The common philosophy behind these strategies is that government at all levels must understand and act on "new terrorism" as an ideological battle. Ideology - not race, or ethnic derivation, or cultural identity - is perceived as a threat and is explicitly targeted, although these factors may serve to isolate minority populations from the general society.

The findings of this study reveal that US counterterrorism efforts are predominantly reactive and tend to function in ways that address identified plots rather than radicalization. As such, the homeland security community faces the dynamic nature and complexity of terrorism threats with no "end game" goal, multiple definitions of the domestic security mission,[146] and overlapping jurisdictions that can cause internecine rivalries.

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[144] Ibid, p. 5.
[145] Donner J. P. H & Remkes J. W, 'Counterterrorism: Letter from the Minister of Internal Affairs & Kingdom Relations and the Minister of Justice' (Assessment No. 30, 2004). The Hague: NCTb.
[146] Bellavita, C. (2008). Changing homeland security: What is homeland security?" *Homeland Security Affairs Journal 4(2)*.

Sufficient literature exists in criminology and sociological studies to suggest that a version of "community policing" may provide a model that should be adopted to enhance intelligence collection. A Department of Justice (DOJ) review found that when police and communities develop a partnership based on trust, the public is more likely to report suspicious activity.[147]

Some of the foreign counterterrorism strategies have acknowledged the importance of countering an internal threat, but none establishes specific goals or provides metrics that might indicate success or failure. The inability to measure the quality of government-Muslim relationships poses a substantial challenge to engagement strategies. There has been little research that explains how best to employ community outreach to diminish radicalization.

Academic research reveals that terrorist groups are rarely defeated by military power alone. Much more often, negotiation and policing are the keys to success.[148] In order for domestic policing to be most effective, detailed intelligence is required, and that comes only through interaction with the target population. Moreover, engagement is necessary to develop understanding of the community's grievances - the first step in addressing valid concerns of populations that feel disenfranchised. Informed by direct interaction, the government can devise practical solutions to radicalization.

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[147] United States Department of Justice [USDOJ], 2003
[148] Jones S. G., and Libicki M. C., How Terrorist Groups End: Lessons For Countering Al-Qaida, (Santa Monica, CA: Rand, 2008) p. 79

Such interaction might also increase public perception of the government and support efforts to collect human intelligence in a non-coercive manner from communities that are likely to be most closely associated with individuals who are in the radicalization process.

Evidence that a segment of the Muslim-American population is inclined to support efforts to counter radicalization within its own community is demonstrated in Congressional testimony, on websites of Islamic and ethno-cultural organizations, and in public statements. In some instances, state, local, and federal agencies have enjoyed success in developing positive relationships with Muslim communities and as a result have reported an increase in intelligence collection. A few religious and civil libertarian organizations publicly promote engagement with law enforcement or try to serve as a bridge between the community and law enforcement. If trusting relationships between the government and influential community leaders could be leveraged, these organizations might be key partners in counter-radicalization, particularly with first- and second generation citizens who are perhaps more isolated than integrated in American culture.

Centers of influence from both religious and cultural groups can serve to effectively counter violent ideologies if they are engaged in collaborative relationships with government agencies. The objective of government and community leaders should be to deprive terrorist groups of public support. Even engagement with leaders who are hostile to the government might serve to inform local policies or disruption strategies.

Sociological studies provide insight regarding how law enforcement leaders can better understand how Muslim organizations interact within and between one another. Through interpersonal contact across a broad spectrum of Muslim groups and enhanced cultural awareness, government officials may better serve the communities' needs and better understand the dynamics that drive extremist groups' behavior.

By establishing mutual trust, the moderate Muslim-American community and the government can collaborate against violent extremism and strengthen our resistance to the "US versus Islam" narrative. The collective effort can thus deny or mitigate the principle resource they need for success - support of the Muslim. A collaborative relationship may also facilitate identification of those being radicalized and cognitive openings in extremists during periods when they might be vulnerable to recruitment or susceptible to compromise. As noted by Paul Davis, Islamic militants "often mistrust and fight among each other, disagree and vary in conviction. It should be possible, then, to turn them against each other by disinformation or deception".[149]

In order to counter the appeal of terrorism, it is necessary for the government to identify and fully engage with centers of influence (referent leaders) of at-risk and immigrant populations across the whole spectrum of society. Homeland security representatives must be willing to listen, seek to understand, and address legitimate grievances presented by the community.

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[149] Davis P. K and Jenkins B. M, 'Deterrence and influence in counterterrorism: A component in the war on al-Qaeda'. P.47. Retrieved from www.rand.org/pubs/monograph_reports/2005/MR1619.pdf

State agencies should play a key role in this endeavor due to the national security interest, as well as their ability to impact matters of great concern to the Islamic community: foreign policy, immigration, customs matters, and civil rights. Regional variances and enforcement opportunities allow action at state and local levels, thus state and local collaboration is critical to successful implementation. Many immigrant communities derive from a tribal or patrician background where trust is dependent on familiarity and regular interaction, further emphasizing the need for continuity in government efforts.

Al-Qaeda has declared a "war of ideas" against the United States.[150] It is logical for the domestic intelligence community to engage on the same "battlefield." Refusing to engage in the war of ideas is akin to surrendering this central element of the struggle. An understanding of the interpersonal nature of immigrant Muslim cultures, their inherent distrust of domestic law enforcement and intelligence services due to cultural echoes from their nations of origin, and our own missteps in the wake of September 11, warrant an approach that addresses these issues from an ideological perspective.

4.6 Countering terrorism through balanced power strategy

The purpose of hard power is essentially to diminish the enemy's ability to conduct physical attacks. The purpose of soft power is to stop the flow of new terrorist recruits. Neither tack alone is likely to mitigate conflict, but when exercised together, the odds of diminishing the terrorist threat are increased. According to many terrorism experts, such policies are mostly doomed to fail at truly *preventing* terrorism because they "only target those individuals whose

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[150] Abu 'Ubeid A, Fourth Generations Wars, (Washington, DC: Middle East Media Research Institute, 2002) p.126

identities have already been transformed" into terrorists.[151] Instead, a holistic approach - one

that addresses the conditions that result in social polarization and in-group/out-group violence

- is required to win an asymmetrical conflict.

An historical review of terrorist groups supports this theory: terrorist groups were actually

more likely to attain their goals than be destroyed when only coercive tactics were employed

by the government. When political, intelligence, and policing strategies were employed,

terrorist groups were much more likely to fail.[152]This suggests that stopping terrorist acts and

diminishing the recruitment of new terrorists requires active engagement between the

government and the American Muslim population. As noted by the 9/11 Commission, the US

should "engage in the struggle of ideas".[153]

Since 2001, the US has not considered domestic applications of soft power. Instead, and by

default, the US has employed a counterterrorism strategy that leans almost exclusively toward

hard power. This is likely the result of the lack of an overarching counterterrorism strategy.

National Security Strategy 2010[154] provides a catalyst to develop an overarching strategy. To

engage in a battle of ideas, it is necessary to identify the threat.

[151] Moghaddam F. M, From the terrorists' point of view : What they experience and why they come to destroy,(Westport, CT: Praeger Security International, 2006) p.140

[152] Jones S. G and Libicki M. C, Op.Cit.

[153] Kean T. H and Hamilton L, The 911 commission report : Final report of the national commission on terrorist attacks upon the United States, (Washington, D.C.: National Commission on Terrorist Attacks upon the United States, 2004) p.375

[154] National strategy for homeland security: Executive summary (2002). Washington, D.C.: Office of Homeland Security. Retrieved, from https://www.hsdl.org/?view&doc=49671&coll=limited

4.7 Department of Homeland Security (DHS)

Since its establishment in 2002, the Federal government has provided the Department of Homeland Security grant funding to be used for preventive measures, including the establishment of intelligence fusion centers.[155] Fusion centers are state-administered joint intelligence centers where state, local, and federal agents work in close proximity to receive, integrate, and analyze information into a system that can benefit homeland security and counterterrorism programs at all levels. Federal agencies play a supporting rather than a lead role. Fusion centers are not standardized and have produced varying results.

According to a report by the Congressional Research Service (CRS), many of the centers identify "prevention of attacks" as a high priority, but little "true fusion" or analysis of disparate data sources, identification of intelligence gaps, or proactive collection of intelligence against those gaps, which could contribute to prevention, actually takes place.[156]

The FBI's role in and support of individual fusion centers varies depending on the level of functionality of the fusion center and the interaction between the particular center and the local FBI field office".[157] Many Fusion centers are not part of an integrated national or regional network at all, and some do not even have FBI representatives assigned. These conditions frustrate the flow of information to both the national level and state and local policy makers - those who deal with the public as part of their daily responsibilities and who

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[155] United States Department of Homeland Security. (2009a). Fiscal year 2010 homeland security grant program guidance and application kit. Washington, D.C.: Department of Homeland Security. p. 22
[156] Rollins, 2008
[157] General Accountability Office, 2009

are thus best positioned to spot and address circumstances that foment radicalization. DHS components participate at minimal levels in fusion centers, and this involvement is sometimes of limited value, due to the lack of secure compartmented intelligence facility space and accreditation that would allow them to process classified information. Until Fusion centers and their personnel have access to classified information, their practical effectiveness in the counterterrorism mission is likewise limited. This may be a contributing reason for an additional finding by the Congressional Research Service (CRS) that many of the centers initially had purely counterterrorism goals but have increasingly gravitated toward an all crime and even broader all-hazards approach.

4.8 Federal Bureau of Investigation (FBI)

The FBI, in contrast to DHS, is highly centralized and centrally managed by the Counterterrorism Division (CTD), which is physically integrated with the NCTC. CTD is singularly responsible for all FBI counterterrorism operations nationwide; it fulfills this responsibility through joint terrorism task forces (JTTF). This centralization was instituted by Director Robert Mueller in the immediate aftermath of September 11 due to the widely held finding that FBI analytic and information-sharing failures contributed directly to the success of the Al-Qaeda attacks.[158] An immediate reaction to September 11, centralization was instituted to ensure control of operations and to increase information flow in an organization that had previously operated largely as 56 independent investigative agencies with limited information from other offices.

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[158] Kean T. H and Hamilton L, The 911 commission report : Final report of the national commission on terrorist attacks upon the United States, Op.Cit.

Expansion of the number of the FBI's joint terrorism task forces is, perhaps, the single most important accomplishment toward collaboration at federal and local levels. It is also provides a tangible measure of increased communication. The FBI has expanded the number of JTTFs from 33 in 2001 to more than 100 today[159]; they serve as the recognized and designated environment in which "federal to local operational partnerships" take place to detect, investigate, and disrupt terrorist threats or pursue perpetrators.[160] The JTTFs historically have been guided by a national strategy that served as a "high level road map" encompassing the FBI counterterrorism division's mandate to "protect the United States from terrorist attack".[161] The FBI's supporting national strategy, however, administratively expired in 2009. Since that time and due to an increased number of threat-driven scenarios, the FBI's counterterrorism mission has become "reactive." The CTD and the JTTFs are forced to respond quickly to a variety of eminent threats outside the construct of a long-range plan or strategic vision.

JTTFs do not have authority or a formal mechanism to disseminate information beyond participants in the task force. In the event of an overseas terrorist attack, state and local participant agencies often seek information regarding ongoing developments or "spot reporting" that is perceived to be available to JTTFs. Often such information is not available, and in other cases the information may be in a classified format that requires limited distribution. This has been the basis of comments from the International Association of Chiefs

[159] Mueller R. S, (2010). Nine years after 9/11: Confronting the terrorist threat to the U.S,
Statement to the United States Senate, Homeland Security and Governmental Affairs Committee, 2010;
Retrieved from http://www.fbi.gov/news/testimony/nine-years-after-9-11-confronting-theterrorist- threat-to-the-u.s
[160] Mines M, (2007). 'The way forward with fusion centers: Challenges and strategies for change',
(Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment, House Homeland Security Committee, 2007). Retrieved from http://www.fas.org/irp/congress/2007_hr/092707mines.pdf
[161] Federal Bureau of Investigation, FBI strategic plan 2004–2009, (Washington, DC: FBI) Retrieved from http://www.fbi.gov/statsservices/ publications/strategic-plan/

of Police that "the full benefits of intelligence sharing have not yet been realized because the process itself remains a mystery to many police officers, and some law enforcement executives consider their agencies too small or too remote to participate in criminal intelligence sharing. These obstacles to full participation could result in alarming gaps in the intelligence that guides our homeland security and crime fighting efforts".[162]

JTTFs collect information through a variety of means, including technical and human intelligence, but they enjoy only limited analytical capability for counterterrorism matters in support of local and regional issues or threats because intelligence collection priorities are generally related to foreign-focused national intelligence requirements, not societal factors that influence domestic radicalization. Local officials sometimes benefit from JTTF intelligence, but they rarely receive products that contribute to local policy decisions. This may be part of the reason that some organizations do not readily appreciate the value of JTTF participation. A 2008 survey of the International Chiefs of
Police reinforces this point: its members concluded that the national counterterrorism strategy was developed "without sufficiently seeking or incorporating the advice, expertise or consent of public safety officials" at the state, local, and tribal level.[163]

The FBI has also established field intelligence groups (FIGs), consisting of FBI agents, linguists, surveillance specialists, and analysts at every field division.[164] FIGs focus on cross-programmatic and all source intelligence production and dissemination.

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[162] International Association of Chiefs of Police (IACP), 2008
[163] Leavell R, 'The evolution of regional counterterrorism centers within a national counterterrorism network: Is it time to fuse more than information?' (Master's Thesis, Naval Postgraduate School, Monterey, California, 2007); Retrieved from https://www.hsdl.org/?view&doc=103910&coll=limited

According to FBI Director Mueller, FIGs have come to regularly share this intelligence with FBI partners in more than 18,000 law enforcement agencies around the country. They collaborate closely with international counterparts and recognize the imperative to be able to develop and disseminate information that will assist our partners.[165] Despite these accomplishments, it is not entirely clear that the FBI's homeland partners feel that they receive sufficient intelligence and analysis to enable effective homeland security operations.[166] For this reason, many state and some local agencies have created and come to rely on their own intelligence centers that are not fully integrated into either a federal or national counterterrorism mission. Uncoordinated intelligence activities sometimes result in operational compromise and limit potential intelligence collection and, ultimately, the prevention of future attacks.[167]

4.9 National Counterterrorism Center (NCTC)

The NCTC was established in August 2004 and codified by the Intelligence Reform and Terrorism Prevention Act of 2004 in the US.[168] NCTC was conceived and intended to address a key finding of the 9/11 Commission: "Breaking the older mold of national government organizations, this NCTC should be a center for joint operational planning and joint intelligence, staffed by personnel from the various agencies.[169]". Reporting to both the president and the director of national intelligence (DNI), the NCTC is charged with a mission

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[164] National Strategy for Information Sharing, 2002, p. 8
[165] Ibid.
[166] Ibid
[167] Ibid
[168] Ibid
[169] Kean T. H and Hamilton L, The 911 commission report : Final report of the national commission on terrorist attacks upon the United States, Op.Cit.

to "lead our nation's effort to combat terrorism at home and abroad by analyzing the threat, sharing that information with our partners, and integrating all instruments of national power to ensure unity of effort." Unfortunately, as a practical matter, NCTC is relegated to "suggesting" rather than "leading" the counterterrorism effort because "neither the NCTC director nor the assistant to the president for homeland security and counterterrorism can direct departments and agencies, even on matters of counterterrorism programs and resources."[170]

Nine years after 9/11, the need to consider both domestic radicalization and unity of effort raised concern for national leaders, who "expressed concern that no single U.S. agency is in charge of identifying and stopping the recruitment of U.S. citizens to carry out terrorist attacks"[171] and "we have a lot of good people, a lot of good agencies and a lot of activity, but there still doesn't seem to be an overall strategy nor accountability built in, nor a means of assessing the success".[172]

4.10 Counter terrorism efforts in Kenya

Although the 1998 US Embassy bombing in Nairobi demonstrated the presence of terrorist groups in Kenya, there were no notable strategies by the government to counter the threat. The ease with which Al-Qaeda members had operated in the country highlighted the weaknesses in the government's foreign policy in employment of instruments of power to effectively combat terrorism.

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[170] Ibid
[171] Ibid
[172] Ibid

On 28 November 2002, suicide bombers detonated a truckload of explosives at an Israeli-owned hotel near Mombasa, Kenya, killing 16 people (12 Kenyans and 4 Israelis) and injuring more than 80 others. Three suicide bombers also perished in the attack[173]. The attack came moments after a group of Israeli tourists had just checked into the hotel. Many of the dead were Kenyan dancers who were hired to entertain tourists. This bombing incident was coordinated with a simultaneous surface-to-air missile attack on Arkia Israeli airliner (AIZ), carrying about 264 passengers, and taking off from the Mombasa airport. The two missiles missed the airliner. The attack was linked to the Al- Qaeda terrorist organization.

In linking the terrorist attacks at the hotel and against the AIZ flight directly to Al-Qaeda, it was established that the terrorists linked to Osama bin Laden's Al-Qaeda network were actively involved in terrorist missions in Kenya and continued to operate as they did before the US Embassy bombing in 1998. Further investigations revealed that only one Al-Qaeda terrorist cell was active in Kenya the one led by Sadiq Odeh's accomplice, Wadih El-Hage.[174]

After the 1998 US Embassy bombing, most of the terrorists involved evaded arrests. Some slipped out of the country to Somalia and Afghanistan to allow the dust to settle; others blended into the community[175]. The leader of the Al-Qaeda terrorist cell in Kenya, a Comoran national named Fazul Abdullah Mohamed alias Harun Fazul alias Abdulkarim, who had been involved in the 1998 US Embassy bombing, sneaked back into Kenya sometime between

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[173] Hoffman B and Morrison J, A Strategic Framework for Countering Terrorism, Op.Cit.
[174] Headquarters, Department of the Army, FM 3-0, *Operations*, (Washington, DC: Headquarters, Department of the Army, June 2001) pp. 104-107
[175] Hudson, A. Rex, 'The Sociology and Psychology of Terrorism: Who becomes Terrorist and Why?' (Report Prepared under Interagency Agreement by the Federal Research Division, Library of Congress. Washington, DC,1990) pp.88

2001 and 2002 from Afghanistan. He set up base in Lamu under the alias Abdulkarim, where he continued to plot attacks against Western interests. He entrenched himself in the community by marrying a Kenyan Woman[176]. While in the country, he kept contact with his Kenyan accomplices in selecting targets. The Al-Qaeda terrorist cell consisted of nine active Kenyans among other foreigners. Three Kenyans were directly involved in the Mombasa attacks. The hotel was selected because it was owned by an Israeli and frequented by Israeli nationals. The selection was further made possible by the routine Israeli tourists' flights to Mombasa. Planning attacks for such a soft target assured the terrorists minimum risks, since only basic surveillance was needed to coordinate the attack.

Kenya, with its poor security checks at the airport at the time and its porous borders, had become a soft target for terrorists who found it increasingly difficult to attack Western countries because of their strict counterterrorism measures. A few days before the Mombasa terrorist attacks, Australia and Britain had issued travel advisories for their citizens not to visit Kenya, especially Mombasa, because of imminent terrorist attacks. Those countries had received intelligence that an active terrorist cell in Kenya was plotting to attack Western interests. Osama bin-Laden also had warned of an attack in his broadcast on Qatar television news in Al Jazeera[177].

[176] Ibid
[177] Greenstock, Jeremy, 'Report of the Republic of Kenya Submitted to the Security Council Committee Established Pursuant to Resolution 13739 (2001)'; Article on-line. Available from www.un.org/Docs/sc/committees/1373/k.htm.

After these attacks, the Kenya government publicly declared that transnational terrorism had taken roots in Kenya[178]. To counter the threat, it embarked on a multi-faceted counterterrorism campaign and employed diplomacy, military, information, financial controls, intelligence, and law-enforcement instruments of power to respond to the threat.

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[178] Headquarters, Department of the Army, FM 3-0, Operations, Op.Cit.

4.10.1 Financial controls

Money has often been described as a key to international terrorism, thus tracking it is a key to counterterrorism. As an instrument of power, the government has not enacted any legislation on financial controls. However, it has established a task force on anti-money laundering and on the financing of terrorism. The task force's intent is to review existing legislation and come up with a draft of a national policy on combating the financing of terrorism. It is also working closely with the US Interagency Terrorist Finance Working Group to develop a comprehensive anti-money laundering and counterterrorist finance program.[179]

In addition, administrative measures have been put in place by the Central Bank of Kenya to deal with identifying, tracing, and freezing financial assets belonging to persons identified with terrorist activities[180]. The lack of such legislation has made Kenya one of the countries where money laundering is on the rise, and the possibility of terrorists exploiting this weakness cannot be ruled out. The problem is further aggravated by the numerous *hawalla* systems of money transfer operating in the country. The *hawalla* traditional system of money transfer is based on mutual trust and sometimes transactions are made by a phone call leaving no paper trails. For example, a person deposits money in the US then instruct the agents in the beneficiary country to issue the money to the beneficiary. A key component of an effective counterterrorism strategy should focus on be starving terrorists of the resources they need to operate. As a sign of commitment to fighting terrorism, financial controls should be enacted. Equally, all the *hawallas* operating in the country should be registered with the Central Bank

[179] Mbogo, Stephen, 'Counterterrorism Center Established in Kenya', *CNSNews*, Nairobi, 29 January 2004; Article on-line. Available from CNSNews.com.

[180] Hudson, A. Rex, 'The Sociology and Psychology of Terrorism: Who becomes Terrorist and Why?', Op.Cit.

for close monitoring. Regular checks of their operations would deter them from being used to remit terrorist finances.

4.10.2 Use of Military

After the 1998 terrorists attack, the military, as an instrument of power, was not effectively used to combat terrorism, partly because of the notion that terrorists activities were minimal at the time, that the initial incident was more of a criminal act than a terrorist act, and that it was an isolated incident. The reality that terrorists were using the porous land borders and coastline to enter the country had not dawned on the government. Also, the role of maintaining law and order had traditionally rested with the police in Kenya. Unlike today, the military had no training to combat terrorism. These factors might have caused the government not to employ the military for counterterrorism efforts after the 1998 bombing. Nevertheless, the military increased surveillance along the Kenya-Somalia border[181]. Military intelligence also joined other intelligence communities in the country to assess the threat.

The decision in October 2011 to deploy thousands of troops in Somalia's Juba Valley to wage war on Al-Shabaab has been considered as the biggest security gamble Kenya has taken since independence, a radical departure for a country that has never sent its soldiers abroad to fight. The lack of stability in Somalia has made it a safe haven for terrorist groups to operate their networks both regionally and internationally. Al-Shabaab are blamed by the Ethiopian, TFG and AMISOM forces for the deterioration of security, the spillover of conflict to neighbouring countries, including Kenya, and the grave humanitarian situation which persists in large parts

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[181] 'Mombasa Attack Trial Starts', News 24. Com web page, 2 February 2004. Article on-line. Available from www.news24.com/News24/Africa/News/0,2-11-1447-147770800.html. Internet. Accessed March 2005

of Somalia. Kenya, however, had emerged as a target for terrorist attacks well before the emergence of Al-Shabaab. The 7 August 1998 bombing of the US Embassy in Kenya, which killed 213 people and left 4,000 others wounded, played a major role in raising the government's and citizens' awareness on the issue of terrorism as a clear threat to the country. Since then, Kenya has been making renewed strides to curtail terrorism and its networks in the country, including the enactment of the Prevention of Terrorism Act in 2012.[182] It is against this backdrop that Kenya was convinced that the spread of Al-Shabaab militias into Kenya necessitated a strong response, due to fears of repeat major terrorist attacks like the Al-Qaeda-claimed bombing of 1998. Reportedly, Kenya, with international support, had planned to move into the Somalia conflict years prior to October 2011. This planned intervention was aimed at creating a buffer zone in the Juba area in southern Somalia, which is close to the border with Kenya.[183] There are some indications that Kenya's assertion, that frequent kidnappings and killings by al-Shabaab were the main reason for its intervention in Somalia,

Although a military intervention was in the works, the timeline was accelerated by a string of cross-border kidnapping attacks targeting Western tourists on the Kenyan coast and aid workers from the refugee camp in Dadaab. Tourism is a key industry, and Kenya, particularly Nairobi, is host to a large UN presence, including many international and local NGOs involved in humanitarian relief and other activities.[184] When several Europeans were seized in the Lamu area in September and October 2011, the key tourism industry was hit hard. The last straw appeared to be when two Spanish aid workers with Médecins Sans Frontières (MSF)

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[182] Robert Young Pelton, 'Kenya modified invasion to suit US concerns', Somalia Report
(www.somaliareport.com), 11 November 2011
[183] Ibid
[184] Crisis Group interviews, diplomats, KDF officers, Nairobi, October-November 2011

were kidnapped in Dadaab refugee camp, near the Kenya-Somalia border, on 13 October (the third incident in less than a month). [185]Several days later, on 16 October, Kenyan troops moved into Somalia.

Although Al-Shabaab has been weakened, it remains a formidable adversary that understands local dynamics better than its foreign foes and can maximize its asymmetric advantage. One tactical change has already become clear. Rather than fight in the open, it has melted into the background, allowing Kenyan mechanized infantry to move deeper into its heartland. Its fighters blend into the civilian population and distribute weapons.

To protect its borders as a result of the increased terrorist threat after the 2002 terrorist attacks, the government increased security along the Kenya-Somalia border, which precipitated the sealing of all the borders. In a multilateral approach to combating transnational terrorism, the Kenyan and French navies collaborated in the Indian Ocean by patrolling to keep terrorists away.[186] These measures are intended to tighten border controls and prevent the entry of terrorists through the long, porous Kenyan coastline. However, the lack of a stable government in Somalia has made it difficult to coordinate and monitor border security.

4.10.3 Use of Diplomacy

The Government of Kenya has also employed diplomacy in combating terrorism. Diplomacy is the instrument of power that builds political will and strengthens international cooperation.

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[185] Yusuf Ghazzali, Kenya: Don't use Linda Nchi Operation to demonise Somalis, The Star (Nairobi), 26 October 2011

[186] Gawrych, George W, 'Jihad War and Terrorism', (Combat Studies Institute: US Army Command and General Staff College), Article on-line. Available from https://www.leavenworth.army.mil/csi/research/writing/JihadGawrych. Internet. Accessed February 2005

In the context of international terrorism, diplomatic exchanges promote counterterrorism cooperation with friendly nations that serve each other's mutual interests. International terrorism has no boundaries and requires governments to reach out to their neighbours and allies to forge a multilateral approach in the fight against the threat. Diplomacy supports the other instruments of national power in numerous ways. For example, extradition treaties help in the application of criminal law by facilitating the transfer of fugitive terrorist suspects. Intelligence sharing among nations potentially discourages terrorists from operating in those countries and facilitates the monitoring of groups operating in the region. After the 1998 US Embassy bombing, the Kenya government fully cooperated with the US government in intelligence sharing and in giving US investigators access to investigate the incident[187]. The government also helped apprehend and hand over the suspects to US investigators to stand trial in the United States. Apart from the United States, the Kenya government approached the Israeli government for assistance in rescue operations. This was followed by the dispatch of rescue teams and intelligence agencies to help track those responsible for the attacks.

In the East African region, Kenya through its foreign policy took centre stage internationally because of what was perceived as the terrorists' change in operations to focus on soft targets in countries where the phenomenon of terrorism had not yet been experienced. The Kenya government provided the US logistical support in investigating the terrorist incident, which resulted from the perceived notion that Kenya was a victim of terrorism because of US interests in the country, and that the US had to play a major role in investigating the attacks. However, the Kenya government did not apply much effort to incorporating the countries in

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[187] Fisher-Thompson Jim, 'Former U.S. envoy to Ethiopia Speaks to Air Force Special Operations Class', (Washington File Staff Writer, 7 September 2004); Article on-line. Available from htt://usinfo.state.gov/is/Archive/2004/Dec/03-890080.html.

the Horn of Africa region in a unified regional counterterrorism strategy because of the belief that Kenya was a victim rather than a source of international terrorism[188].

This denial was tied to the inability to acknowledge the wider context that led to the growth of terrorism the erosion of the structure of governance, notably weak intelligence capabilities and law enforcement. Furthermore, the government was afraid to alienate Kenya's Muslims who often complained of perceived marginalization[189]. It was feared this group would bear the brunt of any counterterrorism efforts, since most of the terrorist suspects were from the Muslim community.

The government was in a precarious position from the fears that there could be political risks if it engaged in a full scale counterterrorism campaign. Within Kenya, several groups, some of which already felt marginalized and aggrieved by the Jomo Kenyatta and Moi regimes were reluctant to accept open ended military and law enforcement cooperation with the US. These groups openly urged the government to deny the use of Kenyan bases to the US government. In Mombasa and other coastal towns, where the population is largely Muslim, there were protests against American FBI agents sent to hunt down suspected terrorists. There was also the feeling that full cooperation with the United States in the counterterrorism campaign might lead to the country being targeted again. Effective counterterrorism measures could potentially have destabilized the country. Despite evidence of the presence of terrorist cells and the involvement of Kenyans in terrorist activities, the hostility toward the government's

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[188]Government of Kenya, Kenya National Counter Terrorism Strategy, (Nairobi: Government of Kenya, 2004)
[189]Nation Reporter, 'How Terror Police Beat Osama Gang', Daily Nation on the Web, 22 August 2003; Article on-line. Available from htt://www.nationaudio.com/News/DailyNation/22082003/ News/News107.html.

counterterrorism measures and diplomatic cooperation with the United States still exists. For example, in early 2004, Muslims leaders asked the government to expel the FBI from the country to allow Kenya to conduct its own investigations of terrorist activities in the country[190].

The Muslims' concerns might be justifiable since they bear the brunt of antiterrorism measures. However, Muslim leaders are using counterterrorism measures as a veil. The real issue is that the communities depended on Islamic organizations for social welfare (medical, food relief, and Islamic education and socioeconomic support to marginalized communities, which the Kenya government is either incapable of or unwilling to give[191]. There are also several Islamic institutions that were being sponsored by individuals and other Arab Muslim countries. As a result of the terrorist incident, there was focus on these Muslim NGOs. While some, such as Al-Haramain, were deregistered by the government, others closed after sponsoring nations stopped funding them when the US launched the GWOT. Many communities, including teachers and some Muslim clerics who worked for these organizations, were left without any other support, and the government did not come in to fill the gap. This denial of support contributes to the dissent[192].

In a bid to enhance the diplomatic front, the government invited the Israeli government to help investigate the 28 November 2002 attack in Kikambala, Mombasa where suicide bombers killed 16 people (12 Kenyans and 4 Israelis) and injured more than 80 others. This led to the

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[190] Government of Kenya, Kenya National Counter Terrorism Strategy, Op.Cit.
[191] Nation Reporter, 'How Terror Police Beat Osama Gang', Op.Cit.
[192] Oketch, Willis, 'Police Arrest Suspected Terrorist', The East Africa Standard, Nairobi, 18 January 2005; Article on-line. Available from http://search.yahoo.com/search?p= www.east+africa+standard&fr=ieas-dns. Internet.

arrival of Israeli security agents at Mombasa a few hours after the incident to team up with Kenyan counterterrorism experts. The government also enlisted the support of US and other European governments to help fight the threat.[193]

International terrorism has no borders, and there was overwhelming evidence that the terrorists had been operating in the Horn of Africa region. The presence of the threat and the need to secure the borders pressed the government to enlist the support of other countries in the region, through the East African Counterterrorism Initiative (EACTI) (established after the 11 September 2001), which coordinates counterterrorism capabilities in the East African countries of Kenya, Uganda, Tanzania, Djibouti, Eritrea, and Ethiopia, to improve police and judicial counterterrorist capabilities in the region[194].

This diplomatic cooperation has realized intelligence sharing among nations in the region for the purpose of law enforcement to combat the transnational threat of terrorism. Kenya has demonstrated further diplomatic efforts by ratifying the twelve international UN counterterrorism conventions and protocols, which shows the government is taking the transnational terrorism threat seriously and does not intend to be left behind. Kenya also joined the US in the GWOT, playing a pivotal role in the Horn of Africa region by allowing the United States to use Kenya as a launching pad for counterterrorism efforts in the region[195]. By being a member of the willing nations, the country has benefited from intelligence sharing.

[193] Ibid
[194] Hudson, A. Rex, The Sociology and Psychology of Terrorism: Who becomes Terrorist and Why?, Op.Cit.
[195]Central Intelligence Agency, . 2004. The World Factbook, Kenya (2004); Book on-line. Available from www.cia.gov/cia/publications/factbook/geos/ke.html#Geo. Internet.

In an effort to bring peace to the region and to reduce conditions for terrorist breeding grounds in the surrounding failed and failing states, Kenya is deeply involved in both Somalia and Sudan Peace Processes, which are within the Intergovernmental Authority and Development (IGAD) framework, to achieve stability and functioning institutions in these countries. Stability in these countries will reduce their use as potential safe havens and recruiting grounds for terrorists. The longstanding mistrust among the countries in the region, however, could easily hinder intelligence sharing. For example, it is Ethiopia's perception that Kenya supports the Oromo Liberation Front (OLF) that fights the Ethiopian government, which has resulted in constant border skirmishes and international border violations by Ethiopian security forces into Kenya[196].

Recently, eight Ethiopian soldiers serving along the volatile Eritrean-Ethiopian border fled into Kenya seeking political asylum, which further soured the relationship. The government is maintaining high-level contact to alleviate the mistrust.

US assistance to the countries in East Africa and the Horn of Africa region has occasioned complaints from countries in the region. For example, Uganda claims it is being short changed in financial assistance because it has dealt successfully with the international terrorism threat on its own. However, Uganda's priority is dealing with local terrorists groups, such as the Lord's Resistance Army (LRA) and the Allied Democratic Front (ADF), while US financial assistance focuses on international terrorist groups, such as Al-Qaeda[197].

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[196] Ghirmazion, Asghedet. 2002. 'The Terrorist Attacks on New York and Washington, How Kenya Reacted and has been Affected', October 2002; Article on-line. Available from www.boell.de/downloads/September/Kenya.pdf. Internet.
[197] Bjorgo T, Finding for an International Expert Meeting in Oslo on Terrorism, Op.Cit.

In addition, Eritrea offered the US access to its port facilities and joined the coalition of the willing against Iraq. However, it finds itself frozen out of counterterrorism assistance because of human rights issues[198]. This complaint might hinder intelligence sharing in the region because most of the countries have joined the coalition of the willing nations through a desire to gain financial favours from the US.

In the final analysis, the present threat calls for countries in the region to cultivate good will and mutual trust in order to have a common goal of fighting transnational terrorism. Their cooperation would facilitate intelligence sharing and joint security operations to combat the threat. These should, in the long run, lead to the good intentions behind the establishment of the EACTI.

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[198] Gawrych, George W, 'Jihad War and Terrorism', Op.Cit.

Chapter Five: Conclusion and Recommendations

5.1 Introduction

The goal of this study was to analyze the efficacy of counter terrorism measures employed by states, and more specifically, to undertake a comparative study of the approaches pursued by Kenya and the US.

5.2 Summary

Chapter one introduced the study by pointing out that notwithstanding the conceptual dilemma surrounding terrorism, states have over time grappled with the phenomenon in its different manifestations; yet it continues to recur.

The chapter also reviewed literature, which encompassed literature on the broader aspects of terrorism, literature on terrorism in the US including the history and manifestations of the phenomenon in and against the US; literature on the history and manifestations of terrorism in Kenya; literature on the responses by the US and Kenya to terrorism, and literature on the effects of the counter terrorism measures by the two countries.

Finally, the chapter adopted the instrumental approach as the theoretical framework to guide the study.

Chapter two focused on Kenya's terrorism experience, highlighting the factors that predispose Kenya to international terrorism, the major incidents of international terrorism that have occurred in Kenya and how Kenya has responded to these incidents. The chapter noted the progress made in Kenya's counterterrorism efforts commensurate with the increasing severity and sophistication of international terrorism over time.

Chapter three considered the US experience with terrorism, observing that while the US' global interests and influence make it vulnerable to threats by international terrorist groups and actors across the world, with Al-Qaeda and its affiliates being key in this regard; the US also faces a variety of new threats of terrorism on the domestic front.

Drawing from the arguments developed in the first three chapters, chapter four provided a comparative analysis of the strategies employed to counter the threat of international terrorism in Kenya and in the US. Whereas the strategies the two countries have adopted are similar, they have been less effective in Kenya than in the US. Nevertheless, even with these strategies in place, the US is far from defeating international terrorism.

5.3 Objectives and Hypotheses in relation to findings

The main objective of the study was to evaluate the counterterrorism strategies employed by Kenya and the US. To achieve this, the study pursued three specific objectives:

The first objective was to examine the challenge of terrorism to Kenya and the US, which objective was met in chapters two and three. The second objective was to assess the effectiveness of the measures put in place by Kenya and the US to combat terrorism, which was addressed in chapter four. The final objective was to establish how Kenya and the US can minimize the shortcomings of the strategies to combat terrorism while maximizing their overall benefits by the two countries, which the recommendations proposed seek to address.

The study found that Kenya and the US have experienced incidents of international terrorism and continue to grapple with the challenge both within these states and outside. The study also found that while the two states have formulated policies and strategies to counter terrorism, these measures have not been sufficient to combat international terrorism as illustrated by the fact that it remains a problem in the two countries. The study finally established that to effectively counter the challenge of international terrorism, shortcomings inherent in the existing policies and strategies need to be remedied while at the same time, alternative approaches should be considered.

On the strength of the findings of this study, an evaluation of the hypotheses proposed is necessary. The first hypothesis stated that the measures employed by Kenya and the US have succeeded in combating the threat of terrorism in the two countries. This is not entirely valid, as the study has established that notwithstanding the deployment of the varied counter terrorism measures, international terrorism is still manifest in the two countries. Success in combating terrorism would imply 'terrorism-free' countries.

The second hypothesis stated that measures employed by Kenya and the US have not succeeded in combating the threat of terrorism in the two countries. Again, this is not entirely valid since whereas the challenge of terrorism remains, there have been numerous cases in the two countries where terrorists have been killed or captured and jailed; planned terrorist attacks have been foiled; terrorist infrastructure destroyed; greater public awareness about terrorism achieved and inter-state cooperation on international terrorism institutionalized. There has been, in essence, a measure of success, not total failure.

Finally, the third hypothesis posited that measures employed by Kenya and the US have partially succeeded in combating the threat of terrorism in the two countries, which this study has validated.

These findings buttress the instrumental approach in terrorism that guided this study. Terrorists are not irrational actors and employ violence to achieve certain ends. Countering terrorism therefore demands that both deterrent and defensive policies be applied.

5.4 Conclusion

It has often been argued that terrorism is a perennial and ceaseless struggle. Terrorism has existed for 2,000 years and owes its survival to an ability to adapt and adjust to challenges and countermeasures to identify and exploit its opponent's vulnerabilities. While Kenya has endeavoured to institutionalize its counter terrorism policies and strategies, these state-centric approaches cannot in, and of themselves, eliminate international terrorism from Kenya, nor protect Kenya from international terrorism.

Kenya's response to terrorism remains reactive rather than decisive and strategic. It still lacks the capacity to respond well to the threat posed by international terrorism. In many respects, the government has regarded terrorism as a 'war' rather than as a problem of 'law and order' that requires appropriate law enforcement measures. The measures that Kenya has adopted to fight terrorism amount to an incomplete strategy. The government has developed countermeasures to respond to terrorism as they occur, rather than conducting an assessment of the overall threat and then planning a comprehensive set of responses.

Moreover, Kenya's counterterrorism efforts have demonstrated lack of institutional coherence, with different government agencies and departments operating separately, resulting in lost opportunities and policies at odds with each other. Currently, the government is using the "lead agency approach" in the implementation of its counterterrorism policies, but it is characterized by weak political institutions, poor resources and plagued by endemic corruption. It would be a challenge to coordinate and implement the counterterrorism policy

operationally because the existing capabilities of governmental structure fall short of what is needed.

In the US, since September 11, agencies conducting the counterterrorism mission have developed strategies independent of a national architecture and have favored enforcement action over "soft power" tactics.[199] Alternative strategies have been and are being applied by other Western governments with success. Chief among these nations are the United Kingdom - perhaps the country most experienced in combating insurgency and homegrown terrorism - and the Netherlands, one of the West's most liberal nations. The US should evaluate these alternative approaches to identify a framework that recognizes the common principles that mitigate the recruitment and radicalization of new terrorists.

5.5 Recommendations

As observed earlier, states in and of themselves, using instruments of power, however elaborate, cannot eliminate terrorism. With international terrorism likely to remain a key aspect of national security to Kenya and the US for a considerable time, it is instructive to consider the comprehensive approach proposed by the UN and adopted by Member states on 8 September 2006 as the UN Global Counter Terrorism Strategy. This is a holistic approach that considers both preventive and reactive counter terrorism measures; and whose four pillars seek to address the conditions conducive to the spread of terrorism; measures to prevent and combat terrorism; measures to build states' capacity to prevent and combat terrorism and

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[199] Nye, J. S. (2003). The velvet hegemon: How soft power can help defeat terrorism. *Foreign Policy*. Retrieved from http://www.foreignpolicy.com/articles/2003/05/01/the_velvet_hegemon?page=0,1

measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism.[200]

It is also instructive to consider the role that non-state actors can play in counter terrorism. In a conference held in New York City from 20 – 22 October 201 entitled *Towards an effective and inclusive global counter-terrorism policy: Setting up a dialogue between civil society organizations and UN entities*, participants observed that "An overemphasis on security measures has eroded civil liberties and human rights in many countries and diverted attention from the policies needed to counter the complex challenge of transnational terrorism". Noting that civil society has often been excluded from counterterrorism policymaking, they nevertheless welcomed encouraging signs suggesting the tide may be turning.

A UN representative reported to the conference that the Security Council was looking at security issues, and member states were taking a view that civil society, women's groups, social and economic justice need to be part of the discussion. Partnership-based approaches can bring civil society's valuable skills, local contacts, and perspectives to counter terrorism efforts and can open space for less militaristic approaches.

Indeed, the UN Global Counter Terrorism Strategy includes civil society participation in two tiers. UN General Assembly Resolution 60/288, paragraph 3 mandates the United Nations "to further encourage non-governmental organizations and civil society to engage, as appropriate, on how to enhance efforts to implement the Strategy." The UN consults with civil society on due process issues for listed entities, the media's role in radicalization of local communities,

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[200] http://www.un.org/en/terrorism/strategy-counter-terrorism.shtml

and engagement with UN special rapporteurs. Additionally, civil society is named and has been included as an active partner in addressing specific issue areas including victims of terrorism and weapons of mass destruction and disaster management[201].

The foregoing provides a sound framework upon which effective counter terrorism policies and strategies can be erected.

A comprehensive strategy encompassing social, political, economic, military and ideological measures, including calibrated military power should be adopted to counter terrorism. This study therefore proposes the following broad aspects, over and above the intelligence, law enforcement, military and diplomatic approaches, in formulating counter terrorism policies and strategies:

1. Thorough comprehension of underlying causes of Terrorism

The 'war on terrorism' goes on because it does not address the primary causes. By seeking to eliminate the present generation of terrorists, the war tends to alienate communities even further, causing anger and frustration. This ultimately paves way for the next generation of terrorists. It is therefore crucial that states thoroughly understand the underlying conditions that allow terrorism to fester, and take deliberate steps to address them.

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[201] Kristen Wall and David Cortright, 'Towards an effective and inclusive global counter-terrorism policy: Setting up a dialogue between civil society organizations and UN entities', Conference Summary Report, New York City 20 – 22 October 2011, Kroc Institute for International Peace Studies, University of Notre Dame. pp. 2-5. Web page online. Available at:
http://www.humansecuritynetwork.net/documents/125374024/128230444/Full+conference+report.pdf

2. Institutional Coherence

The success in combating terrorism is predicated on the availability of timely and accurate intelligence. Currently, several agencies and departments of the Kenya government process intelligence within their own facilities, and despite the establishment of the National Counter Terrorism Centre (NCTC) in 2004, there is no consolidated center that collects and analyzes information from those agencies participating in anti-terrorist activities. Given the highly fluid and transnational nature of terrorism that Kenya is facing, it is necessary to establish a central facility that would improve the government's capability to understand and anticipate future terrorist threats.

3. Involve the public in counterterrorism

An effective counterterrorism strategy should endeavour to gain public support. The public must be at the centre of any preventive and reactive measures pursued by the state because, first, terrorists come from families and societies and second, the goodwill of the public is a necessary condition for gaining any meaningful intelligence on terrorist groups, plans and intentions.

To attain public confidence, states should more often provide public information on the threat of terrorism, address underlying grievances that breed terrorists and communicate domestic and foreign policy positions that fan terrorism.

States should as much as possible avoid reactive measures that alienate the public, makes them refuse to provide intelligence and breed more terrorists, such as blanket arrests and perpetration of violence against citizens in the name of counterterrorism.

4. Develop partnerships with non-state actors

Appreciating the reality that states do not have the monopoly over societal matters, including security, which reality the UN is increasingly alive to, states should create synergies with civil society, women organizations and other community based organizations in their counter terrorism policies, strategies and programmes. They should not treat these entities as 'unwarranted intruders', but partners from whom much can be gained.

5. Anchor human rights in counter terrorism

State responses to terrorism oftentimes assume the brutality that the same terrorists exhibit. The argument in justifying this has often been that terrorists deserve such brutality as they themselves have no respect for human rights and values. While such an approach may in the short term scare terrorists, it hardly eliminates the problem as numerous cases illustrate; and indeed, in the long term, serves to create more terrorists out of the innocent victims of repressive counter terrorism responses. Thus, states should endeavour to respond to terrorism while demonstrating regard for human rights.

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