

**Police Preparedness For
Counter-Terrorism in Kenya, 1995-2005**

Samuel Mwongera Arachi

**A Project Submitted to the University of Nairobi in Partial
Fulfillment of the Requirements for the Degree of Master of
Arts in International Studies**

University of NAIROBI Library



0479019 2

Declaration

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

Signed  _____

Name Samuel M. Arachi

Date 20th NOV. 2006

This project has been submitted for examination with my approval as university supervisor.

Signed  _____

Name Ludeki Chweya, Ph.D.

Date 20th NOV. 06

Dedication

This work is dedicated to my wife Jackie, and sons Bill, Ronnie and Steve.

Acknowledgements

Many people have contributed immensely towards the completion of this work. First I wish to thank my supervisor, Dr. Ludeki Chweya for his patience and guidance right from the inception of this work to the end. To him I say thank you for inspiration and dedication to the completion of this thesis.

My special gratitude go to the Commandant, National Defence College (NDC), Lieutenant General J. Tuwei, my sponsor Major General Rob and the entire staff of the college. Special thanks are also due to the Commandant Administration Police Force, Mr. Kinuthia Mbugua, EBS for releasing me to attend the course and for his continued moral and financial support without which it would not have been possible to complete this work. My thanks also go Mr. Njeru Ngochi and Sergeant Daniel M. Njoka for their invaluable support.

Finally my thanks go to my family, friends and participants of NDC Course 09/2006 for making the year so rewarding. It may not be possible to name everybody who has given moral and material support. To all I say thank you very much and God bless you.

List of Abbreviations

AIAI	-	Al- Ittihad Al-Islamia
AIF	-	Al- Haramia Islamic Foundation
AMA	-	African Muslim Agency
AP	-	Administration Police
APTC	-	Administration Police Training College
ASTU	-	Ant-Stock Theft Unit
AU	-	African Union
CIA	-	Central Intelligence Agency
CID	-	Criminal Investigation Department
CT	-	Counter Terrorism
ESAAML	-	Eastern and Southern Africa Anti-Money Laundering
FBI	-	Federal Bureau of Investigation
FMF	-	Foreign Military Financing
FTO	-	Foreign Terrorist Organization
GSU	-	General Service Unit
IBEA	-	Imperial British East Africa
ICAO	-	International Civil Aviation Organization
ICT	-	Information and Communication Technology
IFRA	-	International French Research Africa
IGAD	-	Intergovernmental Authority on Development
IT	-	Information Technology
JTTF	-	Joint Anti-Terrorism Task Force

KAA	-	Kenya Airport Authority
KAPU	-	Kenya Airports Police Unit
KPA	-	Kenya Ports Authority
KPS	-	Kenya Police Service
KWS	-	Kenya Wildlife Service
LRA	-	Lords Resistance Army
MIRA	-	Mercy International Relief Agency
NCTC	-	National Counter Terrorism Center
NDC	-	National Defence College
NSIS	-	National Security Intelligence Service
OAU	-	Organization for African Unity
PFLP	-	Popular Front for Liberation of Palestine
PLO	-	Palestinian Liberation Organization
RDU	-	Rapid Deployment Unit
SGB	-	Security of the Government Buildings
TPU	-	Terrorism Police Unit
UK	-	United Kingdom
UN	-	United Nations
UNDP	-	United Nations Development Program
US	-	United States
USAID	-	United States Agency for International Development
VIP	-	Very Important Persons

Table of Contents

	Page
Declaration.....	ii
Dedication	iii
Acknowledgements.....	iv
Abbreviations	v
Prologue.....	x
Abstract.....	xi
Chapter One: International Terrorism and National Security	
Introduction.....	1
Statement of the Problem.....	4
Security Threats.....	5
Effects of Terrorism.....	7
Objectives of the Study.....	14
Theoretical Framework.....	14
Hypothesis.....	17
Issues in Terrorism.....	18
Meaning of Terrorism.....	18
Typology of Terrorism.....	22
Historical antecedents.....	24
Causes of Terrorism.....	25
Strategy of Terrorism.....	26

Counter Terrorism Activities.....	28
Study Methodology.....	29
Sources of Data.....	30
Chapter Outline.....	32

Chapter Two: Past Organization of Security Services

Introduction.....	33
Pre Existing Security Threats.....	33
Administration Police Force.....	35
Kenya Police Force.....	40
The Advent of Terrorism.....	44

Chapter Three: Organizational and Strategic Response to Terrorism

Introduction.....	49
International conventions and Domestic Legislations.....	49
Domestic Legislation.....	51
Establishment of New Agencies and Sensitization of the Old.....	53
The Kenya Police	56
The Administration Police	59

Chapter Four: Police Response to the Rise of Terrorism

Introduction.....	62
Magnitude of Security Threats.....	62

Past Organization and Structures.....	63
Adjustments.....	63
Bibliography.....	65
Appendix: Questionnaire.....	69

Prologue

“All the nations of the world must be united in their solidarity with victims of terrorism and in their determination to take action.....both against the terrorists themselves and against all those who give them any kind of shelter, assistance or encouragement”

Koffi Annan,

Secretary-General United Nations,

9th DSecember,2001

Abstract

The objectives of this study were to assess the magnitude of threats posed by terrorism relative to traditional security problems, structure and inclination of Kenya security apparatus prior to the rise in the threat of terrorism and adjustments that are underway on the organization and structure in response to the advent of terrorism. The hypothesis of this study was that the advent of security threats from international terrorism has rendered the pre-existing national security structures and assumptions inadequate. The inclination, organization, training, equipping and deployment of security agencies were geared towards addressing the tradition security concerns of the country.

The advent of the threats of international terrorism has necessitated the reorganization of the security apparatus in terms of structures, training, equipping, and deployment to counter the phenomenon. The Administration Police Force and the Kenya Police Force have taken measures to combat threats emanating from international terrorism. New specialized units have been formed while existing ones have been sensitized to effectively fight the war on terror.

While no country can claim to be perfectly prepared to counter terrorist attacks as exemplified by the September 11th bombing of key economic and security landmarks in the United States, Kenya must take measures to prepare her security agencies and the population at large to the reality of the phenomenon.

Chapter One

International Terrorism and National Security

Introduction

Terrorism is not a new phenomenon. The practice has existed for centuries. However, the precise definition of the term terrorism has been difficult to realize. In one sense, the term has been used to mean both a tactic and a strategy: a crime and a holy duty; a justified reaction to oppression and an inexcusable abomination.¹ The specific definition that is actually used depends on the subjective point of view of the person applying the term. Nevertheless terrorism is a tactic that a weaker side employs in a conflict and relies on its secretive nature and small size organizations to counter balance the might of superior opponents.² Some of the tactics used by terrorists include bombing, kidnapping, hostage taking, armed attacks, assassinations, arson, firebombing and hijackings.

Terrorism is therefore an irregular warfare strategy of the 21st century. The practice has evolved rapidly in the light of changing social, political and technological advances in the world to the extent that terrorist organizations have new and sophisticated methods of operation, procurement of funding and development of capabilities. The forms of society and government in the past were significantly different from what we know today. The modern nation-states as we know them today did not exist until the 1648 Treaty of Westphalia. State monopoly on warfare or inter-state violence is even

¹ **What is Terrorism@** <http://www.terrorism.com/index.htm> 9th April,2006

² **Notes On Theories of the War on Terrorism @** <http://www.Psc-Cuny.org/NotesOnTheories.htm>

more recent.³ The lack of Central Governments in Europe in earlier centuries made it impossible to use terror as a method of effecting political change because single dominant political authority did not exist. The absence of a central authority opened the game of warfare to numerous players. Instead of national armies, a variety of non-sovereign nobility, mercenaries, religious factions or mercantile companies possessed armed bands and participated in warfare.⁴ The participation of such actors was then considered legitimate. In contrast today, only nations legitimately wage war, and the participation of private actors is considered to be illegal. This is the conventional thinking up to this day. Israeli army claims to be fighting a war and regards the Hezbollah to be engaged in terrorism.

Early practitioners of terrorism such as the Zealots of Judea also known to the Romans as sicarii or dagger men and the Assassins, a break away faction of shia Islam called the Nizari Ismalis of Northern Iran did not leave any particular philosophy or doctrine on their use of terrorism. With the exception of spectacular failures such as Guy Fawkes religiously inspired attempt to assassinate King James I and both houses of Parliament in England,⁵ terrorism did not separate itself or progress beyond the normal practices of warfare at that time. And as political systems became more sophisticated and political authority viewed as less of a divine gift and more of a social contract, new ideas about political conflict developed. The period of warfare and political conflict that swept across Europe after the French Revolution provided inspiration for political theorists during the 1800s.

³ Bruce Hoffman, *Inside Terrorism* , Victor Gollancz, London 1998 P 16

⁴ Bruce Hoffman, *Inside Terrorism* , Victor Gollancz, London 1998 P 16

⁵ *The Evolution of Terrorism* @ <http://www.terrorismresearch.com/index.htm> 9th February, 2006

Several important theories of social revolution developed during this time. The revolutionary theories rejected the possibility of reforming the existing system then and demanded its destruction. This extremism laid the groundwork for the use of unconstrained violence for political ends.⁶ The two ideologies that embraced violent social change were Marxism and Anarchism. Both advocated for the complete destruction of existing social and political system. Marxism focused on economic class warfare and assumed the seizure of power by the proletariat until the state became superfluous and was eventually abandoned. Anarchism advocated the rejection of all forms of governance so that with complete destruction of the state nothing would be required to replace it and people could live and interact without governmental coercion.

In the early 20th century, nationalism and revolutionary political ideologies were the main development forces that acted upon terrorism. The treaty of Versailles redrew the map of Europe after the First World War by breaking the Austro-Hungarian Empire and creating new nations and thereby acknowledged the principles of self-determination for nationalities and ethnic groups and encouraged minorities and ethnicities that did not receive recognition to campaign for independence or autonomy.

However, self-determination was largely limited to European nations but refused to others, especially the colonial possessions of the major European powers, which created bitterness and set the stage for long conflicts of the anti-colonial era. Often these nationalist and anti-colonial groups conducted guerilla warfare, which differed from terrorism mainly in that they operated from defined geographical area over which they held sway. The struggle for self-determination in Africa was most violent in Kenya,

⁶ **The Evolution of Terrorism @ <http://www.terrorismresearch.com/index.htm> 9th February, 2006**

Zimbabwe, Algeria and South Africa. In all cases the nationalist movements adopted tactics that earned them the title of terrorists.

Statement of the Problem

The struggles in Cyprus and Palestine were also fought by groups, which can be called terrorist. The groups learnt to exploit the burgeoning globalization and the world media; “They were the first to recognize the publicity value inherent in terrorism and to choreograph their violence for an audience far beyond the immediate geographical location of their respective struggles.”⁷ Through the 1960’s and 1970’s the number of groups that might be described as terrorist swelled and included nationalists and those motivated by ethnic and ideological considerations.⁸ However many of the terrorist groups have declined or ceased to exist altogether while others such as the Palestinian Liberation Organization (PLO), the Irish Republic Army and the Spanish Basque ETA groups, motivated by more enduring causes, remain very active.⁹

Internationalization of terrorism became more overt from 1968 when the Popular Front for the Liberation of Palestine (PFLP) hijacked an EL-AL airline en route from Tel Aviv to Rome.¹⁰ While hijacking airliners had occurred before, this was the first time the nationality of the carrier and its symbolic value was a specific operational aim.¹¹ This was the first time passengers were used as hostages to make demands against Israel. Another aspect of terrorism is the cooperation between extremist organizations in conducting terrorist operations. Cooperative training between Palestinian groups and

⁷ Bruce Hoffman, *Inside Terrorism*, Victor Gollancz, London P 65.

⁸ *Terrorism in the 20th Century* @<http://www.terrorismresearch.com> accessed 9th February,2006

⁹ Bruce Hoffman, *Inside Terrorism*, Victor Gollancz, London P 65.

¹⁰ *Terrorism in the 20th Century* @<http://www.terrorismresearch.com> accessed 9th February,2006

¹¹ *Terrorism in the 20th Century* @<http://www.terrorismresearch.com> accessed 9th February,2006

European radicals started in 1970 and joint operations between the Popular Front for the Liberation of Palestine (PFLP) and the Japanese Red Army began in 1974.¹² Since then international terrorist cooperation in training, operations and support has continued to grow and international terrorism has become a threat to international peace and stability as well as to the security of individual nations. Many people have lost lives and properties destroyed in terrorist assaults.

Security Threats

Specifically, the threats the security agencies face today include the following: Recruitment and training of locals as members of terrorist groups/organizations. This poses a serious threat because terrorists often recruit locals to be able to penetrate the security apparatus and carry out their activities. One of the bombers of the 1998 US embassy in Nairobi had settled among the Lamu community and married there. He had also started a fish business as he was preparing the infrastructure for the atrocities that occurred on 7th August 1998;

Weapons: Smuggling of weapons into the country for terrorist activities is a real threat. This could be through the long and porous borders, through airports and even seaports; transfer of Funds: Money Laundering and remittances for terrorist activities need to be monitored and stopped. There is an urgent need to criminalize financing of terrorist activities; cyber space/cyber crime: Lack of skills in cyber crime constitutes a real threat in countering the same; communication: Terrorists must communicate for effective coordination of their activities and this threat needs to be addressed through

¹² **Terrorism in the 20th Century** @<http://www.terrorismresearch.com> accessed 9th February,2006

stringent monitoring of telecommunications; immigration: illegal entry and residency of aliens and undesirable elements pose a threat. All immigrants must be vetted and issued with proper travel documents and their movements monitored; availability of small arms and light weapons: Due to instability in the neighboring countries these arms are readily available and are easily smuggled across the porous borders; NGO's and cover organizations: Operations of NGO's need to be monitored. Wadi El Hage, one of the masterminds of the 1998 US embassy bombing set up an NGO called Mercy International Relief Agency in 1993 as part of the disguise to facilitate the movement of Al Qaeda operatives; hijacking of aero planes: Measures need to be taken to detect and deter terrorists from our airports; presence of terrorism cells in the country. The sources of these threats usually are transnational terrorist organizations and they mainly target foreign interests in Kenya and in particular USA, UK and Israeli interests

For the dependent variables, which are the preparedness of the security apparatus, these are the Kenya Police and the Administration Police forces. However other security apparatus are involved in the war against terror and these include the National Security Intelligence Service (NSIS), the Counter Terrorism Center (NCTC), the Anti-Terrorism Police Unit (ATPU), the Immigration Department, the Ministry of Defence, the Civil Aviation Authority, the Kenya Airports Authority, Kenya Ports Authority, Customs and Excise Department, Ministry of Foreign, Attorney, General Affairs Ministry of Tourism and Information and the Provincial Administration.

The elements of preparedness this study will look at include Training, equipping, new structures established to fight terrorism, coordination, legislation, intelligence

gathering and public sensitization intended to detect, prevent and defeat international terrorism.

Effects of Terrorism

Terrorism has far-reaching implications in many fronts. First is the loss of lives and damage of property. Apart from the loss of lives survivors are left with severe injuries, physical and psychological trauma. Such injuries and emotional disturbances haunt the victims for the rest of their lives. Loss and damage to property undoubtedly directly contributes to poverty.

Economically terrorism has had devastating impact in Kenya. The 1998 bombing of the US Embassy and the 2002 bombing of the Paradise hotel in Kikambala and the subsequent travel advisories issued both by the US and the UK governments affected the economy and especially in the tourism and the horticultural sectors. A study carried out by the Ministry of Foreign Affairs on the effect of travel warnings by the UK government show that the economy lost an equivalent of 108 million pounds, which is an equivalent of 1.6 % of Kenya's wealth. On the horticultural sector, the industry lost £3.5 million.

This was due to the fact that fresh produce could not be exported because of flight cancellations. The Kenya Wildlife Service lost about £8 million due to decline in tourist visits. Hotel bookings fell drastically resulting in mass lay-offs of staff. According to the Kenya tourism board, tourist arrival in 2003 was showing a growth of 22% against the 2002 figures and after the advisories the arrivals fell by 42% and bed occupancy in tourist

resorts literally fell by 50%.¹³ An example is the Carnivore restaurant in Nairobi where in 2002 all the staff had their salaries reduced by a half and the restaurant served a mere seven thousand meals against the projected 12000.

The multiplier effect is felt in many other business sectors as these are inextricably linked to tourism. Tourism generates \$500 million each year, which is a hefty chunk of the country's foreign exchange earnings. Around 500,000 Kenyans have their jobs connected to tourism.¹⁴ Another effect to the economy is the loss of business confidence.

Terrorism activities scare away potential investors who would otherwise have invested were it not for the threats. Terrorism has influenced new legislations by the government. For instance the Kenyan government has published the anti- terrorism bill and established the Kenya Counter Terrorism Center. The US government has established the Department of Homeland Security. Another effect of terrorism has been the realization that the war against terrorism must bring together all the countries in the world. Due to the transnational nature of terrorism, countries must cooperate to win this war.

To illustrate the enormity of international terrorism a few examples of terrorist incidents are listed below:

March 20, 1995: Twelve civilians were killed and thousands injured in a Sarin nerve gas attack on the Kasumigaski subway station in the center of Tokyo Japan. The Aum Shinrikyo cult was behind the attack.

¹³ Loonena Naisho **Responding to Terror: The case of Kenya**, @ <http://www.up.ac.za/academic/cips/pulications> P 3 accessed on 10th March, 2006

¹⁴ National Geographic News; **Terrorism Taking Toll on Kenya's Tourist Industry**; @. <http://www.nationalgeographic.com> accessed on 6th April,2006

April 19, 1995: One hundred and sixty six people were killed and hundreds injured by a massive truck bomb at a federal building on Oklahoma USA. Right wing extremist Timothy Mcveigh was responsible.

June 19, 1995: A bomb planted by Basque ETA in Madrid Spain killed a Policeman.

July 25, 1995: Seven people were killed in a bomb explosion in Metro Station in Paris France, Algerian GIC Islamic terrorists claimed responsibility.

October 20, 1995: Eight civilians died in a mosque blast in Riyadh Saudi Arabia.

November 19, 1995: Seventeen people were killed in an Egyptian Embassy bombing in Pakistan Islamic Radicals were responsible.

December 11, 1995: Six sailors were killed and eighteen civilians injured in Madrid Spain. Basque ETA terrorists planted the Bomb.

January 31, 1996: Eight civilians were killed and one thousand and four hundred others injured when a massive car bomb went off in Colombo, Sri Lanka. Tamil Tiger suicide bombers were responsible.

November 23, 1996: One hundred and twenty three passengers were killed when an Ethiopian Airways plane en route from Addis Ababa to Nairobi was hijacked and diverted to Australia. It ran out of fuel and crashed in the Indian Ocean near the Comoros Islands.

January 19, 1997: A car bomb in Algiers killed forty five and wounded sixty others hours after another thirty six people were killed by Algerian rebels south of the capital. A further seventy nine people were killed in attacks on villages the following day.

November 17, 1997: Fifty eight western tourists were killed and dozens injured in gun

attack on a party visiting historic monuments in southern Egypt. The attack was blamed on Islamic guerillas after six were killed in a shoot out with the police.

January 31, 1998: Basque ETA gunmen shot dead the leader of a Spanish political party and his wife in Seville.

August 7, 1998: US Embassies in Nairobi Kenya and Dares-Salaam, Tanzania were heavily damaged by massive bomb attacks. In the Nairobi attack two hundred and forty seven people were killed and over four thousand injured. Ten people were killed and seventy four were injured in the Tanzanian incident. Islamic groups linked to Osama Bin Laden were widely blamed for the attacks.

August 25, 1998: Three people were killed and twenty five injured in a bomb attack on Planet Hollywood restaurant in Cape Town South Africa. Muslims against Global Oppression claimed responsibility.

January 3, 1999: Gunmen opened fire on Shia Muslim worshippers in an Islamabad mosque and killed sixteen people and injured twenty five others.

September 11, 2001: The attacks on September 11 killed almost three thousand people in a series of hijacked airliners which were crashed into two US landmarks, the world trade center in New York City and the pentagon in Virginia. A fourth plane crashed in Somerset County, Pennsylvania.

March 11, 2004: A coordinated bombing of commuter trains in Madrid, Spain killed one hundred and ninety five people and injured more than one thousand five hundred.

September 1, 2004: The Beslan School hostage crisis in Russia resulted in three hundred and forty four children and adults dead.

July 7, 2005 Bombs exploded on one double Decker bus and three London underground

trains killing fifty six people and injured over seven hundred.

July 23, 2005: A bombing in Sham El-Sheikh in the Egyptian Red Sea Resort killed eighty eight people and one hundred and ninety nine others were injured.

September 14, 2005: A Baghdad car bomb killed one hundred and fifty one people and three hundred others were injured.

October 1, 2005: A suicide bombing of a tourist hotel in Bali, Indonesia killed nineteen people and injured others.¹⁵

International terrorism has adversely affected Kenya's security with several strikes and a few attempted attacks. The Norfolk hotel in Nairobi was bombed on 31st December, 1980 killing fourteen people. Investigations revealed that the Palestinian Liberation Organization was responsible for the attack.

The US embassy in Nairobi was bombed on the 7th August 1998 killing two hundred and forty seven people and injured over four thousand others. The paradise hotel in Kikambala near Mombasa was bombed on 28th November 2002 killing fifteen people. On the same day terrorists attempted to shoot down an Israeli commercial airliner using hand held missiles but did not succeed.

There are other incidents, which have occurred in Kenya, which could be termed as terrorist. One of those is the bombing of the Stanley hotel in Nairobi on 11th July 1989. Several people were injured and property of unknown value destroyed. Investigations carried out indicated that the perpetrators targeted Israeli and American tourists who frequented the hotel. A Saudi Arabia commercial airliner was hijacked by Ethiopians and forced to land at the Jomo Kenyatta International Airport in 1994.

¹⁵ Database of Terrorist Incidents in Center for Defence and International Security@
<http://www.cdiss.org/Document> accessed on 10th April, 2006

Kenyan security forces successfully rescued the hostages and killed one of the hijackers. Investigations revealed that the hijackers had political problems with their government. Several terrorist suspects have been arrested and prosecuted for various offences relating to terrorism. After the November 2002 Paradise Hotel bombing and the attempt to strike an Arkia passenger Airliner in Mombasa's Moi International Airport, seven suspects were arrested and charged. The court convicted one suspect for eight years and acquitted the rest. The latest incident is the arrest in Biyamathow trading center in the outskirts of Wajir town of suspected terrorists armed with rocket-propelled missiles on 15th December, 2005.

The above successive incidents demonstrate the vulnerability of Kenya as a terrorist target because of her traditional close links with the USA, UK and Israel and therefore have made terrorism a major security concern for the country. The US and UK government have in the past issued travel advisories warning their citizens not to travel to Kenya due to insecurity emanating from threats of international terrorism.

Traditionally Kenya has faced various security threats. After the partition of Africa into spheres of influence, boundaries were demarcated without taking into account the realities of the communities living in those areas. Some communities found themselves split by those borders. For instance we have Somalis in Kenya and in Somalia. This became a major security concern when the countries in the region got their independence.

In the late 1960s, Somalia claimed some parts of Northern Kenya, which brought tensions between the two countries. This conflict could largely be attributed to Somalia's concept of 'Pan-Somalis' which advocated for all areas inhabited by Somalis to be part of

the republic of Somalia.¹⁶ This included the Ogaden region of Ethiopia. The government of Somalia supported Somalis residing in Kenya to undermine the Kenya government in what came to be known as the '*Shifita*' affair.

The ultimate goal was secession of the Northern Frontier District to be part of the republic of Somalia. This was a serious security threat and it brought tensions between the two states to great levels and there were prospects for war. The seriousness of this threat led to Kenya and Ethiopia entering a military pact to come to the aid of one another in the event of an attack from Somalia. Around 1975, President Amin of Uganda claimed some parts of Western Kenya as part of Ugandan territory and this constituted another security threat from an external source.¹⁷ Other security concerns emanating from outside Kenya were mainly by adjacent communities crossing the borders to steal livestock. This is a problem that persists to date.

The other security concerns are criminal activities, which are a concern of every government. These include robberies, carjacking, banditry, forgeries and burglaries. The orientation and training of the police in Kenya was towards combating the traditional security concerns. The phenomenon of international terrorism was not a concern of the Kenya government until the 1998 bombing of the US Embassy with the loss of many Kenyans and property. Since independence the Kenya military force has been developed as a privileged security segment for the reason that the concern of the country was external military attacks. Unlike the military the police forces were trained and equipped to handle traditional security threats other than terrorism.

¹⁶ Ludeki Chweya *Emerging Dimensions of Security in the IGAD Region* in Makumi Mwangi (ed) *African Regional Security in the Age of Globalization* Heinrich Boll Foundation Nairobi 2004 P 38

¹⁷ Ludeki Chweya *Emerging Dimensions of Security in the IGAD Region* in Makumi Mwangi (ed) *African Regional Security in the Age of Globalization* Heinrich Boll Foundation Nairobi 2004 P 39

Objectives of the Study

The aim of this study is to assess the transformation of the Police Forces in Kenya in to an effective apparatus for the control of the threat of international terrorism in the country. Specifically, this study will assess the magnitude of threats posed by terrorism relative to traditional security problems, structure and inclination of Kenya security apparatus prior to the rise in the threat of terrorism and the adjustments that are underway on the structure in response to the advent of terrorism.

Theoretical Framework

Traditionally security has been associated with issues of war and peace. The realist view of international relations regards states as the central actors in the international system. Thus, the overriding interest of states in the international system has been national security. However realism defined largely in terms of military power downgrades social economic needs of states and places priority on security. Furthermore realism sees threats from outside coming in as military aggression and attack by other states.

There are according to Morgenthau six fundamental principles of political realism. The first principle is that political realism believes that politics, like society in general, is governed by objective laws that have their roots in human nature. The second principle is that the main signpost that helps political realism to find its way through the landscape of international politics is the concept of politics defined as power.

The third principle is that realism assumes that its key concept of interest defined as power is an objective category, which is universally valid, but it does not endow that

concept with a meaning that is fixed once and for all. The fourth principle states that political realism is aware of the moral significance of political action. Realism maintains that universal moral principles cannot be applied to the action of states in their abstract universal formulation.

The fifth principle is that political realism refuses to identify the moral aspirations of a particular nation with the moral laws that govern the universe. The last principle is that the difference, then, between political realism and other schools of thought is real, and it is profound.¹⁸ The six principles serve to objectify and provide solid justification for the ambitious mission of positing a general theory of international politics. According to realism, international politics like all politics is a struggle for power. By power it means man's control over the minds and actions of other men.

In summary, the tenets of realism are that states are the main actors in the international system. This school of thought view international organizations as agents of states and not as actors in their own right. However non-state actors have become more significant in the recent times and are less tied to states. International terrorist organizations fall under this category. Realism also views the international system as being anarchical.

There is no central authority because states are sovereign and therefore every state is responsible for its own security.¹⁹ Though organizations like the UN and AU exist for collective security purposes, every state has at the end to organize for its own security.

¹⁸ Hans Morgenthau, *Politics Among Nations: The Struggle for Power and Peace*; Kalyan Publication Delhi 2000. P 5

¹⁹ Ludeki Chweya, *Emerging Dimensions of Security in the IGAD Region* in Makumi Mwagiru (ed) *Africa Regional Security in the Age of Globalization*: Heinrich Boll Foundation, Nairobi 2004 P 34.

Realism also assumes the primary concern of states is security and particularly military threats from other states.²⁰

Realism therefore is not a theory defined by an explicit set of assumptions and propositions. Rather, as many commentators have noted, it is a general orientation.²¹ Gilpin (1986) calls it a philosophical disposition. However events in the recent past indicate that threats to security of a state could also emanate from non- state actors and also could be through non- conventional means. There are threats that are not military, which are threats to security and terrorist attacks top the list. Realism also assumes that states guarantee their security through balance of power vis a vis other states and non-states actors. And because there is no central authority in the international system, states pursue what is in their best interests.

There are no moral considerations in the international system. States are deemed to be objective and rational. However international terrorism is a threat from outside though non-state actors perpetuate it. Kenya therefore must endeavor to build a capacity to counter balance the threats of terrorist groups. The security of a state against international terrorism must be seen as the security of its citizens and their property. Furthermore the perception that security meant the military and balance of power variables was questioned fundamentally by idealism, which has assigned a higher premium to social economic concerns including the interpretation of security in socio-economic terms.²²

²⁰ Ludeki Chweya, *Emerging Dimensions of Security in the IGAD Region* in Makumi Mwangi (ed) *Africa Regional Security in the Age of Globalization*: Heinrich Boll Foundation, Nairobi 2004 P 34.
²¹ Jack Donnelly, *Realism and International Relations*, Cambridge University Press; Cambridge 2000 P 6
²² Ludeki Chweya, *Emerging Dimensions of Security in the IGAD Region* in Makumi Mwangi (ed) *Africa Regional Security in the Age of Globalization*: Heinrich Boll Foundation Nairobi 2004 P 34.

Chweya (2004) argues that failure to look beyond the limited realist view of the states can lead to the erroneous observation that a state is secure whereas the reality can be different. He says "Individuals, groups and communities can suffer or die of famine, genocide, banditry, police brutality, ethnic cleansing, spousal assault, child labour, discrimination in state resource allocation, diseases and epidemics and religious and cultural persecution simultaneously within a secure state from the realist perspective."²³

The concept of security has acquired a new broader meaning that involves threats from external non-state actors; threat from internal actors; threats to individuals, groups and communities; and 'civilian' threat to human well being (health, nutrition, education, fairness, rights and freedoms dignity). Terrorist organizations target civilian facilities and populations rather than military establishments because they are easier targets and fear spreads faster.

Henk (2005) says that the focus on security has shifted dramatically to include without limitation those of a political, strategic, economic, social or ecological nature.²⁴ The Human Security perspective has become the benchmark for an emerging new model of security. This concerns the legitimate needs of the ordinary people among them security symbolizing protection from the threat of disease, hunger, crime, social conflict, political repression and environmental hazards.²⁵ This is a people centered approach whose principle components were freedom from fear and freedom from want.

²³ Ludeki Chweya, **Emerging Dimensions of Security in the IGAD Region** in Makumi Mwagiru (ed) **Africa Regional Security in the Age of Globalization**: Heinrich Boll Foundation, Nairobi 2004 P 34.

²⁴ Don Henk **Human Security; Relevance and Implications**, in the Journal **Parameters** volume 35 Issue 2, 2005 P91.

²⁵ 1994 UNDP Report quoted in **Human Security Relevance and Implications** Don Henk in the journal **Parameters** VOL 35 Issue 2: 2005 P 2

This study will adopt the concept of security to mean the condition where individuals, groups, communities and states as a whole are free from armed or unarmed threat to physical, social, psychological, material and political well being and have enough resources to take care of such threats whenever they occur.

Hypothesis

The study is based on hypothesis that the advent of security threats from international terrorism has rendered the pre-existing national security structures and assumptions inadequate. This study attempts to find out how inadequate the security structures and assumptions are and what adjustments have been made to counter the threats emanating from international terrorism.

Issues in Terrorism

Meaning of Terrorism

According to the Oxford English dictionary the origin of the term terrorism is the French revolution of 1789 -1794. The term is applied to the Jacobins and their agents and partisans in the French revolution, especially to those connected with the tribunals during the reign of terror. In modern usage the term refers to anyone who attempts to further his views by a system of coercive intimidation.²⁶

Terrorism is therefore a political concept; the concept revolves around the use of power to achieve political change.²⁷ Specifically terrorism is the use of violence or threat

²⁶ Oxford English Dictionary, Compact Edition Oxford University Press 1971 P 32

²⁷ Bruce Hoffman, Inside Terrorism, Victor Gollancz London 1989 P 14

of violence to achieve political aims and is a planned, calculated and a systematic act. In his contribution to the study of terrorism, Alex Schmid analyzed the content of 109 definitions of terrorism and calculated the frequency of occurrence of 22 dominant terms as shown below:-

Element	Frequency (%)
Violence, force	83.5
Political	65
Fear, terror emphasized	51
Threat	47
(Pysch.) effects and (anticipated) reactions	41.5
Victim-target differentiation	37.5
Purposive, planned, systematic, organized action	32
Method of combat, strategy, tactic	30.5
Extra normality, in breach of accepted rules, without Humanitarian constraints	30
Coercion, extortion, induction of compliance	28
Publicity aspect	21.5
Arbitrariness, impersonal, random character indiscrimination	21
Civilians, non- combatants, neutrals, outsiders as victims	17.5
Intimidation	17
Innocence of victims emphasized	15.5
Group, movement, organization as perpetrator	14
Symbolic aspect, demonstration to others	13.5
Incalculability, unpredictability, unexpectedness of Occurrence of violence	9
Clandestine, covert nature	9
Repetitiveness; serial or campaign character of violence	7
Criminal	6.
Demands made on third parties	4.

Source: Alex.P. Schmid and Albert J. Jongman, **Political Terrorism; A new Guide to Actors, Authors, Concepts, Data Bases, Theories and Literature**, North – Holland Publishing company, Amsterdam 1988 P.19.

Schmid has probably given the most rigorous definition of terrorism using 16 of the 22 elements identified above. He defined terrorism as; “an anxiety- inspiring method of repeated violent action, employed by (semi) clandestine individual, group or state

actors, for idiosyncratic- criminal or political reasons whereby - in contrast to assassination, the direct targets of violence are not the main targets. The immediate human victims of violence are generally chosen randomly (targets of opportunity) or selectively (representative or symbolic targets) from a target population and serve as message generators. Threat and violence based communication processes between terrorist (organization), (imperiled) victims, and main targets are used to manipulate the main target (audience(s) turning it into a target of terror, a target of demands, or a target of attention, depending on whether intimidation, coercion or propaganda is primarily sought.”²⁸

The United States definition of terrorism is contained in Title 22 of the US Code Section 2656f (d): “Premeditated, politically motivated violence perpetrated against non-combatant targets by sub national groups or clandestine agents usually intended to influence an audience”

The Federal Bureau of Investigations defines terrorism as “The unlawful use of force or violence against persons or property to intimidate or coerce population, or any segment thereof, in furtherance of political or social objectives.”²⁹ In Kenya, the Kenya National Counter - Terrorism Strategy defines terrorism as “the intentional infliction of suffering or loss on one party by another party, which has no authority or legitimacy.”³⁰ The strategy also defines terrorism as the use of indiscriminate violence to intimidate the general majority of people in a state to accept the changes advocated by the terrorists. The essence of terrorism is to kill or injure opponents in ways specifically designed to

²⁸ Andrian Guelke *The Age of Terrorism and the International Political system*, I.B Tauris Publishers, London 1995 P3

²⁹ Bruce Hoffman, *Inside Terrorism*, Victor Gollancz Londonh 1998 P 38

³⁰ Kenya National Counter Terrorism Strategy

cause fear and thus to disorganize the opposing society to a degree far out of proportion to a number of victims.

The above definitions are not very clear. The Kenya Anti Terrorism Bill 2006 gives a more coherent legalistic definition. It defines terrorism as “the unlawful use of violence, with intent to advance a political, religious, ethnic, ideological or other such cause and includes any unlawful use of violence with intent to put the public or a section of the public in fear.”³¹

The different definitions of terrorism show that the concept has intrinsically negative connotation that is generally applied to one’s enemies and opponents or to those with whom one disagrees and would otherwise prefer to ignore.³² The African National Congress (ANC) was labeled a terrorist organization by the apartheid regime in South Africa. The Mau Mau Movement of Kenya was equally labeled a terrorist organization by the British colonial government. However to the people of South Africa and Kenya, the two organizations were liberation movements and their cause was justified.

The definition of terrorism therefore depends on ones point of view. The decision to refer to someone or to an organization as terrorist tends to be subjective, depending on whether one sympathizes with or opposes the person or group or cause concerned.³³ Thus the meaning of terrorism continues to be a contested matter. This study will place the meaning of terrorism at the intersection between politics and violence, with a quest for power; power to dominate and coerce; to intimidate and control and ultimately to

³¹ Kenya Counter Terrorism Bill 2006

³² Bruce Hoffman, *Inside Terrorism*, Victor Gollancz London 1998 P 36

³³ Bruce Hoffman, *Inside Terrorism* , Victor Gollancz London 1998 P 36

effect fundamental political change. Violence or threat of violence is the means for the attainment of desired change and is therefore the '*sine qua non*' of terrorism.³⁴

Terrorists will therefore plan their operations in a manner that will shock, impress and intimidate, ensuring that their acts are sufficiently daring and violent to capture the attention of the media and in turn of the public and the government as well. Often erroneously seen as indiscriminate or senseless, terrorism is actually a very deliberate and planned application of violence.³⁵

Typology of Terrorism

There are two broad categories of the organization of terrorist groups. One is hierarchical and the second one is networked. Categorization can also be domestic or international based on the theater of operation and also can be based on aims as discussed below.

Terrorist groups that are associated with political activities or organization will often require a more hierarchical structure in order to coordinate terrorist violence with political action.³⁶ This categorization is based on the objectives of the terrorist groups' organization.

The first type is separatist; these are groups whose objectives are separation from existing entities through independence political autonomy, religious freedom or domination. Separatists often subscribe to ideologies of social justice, equity as well as resistance for conquest or occupation by a foreign power. The next type is ethnocentric; terrorist groups of this persuasion see race as the defining characteristic of a society and

³⁴ Bruce Hoffman, *Inside Terrorism*, Victor Gollancz London 1998 P 183

³⁵ Bruce Hoffman, *Inside Terrorism*, Victor Gollancz London 1998 P 183

³⁶ Terrorist Groups_@<http://www.terroristresearch.com>

therefore a basis of cohesion. These are groups that usually have the attitude that they are superior because of their inherent racial characteristics.

The third type is nationalistic; these are groups that espouse loyalty and devotion to their nation and placing their culture and interest above those of other groups. The fourth one is revolutionary; these are groups whose main objective is the overthrow of an established order and replacing it with a new political or social structure. The fifth type is Political; these are groups whose political ideologies are concerned with the structure and organization of the forms of government and communities.

Religiously inspired terrorism has been the most active and has taken up to violence to further their perceived religious goals. These terrorist groups see their objectives as the *Holy writ* and therefore infallible and non-negotiable. Often particular social policies or issues may be contentious and incite extremist behavior and therefore terrorism. At times this is referred to as the single issue or special interest of terrorism. Such issues include abortion, environment, and minority rights. Domestic category; these are homegrown and operate within and against their own countries. They specifically focus their efforts on their nation's socio-political arena. The last type is transnational and these operate internationally. Al Qaeda for example, has been able to conduct operations through out the world.³⁷

³⁷ Categories of Terrorist Groups @www.terrorismresearch.com/groups/categories.php

Historical Antecedents

According to Hoffman (1998), the concept of terrorism was first popularized during the French Revolution. At that time terrorism had a positive connotation for the *regime de la terreur* of 1793-4 was adopted as a means to establish order following the anarchy, turmoil and upheaval that the uprisings of 1789 French Revolution brought forth.

The new revolutionary state employed the *regime de la terreur* to consolidate its power by intimidating counter-revolutionaries, subversives and all other dissidents whom were perceived to be enemies of the people.³⁸

The committee of General Security and the Revolutionary Tribunal (Peoples Court) were accorded under the *regime de la terreur* wide powers of arrest and judgment, publicly putting to death by guillotine persons convicted of treasonous crimes. This was meant to be a deterrent to those whom were in support of the old regime. In the 19th century, the term terrorism was applied to the violence of the agrarian agitation against landlords and their agents in Ireland as well as to the strategy of political assassinations employed by the *Narodnaya Volya* (peoples will) against the Tsarist Regime in Russia and the assassinations of Tsar Alexander II in March 1881.³⁹

By the turn of the century the bomb throwing anarchists espousing the notion of “propaganda by the deed” came to be seen as the archetypal terrorist, establishing a link between anarchism and terrorism that remains important to the interpretation of terrorism as an ideology.⁴⁰ Anarchism is often referred to as the 19th century roots of terrorism.

Anarchism refers to the rejection of the state, any form of coercive government, any form

³⁸ Bruce Hoffman, *Inside Terrorism*, Victor Gollancz London 1998 P 15

³⁹ A. Guelke *The age of Terrorism and International Political System*, I.B. Tauris London 1995 P 3

⁴⁰ The Criminology of Terrorism: Theories and Models@terrorismresearch.com 10th April, 2006

of domination and exploitation. It is the notion of freedom and equal access to all the worlds' resources.⁴¹ The term was next applied to a wave of assassinations in the 1930's that culminated in the killing of the King of Yugoslavia and the foreign Minister of France in Marseilles in 1934. Croatian nationalists carried the Marseilles assassinations and the international dimensions of the killing elicited a response from the League of Nations.⁴²

A committee of experts was formed to study the problem. The committee came up with two proposals to set up two international conventions, one for the prevention and punishment of terrorism and the second to set up the International Criminal Court. These two proposals were adopted in 1937 but did not come into force because few states gave the issue a priority.⁴³ Furthermore the conventions and the problem they addressed were overtaken by the outbreak of the Second World War. Since the end of World War II, terrorism has accelerated its development in to a major component of contemporary conflict

Causes of terrorism

One cause of terrorism is frustration and rejection. It has been argued that frustration due to political social or personal needs can lead to aggressiveness to punish those they perceive to have rejected them. A second cause of terrorism is religious conviction. Some terrorist organizations and their supporters view acts of terrorism as an obligation. They claim to do the job on behalf of God. They wish to impose their beliefs on

⁴¹ The Criminology of Terrorism: Theories and Models@terrorismreserach.com 10th April, 2006

⁴² A. Guelke **The age of Terrorism and International Political System**, I.B. Tauris London 1995 P 3

⁴³ A. Guelke **The age of Terrorism and International Political System**, I.B. Tauris London 1995 P 18

everyone. Al Qaeda falls under this category. A third cause of terrorism is ideological. Communism inspired many guerilla organizations in the 1960's, which engaged in systematic acts of terrorism against capitalist governments.

The fourth cause is state sponsored terrorism. Under this, some states sponsor terrorist organizations to carry out terrorist acts against other states. The American government has termed these countries as rogue states. The fifth cause of terrorism is nationalism, Nationalists seek either to reunite a divided land or to liberate a subjugated people from oppression. While some Government refers to them as terrorist, others see them as freedom fighters. A good example here is the Palestinian Liberation Organization (PLO), the Irish Republican Army (IRA) and the Tamil Tigers of Sri Lanka.

The Strategy of Terrorism

The aim of terrorist groups is to commit actual violence, cause widespread fear; obtain worldwide national or local recognition for their cause by attracting the attention of the media; harass, weaken or embarrass government security forces so that government overreacts and appears repressive; steal or extort money and equipment, especially weapon and ammunition vital to the operation of their group; destroy facilities or disrupt lines of communication in order to create doubt that the government can provide for and protect its citizens; discourage foreign investments tourism or assistance programmes that can affect the target countries economy and support of the government in power; influence government decisions, legislation or other critical decisions and turn the tide in a guerilla war by forcing government security forces to concentrate their efforts in urban areas.

This allows terrorist groups to establish themselves among the local population in rural areas.⁴⁴ An example is the September 11th bombing of the World Trade Center in New York where after the attack investments, tourism and the ability of the US government to protect its people came to be questioned. The incidents attracted media attention internationally and spread fear across the United States. Most scholars suggest that terrorism may be seen as five processes designed to achieve sequentially the following key objectives.⁴⁵

First is attention: through dramatic, attention riveting acts of violence, the terrorists seek to focus attention on themselves and their causes through the publicity they receive most often from news media coverage. The second objective is acknowledgement; Having attracted this attention and thrust some otherwise previously ignored or hitherto forgotten cause on to the states- or often more desirably the international community's –agenda, terrorists seek to translate their now found notoriety into acknowledgement and perhaps even sympathy and support of their cause.

The third objective is recognition; terrorists attempts to capitalize on the interests and acknowledgment their violent acts have generated by obtaining recognition of their rights (i.e. acceptance of the justification of their cause) and of their particular organization as the spokesman of the constituency, whom the terrorists purport to or in some cases, actually do represent.

The fourth objective is authority; armed with this recognition, Terrorists seek the authority to effect the changes in government and/or society that lie at the heart of their

⁴⁴ Terrorism Research Goals and Motivation of terrorist , @<http://www.terrorismresearch.com>. 30th September,2006

⁴⁵ Bruce Hoffman, *Inside Terrorism*, Victor Gollancz London 1998 P 184

movements struggle; this may involve a change in government or in the entire state structure or the redistribution of wealth, readjustments of geographical boundaries assertion of minority rights etc.

Lastly is governance; having acquired authority, terrorists seek to consolidate their direct and complete control over the state, their homeland and or their people. Organizations, which in the past have been labeled terrorist for instance, the ANC, and PLO have achieved their objectives and are in power to the respective countries.

Counter Terrorism Activities

Terrorists' activities are generally directed against sovereign states. Under international law all states enjoy sovereign equality.⁴⁶ International law confers upon states the exclusive right to the use of power within their own territory and the over the permanent residents of that territory.⁴⁷ Secondly states are forbidden to engage themselves in that which falls within the exclusive use of power of other states and thirdly, they are bound by those limitations in the exercise of power, which follows from customary law, and active treaties hence any other actor that employs force is considered illegitimate and terrorist organization.

Under UN resolution 2625(XXV) it is declared, "no state shall organize assist torment, finance, incite or tolerate subversive, terrorist, or activities directed towards the

⁴⁶ UN. Resolutions No. 2625 (XXV)

⁴⁷ Ian Brownlie **Principles of International Law** Claredon Oxford 1984

violent overthrow of regimes of another state.”⁴⁸ In this context it should also be observed that the UN General Assembly in December 1995 adopted resolution no. 40/61 which “un- equivocally condemns as criminal, all acts, methods, and practices of terrorism wherever and by who ever committed, including those which jeopardize friendly relations among states and their security.”⁴⁹ Under the principles of the international law and international co operations states are obligated not to allow knowingly their territories to be used for acts contrary to the rights of other states.

In Africa the OAU member states ratified a convention on the Prevention and Combating of Terrorism in the year 2000. Section IV of the Convention calls on member states to cooperate through refusal to organize or support mercenaries, enhance border-monitoring systems, enhance the security of foreign missions, exchange of information and the establishment of a collective database on terrorism.⁵⁰ AU, the successor of OAU, adopted this resolution. This study will contribute to the understanding of international terrorism by analyzing internal adjustments made in Kenya to combat the threat.

Study Methodology

The ultimate aim of this study is to assess the magnitude of threats posed by terrorism relative to traditional security problems, the set up of Kenya’s security apparatus prior to the rise in the threat of terrorism and most importantly the adjustments that are underway on the structure in response to the advent of terrorism. The study will also test the

⁴⁸ See International Court of Justice, Report on Judgment Advisory Opinions and orders 1986 P100

⁴⁹ UN Doc.A/C.6/40/SR.22 para63 quoted in Magnus D. Sandbu and Peter Nordbeck **International Terrorism; Report From a Seminar Arranged by European Law Students Association in Lund, Sweden October 1987 P 16**

⁵⁰ Ludeki Chweya, **Emerging Dimensions of Security in the IGAD Region** quoted in Makumi Mwagiru **African Regional Security in the Age of Globalization**, Heinrich Boll Foundation 2004 P44

hypothesis that the advent of security threats from international terrorism has rendered the pre-existing national security structures and assumptions inadequate, leading to adjustments intended to counter threats from international terrorism.

The independent variable is threats of international terrorism while the dependent variable is the preparedness of the national security apparatus to counter the security threats the study requires data on the magnitude of threats to Kenyan security that arises from international terrorism as well as the adjustments that Kenya has made on the organization and the preparedness of the national security forces to deal with the threat of international terrorism.

Sources of Data

The study will rely on both primary and secondary data. Primary data will be obtained through interviews with relevant authorities in the sphere of security especially officers in the Administration Police and Kenya Police Forces. The study will employ target interview method rather than sample survey because the required information is held in very specific institutions and with specific officials based on the role each plays in the fight against terrorism.

The Institutions and officials interviewed included the Administration Police Commandant, the Commandant of Administration Police Training College, the Director of Operations Kenya Police Headquarters, the Kenya Police College, the Commandant of the Anti Terrorism Police Unit and the Director of the National Counter Terrorism

Center. Other sources of data included the Chairman of the Parliamentary Committee on security, a member of the Diplomatic Service and Ministry in charge of security.

The Administration and Kenya Police Services are important providers of data because they are the key government agencies charged with the responsibility of combating crime and ensuring security in the country. The Anti Terrorism Police Unit is charged with responsibility of planning and executing Anti Terrorism activities in the country and therefore has a data bank of terrorist activities in the country and internationally.

The National Counter Terrorism Center is a useful source of data as it is the coordinating organ of all counter-terrorism activities in the country. The data expected from all these agencies will specifically be in the areas of training, equipping, structures, coordination, intelligence, legislation and public sensitization. It is expected that information about the existing situation before the rise of international terrorism will be available in the same departments.

Interviews with the target respondents were based on a structured questionnaire containing both closed and open-ended questions. Documentary sources of primary data included files that contain day-to-day activities of the organizations and officials, periodic reports of the officials and minutes of meetings, training curriculum, strategic plans, policy papers and working papers. This source of data was time consuming because the study was carried out simultaneously with the course work during the academic year.

Documentary sources of secondary data, was obtained from books and journal articles; magazines, internet, newspapers reports on the subject of terrorism and counter terrorism and libraries from the National Defence Staff College, the University of

Nairobi, Defence Staff College, International French Research Institute in Africa (IFRA) and questia online library.

Chapter Outline

This research will cover four chapters sub-divided as follows;

Chapter one will address introduction to the study, statement of the problem, justification for the study, objectives of the study, hypothesis, theoretical framework, literature review, study methodology and chapter outline. Chapter two will address the magnitude of threats, structures and inclination prior to the rise in threat of terrorism. This chapter will investigate the magnitude of threats of international terrorism and the structures that were in place prior to the rise in the threat of terrorism. It will investigate the inclination of the Administration police and the Kenya police forces that time.

Chapter three will address the adjustments on the structure in response to advent of Terrorism. This chapter addresses the adjustments in structures made as a response to terrorist attacks in Kenya and the continued threat of international terrorism. Efforts to counter international terrorism are being made by the government and several structures and adjustments have been achieved so far. Chapter four will deal with the conclusion.

Chapter Two

Past Organization of Security Services

Introduction

This chapter shows the type of security threats that Kenya faced in the period prior to the “advent” of international terrorism with a focus on the form of preparedness that the security agencies took at that time. The purpose of this analysis is to lay the basis for assessment of the adjustment that Kenya security forces have made in efforts to deal with emergent of security threat from international terrorist organizations.

Pre - Existing Security Threats

Kenya has faced security threats from different sources since the country gained independence. The organization and preparedness of Kenya’s security institutions was prior to the “advent” of international terrorism geared towards the conventional internal and external security threats that the country has faced since independence. External threats arose from disputed boundaries with neighboring countries. “The imperial powers partitioned the African continent based on a topographical and non-social map of the continent, resulting in borders that both transcended and transected the pre-existing ethnic and political units thus preparing ground for future conflicts within and between states.”⁵¹

The state framework therefore became the greatest source of insecurity between states in the light of numerous border disputes, irredentism and ethnic conflicts within states that also had implications for inter-states relations. In the late 1960’s Somali’s

⁵¹ Ludeki Chweya Emerging Dimension of Security in the IGAD Region in Makumi Mwangi (ed) African Regional Security in the Age of Globalization, Heinrich Boll Foundation Nairobi P 38.

claim of parts of northern frontier district of Kenya brought tensions between the two countries and led to a brief armed conflict in 1967. Somali armed and supported Kenyan rebels of Somali origin in the North Eastern Province who sought to break away from Kenya.⁵² The second border conflict occurred in 1975. The then President of Uganda, Idi Amin claimed parts of western Kenya as Ugandan territory. Amin had based his claim on the pre-1904 border between the two countries according to which the whole of western half of Kenya constituted the Eastern Province of Uganda.⁵³ Uganda dropped the claim following massive civil demonstrations of force in Kenya and high level of military alertness.

The third border conflict involved the Elemi Triangle. The crisis began with Sudanese claim that a triangular territory in the Elemi areas of the common border that appeared to be on Kenyan side, properly belonged to Sudan. The crisis formally ended with Sudanese acquiescence. However, incidents of border disputes have become increasingly few and far between.⁵⁴

Traditionally other security concerns for Kenya were mainly internal and emanated from cross-border cattle rustling. Such conflicts are a historical feature of the pastoralist communities involved rather than emerging security issues. The infiltration of small arms and light weapons in the affected pastoralist areas has exacerbated the magnitude, frequency and scale of atrocities associated with the conflicts.

⁵² Ludeki Chweya Emerging Dimension of Security in the IGAD Region in Makumi Mwagiru (ed) African Regional Security in the Age of Globalization, Heinrich Boll Foundation Nairobi P 38.

⁵³ Ludeki Chweya Emerging Dimension of Security in the IGAD Region in Makumi Mwagiru (ed) African Regional Security in the Age of Globalization, Heinrich Boll Foundation Nairobi P 38.

⁵⁴ Ludeki Chweya Emerging Dimension of Security in the IGAD Region in Makumi Mwagiru (ed) African Regional Security in the Age of Globalization, Heinrich Boll Foundation Nairobi P 39

The increased use of firearms rather than traditional spears and arrows have elevated the technology applied in the defence or acquisition of source of water and pastures resources and thereby transformed conflicts from the previously occasional mid-night raids to outright drawn out wars. A conflict between the Karamojong, Turkana and Pokot on the Kenya –Uganda frontier is a case in point.⁵⁵

In essence what begins as traditional cattle rustling ends up being internationalized.⁵⁶ Other security concerns include, banditry, robberies, thuggery, riots, and proliferation of small arms and light weapons, which should be a concern of every government. To understand the structure, inclination, organization, equipping, deployment and training of the two police forces, a brief historical background is necessary.

Administration Police Force

The Origin of the Administration Police can be traced back to 1902 with the enactment of the Village Headman Ordinance whose purpose was to enable the penetration of native areas. The Ordinance was intended to bring the native into the money economy, enforce tax collection, control livestock movement, regulate agriculture, labour, movement of people and various other social and economic regulations. The Chief, who was then known as the village headman was the prime instrument of the Regional Agents, as the District Commissioners were then known.

⁵⁵ ¹ Ludeki Chweya Emerging Dimension of Security in the IGAD Region in Makumi Mwagiru (ed) African Regional Security in the Age of Globalization Heinrich Boll Foundation Nairobi P 40

⁵⁶ P.Godfrey Okoth Regional Institutional Responses to Security in the ear of Globalization in Makumi Mwagiru (ed) African Regional Security in the Age of Globalization Heinrich Boll Foundation Nairobi

The Administration Police was established as the coercive apparatus in the hands of the appointed African chiefs and the provincial Administration in general. The primary function of the force was to stamp colonial authority upon an oppressed African native population. It was established to respond to one main threat to the security of the colonial state; African disobedience and revolt against colonial authority.

The Kenyan East African Protectorate that became the Kenyan colony in 1920 was trying to tie up the two parallel economies namely the formal and the native economy. Aspects of the British common law and Indian penal code were already in place but the contradictions in the formal and native economies brought about different values and diametrically opposed norms and incompatible cultures and laws. The village headman had to rely on village “toughs” and bullies to effect the often unpopular policies of the colonial government and to put in place arbitration and other enforceable mechanisms.⁵⁷

The colonial government introduced the tribal police ordinance in 1929 to give legal authority to the Native Police and their training taken up by the respective regional agents, most of whom had a military background. The force remained generally unarmed and in small numbers with the exception of frontier areas. Major expansion of the tribal police force started around 1948 with increased native agitation and the fear of widespread rebellion countrywide. As their number increased in Central Province and armament became universal, strength in all areas bordering the province was increased to prevent the spread of Mau-Mau influence during the emergency years.

⁵⁷ Administration Police Strategic Plan 2004-2009 p 6

The Tribal Police Ordinance was changed to the Administration Police Act in 1958. The Force commenced centralized training at Ruringu in Nyeri district of Central Province. The focus of the training was on basic recruit's instruction, promotional and prosecution courses for the native courts. On attainment of independence in 1963, the Provincial Administration and Administration Police were moved from the "Ministry of Native Affairs to the Office of the Prime Minister, then to the office of the President where they have remained to date."⁵⁸

Centralization of training and command continued in the nineteen sixties. Embakasi training school was set up in 1967 at the present day Jomo Kenyatta International Airport (JKIA) and finally moved to the present day Administration Police Training College in 1972. The Administration Police have over the time transformed from a localized police service to a national structure that is still offering localized policing services.

The Administration Police derives its mandate from different legislations. These legislations include the Administration Police Act Cap 85, the Chiefs Act Cap 128, the Penal Code (PC) Cap 63 and the Criminal Procedure Code (CPC) Cap 75 of the laws of Kenya. These Acts of Parliament mandates the Administration Police to assist all Government officers in exercise of their lawful duties, execute all orders and warrants lawfully issued by competent authority, preserve public peace, prevent commission of offences and apprehension of offenders, act as messengers in any matter connected with the administration or public service, enforcement of executive /administrative decisions and defend Kenya in the event of war or emergency.

⁵⁸ Administration Police Strategic Plan 2004-2009 p 6

The Administration Police is organized around five core functions: -

The first core function is Community based Policing (CBP) focusing on partnership working, community safety, crime prevention, peace building and conflict management.

The AP is currently working with the people of the North Rift to use traditional methods of peace building to curb cattle rustling in the area.

The second function is border security with emphasis on anti terrorism measures; arms control and cross border crime. The AP's are deployed in the grass roots and therefore along all the Kenyan borders to control cross border criminal activities. The third function is emergency response that embraces protection of life and property, support to other emergency services and agencies and 24 hours response to designated incidences. Any threat to lives and property of Kenyans would elicit rapid response from the force.

The fourth function is protective security focusing on VIP protection and safeguarding strategic installations. It is the responsibility of any government to protect its leadership and vital facilities against all kinds of threats. The fifth function is enforcement assistance to government departments specifically to officers with legal mandates and to act as agents to other government departments. The AP acts as the enforcement arm of the government and as agent to other government departments through out the republic.

The Administration Police is under the leadership of the Administration Police Commandant. The Commandant is responsible for its command and control, management and general direction as per the AP Act. The force is composed of three main units and eight Provincial Commands. District commands fall within the respective Provinces

namely Eastern, Central, Western, Nyanza, Rift Valley, North Eastern, Coast and Nairobi. The major Units are the Administration Police Training College (APTC), Security of Government Buildings (SGB) and Rapid Deployment Unit (RDU). These units fall more directly under the direction of the AP Commandant.

Administration Police Training College provides training and capacity building through planning, sourcing, coordinating and actual training provision to Administration Police and Government Security Bodies. Most of the Administration Police training at this time was geared towards addressing the traditional security concerns e.g. cattle rustling and banditry. As noted above the APs were recruited and trained in their respective Districts to tackle problems specific to their areas. After independence the force diversified its operations from regional to national and therefore there was need to harmonize training for consistency purposes. Before 1972 the APs were mainly taught on military foot drills, weapon training and laws of prosecution as they were used as court prosecutors in their localities.

The force grew from regional settings to a national force. This necessitated equipping them with necessary skills for Police duties. Thus they were taught laws of Kenya in general; physical training and eventually basic combat skills to enable them contain the “shifita” menace in northern frontier Districts. The basic combat skills have evolved into field craft and tactics course encompassing counter insurgency and counter terrorism measures.

Security of Government Buildings Unit (SGB) has a dual function of protecting Government Buildings and Installations. SGB is the Unit charged with the responsibility of providing security to Vital Government Installations and Facilities and VIP Protection and close escort.

The Rapid deployment Unit (RDU) undertakes emergency response and operational tasks in support of all AP formations as well as intervening in all situations that are beyond normal local security capacity for the time required to return to normalcy. The Unit may be called upon to enhance border security and related operations. The unit has been effectively used to bring back peace and order in tribal clashes prone areas. The strength of the AP currently stands at eighteen thousand four hundred officers.⁵⁹ The AP in their strategic plan proposes the strength of seventy six thousand nine hundred and seventy officers over the long term which will enable it to meet the UN standards. Administration Police officers are deployed at all Administrative Units namely Provincial, District, Divisional, Locational, Sub-locational and Post levels

Kenya Police Force

The origin of the Kenya Police can be traced from the period between 1887-1902. The Imperial British East Africa (IBEA) Company felt the need to protect its business interests along the coast line of Kenya. The strength at that time was mainly of Indian origin with a skeleton staff of African "Askaris"

⁵⁹ The Administration Police Strategic Plan 2004-2009 p 17

The construction of the Kenya – Uganda Railway provided for the growth of the force inland from Mombasa. By 1902 there existed police service Units at Mombasa, Nairobi and Kisumu. The purpose of the units was to safeguard the railway property and materials as well as the manpower engaged in construction of the railway. Peace, law and order had to be maintained despite the fact that personnel employed then had little training.

The Kenya Police was organized along military lines and the training was military in nature up to 1907.⁶⁰ In 1906 the Kenya Police was legally constituted by a police ordinance. In order to improve police performance, the then governor, Sir Hayes Sandler appointed a committee to look into the affairs of the Kenya police force. One of the committee's recommendations was the establishment of the Police Training in School in Nairobi. In 1909, Captain WFS Edwards noted that the military elements had been promoted at the expense of police training as a result of which the training depot was established in Nairobi in 1911 together with a small fingerprint section.

The office of the Inspector- General was established to unite different units of the police and to administer the operations of the police force. The Kenya East African protectorate, with the exception of the ten – mile wide coastal strip leased from the sultan of Zanzibar was proclaimed a crown colony in July 1920 changing its name to Kenya colony while the title of the force changed to Kenya Police Force. In 1926, the criminal intelligence unit was established with the responsibility of collecting, tabulating and recording the history and data of criminals, undesirable and suspicious persons.

Special sections like fingerprint bureau and Criminal Investigations Department were created starting with a skeleton staff composed of former police officers from

⁶⁰ The Kenya Police Service Strategic Plan 2004-2008 p 1

Britain and South Africa. The Railway Police unit was established in 1926 to deal specifically with prevention and detention of offences in the railway from the coast to Kisumu. As the years progressed the scope of police activities increased and was called upon to deal with traffic accidents and even cattle rustling countrywide. In 1946 the police force was placed under the office of the Attorney General. Police officer's powers were increased and to cope with the new development, a new Police training depot was opened at Maseno.

In 1948, the Kenya Police Reserve was formed. A dog section and the General Service Unit were also established in 1948. The police air wing was formed in 1949. After Kenya attained her independence and in line with the need to deal with security threats, various specialized units were formed.⁶¹ The Kenya Police force derives its mandate from the Police Act Cap 84 laws of Kenya. The Act provides for the function, organization and discipline of the KPF and the Kenya Police Reserve. The functions of the KPF are to maintain law and order, preservation of peace, protection of life and property, prevention and detection of crime, apprehension of offenders and the enforcement of all laws and regulations with which it is charged.

The Force is under the command, superintendence and direction of the Commissioner of Police for efficient administration. The force is for administrative and operational purposes divided into provinces and formations. The Kenya Police force is organized into different units to deal with specific security threats. The General Service Unit (GSU) was established in 1948 as a paramilitary unit trained and equipped to be mobile and deal with situations affecting internal security in the Republic.

⁶¹ The Kenya Police Service Strategic Plan 2004-2008 p 3

The General Service Unit is a Unit meant to deal with special operations and civil disorders. The Anti Stock Theft Unit (ASTU) was formed in 1963. The unit deals with the persistent theft of livestock and cattle rustling in the arid and semi-arid pastoral areas of the country. Cattle rustling are a threat to the security of the people and their property. The Police Air wing was established to cater for fast transport and evacuation. The air wing was made part of the permanent police service in 1953. Other Units in the Kenya police Force include the Anti-Motor vehicle theft Unit which deals with car theft related offences.

Tourism Police Unit was formed to provide security to tourists and tourist destinations. The Presidential Escort Unit provides security to the Head of State and his family. The Railway Police Unit and Ports Police Units provide security to the Rail and Port facilities respectively. The Dogs Unit supports the operations of other units. The Criminal Investigation Department (CID) was established to deal with criminal investigations. The department is mandated to gather criminal intelligence and prevent commission of offences. Kenya Police College's (KPC) main mandate is to train police officers. The Kenya Police at this time was oriented towards addressing the traditional security concerns as can be discerned from the specialized Units formed at the time.

Training at the Kenya police college was primarily concerned with producing police constables with sound knowledge of police procedures and law. In 1961 the first higher training course was started. It was then that the first female direct entry inspector was admitted. Other courses offered at the college included traffic management, foot drills, weapon handling, laws of Kenya in general, the evidence act, the criminal procedure code, the penal code, prosecution among others geared towards addressing the

security concerns then. The equipments and tools issued both to the Kenya Police and the Administration Police at the time were meant for addressing the existing security concerns. The main weapons at this time were the bolt rifle and batons. Terrorism was not part of the security threats the country faced and therefore the police forces did not include any specialized unit or training in anti terrorism at the time.

The Advent of Terrorism

Kenya has since independence had relative peace and security within the country and with neighbours. However, the relative peace and security was disrupted in 1998 following the terrorist bombing of the United States Embassy in Nairobi with destructive effects on surrounding Kenyan buildings. The US embassy attack was however not the first terrorist activity in Kenya. There are other incidents, which have occurred in Kenya, which could be termed as terrorist.

The first attack was on the 31st December 1980. A bomb went off at the Norfolk Hotel in Nairobi. Fourteen people died in the blast; two were Americans, two British, one French, one Belgian, one Columbian, one Dutch and one Italian. Investigations revealed that the Palestinian Liberation Organization (PLO) was behind the atrocity.⁶²

The Stanley hotel in Nairobi was bombed on 11th July 1989. The explosion caused extensive damage to property and injured several people. Investigations carried out indicated that the perpetrators targeted Israeli and American tourists who frequented the hotel. A Saudi Arabia Commercial Airliner was hijacked in 1994 by Ethiopian terrorists who forced the plane to land at the Jomo Kenyatta International Airport.

⁶² Data Collected from Anti-Terrorism Police Unit

Kenyan security forces successfully rescued the hostages and killed one of the hijackers. Investigations revealed that the hijackers had political problems with their government.

A major attack occurred on the 7th August 1998 when a car bomb went off inside the basement of the American embassy killing two hundred and forty seven people and injured over five thousand others. Al Qaeda terrorist organization led by Osama Bin Laden claimed responsibility. The other incidence was on the 28th November 2002 where suicidal terrorists exploded Paradise Hotel in Kikambala near Mombassa. The explosion killed thirteen Kenyans and three Israelis.

A large portion of the Hotel was also destroyed. A simultaneous attack occurred on an Israel commercial airliner as it took off from Moi International Airport in Mombassa en-route to Tel Aviv, Israel. The airliner however evaded the missiles and flew on to Israel. Seven of suspects associated with the attacks were arrested and arraigned in court. One suspect was jailed for eight years and the rest acquitted. The latest terrorist incident is the arrest in Biyamathow trading center in the outskirts of Wajir town in Kenya of suspected terrorists armed with rocket-propelled missiles on 15th December, 2005.

The frequency of terrorist attacks or threats of attacks in Kenya in under ten years has designated international terrorism a new and major security concern. The incidents demonstrate the country's vulnerability as a target for international terrorism. The targets for the attacks were the American embassy and the Israel owned hotel in Kikambala, which were externally owned. The consequences of those attacks were devastating with severe ramifications. Economic sectors like tourism were paralyzed as a result of travel bans imposed due to the terrorist threats.

Several reasons can be advanced which make Kenya a principal target for international terrorism. The country is geo-strategically located on the eastern coast of Africa along the Indian Ocean. It also borders Somalia, Ethiopia and Sudan where there is internal strife has and therefore making maintenance of security difficult. The surrounding countries are experiencing civil war, which has spilled with a direct bearing on the country's security. Instability in the neighboring countries has also led to an influx of large numbers of refugees into Kenya.

The presence of a large population of foreigners in Kenya has contributed immensely to her vulnerability as a target of international terrorism. The complexity of international terrorism was amply demonstrated by the terrorist attacks against the World Trade Center in New York and key military and political targets in the US on September the eleventh 2001.

Research has confirmed that there were weaknesses in the security arrangements prior to the 1998 US Embassy bombing. A post mortem carried out after the Embassy bombing revealed that; One, there was no specialized unit then to deal with terrorism; two, that the country didn't have a forensic laboratory for scientific investigations and three, no legal framework existed specifically to deal with terrorist related crimes.

Advancement in technology has defined international interaction thereby increasing the intricacy of the threats of terrorism. Kenya has traditionally had cordial relations with the US, UK and Israel, countries which have been the major targets of international terrorism. Wilkinson (1993) observes, "American citizens and property abroad have the dubious distinction of being the most popular of any nationality targeted

by international terrorists throughout the past 25 years.⁶³ According to Kenya Anti terrorism Police Unit (ATPU), Al Qaeda was responsible for the major attacks against US and Israel interests in Kenya. The ATPU believes that Al Qaeda has been active in Kenya and the region.

Anti-terrorism Police Unit (ATPU) confirms that individuals involved in the 2002 Kikambala bombing underwent training in small arms in Kismayu and Mogadishu, Somalia by Al-Ittihad Al Islamia (AIAI). Al-Ittihad Al Islamia grew in stature in the after- math of the collapse of Somalia and sought to establish a puritanical Islamic regime in Somalia and ultimately, the Horn of Africa. Al-Ittihad Al Islamia (AIAI) developed links with Al Qaeda which have been manifested through training, supply of arms and financial support through established “Hawala” networks (informal and ancient trust – based system for transferring funds).⁶⁴

Al-Ittihad Al Islamia (AIAI) and Al Qaeda use similar NGO cover organizations like Al Haramian Islamic Foundation (AIF), Mercy International Relief Agency (MIRA) and African Muslim Agency (AMA) and some financial systems like AL Barakat. Wadi El-Hage, one of the masterminds of the 1998 US embassy bombing in Nairobi set up Help Africa People and Mercy International Relief Agency (MIRA) NGOs in 1993 as part of the infrastructure for facilitating movement of Al Qaeda operatives.⁶⁵

Kenya has about 3,500 km of porous border. However, it lacks the capacity to effectively police the vast and extensive border. The instability in the neighboring countries, advancement in modern technology and availability of illegal arms has meant that there is need to reassess our security arrangements in all sectors to be able to respond

⁶³ Paul Wilkinson *Terrorism: British Perspectives*, Dartmouth, Aldershot, England 1993 P14

⁶⁴ Data From Anti Terrorism Police Unit

⁶⁵ Data From Anti Terrorism Police Unit

to the emerging threats of international terrorism. The advent of terrorist threats to Kenya security has brought forth a new challenge to the organization and operations of the local security agencies particularly the Kenya police and the Administration police services. The establishment and organizations of the two agencies had been based on the conventional crimes that the country faced and was presumably unsuited for terrorist threats. The rest of the chapters will assess the adjustments that have been made in the organizations and operations of the Kenya Police and the Administration Police services to respond to the new security threats.

Chapter Three

Organizational and Strategic Response to Terrorism

Introduction

The aim of this chapter is to examine the operations of the police services in response to the advent of international terrorism. The chapter will focus on adjustments made on the structure in response to terrorism. The Government of Kenya has since the terrorist attack of August of 1998 realized the advent of a new credible threat to the security of the country. In deed the Government had been alerted to the danger of terrorism since the 1970's and had joined other countries in the fight against the threats through ascension to numerous related international treaties and conventions. Since the terrorist events of the late 1990's and early 2000 the government has attempted to introduce a counter terrorism legislation, established a specialized counter terrorism agency and reorganized the Countries Police Service. This chapter will examine each of these changes in turn.

International Conventions and Domestic Legislation

In her efforts to contain terrorism, Kenya is a signatory to the twelve international counter- terrorism conventions and protocols. These conventions and protocols are first; the convention of offences and certain other acts committed on board Aircraft, signed at Tokyo on 14 September 1963; two, the convention for the suppression of unlawful seizure of Aircraft, signed at the Hague on 16 December 1970; three, the convention for the suppression of unlawful acts against the safety of civil aviation concluded at Montreal on 23 September 1971, four, the convention on the prevention and punishment of crimes against internationally protected persons, including Diplomatic Agents, adopted in New

York on 14 December 1973; five, international convention against the taking of hostages, adopted in New York on 17 December 1979.

The sixth is the convention on the physical protection of nuclear material, adopted at Vienna on 3 March 1980; seventh, the protocol for the suppression of unlawful acts of violence at airports serving international civil aviation, supplementary to the civil aviation, supplementary to the convention for the suppression of unlawful acts against the safety of civil aviation, signed at Montreal on 24 February 1998, eighth, the convention of the suppression of unlawful acts the safety of maritime navigation, done at Rome on 10 March 1998.

The ninth is the protocol for the suppression of unlawful acts against the safety of fixed platforms located on the continental shelf, done at Rome on 10 March 1988; tenth, the convention on the marking of plastic explosives for the purpose of detection, done at Montreal on 1 March 1991; eleventh, the international convention for the suppression of terrorist bombing, adopted at New York by the General Assembly of the United Nations on 15 December, 1997 and lastly the international conventions for the suppression of the financing of terrorism, adopted at New York by the General Assembly of the United Nations on 9th December 1999.⁶⁶ All the above conventions and protocols are efforts made by the United Nations member states to combat specific threats of terrorism

In addition Kenya is a signatory to regional conventions and protocols against international terrorism. These include one, treaty on cooperation among the state members of the commonwealth of independent states in combating terrorism, done in Minsk on 4th June 1999; two, African Union Convention on the prevention and

⁶⁶ The Eastern and Southern Africa Colloquium on Measures to Combat and Eliminate Terrorism Nairobi 4-6 July 2004 Organized by the International Law and Policy Institute p 60

combating of terrorism, done at Algiers on 14th July 1999; three, IGAD Convention on the prevention and combating of terrorism held at Addis Ababa on 24 to 27 June 2003; and fourth the East African Chiefs of Police Annual Conference on terrorism and other crimes. All these are efforts undertaken by the Government of Kenya to combat the emergent threats of international terrorism.

Domestic Legislation

Kenya is in the process of domesticating the international conventions and protocols through appropriate legislation. One of these legal frameworks is the already drafted Anti-terrorism Bill (2006). The Bill was first published in 2003 but was sent back for redrafting after the members of the public and the civil organizations objected to some clauses in the draft document. The Bill is in the final stages and is expected to be debated in Parliament soon. The draft Bill touches on some of the acts of nuclear terrorism as adopted by the General Assembly Resolutions 59/290.

The Bill defines the meaning of terrorism. The Bill also defines what constitutes offences of terrorism. Part three of the Bill deals with terrorist organizations and how such organizations are to be declared terrorist. Part four of the draft Bill deals with properties associated with terrorist activities including any resources of a declared terrorist organization. This part also deals with financing of terrorist activities. Part five deals with the definition of terrorists and investigations into terrorist activities.

The draft Bill also provides for exclusion orders prohibiting persons associated with terrorist activities from entering Kenya. It also provides for extradition of such

persons on request from a competent authority of a foreign state. The Government of Kenya is also in the process of drafting the Anti-Money Laundering and Proceeds of Crime Bill. The Bill has provided for mechanisms of tracing, seizing and freezing suspected money laundering accounts and outlaws the maintenance of anonymous bank accounts. The draft Bill also provides for procedure for the confiscation of proceeds of crime, including proceeds from money laundering once the crime has been established. It also makes reporting of any suspicious bank transactions mandatory.

The Anti-Terrorism Bill and Anti-Money Laundering and Proceeds of Crime Bill have provisions that criminalize financing of terrorism. As a stop-gap measure before the enactment of the Anti Money Laundering Bill, the Central Bank of Kenya issued regulations of money laundering to the financial sector which took effect on 1st October, 2000. The enactment of the Banking Amendment Act 2001 has also facilitated the sharing of information amongst banks with the central bank. The Central Bank of Kenya has also continued with special inspection programmes to detect any suspicious terrorist accounts amongst the financial institutions. Given that the threats posed by terrorism have assumed a worrying trend, the government has already put in place other measures aimed at dealing with the threats.

These are the Firearms Licensing Act Chapter 114 Laws of Kenya, which controls the importation, licensing and usage of firearms. Importation of firearms into Kenya is prohibited and organizations or individuals must meet strict conditions to do so. The Immigration Act Cap 172 Laws of Kenya as provisions that cater for asylum and other immigration issues. Asylum seekers are properly documented and subjected to thorough screening with a view to establishing terrorist links. The Personal Identification Secure

Comparison and Evaluation System (PISCES) computer systems for fast capture and comparison of passport information have been installed at all airports.

Establishment of New Agencies and Sensitization of the Old

The nature of international terrorism demands that the fight against it be multifaceted and involve all government security organs and the entire population. It is important to recognize the critical roles played by other actors in the fight against international terrorism. These agencies include; one, the Ministry of Defence. The Armed Forces are charged with the mandate of guaranteeing security to the nation from external armed threats. The fundamental principal of fighting terrorism is based on early detection and pre-emptive and preventive measures.

The Military will therefore do both active and passive surveillance, gather intelligence, carry out physical patrols and protect the borders and carryout preventive and pre-emptive strikes against terrorist. The Armed Forces have enhanced intelligence and surveillance on likely terrorist sources, increased counter terrorism training and stepped up physical security on installations. It has developed a comprehensive white paper outlining multidimensional approach to counter terrorism and its plan to enhance capacity to meet the threats of terrorism.

The second agency is the Kenya Civil Aviation Authority. The role of this Organization in the war against terrorism is the surveillance of the Kenyan air space and to secure all air traffic control facilities and equipment against sabotage, destruction or

misuse by terrorist that may jeopardize safety of aviation operations. The third agency is the Immigration Department which is charged with responsibility of guarding against illegal entry and residency of aliens and undesirable immigrants and to ensure all immigrants into the country are vetted, issued with proper travel documents and their movement monitored.

The fourth agency is the Kenya Airports Authority. This authority is expected to provide appropriate and effective security mechanisms in order to detect and deter terrorist and their accomplices from executing attacks on the airport in the country. Towards this end the authority has instituted measures to ensure security of all the airports in the country. The measures put in place are inspection of all vehicles entering the airport, deployment of extra Police Officers and General Service Unit personnel to patrol the landing and take off paths and use of police helicopters for surveillance of the flight corridors. Other measures in place include strict control of access to all restricted areas, strict vetting of airport workers, enhanced passenger profiling at immigration and control points, enhanced screening procedures for passengers and cargo and introduction of aviation security training and awareness courses.

The fifth agency is the Kenya Ports Authority whose role is to secure all seaports and facilities against misuse, sabotage or destruction by terrorists and guard against illegal entry by undesirable elements through the ports. The Kenya Ports Authority has introduced and reinforced standing procedures for screening employees, vendors, port users, ships crew and visitors across the port. It has also introduced tamper proof and laminated ID card and restricted access to certain areas. It has also instituted visual

surveillance of ship movements from signal stations and harbor patrols by marine police on twenty-four hour basis.

The sixth agency is the Customs and Excise Department whose legal mandate is to check and inspect all imports and exports to guard against bringing into the country equipments or items that could be used for terrorist activities. The seventh agency is the National Security Intelligence Service (NSIS): Its primary responsibility is to collect and analyze information and disseminate intelligence on all aspect of terrorism. It works with other government departments to create counter- terrorism infrastructure and aid in disrupting terrorist support networks. The eighth key player is the Ministry of Tourism and Information. This Ministry coordinates with all players in the tourism industry to take necessary counter terrorism measures. It should lead in ensuring the electronic and print media sensitize Kenyans on their role in counter terrorism.

The Ministry of Foreign Affairs and State Law office will coordinate the domestication of international treaties and conventions in support of counter terrorism efforts in the country and globally. The Attorney General is also central in prosecution of suspected terrorist and their accomplices. The state law office has drafted the Anti-terrorism Bill (2006) as an important measure of fighting terrorism.

The Provincial Administration as undertaken a sensitization campaign to the members of the public on counter terrorism measures so as to enlist their support in the war against terror. The National Counter Terrorism Center (NCTC) was established in January, 2004 to co-ordinate the national recourses dedicated to counter terrorism through integrated threat analysis and provide effective response to international

terrorism. It will provide the operations linkage between intelligence and prosecution laws in the collective war against terrorism.

A Joint Counter-Terrorism Task Force (JTTF) has also been formed as a component of the existing Anti-Terrorism Police Unit. The task force includes representatives of the Attorney General, National Security Intelligence Service, National Counter Terrorism Center, Immigration and Kenya Revenue Authority. The mandate of the task force is to undertake all investigations and prosecution of terrorist cases while retaining an operational capacity with a rapid response team.

Other measures put in place include enhancement of surveillance and security of vital installations, training of personnel in anti-terrorism measures, enhancement of regional cooperation on countering terrorism and public awareness programmes on terrorism. The security agencies have successfully arrested and deported and has a watch list of suspected terrorist suspects. Suspicious NGOs have been banned and activities of the operational ones are closely monitored to authenticate their genuineness.

The Kenya Police

Under the Kenya police, the following counter terrorism measures have been undertaken. One is the creation of the Anti-Terrorism Police Unit on 10th February, 2003 as part of the response to international terrorism. The Unit is mandated to plan and execute anti-terrorism activities. The Unit has started sub-units in Nairobi, Mombasa and Garissa with detachments in Jomo Kenyatta International Airport, Wilson Airport, Moi International Airport, Malindi, Kwale, Lamu and Wajir.

Plans are underway to start sub-units in other major towns. The Anti-Terrorism Police Unit has strength of one hundred officers and is headed by a Commandant. For the Unit to discharge its mandate effectively there is need to increase its personnel and build its capacity in the areas of training, equipping and accommodation. The second Unit to be created is the Anti-Terrorism Prosecution Unit. The Department of Public Prosecutions is being reorganized to establish three main professional Units, one of which will deal exclusively with counter terrorism prosecutions. This Unit will work closely with the Anti-Terrorism Police Unit to ensure successful prosecution of all terrorism suspects. Currently the Unit is under staffed and requires physical office space, book and electronic libraries, computers and office equipment, training and capacity building and vehicles for transport to and from the courts.

The third unit to be formed is the Tourism Police Unit whose mandate is to ensure the safety of tourists both in parks and hotels. The Unit was formed in the year 2004 and is inadequately staffed. Capacity building and training is also required for the Unit to discharge its mandate efficiently. The Marine Police Unit was formed in 2003 to ensure maritime safety. The Unit also requires facilitation in terms of boats to patrol the Kenyan waters. The Diplomatic Police Unit was formed in 2004 to provide security to the members of the Diplomatic Community and their families.

According to the Kenya Police Strategic Plan 2004-2008, a major objective is to prevent and detect crime, maintain law and order and bring offenders to justice. To achieve this broad objective, one strategy to be employed is to combat terrorism and other organized crime operating in the country. Among the activities to be undertaken is that of capacity building in terms of training of Kenya Police officers to be able to detect

and interdict terrorism activities. The Kenya Police Force is offering courses locally and abroad in counter terrorism interdiction to be able to cope with emerging threats. Among the courses currently offered in relation to terrorism are: Interdiction of terrorism, prosecution of terrorist, vital installation security, instructor's course on terrorism, cyber crime, money laundering and cyber terrorism crime networking. The Kenya Police College today offers a wide range of courses which include among others, community policing, public relations, customer care and stress management.

Most of the courses were offered outside the country but the Kenya Government and the United States Government have worked jointly to equip Kenyan officers with requisite capacity and the courses are now offered locally. The Kenya Police Force has also developed a National Counter Terrorism Capacity Building Curriculum, which will be used for training of officers from Recruit up to Senior Levels. The United Nations and Commonwealth Secretariat supported the developing of the curriculum.

The plan also proposes to acquire appropriate and adequate equipment for the officers. The Kenya Police Strategic Plan also proposes to double the intake of Police officers and progressively raise the number of officers to achieve the United Nations ratio of 1 to 450. The current Police to population ratio is 1: 811 and the Police expect to reduce this to 1: 650 in the current plan period.

The strategic plan also proposes carrying out training needs assessment and a review of the training curriculum to include courses on counter terrorism is underway. In its efforts to maintain law and order, the Kenya Police has developed community partnership policy to promote community policing. This new structure is intended to facilitate sharing of information and intelligence between the Police and the Citizens and

therefore ensure community safety. Intelligence sharing is important as members of the community will have confidence to report suspicious persons in their localities.

The Administration Police

Earlier the Administration Police were recruited and trained in their respective districts and acted as the regional police whose main task was to help village elders and regional governors enforce crown policies. In view of the threat from international terrorism the Administration Police have taken steps to address the threat. In the AP strategic plan 2004-2009, the force is carrying out various activities in its efforts to interdict terrorism.

The first activity is to identify, monitor, isolate, and disrupt any activity bearing terrorism manifestation. The second is to develop a policy framework to facilitate information exchange and analysis with relevant organizations. Thirdly is to improve surveillance, human and technical capacity and lastly to mainstream terrorist interdiction skills in the AP. This will be achieved through visible patrols and surveillance and training on counter terrorism measures.

In order to mainstream terrorist interdictions skills, the force is reviewing its training curriculum to include courses on terrorism right from the recruit level. The force has and continue train its officers abroad in areas of anti terrorism, surveillance and detection protection of installations and VIP's. Since the last three years the force has been and continue to train its officers in the United States of America, Japan, Italy, China, Botswana, Egypt, Israel and United Kingdom in specialized areas such as anti terrorism interdiction, surveillance and detection, protection of VIP's and vital

installations. A total of one hundred and twenty three officers have been trained in various specialized fields both locally and externally.

Some of the courses offered include Surveillance Detection Course whose content include introduction to analysis of terrorist attacks, zone defence exercise, area threat matrix exercise and surveillance detection operations. The other course offered is Disaster and Crisis Management which covers amongst other things the role of police in managing crisis, disaster management and counter terrorism. Also offered is the VIP and Dignitary Protection course whose contents include protective security, defensive tactics, explosive devises and protective intelligence. Other courses offered include Police Role in Combating Terrorism, Security Protective Course, Law Enforcement Executive Development, Rural Border Patrol Operations, Counter Insurgency, Terrorism interdictions and Cyber crime and Cyber Terrorism.

In its efforts to counter cyber crime and cyber terrorism, the AP has taken the following measures. One is establishment of an information technology training facility at APTC in 2005. The facility is meant to equip the AP officers with skills to enable them to monitor and curb all forms of cyber crime efficiently. Over 160 AP officers have so far been equipped with information technology skills enabling them to detect and fight cyber crimes. The AP is also in partnership with recognized external institutions offering training in IT. To be effective in provision of border security, the Administration Police has in the 2004-2009 Strategic Plan proposed formation of a border security unit. Nine officers have already been trained and they are expected to mainstream the training to the AP training curriculum.

To effectively police the borders undertake its mandate, the force requires additional personnel and towards this end, authority has been given to double their recruit's intake. In the long run it's desirable to have strength of 76,970 persons, which will enable it to meet the UN standards. The Administration Police have adopted Community Based Policing with a view of conducting visible and accessible policing based on intelligence and enhances community – police relations. This will improve public perceptions of safety and build partnerships between the citizens and the police and thereby developing confidence in intelligence sharing.

Chapter Four

Conclusion: Police Response To The Rise Of Terrorism

Introduction

The objectives of this study were to assess the magnitude of threats posed by terrorism relative to traditional security problems, structure and inclination of Kenya security apparatus prior to the rise in the threat of terrorism and adjustments that are underway on the structure in response to the advent of terrorism. The hypothesis of this study was that the advent of security threats from international terrorism has rendered the pre-existing national security structures and assumptions inadequate. This study has confirmed the hypothesis. The inclination, organization, training, equipping and deployment of security agencies were geared towards addressing the tradition security concerns of the country.

Magnitude of Security Threats

The organization and preparedness of Kenya's security institutions was prior to the rise in threat of international terrorism geared towards the conventional internal and external security threats that the country faced since independence. Internally the major security threats were ethnic conflicts, cattle rustling, banditry, robberies, thuggery, riots and proliferation of small arms and light weapons.

Externally the threats emanated from Somalia and Uganda claiming parts of North Eastern and Western Provinces respectively as parts of their territory. Sudan also laid a claim on the Elemi areas of the common border to be part of her territory. However the attack of the American embassy in 1998 and the Kikambala paradise hotel bombing

in 2002 marked the turning point of Kenya as a terrorist target. Since then terrorism has become a major security concern for the people and the government of Kenya.

Past Organization and Structures

The Administration Police Force and the Kenya Police Force were from the days of independence not trained, equipped or oriented to counter crimes related to international terrorism. The Administration Police was established to respond to one main threat to the security of the colonial state namely African disobedience and revolt against colonial authority. The Kenya Police was formed to protect the business interests of the then imperial British East Africa Company along the coast line of Kenya.

Despite the two forces expanding into national forces, their training equipping, deployment and organization did not take into account the threats of international terrorism. The Administration Police Act Cap 85 and the Police Act Cap 84 Laws of Kenya did not envisage terrorism as a security concern at the time. The functions and mandate conferred upon the two services by the acts of the parliament therefore were mainly to deal with conventional security concerns. The two police services were therefore not prepared to counter the merging threats of international terrorism.

Adjustments

The advent of the threats of international terrorism has necessitated the reorganization of the security apparatus in terms of structures, training, equipping, and deployment to counter the phenomenon. The Administration Police Force and the Kenya Police Force have taken measures to combat threats emanating from international terrorism. New

specialized units have been formed while existing ones have been sensitized to effectively fight the war on terror.

Among the units formed are the National Counter Terrorism Center, the Anti terrorism Police Unit, the Marine Police Unit, the Anti terrorism Prosecution Unit, Tourism Police Unit and Diplomatic Police Unit. Existing agencies like the Armed Forces, the Kenya Ports authority; the National Security Intelligence Service, the Immigration Department and the Customs and Exercise Department have been sensitized and are reorganizing and building capacity to combat international terrorism.

There is an urgent need to develop counter terrorism legislation and law enforcement framework to address offences relating to international terrorism. The Administration Police and the Kenya Police have developed training curriculum to cater for the emerging security concerns and have streamlined the training right from the recruit's level. There is an equal urgent need for the government to domesticate international conventions, protocols and treaties into enforceable legislations to counter terrorism. Terrorism is a transnational crime, which gives it a regional dimension and exploits the limits of the territorial jurisdiction of state. Kenya must therefore take the initiative to lead counter terrorism efforts in the region.

While no country can claim to be perfectly prepared to counter terrorist attacks as exemplified by the September 11th bombing of key economic and security landmarks in the United States, Kenya must take measures to prepare her security agencies and the population at large to the reality of the phenomenon.

The nature of terrorist activities requires that all security apparatus in any country continue to update their counter terrorism measures in line with the evolving complex activities of terrorist operations. Due to her strategic geopolitical location, strong economy in the region and the friendly pro-west policies, Kenya has become vulnerable target to international terrorism. It is therefore important that she improves and maintains constant levels of capability to rapidly respond to terrorist threats and disrupt their activities before any attack is made on her soil.

International terrorism is a formidable threat. The international community must work together to win the war on terror and Kenya must take her rightful position as a past victim and as a future possible target of international terrorism. This will only be possible if the police services continue to be adequately prepared to face this security threat.

BIBLIOGRAPHY

- Adede A.O. and Mwanza Rosemary (e.d), *The Eastern and Southern African Colloquium on Measures to Combat and Eliminate Terrorism. A Report of the Colloquium Organized by L'etwal International, Law And Policy Institute Nairobi. Nairobi, 4th -6th July 2004.*
- Schmid Alex P., *Political Terrorism; A New Guide To Actors, Concepts, Data Bases, Theories and Literature*; North- Holland Publishing company Amsterdam 1988.
- Guelke Andrian, *The Age Terrorism and the International Political System*, I.B, Tauris Publishers London 1995
- Hoffman Bruce, *Inside Terrorism*, Victor Gollancz London 1998.
- Sonal Capt. Ashish VrC, *Terrorism and Insurgency in India: A Study of the Human Element* Lance Publishers, New Delhi 1994.
- Howard Col. Russel D. and Maj. Sawyer Reid, *Terrorism and Counter Terrorism: Understanding the New Security Environment* Mc Graw-Hill, Connecticut 2002.
- Hanle Donald J., *Terrorism the Newest Face of Warfare*, Pergamon- Brasseys International Defence Publishers Inc. Washington 1989.
- E.H. Carr, *The Twenty Years of Crisis 1919-1939*; Macmillan London 1946.
- Akhahende Elijah F., *When Blood and Tears United a Country: The Bombing of The American Embassy in Kenya*; University Press of America Inc Lanham, New York, Oxford 2002.
- Encyclopedia Britannica 1768
- Oruka H. Odera, *Punishment & Terrorism in Africa* Kenya Literature Bureau, Nairobi 1976.
- Morgenthau Hans, *Politics Among Nations: The Struggle for Power And Peace*; Kalyan Publication Delhi 2000.
- <http://www.com.nationalgeographic.com>
- <http://www.blueoceans.com/psycology/terrorpsych.htm>
- <http://www.psc-cuny.org/nateson.theories.htm>

http://www.terrorism_research.com/index.htm

Brownlie Ian, *Principles of international law*, Clarendon, Oxford, 1984

Donnelly Jack, *Realism and International Relations*; Cambridge University Press
Cambridge, 2000.

Corbin Jane, *The Base: In Search of Al-Qaeda, the Terror Network that Shook the
World*, Simon & Schuster, London 2002.

Stern Jessica, *The Ultimate Terrorists* Harvard University Press, Cambridge, London
1999.

Journal *Parameters* volume 35 Issue 2, 2005 P91.

Bajpai Kantai P., *Roots of Terrorism* Penguin Books, New Delhi India 2002

Waltz Kenneth N.; *Man The State And War*; Columbia University Press, New York
1959.

Kenya Counter Terrorism Bill 2006

Kenya National Counter Terrorism Strategy

Naisho Loonena *Responding to Terror: The case of Kenya*,
@ <http://www.up.ac.za/academic/cips/pulications>

Sandbu Magnus D. and Nordbeck Peter (eds), *International Terrorism Report From a
Seminar Arranged by The European Law Students' Association in
Lund, Sweden, 1-3 October 1987.*

Kalim Maj. Gen. Afsir (Rtd), *Counter Terrorism: The Pakistan Factor*, Lance
International, New Delhi 1991.

Mwagiru Makumi (ed), *Africa Regional Security in the Age of Globalization:*
Heinrich Boll Foundation 2004

Subiri Obwago, *The Bonds That Shook Nairobi and Dar: A Story of Pain and
Betrayal*; Obwago and Family Publishers Limited, Nairobi 1999.

Wilkinson Paul, *Terrorism; British Perspectives* Dart mouth publishing Co. ltd
Alders hot, England 1993.

Marsden Peter, *The Taliban: War and Religion in Afghanistan* Zed Books Limited
London 2002.

Clutterbuck Richard (ed), *The Future of Political Violence; Destabilization, Disorder and Terrorism* Royal United Services Institute, New York 1986.

Segaller Stephen, *Invisible Armies: Terrorism into the 1990's* Michael Joseph's London 1986.

Sloan Stephen, *Beating International Terrorism, an Action Strategy for Preemption and Punishment* Air University Press, Alabama 2000.

The New Oxford Dictionary of English; Judy Pearsall

U.S Department of State, April 2000 Patterns of Global Terrorism 1999.

United Nations Legislative Series, *National Laws and Regulations on the Prevention and Suppression of International Terrorism Part I*, United Nations New York 2002.

Appendix One

Questionnaire on Past Organization and Structure

1. What are the threats against which Kenya security system had previously been geared towards?
2. What were the priority threats to Kenya's security prior to the rise of terrorism?
 - (a) External threats
 - (b) Internal threats
3. How did these threats help to shape the organization, equipping, deployment and training of the security system?
4. Did the security system recognize the existence of some terrorist threats prior to 1998?
5. Were there any incidents of terrorist threats, attack or preparations to strike prior to 1998?
6. To what extent did the security system cater for these threats in terms of organization, equipping, training, deployment and financing?
7. Does the security system believe that terrorist threats have increased significantly in the recent years?
8. When did the security system realize that terrorism had acquired greater significance?
9. Did the security forces conduct a postmortem of the 1998 bombing?
10. Did the investigation reveal any weaknesses in the security arrangements?

Appendix Two

Questionnaire on Adjustments Made

(1) What adjustments have you made in view of the rising threats of terrorism in

a Organization

b Training

c Equipping

d Financing /Budget

e Deployment

f. Legislation

(2) Are you adequately financed and equipped to counter the threats?

(a) Yes

(b) No

If NO please expound.

(3) Who coordinates anti-terrorism activities in Kenya?

(4) a What is the strength of your force?

b Do you have adequate personnel to effectively carry out your mandate?

(5) What are you doing to guard and protect our borders against

a Smuggling of illicit weapons?

b Illegal immigrants?

(6) a Do you have a legal framework for addressing crimes relating to terrorism

b If NO what is being done?

c Does the existing law facilitate or hinder counter terrorism efforts?

(7) a Do you have laws dealing with financing of terrorism?

b If YES Mention them

c Did you take part in drafting the bills?

d What contribution did you make?

(8) What measures are you taking to prevent recruitment and training of Kenyan youths by international terrorist organizations?

(9) How are you monitoring NGO activities to ascertain their genuineness?

(10) Has the security system been able to preempt or to burst any terrorist plots since anti terrorism efforts were stepped up?