



**UNIVERSITY OF NAIROBI**  
**INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES**

**ETHICAL CONSIDERATIONS IN COUNTER - TERRORISM: A**  
**CRITICAL EXAMINATION OF KENYAN EXPERIENCE**

**BY**  
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**R47/35867/2019**

**A RESEARCH PROJECT SUBMITTED IN PARTIAL FULFILLMENT OF**  
**THE REQUIREMENT OF POST GRADUATE DIPLOMA IN STRATEGIC**  
**STUDIES**

**SEPTEMBER, 2020**

## Declaration

### Declaration by Candidate

This Research Proposal is my original work and has not been presented for a degree, diploma or other award in any other university.

Michael Simon Mtakai

Signature:  Date 1 August 2020

R 47/35867/2019

### Declaration by Supervisor

This research proposal has been submitted for examination with our approval as university

supervisors

Name: 

Signature: 

Date: 

**Dedication**

I dedicate this Study to the late Major Stephen Minungo Mwangi for his heroic action against the Al-Shabaab Terrorists.

**Acknowledgment**

I take this opportunity to provide my deeply appreciation to Dr. Mumo Nzau for his academic guidance and prompt responses in the course of doing my research writing. Further appreciation goes to the Commandant Defence Staff College for setting achievable research timelines that made me complete my work in time.

## **Abstract**

This study provided an analysis of ethical considerations in counter-terrorism by critically examining Kenya's experience. The research identified three objectives namely; to assess the place of ethical issues in counter-terrorism agenda in the 21-century; to analyze the experience of African countries with ethical considerations in the war against terrorism and final, to critically analyze Kenya's experience with ethical issues in counter-terrorism. The study was underpinned by grounded theory methodology that eventually provided realism theory as an emergent theory for the study. The study found out that, ethical considerations in counter-terrorism strategies were generally shaped by the differences characteristics between "traditional terrorism" and "new terrorism." States preferred protection of national security (realism as an ethical approach) in the traditional terrorism era because the traditional terrorism was viewed to be anarchical, ethno-national separatists, relied on state sponsorship and proxies and employ conventional tactics that threatened the existence of states. The study found out that mass casualty, lethality, predictableness, decentralization and global presence of terrorist groups were the dominant characteristics of "new terrorism" which in turn informed ethical considerations in Counter-terrorism strategies. The study concluded that although counterterrorism strategies in the contemporary new terrorism were found to adhere to realism, just war doctrine and consequentialism, the study generally identified realism as the dominant ethical approach to counterterrorism strategies. The finding however failed to determine the place of deontology as an ethical approach in the Counter terrorism agenda. The research provided several feasible recommendations such as the improvement of socio economic infrastructure in ungovernable spaces.

## Table of Contents

Declaration .....	ii
Dedication .....	iii
Acknowledgment .....	iv
Abstract .....	v
List of Abbreviations and Acronyms .....	4
Key concepts/Terminologies .....	6
List of Figure.....	8
List of Table.....	9
1.0 Chapter One: Introduction .....	10
1.1 Background of the Study .....	10
1.2 Statement of the Problem .....	11
1.3 Research Questions .....	12
1.3.1 Main Question.....	12
1.3.2 Specific questions .....	12
1.4 Research Objectives .....	13
1.5 Justification of the Study.....	13
1.6.0 Literature Review .....	14
1.6.1 Place of Ethical Issues in the war against terrorism .....	15
1.6.2 The place of ethical issues in counter-terrorism agenda in the 21-century.....	19
1.6.3 Experience of African countries with ethical consideration in the war against terrorism	22
1.6.4 Kenya's experience with ethical issues in as far as counter-terrorism is concerned	25
1.7 Conceptual Framework .....	29
Figure 1: Author's conceptual framework on ethical debate in CT .....	29
1.8 Research Methodology.....	30

1.9	Study Layout .....	31
2.0	Chapter 2.0: An Assessment of the Place of Ethical Issues in the Counter-Terrorism Agenda in the 21 Century .....	33
2.1	Ethical Principles of Counterterrorism Agenda Applicable to Negotiation with Terrorists.....	33
2.2	Ethical Principles of counterterrorism agenda Applicable to Proscription of terrorist groups	35
2.3	Ethical Principles of Counterterrorism Agenda Applicable to Military Counterterrorism strategy .....	36
2.4	Ethical Principles of counterterrorism agenda applicable to Targeted Assassination of terrorist leaders .....	38
2.5	Ethical Principles of counterterrorism agenda applicable to Counterterrorism Cooperation .....	41
2.6	Ethical Principles of Strategic Guidance (speeches) given by policymakers applicable to counterterrorism agenda.....	41
3.0	Chapter 3 To analyze the experience of African countries with ethical considerations in the war against terrorism.....	44
3.1	African experience with ethical considerations in the war against terrorism during the old terrorism era .....	44
3.2	African experience with ethical considerations in the war against terrorism during the old terrorism era .....	45
3.2.1	Ethical Principles of Military Counterterrorism cooperation applicable to counterterrorism agenda .....	48
3.2.2	Ethical Principles of Military Counterterrorism Operations by Individual states Applicable to Counterterrorism Agenda.....	51
3.2.3	Ethical Principles of counterterrorism strategy of negotiation with Terrorist Groups Applicable to Africa Counterterrorism Agenda .....	53
3.2.4	Ethical Principles of Counterterrorism Strategy of proscription of Terrorist Groups Applicable to Counterterrorism Agenda in Africa .....	55
3.2.5	Ethical Principles of counterterrorism strategy of Targeted Assassination of Terrorist Leaders in Africa Applicable to Counterterrorism Agenda.....	57
3.2.6	Strategic Guidance by Policy Makers through the use of speeches and their implication on the ethical debate of counterterrorism strategies in Africa.....	59
Chapter 4:	Kenya's experience with ethical issues in as far as counter-terrorism is concerned	63
4.1	Ethical issues in Kenya's counterterrorism strategies during the traditional terrorism	. 63
4.2	Ethical issues in Kenya's counterterrorism strategies during the new terrorism .....	64
4.2.1	Ethical Principles Applicable to Kenya's counterterrorism strategies .....	70
4.2.1.2	Ethical Debate on Kenya anti-terrorism legislation and Soft Power approach .....	71

5.0 Chapter 5: Findings, Summary, and Conclusion .....	75
5.1 Findings .....	75
5.2 Summary .....	91
5.3 Conclusion.....	93
5.3.4 Limitation of the study .....	98
5.3.5 Recommendations.....	99
5.3.6 Area of future study .....	99
References.....	100



## **List of Abbreviations and Acronyms**

ACSRT	African Centre for the Study and Research on Terrorism
ADF	The Allied Democratic Forces
AMISOM	African Union Mission in Somalia
AQAP	Al- Qaeda in the Arabian Peninsula
AQEA	Al- Qaeda in East Africa
AQI	Al Qaeda in Iraq
AQIM	Al-Qaeda in the Islamic Maghreb
AQISC	Al- Qaeda in the Indian Subcontinent
AQY	Al-Qaeda in Yemen
ASG	The Abu Sayyaf Group
COS	Comprehensive Operation Sinai
EACTI	East Africa Counter Terrorism Initiative
GIA	Armed Islamic Group of Algeria
GICM	Moroccan Islamic Combatant Group
GPSC	Salafist Group for Preaching and Combat
GTD/ GTI	Global Terrorism Database/ Global Terrorism Index
HVT	High-Value Target
IED	Improvised Explosive Devise

ISIS/ISIL	Islamic State of Iraq and Syria/ Islamic State of Iraq and the Levant
JeM	Jaish-e- Mohammed
JI	Jemaah Islamiyah
JuD	Jama'atud-Dawa
LeT	Lashkar-e- Taiba
LRA	The Lord's Resistance Army
LTTE	The Liberation Tigers of Tamil Eelam
MLF	Masikini Liberation Front
MNJTF	Multi-National Joint Task Force
MNLA	The National Movement for the Liberation of Azawad
MRC	Mombasa Republican Council
MUJAO	The Movement for Oneness and Jihad in West Africa
PFLP	Popular Front for the Liberation of Palestine
PIRA/IRA	Provisional Irish Republic Army/Irish Republic Army
PKK	Kurdistan People's Party
POTA/PTA	Prevention of Terrorist Act
START	National Consortium for the Study of Terrorism and Responses to Terrorism
TJP	Tehrik-e-Ja'afaria Pakistan
TNSM	Tehreek –e- Nafaz-e- Shariat-e- Mohammadi
TSCTP	Trans-Saharan Counterterrorism Partnership
TTP	Tehrik-e- Taliban Pakistan
UAV	Unmanned Aerial Vehicles

UMKE	United Muslim of Kenya
UN	United Nation
UNAMA	The United Mission in Afghanistan
WMD	Weapon of Mass Destruction

### **Key concepts/Terminologies**

<i>Al- Miza</i>	Arabic translation for Justice. Pakistan operation that provided amnesty to foreign fighters in Pakistan, either to surrender or leave the country.
<b>Ethics</b>	Moral justification for employing counter terrorism strategies.
<b>False Flag Operations</b>	May be defined as follows: Either as a covert terrorist action by a state-directed against the population or another state to advance certain foreign and domestic policy (first-order). Or covert terrorist action/support by specific political cabals/organized crime lords acting without government authorization against the government or civilian target (second-order).It may also be defined as covert terrorist action by terrorist group against the population and deceptively blame the government for the action to discredit the government and allow the terrorist group to gain popular support( third order).
<b>Fedayeen</b>	Palestine terrorist group that perpetrated acts of terrorism against Israel through martyrdom tendency against Israel in the 1950s.
<b>Major terrorist attack</b>	Major terrorist attacks are high impact terrorist attack that has the capacity or potential to occasion mass destruction in terms of death (15 personnel, injuries(least 30 injuries), destruction of commercial and residential buildings/homestead.
<b>‘New Terrorism’</b>	portrays the complexity and emergent nature of modern terrorist group that started in the mid-1990s.
<b>Polymakers</b>	They are senior state officials mandated to give strategic decision that represent the position of government.

<b>Proscription</b>	May be used interchangeably with the designation, banning, or outlawed. Counter-terrorism strategy employed by a government to illegalize or declare a group as a terrorism group.
<b>State sponsor of terrorism</b>	Overt support of terrorist groups(domestic or transnational) by a given state through actions such as funding, harboring, weapon supply, and other military support.
<b>Targeted Assassination</b>	May be used interchangeably with decapitation or targeted killing. Is a counter-terrorism strategy used arguably as a last resort to eliminate terrorist leaders during combat when their capture is perceived to be infeasible.
<b>Ungoverned Spaces</b>	Also used interchangeably with Ungoverned areas represent areas with limited state penetration/control.
<b>Wake up Call</b>	They are critical terrorist events of which when carefully identified and analyzed will likely be used to prevent future terrorist attacks.

## **List of Figure**

**Figure 1: Author's conceptual framework on ethical debate in CT 29**

## **List of Table**

Table 1: Strategic guidance by policymakers in 21-century .....	42
Table 2: Mass casualty terrorist attacks in Africa .....	45
Table 3: Al-Shabaab popular support .....	47
Table 4: CT cooperation strategy in Africa .....	48
Table 5: Ethical debate on Military CT strategy in Africa .....	51
Table 6: Ethical debate on CT strategy of negotiation .....	54
Table 7: Ethical debate on CT strategy of proscription .....	55
Table 8: Ethical debate on targeted assassination in Africa .....	57
Table 9: Strategic guidance by African policymakers .....	59
Table 10: Ethical debate on hard power CT strategies in Kenya.....	70
Table 11: Ethical debate on Soft power CT strategy in Kenya.....	71
Table 12: Strategic guidance by Kenya policy makers.....	73

## **1.0 Chapter One: Introduction**

### **1.1 Background of the Study**

The world is replete with examples of both domestic and transnational terrorism. The British experienced the wrath of IRA including the 1984 attempted assassination of Margaret Thatcher before Good Friday agreement. The 1983 US Embassy bombing in Beirut, Khobar Tower bombing in Saud Arabia, and the 9/11 attack is a manifestation that nearly all countries are affected by terrorism. The determination of Fedayeen against Israel further portrayed the lethality of fanaticism. In Asian, the existence of Jemmah Islamiya (JI), Taliban terrorist groups and the Abu Sayyaf Group (ASG) provides a clear indication of the enduring nature of terrorism. Africa experience in terrorism has been overwhelming. Two of the major terrorist groups in Africa namely Al-Shabaab and Boko Haram are ranked among the deadliest in the world.

Global counter-terrorism effort has also been manifested through various strategies such as military counter-terrorism, capture, or the targeted assassination of terrorist leaders, proscription of terrorist groups, negotiations among others. Sri Lanka's military counter-terrorism successfully disrupted the Liberation Tigers of Tamil Eelam (LTTE) terrorist group<sup>1</sup>. The Israel decapitated two Egyptian senior officials in charge of Fedayeen operations in the 1950s

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<sup>1</sup> Smith, Justin O. *Maritime interdiction in counterinsurgency: the role of the Sri Lankan Navy in the defeat of the Tamil Tigers*. NAVAL POSTGRADUATE SCHOOL MONTEREY CA, 2010.

contributed to the disruption of Fedayeen terror activities in Israel. The Algerian government employed long-range surveillance, air assets and ground troops along the border to deter cross border movement of terrorist groups<sup>2</sup>. Kenya has also embraced several counter-terrorism strategies such as operation Linda Boni and Operation Linda Nchi.

While most scholars and practitioners focused on the successful counter-terrorism agenda on parameters such as the demise of terrorist groups, the number of terrorists and their leaders killed, and reduction of terrorist attacks, they, however, pay little attention to why counter-terrorism strategies have not prevented frequent minor and major terrorist attacks from occurring; why counterterrorism operations have protracted; why terrorist groups survived disruption, why 21-century counterterrorism agenda has been given much focus although terrorist attacks have occurred before, and of most primary important factors are whether the counterterrorism strategies which are mostly focus on Western countries conforms to ethical considerations in the 21-century, African context and Kenya in particular. This will further help to examine how Kenya's experience of terrorism and counter-terrorism since 1975 conformed to ethical consideration.

## **1.2 Statement of the Problem**

Most governments perceived counterterrorism operation strategies as effective when they reduce frequency of terrorist activities, disrupt terrorist groups and target terrorist leaders through capture or killing and pay less attention to the impact of these strategies on the citizen in terms of civilian casualties and disruption of their civil liberty in general. In the course of safeguarding

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<sup>2</sup> Porter, Geoff D. "AQIM Pleads for Relevance in Algeria." *CTC Sentinel* 12: 32-36.



national security, little effort is directed towards safeguarding citizens against lives and properties.

Terrorist attacks cause mass causality and devastation and occurred indiscriminately. Kenya alone has suffered several major attacks with massive loss of lives including the bombing of US embassy in the year 1998, the 2013 West gate Mall terrorist attack, the April 2015 Garissa University attack. Garissa University's attack alone cost 167 lives<sup>3</sup>. The cost of counter-terrorism diverts resources meant for other development. This, therefore, calls for Effective counter-terrorism measures that balance between national security and ethics.

This desktop study will critically examine the ethical consideration of counter-terrorism by focusing on the Kenyan experience. The finding could provide policymakers with information on how to balance between counter-terrorism and ethics. Balancing between counter-terrorism and ethics will prevent popular hostility that is likely to increase radicalization, recruitment, and retaliation against unpopular counter-terrorism measures. The finding could also add to the current existing knowledge of ethical debate on counter-terrorism.

### **1.3 Research Questions**

The main question and specific questions of the study is as follows:

#### **1.3.1 Main Question**

What is the place of ethical issues in the war against terrorism?

#### **1.3.2 Specific questions**

1. What is the place of ethical issues in the counter-terrorism agenda in the 21-century?

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<sup>3</sup> Global Terrorist Index 2018.

2. What is the experience of African Countries with ethical considerations in the war against terrorism?

3. What is Kenya's experience with ethical issues as far as counter-terrorism is concerned?

#### **1.4 Research Objectives**

The main objective of the research is to critically examine the place of ethical issues in the war against terrorism. The specific objectives of the study are as follows:

1. To assess the place of ethical issues in the counter-terrorism agenda in the 21-century.
2. To analyze the experience of African countries with ethical considerations in the war against terrorism.
3. To critically analyze Kenya's experience with ethical issues in as far as counter-terrorism is concerned.

#### **1.5 Justification of the Study**

Effective counter-terrorism strategies which adhere to ethical values is essential in winning the war on terror and mitigates the challenges posed by 'new terrorism'. This will require a critical assessment of the place of ethical issues in the counterterrorism effort, which according to the research remained un-exhausted by previous research. Oppressed counter-terrorism strategies if pursued may increase terrorist attacks, recruitment, radicalization, and unpopular support and increased cost of counter-terrorism operations.

The cost implication of counter-terrorism operations is unbearable. The Global Terrorist Index of 2016, ranked Libya, South Sudan, Nigeria, Niger and Central African Republic in the ten most countries, globally that experienced severe economic impact due to terrorism<sup>4</sup>. In Kenya alone, between 2012 and 2015, tourism earnings declined from Kshs 96 billion to Kshs 84.6 billion due to Al-Shabaab terrorist attacks<sup>5</sup>.

The increased budget for counter-terrorism, therefore, diverts resources that are meant for other development. It is estimated that Kenya has increased her security sector budget due to increased counter-terrorism operations to approximately US \$ 1.3 billion as compared to the US \$ 0.6 billion that goes to the health ministry<sup>6</sup>.

The findings of this study will provide policymakers with more insight that will form the basis for building effective counter-terrorism strategies that are reconcilable with civil liberty. The findings of the study could also add the existing knowledge of balancing between counter-terrorism strategies and civil liberty in the 21-century era of 'new terrorism' that is characterized by religious fanaticism, unpredictability, indiscriminate attacks, mass causality, among others. The study could further lay the ground for more investigation on how to augment and improve various counter-terrorism strategies that conform to ethical considerations.

### 1.6.0 Literature Review

This section will examine the place of ethical issues in the war of terror. It will be supported by the three objectives earlier highlighted. The objective has been operationalized into three

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<sup>4</sup> Index, Global Terrorism. "Measuring And Understanding The Impact Of Terrorism (2017)." *Institute for Economics & Peace*, <https://reliefweb.int/sites/reliefweb.int/files/resources/Global%20Terrorism%20Index%202017>, no. 20 (2017): 284.

<sup>5</sup> Kenya National Bureau of Statistics. (2016). 2015 Economic Survey Report Highlights

<sup>6</sup> Republic of Kenya. "Budget Policy Statement, 2017/2018" (2017).

indicators namely characteristic of new terrorism. counter-terrorism operations and ethical debate.

### 1.6.1 Place of Ethical Issues in the war against terrorism

Ethical debate regarding counter-terrorism strategies in post 9/11 has been given more emphasis<sup>7</sup>. However, Counter-terrorism strategies were also employed during the 20<sup>th</sup> century yet they did not receive much attention. The study will strive to examine why much attention has been given to the post 9/11 than before by first assessing the differences in characteristics between the traditional terrorism and new terrorism.

Most scholars such as Copeland and Spenser agreed that traditional terrorism occurred during cold war era while new terrorism started from mid-1990s. For example, Copeland observed that major terrorist attacks that occurred in the mid 1990s, for example the sarin gas attack in Tokyo Subway systems in 1995 perpetrated by the Aum Shinrikyo cult group marked the beginning of new terrorism<sup>8</sup>.

Heather argued that terrorist groups in the traditional terrorism era are characterized by ethno-nationalists separatists, anarchism and are state sponsored and their main intention is to topple existing governments<sup>9</sup>. Copeland the argument that traditional terrorism were state sponsored further explained that terrorist demands during traditional terrorism were negotiable and that the

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<sup>7</sup> Dragu, Tiberiu. "Is there a trade-off between security and liberty? Executive bias, privacy protections, and terrorism prevention." *American Political Science Review* 105, no. 1 (2011): 64-78.

<sup>8</sup> Copeland, Thomas Edgar. "Surprise, Intelligence Failure, and Mass Casualty Terrorism." PhD diss., University of Pittsburgh, 2006.

<sup>9</sup> Gregg, Heather S. "Defining and distinguishing secular and religious terrorism." *Perspectives on Terrorism* 8, no. 2 (2014): 36-51.

objective of the terrorist groups were focused on controlling states, seek attention and recognition<sup>10</sup>. The scholars however, failed to explain how these characteristics informed counterterrorism strategies employed the extent of ethical considerations. The scholars did not further elaborate the whether the same counter terrorism strategies and their ethical consideration could be employed in the new terrorism era.

Laquer emphasized that mass casualties during the traditional terrorism era were insignificant<sup>11</sup>. However, he observed that the new terrorism is comprised of religious fanaticism and increase number of suicide terrorism<sup>12</sup>. Lacquer fails to account for the how these characteristics shaped counterterrorism strategies employed and the extent of their ethical considerations. Lia attributed lethality of terrorist groups in the new terrorism era to globalization that has arguably facilitated the groups to decentralize her structures across the globe, increased their resilience predictableness<sup>13</sup>. However, the extent in which counterterrorism strategies employed adhered to the ethical considerations to mitigate the lethality of new terrorism was not addressed.

Shelton suggested that new terrorism exhibited increased popular support<sup>14</sup>. Shelton did not explain how terrorist groups who perpetrate terrorist attacks against population gain popular support. Shelton also did not examine how popular support informed the extent to which government will be willing to adhere to ethics when employing counterterrorist strategies against terrorist groups with robust popular support. In addition to decentralization and global presence

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<sup>10</sup> Copeland, Thomas. "Is the" New Terrorism" Really New?: An Analysis of the New Paradigm for Terrorism." *Journal of Conflict Studies* (2001).

<sup>11</sup> Laqueur, Walter. "The new face of terrorism." *Washington Quarterly* 21, no. 4 (1998): 167-178.

<sup>12</sup> Laqueur, Walter. *The new terrorism: Fanaticism and the arms of mass destruction*. Oxford University Press on Demand, 1999

<sup>13</sup> Lia, Brynjar. *Globalisation and the future of terrorism: Patterns and predictions*. Routledge, 2007.

<sup>14</sup> Shelton, Allison M. "Framing the oxymoron: A new paradigm for intelligence ethics." *Intelligence and National Security* 26, no. 1 (2011): 23-45.

characteristics of new terrorism, Greave also pointed out that most terrorist group in the new terrorism do not assumed responsibility for the terrorist attacks committed by them<sup>15</sup>. The scholars however, did not explain the challenges posed by states when deciding counterterrorism strategies to counter these characteristics.

Berkowitz emphasized that new terrorism posed the great capacity to use WMD<sup>16</sup>. Hoffman challenged the Berkowitz argument regarding possession of WMD by new terrorist groups in the new terrorism era and wondered why then terrorist groups have failed to employ livestock and agricultural terrorism, which are arguably easier and effective to be employed. He further disputed the mass casualty nature of new terrorism because in his opinion, the terrorist groups have not attack chemical plants, which would have devastating mass casualty effect<sup>17</sup>. Spenser agreed with Copeland that capacity to employ WMD was exhibited by both traditional and new terrorism and provided case examples of terrorist groups such LTTE, PKK, order of the Rising Sun among others who employed WMD during the traditional terrorism<sup>18</sup>. He further argued that fanaticism was also exhibited during the traditional terrorism but he does explain whether it was inspired by political or religious fanaticism<sup>19</sup>. Crenshaw on the other hand observed that there no significant difference between the newt terrorism and traditional terrorism in relation to objectives, structures, organizations and methods<sup>20</sup>. The scholars did not explore the choice of

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<sup>15</sup> Greaves, Ian. "Terrorism-new threats, new challenges?." *The RUSI Journal* 145, no. 5 (2000): 15-20.

<sup>16</sup> Berkowitz, B. (2002) 'New Protracted Conflict: The Intelligence and the war on Terrorism', (2001) 289-300.

<sup>17</sup> Hoffman, Bruce. "Rethinking terrorism and counterterrorism since 9/11." *Studies in Conflict and Terrorism* 25, no. 5 (2002): 303-316.

<sup>18</sup> Spencer, Alexander. "Questioning the concept of 'new terrorism'." *Peace, Conflict and Development* (2006): 1-33.

<sup>19</sup> *Ibid.*

<sup>20</sup> Crenshaw, Martha. "The debate over "new" vs."old" terrorism." In *Values and Violence*, pp. 117-136. Springer, Dordrecht, 2008.

counterterrorism strategies likely to be deployed to mitigate the terrorist capacity to WMD and extent of ethical consideration

Byman concluded that new terrorism exhibited resilience and adaptive against counterterrorism strategies and learn from previous mistakes<sup>21</sup>. For example, terrorists mix with civilians to evade retaliation from government forces. Byman did not exhaust the extent to which counterterrorism strategies would be employed while safeguarding the lives of innocent civilians and collateral damage. Erik, on the other hand, argued that unpredictableness and lack of tactical warning before terrorist attacks add to the existing challenges of terrorism<sup>22</sup>. The scholar did not investigate the effectiveness of counterterrorism strategies in mitigating the unpredictableness of terrorist attacks. Field acknowledged that the new terrorism shaped the choice of counterterrorism strategies employed but warned that the characteristics of new terrorism may be blown out of proportion and thereby creating counterproductive counterterrorism strategies<sup>23</sup>. Taking cognizance of the nature of traditional and new terrorism that determines the choice of counterterrorism strategies and their ethical considerations, this study will therefore further examine the place of ethical consideration in the war against terrorism by assess the place of ethical issues in counter-terrorism agenda in the 21-century, analyze the experience of African countries with ethical considerations in the war against terrorism and critically analyze Kenya's experience with ethical issues in counter-terrorism.

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<sup>21</sup> Byman, D. (2014) 'The Intelligence War on Terrorism', *Intelligence and National Security*, 29:6,(2014) 837-863.

<sup>22</sup> Dahl, Erik J. "Warning of terror: Explaining the failure of intelligence against terrorism." *Journal of Strategic Studies* 28, no. 1 (2005): 31-55.

<sup>23</sup> Field, Antony. "The 'New Terrorism': Revolution or Evolution?." *Political Studies Review* 7, no. 2 (2009): 195-207.

## 1.6.2 The place of ethical issues in counter-terrorism agenda in the 21-century

This study argued that 21<sup>st</sup> century is characterized by new terrorism. The ethical issues in counterterrorism agenda will therefore be assessed in line with the new terrorism. Countries affected by terrorism have employed diverse counterterrorism strategies in the contemporary 21st century.

Military counterterrorism effort has been employed by various countries. The three years Srilankan military counterterrorism against LTTE arguably contributed to the completely defeat of the terrorist groups<sup>24</sup>. The US has conducted several military counterterrorism operations in Iraq, Pakistan, and Afghanistan among others. Targeted assassination of terrorist leaders has also been used as a means of countering terrorist groups. Bush administration authorized 42-targeted killings between 2004 and 2008 while the Obama administration authorized 321 drone strikes in Pakistan that killed approximately 2,374 people, 67<sup>25</sup>. The Indonesia's detachment also known as *Densus 88* has been credited for their tireless effort in manner pursuing and decapitating terrorists<sup>26</sup>.

Contrary to most countries' foreign policy on non-negotiation with terrorists, the strategy has been employed on several occasions. The Good Friday agreement marked the end of terrorism and counterterrorism strategies between IRA and British <sup>27</sup>. Norway brokered peace between the

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<sup>24</sup> Hoagland Kristine, and Isak Svensson " Mediating between Tigers and Lions: Norwegian peace diplomacy in Sri Lanka 's civil war. *Contemporary South Asia*.2009 Jun 1; 17(2): 175-91.

<sup>25</sup> Young, Marisa. "Death from above: The Executive Branch's Targeted Killing of United Citizens in the War on Terror." *U. Ill. L. Rev.* (2014): 967.

<sup>26</sup> Ibid.

<sup>27</sup> Ruane, Joseph, and Jennifer Todd. "A changed Irish nationalism? The significance of the Good Friday Agreement of 1998." In *Joseph Ruane, Jennifer Todd and Anne Mandeville (eds.). Europe's Old States in The New World Order*. UCD Press, 2003.



Srilankan government and Tamil tigers between 2000 and 2009 before the government revoked all the peace effort and resort to the use of the military<sup>28</sup>.

Counter-terrorism cooperation among countries has further been the 21-century counter-terrorism agenda. The US, for example, has cooperated with several countries such as Egypt, Pakistan, Saud Arabia, and Sudan known for violation of human rights<sup>29</sup>. The ethical issues regarding cooperation with countries that violate human rights have been adequately assessed in relation with its effectiveness and characteristics of new terrorism.

Proscription of terrorist groups has been given prominence in 21<sup>st</sup> century although its effectiveness is debatable. Some scholars such as Lee and Lengrad viewed proscription of terrorist groups as ineffective because most counter-terrorism strategies are counter-productive<sup>30</sup>. The scholars however do not explained how ethical issues regarding the proscription strategy contributed to its ineffectiveness .The study therefore argued that ethical issues regarding these counterterrorism strategies have not been examined. The relationship between effectiveness of the chosen counterterrorism strategies and ethical issues has also remained unexhausted.

The counterterrorism strategies employed during the 21<sup>st</sup> century have been observed by Kennedy –Pipe Caroline to be dominated by controversy regarding whether they adhere to ethical issues<sup>31</sup>. The study will examine five ethical debate to namely realism, deontology, consequentialism and just war doctrine to determine their influence in the choice counter-terrorism strategies.

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<sup>28</sup> Fernando, Srimal, and Mizly Nizar. "Sri Lanka-Norway ties: need to look beyond aid diplomacy." (2019).

<sup>29</sup> Ibid, p 860.

<sup>30</sup> Jarvis, Lee, and Tim Legrand. "The Proscription or Listing of Terrorist Organisations: Understanding, Assessment, and International Comparisons." (2018): 199-215.

<sup>31</sup> Kennedy-Pipe, Caroline. "Tactics of mistake: 'Torture', security and the ethics of 'liberal 'wars' after 9/11." In *War, Ethics and Justice*, pp. 25-37. Routledge, 2011.

Erskine believed that the realism approach is in tandem with ethical ideals<sup>32</sup>. He argued that defending national interest contributed to the moral right in itself<sup>33</sup>. Shelton agrees with him and adds that realism is the dominant ethical principle because the survival of the state is the primary goal of any state<sup>34</sup>. The scholars, however, did not examine the extent to which ethics may be sacrificed to achieve national security.

The deontological approach argued that deception is wrong. The approach was developed by Kant and postulate that a person should act only according to principles embodied in conduct in the manner one would like to become universal law at the same time<sup>35</sup>. Kant, however, does not explain whether the threat to the existence of a nation and preventing mass causality terrorism due to terrorism qualify to be a deontology approach. Elk and Josefa on the other hand warned that counter-terrorism operations such as the use of military force could be illegitimate due to ambiguity in the application of International Human Rights that allows states to human rights just like the terrorists themselves<sup>36</sup>. The scholars failed to provide alternative counterterrorism strategy that balances between effectiveness and ethical issues.

The consequentialism approach was advanced by Jeremy Bentham who contend a bad act is considered right and justified if preserve greater good and prevent catastrophe<sup>37</sup>. Hersh is in agreement with Bentham and further explained that terrorism is justified if it contributes to

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<sup>32</sup> Erskine, Toni. "As Rays of Light to the Human Soul? Moral Agents and Intelligence Gathering." *Intelligence & National Security* 19, no. 2 (2004): 359-381.

<sup>33</sup> Ibid.

<sup>34</sup> Shelton, Allison M. "Framing the oxymoron: A new paradigm for intelligence ethics." *Intelligence and National Security* 26, no. 1 (2011): 23-45.

<sup>35</sup> Kowalski, M. "Ethics on the radar: exploring the relevance of ethics support in counterterrorism." (2020).

<sup>36</sup> Ibid.

<sup>37</sup> Reding, Anaïs, Anke Van Gorp, Kate Cox, Agnieszka Walczak, Chris Giacomantonio, and Stijn Hoorens. "Handling ethical problems in counterterrorism: An inventory of methods to support ethical decisionmaking." (2014).

superior impact<sup>38</sup>. The argument is supported by Erskine who further added that the right option that inevitability produce greater benefit is the most preferred option<sup>39</sup>. These scholars generally fail to assess the suitability of consequentialism ethical principle relative to the characteristics of new terrorism and the choice of counterterrorism strategies employed in 21-century in various regions. The gap will therefore be addressed by this study.

Eric contends that the creation of just war doctrine did not anticipate the challenges facing the current post 9/11 war on terror<sup>40</sup>. Elk and Josefa further warned that the doctrine is not insufficient but also broader in its application<sup>41</sup>. Schulte warned that the 21-century terrorism has been dodged by the inability to apply of just war approach<sup>42</sup>. These scholars have not however attempted to link the interaction between the era of new terrorism in the 21-century with the ethical debate of just war to confirm or refute the place of just war theory in 21-century.

### **1.6.3 Experience of African countries with ethical consideration in the war against terrorism**

Africa continent has also had a share of experience in protracted and major terrorist attacks. Globally, the African continent harbors some of the major transnational and domestic terrorist groups. They include but not limited to the Boko Haram, Muslim Brotherhood, the Al-Qaeda in the Islamic Maghreb, Egypt Jihad Group, the Al-Qaeda in East Africa, Al- Shabaab, Morocco

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<sup>38</sup> Hersh, M. A. "Terrorism, human rights and ethics: a modelling approach." *IFAC Proceedings Volumes* 39, no. 23 (2006): 8-19.

<sup>39</sup> Erskine, Toni. "As Rays of Light to the Human Soul? Moral Agents and Intelligence Gathering." *Intelligence & National Security* 19, no. 2 (2004): 359-381.

<sup>40</sup> Patterson, Eric. "Just war in the 21st Century: Reconceptualizing just war theory after September 11." *International Politics* 42, no. 1 (2005): 116-134.

<sup>41</sup> Ibid.

<sup>42</sup> Taylor, Isaac. "Just war theory and the military response to terrorism." *Social Theory and Practice* (2017).

Islamic Combatant Group, Lord Resistance Army, Allied Democratic Alliance Gammaat Al Islamiyya and Armed Islamic Group among others.

African has also experienced the worst terrorist attacks in the world. The 29 December terrorist attack committed by the Armed Islamic Group of Algeria (GIA) that left 412 civilian dead was rated the deadliest terrorist attack in the world in 1997<sup>43</sup>. The 3 January 2015 Baqa massacre by Boko Haram in Nigeria was the deadliest attack the world in 2015 while the 14 October Mogadishu bombing by Al-Shabaab was ranked the deadliest in the world in 2017<sup>44</sup>. Despite the lethality nature and mass casualty, little attention has been focused on how these characteristics shape how a chosen counterterrorism strategy adhere to ethical issues in the African context.

Several counterterrorism strategies were also employed during the traditional terrorism. Egypt arguably sponsored Fedayeen terrorist group to target Israel during the 1950s<sup>45</sup>. On the other hand Egypt sentenced eight suspected Israel operatives in 1954 responsible for the failed false flag operations against Egypt as deterrence against Israel's False Flag operation<sup>46</sup>. Scholars focused on the effectiveness of counterterrorism strategies during traditional terrorism and pay less attention on the place of ethical debate regarding these counterterrorism strategies.

To counter the menace of these terrorist groups during the current era of new terrorism, African states have instituted several counter-terrorism strategies. Operation Serval, for example, was an military counterterrorism offensive conducted by Mali, Chad, and French troops between May

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<sup>43</sup> Laqueur, Walter. *The new terrorism: Fanaticism and the arms of mass destruction*. Oxford University Press on Demand, 1999.

<sup>44</sup> Index, Global Terrorism. "Measuring the impact of terrorism." *Institute for Economics & Peace*. November. URL: <http://visionofhumanity.org/app/uploads/2018/12/Global-Terrorism-Index-2018-1.pdf> (accessed: 04.02.2019) (2018).

<sup>45</sup> Verbeek, Bertjan. *Decision-making in Great Britain During the Suez Crisis: Small groups and a persistent leader*. Routledge, 2017.

<sup>46</sup> Weiss, Leonard. "The Lavon Affair: How a false-flag operation led to war and the Israeli bomb." *Bulletin of the Atomic Scientists* 69, no. 4 (2013): 58-68.

2003 and 2004 against the Malian terrorist groups that had existentially threatened Mali<sup>47</sup>. Another good illustration is Operation Barkhane, the joint French Military counterterrorism operation jointly with Sahel 5<sup>48</sup>. Little assessment has been done to compare the effectiveness of military counterterrorism operations extent to which they adhere to ethics in terms of civilian casualties and collateral damage.

Proscription of terrorist groups has also been advanced by the African States. The Uganda government for example has proscribed Al-Shabaab, LRA and ADF in the list of terrorist groups<sup>49</sup>. Egyptian Government, on the other hand, proscribed the Muslim Brotherhood in the list of terrorist groups after the group perpetrated a lethal attack on police HQ<sup>50</sup>. In reaction to major terrorist attacks conducted by Boko Haram, President Jonathan also declared Boko Haram a terrorist group in the year 2013<sup>51</sup>. However, scholars have not linked the patterns of terrorist attacks that had occurred before and after proscription of the terrorist organization in Africa to determine their suitability. The comparisons between the employment of proscription as a single strategy or in combination and frequency of terrorist attacks have not been developed. Lastly, the ethical debate regarding proscription and deproscription of terrorist organizations has not been assessed in the current era of the new terrorism in the African context.

Africa states have also embraced the counterterrorism strategy of negotiation with terrorist organizations. Negotiations between Nigeria government and Boko Haram have been

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<sup>47</sup> Boeke, Sergei, and Bart Schuurman. "Operation 'Serval': A strategic analysis of the French intervention in Mali, 2013–2014." *Journal of strategic studies* 38, no. 6 (2015): 801-825.

<sup>48</sup> Griffin, Christopher. "Operation Barkhane and Boko Haram: French counterterrorism and military cooperation in the Sahel." *Small Wars & Insurgencies* 27, no. 5 (2016): 896-913.

<sup>49</sup> Titeca, Kristof, and Daniel Fahey. "The many faces of a rebel group: the Allied Democratic Forces in the Democratic Republic of Congo." *International Affairs* 92, no. 5 (2016): 1189-1206.

<sup>50</sup> BBC "Egypt Muslim Brotherhood declared terrorist group", 5 December 2013(Accessed 30 June 2020).

<sup>51</sup> Alexandra Brangeon "Nigerian President Goodluck Jonathan declares Boko Haram and Ansaru 'terrorist organizations'", June 6, 2013 (Accessed 10 July 2020)

manifested<sup>52</sup>. The Uganda government has made at least three negotiation attempts with LRA terrorist group<sup>53</sup>. The ethical debate regarding the strategy is relevant to determine its suitability in various scenarios yet it remained unexplored.

Capture and targeting the killing of terrorist leaders have also been employed as counter-terrorism strategies. Egypt managed to capture the leader of Egypt Islamic Jihad (EIJ) Ahmed Salam Mabrouk and also decapitate the leader of ISIS in Sinai, Abu Duaa Al Ansar<sup>54</sup>. The Uganda force has killed and captured at least 26 LRA commanders since 1987<sup>55</sup>. Decapitation of Al-Shabaab leadership from Aden Ayro, Ahmed Godane, Muhammed Kuno, and Ahmed Ayman has also been observed. However, the study's concern is that the effectiveness of these strategies with other strategies has not been compared. The link between the strategy, current new terrorism era and ethical debate has also not been assessed to address the gap needed to improve the strategy.

#### **1.6.4 Kenya's experience with ethical issues in as far as counter-terrorism is concerned**

This character will analyze Kenya's experience with ethical issues as far as counter-terrorism is concerned.

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<sup>52</sup> Osasumwen, Olanrewaju Faith, Olanrewaju Adekunle, Loromeke Ejiroghene Roland, and Joshua Segun. "Implications of the release of Chibok girls on Nigeria's war on terrorism." *Covenant University Journal of Politics and International Affairs* 5, no. 1 (2017).

<sup>53</sup> Springer Nature Limited, Published annually since 1864, and Nir Kshetri. "Uganda." *The Statesman's Yearbook 2020: The Politics, Cultures and Economies of the World* (2020): 1219-1224.

<sup>54</sup> BBC "Egypt 'kills head of IS branch in Sinai', 4 August 2016 (Accessed 10 July 2020)

<sup>55</sup> Cakaj, Ledio. "The Lord's Resistance Army of Today." (2010).

During the traditional terrorism, Kenya experienced at two major terrorist attacks. In March 1975 *Masikini* Liberation Front arguably conducted several bombings in the city of Nairobi<sup>56</sup>. The bombing of the nightclub, travel bureau, and bus occasioned the death of 30 lives<sup>57</sup>. On the eve of 1980 New Year, Norfolk Hotel experienced terrorist bombing that killed at least 16 people<sup>58</sup>. Kenya did not institute any counterterrorism strategies during the traditional terrorism. Possible explanation could be attributed to the fact that only two isolated cases of terrorism occurred.

The attack on US Embassy in Nairobi that occurred on 7 August 1998 marked the start of new terrorism in Kenya. At least 8 major terrorist attacks occurred in Kenya during the new terrorism era. 2002 Kikambala bombing and attempted shooting of Israel plane in Mombasa. 1998 US embassy bombing is considered to be the third deadliest in the world<sup>59</sup>. On 28 November 2002, Al-Qaeda attempted shoot Israel Plane and also staged bombing in Kikambala Paradise hotel that left 15 people killed and 80 injured<sup>60</sup>. Kenya has further experienced the emergent of the Al-Shabaab transnational terrorist group that has its root from 2007 and is responsible for the series of terrorist attacks ever since. However major terrorist attacks occurred after Al-Shabaab allegiance with Al-Qaeda was officially accepted on 9 February 2012<sup>61</sup>. Major attacks perpetrated by Al-Shabaab terrorist group include the September 2013 attack on Westgate Mall,

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<sup>56</sup> Kwapoya, Vincent B. "The politics of succession in Africa: Kenya after Kenyatta." *Africa Today* 26, no. 3 (1979): 7-20.

<sup>57</sup> Omondi, Scholastica. "Balancing the constitutional right to bail and state security in the context of terrorism threats and attacks in Kenya." (2015).

<sup>58</sup> Shinn, David H. "Terrorism in East Africa and the Horn: an overview." *Journal of Conflict Studies* 23, no. 2 (2003).

<sup>59</sup> START. GTD 2019

<sup>60</sup> Fighel, Jonathan. "Al-Qaeda-Mombasa Attacks, 28 November 2002." *International Institute for Counter-Terrorism, Herzlya, Israel* 13 (2011).

<sup>61</sup> Wise, Rob. *al shabaab*. Center for Strategic and International Studies, 2011.

Mpeketoni attack, the Garissa University attack, Mandera bus, and quarry attacks, and Dusit attack.

In reaction to the several terrorist attacks that had occurred during the new terrorism, Kenya instituted several counterterrorism strategies. Employment of military and multi agency security force operations has been the most common counter-terrorism measures against terrorist groups. Operation LINDA NCHI and Multi-agency operation in LINDA BONI in Lamu Country provide a good illustration of military and multi agency counterterrorism operations. Cronin Audrey observed that the employment of military force will lead to the demise of terrorist<sup>62</sup>. Peter and Fink discourage the use of hard power by states to counter- terrorism but instead suggested that the best solution lies with the soft power approach<sup>63</sup>. The scholars, however, did not adequately address the ethical issues surrounding hard counterterrorism strategies. The scholars have also not assessed the effectiveness of the hard power approach against the terrorist group in the new terrorism era.

Proscription of the terrorist group is yet another counter-terrorism strategy that has been employed in Kenya. Kenya has proscribed groups namely Al-Shabaab, ISIS, Mombasa Republican Council, Boko Haram and Al Qaeda in East Africa in the list of terrorist organization under section 3 of the Prevention of Terrorist Act (POTA), published in the Gazette Notice No 3 2326<sup>64</sup>. Critical analysis has not been done to determine the relationship between the strategy of the proscription of these groups and the frequency of attacks before and

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<sup>62</sup> Cronin, Audrey Kurth. "How al-Qaida ends: The decline and demise of terrorist groups." *International Security* 31, no. 1 (2006): 7-48.

<sup>63</sup> Romaniuk, Peter, and NAUREEN CHOWDHURY FINK. "Evaluating Terrorism Prevention Programs." *Zugriff: [http://globalcenter.org/wp-content/uploads/2012/10/CGCC\\_EvaluatingTerrorismPrevention.pdf](http://globalcenter.org/wp-content/uploads/2012/10/CGCC_EvaluatingTerrorismPrevention.pdf) [abgerufen am 15.05.2017]* (2012).

<sup>64</sup> Republic of Kenya 'The Kenya Gazette', CXII-36, Nairobi, 07 April 2015.



after the proscription. This will inform policymakers on the suitability of the strategy employed in terms of effectiveness and ethical consideration.

Banning or closure of financial organization/NGOs and freezing of financial assets of suspected of facilitating terrorist finance or activities have been common counter-terrorism strategy in Kenya. Kenya Government deregistered Islamic Haramain foundation for alleged financing the 1998 US Embassy bombing. It was deregistered together with five others<sup>65</sup>. The central Bank of Kenya (CBK) revoked 13 money Remittance Providers (MRPs) located in Nairobi as one of counter-terrorism effort to prevent financial terrorism after the Garissa University attack. The strategy has not assessed how terrorist organizations adapt and learn how to manage her organization's operations in the new terrorism era to compensate for the financial disruption.

The use of bounty on terrorist leaders' heads has been employed as counter-terrorism measures though its effectiveness has been contested. Some scholars argued that undervaluation of a bounty may not have any significant and on the contrary others observed that the measure has previously worked<sup>66</sup>. Josh Meyer on the other argued that the use of bounty is an ineffective counter-terrorist measures because terrorists are committed not to be captured and also that the task undertaken is too risk<sup>67</sup>. Between 2015 and 2017, the Government of Kenya offered over 300 million bounties for the heads of 35 most wanted terrorists<sup>68</sup>.

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<sup>65</sup> Mogire, E. and Agade, K.M. (2011) 'Counterterrorism in Kenya', *Journal of Contemporary African Studies*, 29:4, pp.473-491.

<sup>66</sup> Kathy Gilsinan 'The Economics of Terrorist Bounties: Bin Laden had \$ 25 million Price on his head. Was he undervalued? May 19, 2015.

<sup>67</sup> Josh Meyer ' US bounties for West African terrorists are lavish, but don't get ideas, Quartz, June 5, 2015.

<sup>68</sup> Dominic Wabala ' Kenya Puts Sh 100 million Bounty in Hunt for Suspected Terrorists, 08 October 2017.

The imposition of curfew has also been embraced in the fight against terrorist groups such as Al Shabaab. Curfew has been imposed in areas such as Lamu, Garissa, Tana River, Wajir, and Mandera County. The imposition of curfew in Lamu, for example, started immediately after the Mpeketoni attack and remained un-lifted<sup>69</sup>. Carissa curfew was imposed, immediately after the Carissa University attack and was extended to cover Wajir, Tana River, and Mandera. The effectiveness of the strategies in terms of frequency of terrorism attacks before and after the implementation of the strategy has not fully been examined. The study further argued that legality debate on the strategy has been measured by the degree of resistance by the population through legal battles but less focus has been given on the appropriate ethical debate that guides the employment of the strategy while balancing between civil liberty and mass casualties. In reaction to the Garissa University attack that occurred in April 2015, the Government began the construction of Kenya Somalia border<sup>70</sup>. The effectiveness of the strategy in terms of the frequency of terrorist attacks has not been adequately investigated to determine the suitability of the strategy.

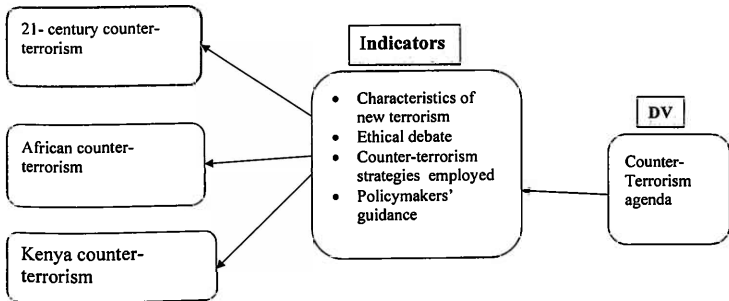
### **1.7 Conceptual Framework**

The Dependent variable (DV) for the study is ethical considerations in the counter-terrorism agenda while the Independent Variables(IV) includes 21–century counter-terrorism strategies, African counter-terrorism experience, and Kenya’s counter-terrorism strategies . However, IV influence DV through the indicators (see figure 1)

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<sup>69</sup> Nation Reporter, 15 Killed in Fresh Mpeketoni attack, Daily Nation, June 17, 2014

<sup>70</sup> Brendon John Cannon, "Terrorists, Geopolitics and Kenya's Proposed Border Wall with Somalia," *Journal of Terrorism Research* 7, no. 2 (May 2016): 23.



**Fig 1: Conceptual framework for the study**

### 1.8 Research Methodology

The study uses qualitative desktop research . Qualitative design study stemmed from social science background and strived to discern people's behaviors in terms of their belief, attitudes, opinion among others<sup>71</sup>. Secondary sources such as speeches of government officials and terrorist leaders, textbooks, journals, newspapers, government documents, grey literature, and declassified materials will be collected and analyzed using grounded theory analysis. Strauss and Corbin argued that the methodology is suitable for advancing a theory from the data that has

<sup>71</sup> Denzin, Norman K., and Yvonna S. Lincoln. *Strategies of qualitative inquiry*. Vol. 2. Sage, 2008.

been collected and analyzed<sup>72</sup>. An emergent theory (theories) will thereafter be reported in the discussion contrary to the previously published theory and unexpected findings and interpretation may also occur in addition to or contrary to previously published findings<sup>73</sup>.

The data will be organized and assembled to allow drawing of conclusion. The data presentation will be reported in tabular and narrative form. Although research ethics pay more attention to primary research, the study strived to use selected open-source materials available such as textbooks, grey literature, journals, a variety of newspapers, reports and declassified materials. No attempt will be made to access unauthorized materials<sup>74</sup>.

### **1.9 Study Layout**

The study is comprised of five chapters. Chapter I has introduced the research study by setting broad issues relating to ethical issues in counter-terrorism agenda, statement of the problem, justification, review relevant literature , provided conceptual framework and methodology required for the study.

Chapter II begins by introducing and presenting data on the second objective that assessed the place of ethical issues in counter-terrorism agenda in the 21-century. More specifically, data related to characteristics of new terrorism, counter-terrorism strategies, and ethical debate were there after presented.

Chapter III Examine data related to African experience in ethical issues related to counter-terrorism agenda that confirms or refutes previous authors' arguments. The chapter identifies the

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<sup>72</sup> Strauss, Anselm, and Juliet Corbin. "Grounded theory methodology." *Handbook of qualitative research* 17, no. 1 (1994): 273-285.

<sup>73</sup> Long, Shawn, ed. *Virtual work and human interaction research*. IGI Global, 2012.

<sup>74</sup> Driscoll, Dana Lynn. "Introduction to primary research: Observations, surveys, and interviews." *Writing spaces: Readings on writing* 2 (2011): 153-174.

characteristics of new terrorism, counterterrorism strategies employed by various countries, and the ethical debate surrounding the counter-terrorism strategies employed by African countries.

Chapter IV presents data relating to Kenya's experience to ethical issues in counter-terrorism after operationalized the objective to three parameters of characteristics of new terrorism, counter-terrorism strategies, and ethical debate.

Chapter V examines findings related to data collected on the objectives, critically assesses the emergent of theory and unexpected findings. The chapter further summarized the study, concludes, identify limitation encountered, provide feasible recommendations and suggest a future area of study to be done.

## **2.0 Chapter 2.0: An Assessment of the Place of Ethical Issues in the Counter-Terrorism Agenda in the 21 Century**

The purpose of this chapter is to present data relating to ethical issues in the counter-terrorism agenda in the 21 century. The chapter will present various counterterrorism strategies and show how they relate to ethical principles namely realism, deontology, consequentialism and just war. The data will also reveal how characteristics of new terrorism shape the ethical debate of a chosen counterterrorism strategy.

### **2.1 Ethical Principles of Counterterrorism Agenda Applicable to Negotiation with Terrorists**

Data collected from Sri Lanka, Israel and Pakistan related to the strategy of negotiation revealed the following:

Sri Lanka's willingness to negotiate with LTTE between 2002 and 2008 was guided by the need to end civilian casualties. LTTE has conducted at least 168 suicide attacks that had claimed the lives of at least 64000 civilians<sup>75</sup>. Data, therefore, revealed that the strategy conforms to the consequentialism ethical approach. A bad act (giving amnesty to LTTE who have killed several civilians) was necessary to prevent greater good (prevent mass casualties due to terrorist attacks). On 30 January 2002, Israel Minister Sharon initiated a negotiation with Palestine Authority intending to cease hostilities between Israel and Hamas. Hamas' position was that Israel should cease the targeted killing of its leaders. Israel, on the other hand, intended to negotiate to end frequent attacks against Israel and restore the International community's confidence that condemned Israel for excessive force used during the second Intifada war. Negotiation with

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<sup>75</sup> Fair, C. Christine. *Urban Battle Fields of South Asia: Lessons Learned from Sri Lanka, India, and Pakistan*. Rand Corporation, 2005.

terrorist was necessary to for the greater good (ending terrorist attacks in Israel and restore international community' confidence)

Pakistan's negotiation with foreign terrorist fighters in Pakistan was initiated in the Operation Al-Miza (Justice) between June 2002 and December 2003 to provide amnesty to foreign fighters either to surrender or leave Pakistan. Giving amnesty to foreign fighters was necessary to prevent the greater good, which is to prevent terrorist attacks in Pakistan. The strategy conforms with the consequentialism ethical approach to CT.

Data collected however showed that negotiation strategy was not very effective to end terrorist attacks. Data collected shows that the strategy was not effective in the sense that both government and LTTE violated the ceasefire agreement<sup>76</sup>.

The Pakistan's negotiation strategy was not effective since foreign fighters refuse to surrender or leave Pakistan compelling Pakistan to initiate 13 days Operation Kalosha in March 2004 to clear foreign fighters from Pakistan<sup>77</sup>.

Data collected showed that death increased after the 2002 Israel attempted negotiation with Hamas. 1006 Palestine and 416 Israel died compare to 488 Palestine and 215 Israel who died between 2001 and January 2002 before the attempted negotiation<sup>78</sup>. The study therefore argued that demands of terrorist groups in new terrorism are irreconcilable. The irreconcilable nature may be attributed to mistrust between government and terrorist groups. For example the Pakistani's Shakai cease-fire agreement between the government and Local terrorist groups in

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<sup>76</sup> Fair, C. Christine. *Urban Battle Fields of South Asia: Lessons Learned from Sri Lanka, India, and Pakistan*. Rand Corporation, 2005.

<sup>77</sup> Ahmed, Naeem. "Pakistan's Counter-terrorism strategy and its Implications for domestic, regional and international security." (2014).

<sup>78</sup> START "GTI" 2020

Pakistan was attributed by attempted capture of Mujahedeen leader, Nek Muhammad. Pakistan's operation Kalosha further portray government mistrust against foreign fighters who refused to leave or surrender to Pakistan.

## **2.2 Ethical Principles of counterterrorism agenda Applicable to Proscription of terrorist groups**

Data collected concerning the strategy of the proscription of LTTE, Taliban, Al Qaeda and Pakistan terrorist groups reveal the following:

Silence proscribed LTTE as a terrorist organization due to the existential threat the group posed to Sri Lanka's survival. LTTE has conducted a series of assassinations of high profile figures, destruction of infrastructures, attack on civilians, and military<sup>79</sup>. The attack on the political, military, economy, and population interests, therefore, threatens the existence of Sri Lanka. The proscription of LTTE, therefore, conforms to the realism approach to CT in the sense that state survival was therefore at stake and Srilanka need to proscribe LTTE to legitimize its destruction through the use of force.

The US proscribed Taliban and Al-Qaida groups for taking part in 9/11 terrorist attack and the August 1998 US Embassy bombings in Kenya, and Tanzania. The US interests were at stake and the proscription was therefore, intended to legitimize the use of force against the Taliban and Al-Qaeda.

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<sup>79</sup> Hoffman, Bruce. "The first non-state use of a chemical weapon in warfare: the Tamil Tigers' assault on East Kiran." *Small Wars & Insurgencies* 20, no. 3-4 (2009): 463-477.



Pakistan authority has proscribed 45 terrorist groups since 2001<sup>80</sup>. The strategy conforms with the realism approach to CT. The proscribed terrorist groups failed to surrender or seek negotiation after the groups have been designated terrorist groups demonstrate their willingness to engage the respective governments who in turn legitimize the use of force.

### **2.3 Ethical Principles of Counterterrorism Agenda Applicable to Military Counter-terrorism strategy**

Data collected related to military CT strategy reveal the following:

Sri Lanka annulled the 2002-2008 ceasefire agreement and resorted to Military counter-terrorism operations against LTTE based on the justification of LTTE renewed hostilities

Against civilians and military targets. The operation led to the defeat of LTTE terrorist groups.

Data collected shows that at least 70000 lives were lost during the CT operation<sup>81</sup>. Data collected

further revealed that during the military CT operation, LTTE stated at least 33 terrorist attacks

including 11 military targets<sup>82</sup>, Major terrorist attacks that cost lives ranging between 19 to 49

deaths occurred<sup>83</sup>. The employment of military counterterrorism therefore conformed with

realism ethical approach in the sense that Sri Lanka pursued military power to advance her

national interests in comparison to negotiation strategy that conformed to consequentialism

approach. The strategy was efficient because it led to the demise of LTTE but heavy casualties

occurred.

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<sup>80</sup> Ahmed, Naeem. "Pakistan's Counter-terrorism strategy and its Implications for domestic, regional and international security." (2014).

<sup>81</sup> Ball, Patrick, and Frances Harrison. *How many people disappeared on 17-19 May 2009 in Sri Lanka?*. Tech. rep., Human Rights Data Analysis Group and the International Truth and Justice Project, 2018.

<sup>82</sup> START "GTI" 2020.

<sup>83</sup> Ibid.

Operation Protective Edge was Israel Operation that took place from 8 July to 26 August 2014. The justification of the operation was a result of self defence against Hamas abduction and subsequently killing Israeli teenagers followed by and firing rockets<sup>84</sup>. An estimated 1462 died, 18000 housing units destroyed and 500,000-rendered IDP and 73 medical facilities damaged<sup>85</sup>. Israel responded by both ground and air offensive. The Israel strategy conforms to the realism approach in the manner in Hamas her "territorial integrity" was violated by Hamas when they entered Israel, kidnapped the teenagers and fired rockets inside Israel territory. The military necessity and proportionality were however not adhered to in the sense that collateral damage on medical facilities was not necessary. The data therefore shows that state pursue military power as the most preferred strategy and justify civilian casualties and collateral damage as unintended consequence.

On 19 March 2003, the US invaded Iraq on the justification that Saddam possessed WMD and likely to use it against the US<sup>86</sup>. despite the contrary report made by Hans Blix, the UN Chief Weapon Inspector on Iraq capability to employ WMD against the US. According to the then vice president, Dick Cheney argued, "Saddam either possessed WMD or will acquire soon and the risk of inaction far greater than action hence more compelling cause to justify pre-emption"<sup>87</sup>. According to Dick Cheney Doctrine, "in a condition of imperfect ignorance, 1% of

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<sup>84</sup>United Nations Human Rights Council. "Report of the Detailed Findings of the Independent Commission of Inquiry Established Pursuant to Human Rights Council Resolution S-21/1." (2015).

<sup>85</sup> Ibid.

<sup>86</sup> "Perspectives on Politics", *American Political Science Association* 1(1) (Mar., 2003), 5-25

: <http://www.jstor.org/stable/3687810>( accessed on 7 June 2020).

<sup>87</sup> Ibid.

knowledge is used as a basis for action<sup>88</sup>. The strategy, therefore, conforms with realism (precautionary and pre-emptive principles) approach to CT.

Pakistan Operation Silence was conducted from (from 3-11 July 2007) and it involved the siege of Lal Masjid was initiated in reaction to abduction of 200 soldiers in July 2007' by terrorists suspected to be linked Red Mosque(Lal Masjid). Data collected on the effectiveness of the operation in preventing future attacks in Pakistan revealed that the raid further radicalized Pakistan's terrorist groups and led to the formation of TTP<sup>89</sup>. Data collected further revealed that at least 171 terrorist attacks occurred between 12 July and 31 December 2007 after the operation compared to 99 attacks that occurred 6 months before the start of the operation<sup>90</sup>. This suggests that the strategy was ineffective in the short term. The military counterterrorism portrayed Pakistan realism approach to counterterrorism strategy. States pursue military power to protect her national security. The formation of TTP terrorist groups and increased terrorist attacks after the raid suggest that new terrorism is characterized by lethality and increased attacks.

#### **2.4 Ethical Principles of counterterrorism agenda applicable to Targeted Assassination of terrorist leaders**

Data collected on the ethical principle of counterterrorism agenda applicable to targeted assassination strategy revealed the following:

The US assassinated Osama bin Laden and Anwar Awlaqi in 2011. The US accused Osama of being the leader of Al- Qaeda and sanctioning attacks against US targets such as the 9/11 attack, 1998 US embassy attack in Kenya, and Tanzania hence considered a legitimate authority for

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<sup>88</sup> Stern and Wiener, 'Precaution Against Terrorism', pp.138-42.

<sup>89</sup> Ahmed, Naeem. "Pakistan's Counter-terrorism strategy and its Implications for domestic, regional and international security." (2014).

<sup>90</sup> START "GTD" 2020.

targeting. The 1998 Osama Bin Laden Speech pointed out that “acquiring WMD weapons for the defense of the Muslims is a religious duty. If I have indeed acquired these weapons, then I thank God for enabling me to do so. And if I seek to acquire these weapons, I am carrying out our duty...”<sup>91</sup>. Osama was therefore perceived to possess or possess the capacity to use WMD against the US targeted for assassination. The US strategy, therefore, conforms with the Just war approach to CT. Osama is perceived to have declared war because he was a ‘legitimate authority of Al-Qaeda, the enemy of the US ‘ The killing of Osama was also perceived to conform with last resort principle of just war doctrine because it was impossible to capture Osama alive and at no time did Osama declare the intention to surrender.

Anwar, being the leader of the Al-Qaeda in Yemen and Arab Peninsula, on the other hand, called upon terrorists to employ WMD against the US population and inspired terrorists such as Nidal and the innerwear bomber to perpetrate terrorist attacks against the US<sup>92</sup>. Anwar further inspired terrorists such as Nidal and the innerwear bomber to attack the US target. He was therefore considered legitimate authority who declared war with the US. Anwar has also never declared the intent to surrender being in the ungovernable areas of Yemen, it was unfeasible to be captured. Data collected revealed that there were at least 212 attacks in the Arab states particularly Yemen one year after his assassination compared to 79 terrorist attacks that occurred one year before his assassination<sup>93</sup>. The data suggest that the decapitation failed to disrupt AQAP

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<sup>91</sup> Auerswald, David P. "Deterring nonstate WMD attacks." *Political Science Quarterly* 121, no. 4 (2006): 543-568.

<sup>92</sup> Ackerman, Gary and Ryan Pereira. "Jihadists and WMD: a Re-evaluation of the Future Threat". *CBRNe World* .October (2014) : 27-34.

<sup>93</sup> START "GTD" 2020.

terrorist activities and leadership succession. The data further suggested that new terrorism is characterized by religious fanaticism and indiscriminate attacks.

On 23 July 2002 Israel assassinate Salah Shehadeh. Israel accused Salah of leading lethal terror attacks directed against Westbank and Gaza population<sup>94</sup>. His assassination was therefore sanctioned to reduce terrorist attacks in West bank and Gaza. The strategy, therefore, conforms with the realism ethical approach to CT in the sense that Israel's national security was being threatened. Israel, however, employed a 2000-pound bomb to assassinate Salah, which occasioned the death of his wife and at least eight children and destruction of buildings nearby. Israel justified the proportionate use of the bomb by arguing that previous small bombs were unable to kill Salah. The justification for the civilian casualties and collateral damage was that the target was postponed 8 times and that continued postponing would have caused more Israel civilian death<sup>95</sup>. The strategy further conformed with the proportional principle of last resort. Data collected revealed that West bank and Gaza strip attacks reduced to 4, six months after the assassination compared to 13 attacks that had occurred 6 months before the assassination<sup>96</sup>. The data suggest that the Israel strategy was effective though it occasioned proportional civilian death and collateral damage.

The assassinations of Beitulah Mehsud of the Pakistan Taliban, Abu Musab Al-Zarqawi leader of AQI, Mullah Abdullah Lang in Afghanistan, Yahya Ayyah, and he Hamas bomb-maker in January 1996 occurred in ungovernable spaces making their capture unfeasible. Jamal Al-Badawi the mastermind of 2000 US Cole attack was too elusive and evaded several attempts to

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<sup>94</sup> David, Steven R. *Fatal choices: Israel's policy of targeted killing*. Begin-Sadat Center for Strategic Studies, Bar-Ilan University, 2002.

<sup>95</sup> Ibid.

<sup>96</sup> START "GTD" 2020.

be captured and escape from prison. Hence, the strategy of targeting them conformed to the last resort principle of just war doctrine.

## **2.5 Ethical Principles of counterterrorism agenda applicable to Counterterrorism Cooperation**

Data collected shows that Western countries perceived to be highly democratic has embraced counterterrorism cooperation with regimes that are ranked high human rights abuse. Data collected revealed that Sudan is ranked 147, Saud Arabia 159, Egypt 137, Afghanistan 141, Pakistan 108 in the world in terms of democratic governance yet Democratic countries among others the US and the UK have partnered with these countries<sup>97</sup>. Data revealed that states are realists and will tend to gain out of the cooperation. The data confirm findings made by Lefebvre that "primary reason for cooperation is to advance national foreign policy objectives in own self-interest"<sup>98</sup>. The justification could further be attributed to the global characteristics nature of new terrorism.

## **2.6 Ethical Principles of Strategic Guidance (speeches) given by policymakers applicable to counterterrorism agenda**

Data collected on the strategic guidance given by policymakers through speeches are as shown in the table below:

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<sup>97</sup> Source; Democracy Index 2019 A year of democratic setbacks and popular protest; A report by The Economist Intelligence Unit (accessed on 7 June 2020)

<sup>98</sup> Lefebvre, Stéphane. "The difficulties and dilemmas of international intelligence cooperation." *International Journal of Intelligence and Counterintelligence* 16, no. 4 (2003): 527-542.

**Table 1: Strategic guidance by policymakers in 21-century**

Policy maker	Speech	Justification	Ethical debate (based on state's view)
France President Holland speech in reaction to the 13/14 November 2015 terrorist attack	"France is at war. The acts committed in Paris and near the State de France on Friday evening are acts of war... They are an act of aggression against our country... Meanwhile, France will step up its operations in Syria.... Yesterday I ordered 10 French fighter jets to launch airstrikes on the Daesh stronghold of Raqqa".	Justify the use of military force against ISIL in Syria	Realism, just war
British PM Tony Blair	"Don't ask about the March 2003 question but ask the 2010 question. Suppose we backed off. What we now know is that he retained absolutely the intent and intellectual know-how to restart a nuclear and chemical weapons program..."	Justify UK support for the US in Iraq invasion	Realism (precautionary principle)
Israel Northern commander Udi Adam	"This is the affair between Israel and state of Lebanon and once inside Lebanon, everything is legitimate, not just Southern Lebanon, not just the line of Hezbollah posts"	justify Lebanon Invasion and legitimizing targets within Lebanon after kidnapping and killing of Israel soldiers	Realist (self-defense, deterrence)
Speech by Donald Rumsfeld	"The harm to civilians was both unavoidable and unintended: We know that victory will not come without a cost. War is ugly. It causes misery, suffering, and death, and we see that every day."	Justify civilian casualties in the Afghanistan war as a matter of necessity	Realist, just war
Egypt President El- Asisi	"Use all brute force necessary to defeat terrorists and restore security in Sinai within three months ..." <sup>99</sup> .	Statement made in reaction to terrorist attack on Al Rawdah Sufi Mosque on 24	Realism

<sup>99</sup> Egypt Launches Massive Anti-terrorism Operation Ahead of March Election, Foundation for Defence of Democracy, February 23, 2018 (accessed on 7 June 2020).

		November 2017 that claimed 305 worshippers and wounded at least 100 people. The election scheduled for March 26-28 with El-Sisi predicted to win	
US President	"The members of terrorist networks such as Al-Qaeda and its affiliated groups are nihilistic terrorists who regard mass slaughter as a holy mission. Thousands of lives are at stake, and the United State government is rightly more concerned with protecting than with pleasing human rights activists" <sup>100</sup> .	Reaction to 9/11 terrorist attack	Realism

Source: Strategic guidance on CT strategies by Policymakers and their ethical implication<sup>101</sup>.

Data collected revealed that policymakers' worldview generally conform to realism ethical approach. All the guidance provided legitimized the use of force to defeat terrorist groups while giving less priority to human rights and principles of proportionality and distinction. Tony Blair's guidance adhered to the precautionary principles that call for pre-emptive strikes against intent and capability to employ WMD Iraq thereby conforming to the realism approach to CT.

<sup>100</sup> Bush, George W. "President George W. Bush's Address to Congress And The Nation On Terrorism." (2009).

<sup>101</sup> Tony Blair, Evidence to Chilcot Inquiry, 29 January 2010, 5http://www.iraqinquiry.org.uk/media/43909/100129-blair.pdf4(accessed on 6 June 2020).;Speech by the President of the Republic before a joint session of Parliament (Versailles, November 16, 2015);David, Steven R. "Israel's policy of targeted killing." *Ethics & International Affairs* 17, no. 1 (2003): 111-126.;Crawford, Neta C. "Just war theory and the US counterterror war." *Perspectives on Politics* 1, no. 1 (2003): 5-25.;Romany Shake, "Egypt Luanches Massive Anti-terrorism Operation Ahead of March Election, Foundation for Defence of Democracy, February 23, 2018( accessed on 7 June 2020); Bush, George W. "President George W. Bush's Address to Congress And The Nation On Terrorism." (2009).



### **3.0 Chapter 3 To analyze the experience of African countries with ethical considerations in the war against terrorism**

The purpose of this chapter is to analyze the experience of African countries with ethical consideration in the war against terrorism in both traditional and new terrorism era.

#### **3.1 African experience with ethical considerations in the war against terrorism during the old terrorism era**

Data collected reveal Sub-Saharan African rarely experienced terrorism during this era because the conflict involved liberations movements and revolutionary movements. Data collected however, revealed that between 1970 and 1994 there were at least 16 daily incidents that occasion the lives of between 100 and 388 deaths due to combat action between Liberation movements, revolutionary and government forces<sup>102</sup>. However data collected shows three incidents of terrorism by LRA (two incidents that cost 9 lives in Uganda), Islamic Arab Front for Azawad (two incidents that cost 60 lives in Mali) and Hezbollah (one incident that cost 171 lives in Niger)<sup>103</sup>.

Data collected in North Africa revealed that 648 terrorist attacks occurred before 1995 (the advent of new terrorism). Of the 648 attacks only 47 attacks (7.2%) out of 648 occurred during the cold war (before 1990)<sup>104</sup>. Most of the attacks that took place before 1990 were non-lethal (average 0-1 death per attack). Most attacks increased at the beginning of 1991 up to 1995 (the advent of new terrorism) with the highest number of death in one incident recorded as 11. In Algeria for example, there were 86 attacks in 1991, 122 attacks between 1992 and 1993, and 203

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<sup>102</sup> Study of Terrorism and Respond to Terrorism (START) 'Global Terrorism Database' (2020) update.

<sup>103</sup> Ibid.

<sup>104</sup> Ibid.

attacks in 1994. Algerian 'dark era' of ruthless counterterrorism strategies (1992-1999) might have considered 1991 as the focusing event in anticipation of the beginning of new terrorism<sup>105</sup>. Most African states, therefore, generally preferred military counterterrorism strategies to fight terrorist groups during the traditional terrorism era. The realism ethical approach was, therefore, the most preferred ethical approach during traditional terrorism.

### **3.2 African experience with ethical considerations in the war against terrorism during the old terrorism era**

This section collected data on the African experience African experience with ethical considerations in the war against terrorism during the new terrorism era. It will first present data related to the nature of new terrorism to show it will affect the ethical considerations in the employment of counterterrorism strategies in Africa.

Data collected (See table2) revealed that mass casualties and indiscriminate attacks have characterized African terrorist groups in the current new terrorism era. The data shows that the attacks occurred on diverse dates implying that major terrorists attacks are unpredictable.

**Table 2: Mass casualty terrorist attacks in Africa**

<b>Terrorist Event</b>	<b>Casualties</b>
24 November 2017 terrorist Attack on Al Rawdah Sufi Mosque in Sinai Egypt	305 killed and 100 injured
29 December 1997 terrorist attack in Algeria by GIA	412 killed
January 1997 Lokung-Palabek massacre by LRA	400 killed
August 1998 US Embassy bombing in Nairobi By AQEA	213 killed, 5000 wounded, damage to 3 buildings and adjacent two buildings
2008 Christmas massacre by LRA	896 killed, 120 children abducted
December 2009 Makombo massacre by LRA	321 killed and 250 abducted
14 October 2017 Mogadishu bombing by Al-	600 killed

<sup>105</sup> Study of Terrorism and Respond to Terrorism(START) 'Global Terrorism Database' (2020) update.

Shabaab terrorist group	
Baka Massacre in Nigeria by Boko Haram	2000 people killed, 3700 buildings destroyed, 15000 refugees

Source GTI 2019; START ‘GTD 2020

On the other hand, data collected related to the lethality of new terrorism revealed that African terrorist groups are ranked among the ten deadliest terrorist groups in the world. Al-Shabaab was the deadliest group in 2017 and the second deadliest in 2018 constituting 93% of all death in the world. Boko Haram is among the top four deadliest in the world and is responsible for 87% of all death related to female suicide bombers in the world<sup>106</sup>.

Africa terrorist groups have manifested traits of religion fanaticism terrorism. Data collected revealed that at least 7 major terrorist attacks occurred during Ramadhan between 2015 and 2018<sup>107</sup>. Burundi AMISOM forces were attacked on 26 June 2015 resulting into 70 death. 15 suicide attacks took place in Cameroon during the 2017 Ramadhan between 13-23 June while Boko Haram killed 200 civilians during Ramadhan between 25 June 8 July 2015. Global presence and decentralization nature of new terrorism have portrayed by data that showed that Al-Qaeda central is affiliated with Armed Islamic Group Morocco Islamic Combatant Group, Al Qaeda in the Arab Maghreb (AQIM), Al Qaeda in East Africa (AQEA) and Al-Shabaab while ISIL is affiliated to Al-Shabaab and Boko Haram<sup>108</sup>.

Data collected revealed that new terrorism in African context generally does not enjoy popular support but they tend to enforce it. The possible explanation is attributed to increase targeting of civilians by terrorist groups. LRA was observed to have killed at least 100,000 civilians, abduct

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<sup>106</sup> GTI 2019; START ‘GTD’ (2020)

<sup>107</sup> Ibid

<sup>108</sup> GTI 2019

over 66,000 children render over 2 million people IDPs/refugees<sup>109</sup>. Boko Haram on the other hand killed at least 22,415 civilians since her inception. Al-Shabaab terrorist group' popular support was observed to be high only between 2009-2011 but her popularity thereafter decreased to 5% (see table 8 below)

Table 3: Al-Shabaab popular support

S/NO	YEAR	POPULAR SUPPORT (%)	CASUALITY(DEATH)
1.	2005-2006	10%	20
2.	2007-2009	35%	286
3.	2009-2011	55%	364
4.	2011-2016	5%	4233

Source. START Global Terrorism Database; Jane's World Insurgency and Terrorism database; ACLED; U.S. Department of State, Country Reports.

Data collected further revealed that the lethality of new terrorism is attributed to the ability of the new terrorist groups to learn and adapt quickly. Data collected on the Indicators of adaptation and nature of terrorist groups were observed in New tactics of coordinated suicide bombings, attack on foreign targets, IEDs, SVBIEDs, and foreign fighters was therefore observed<sup>110</sup>. For example, indicator of Boko Haram learning and adaptive nature was observed when they conducted coordinated attacks on 20 January 2020 in Police HQ, Immigration service, and State security services claimed 211 people (185 police). Indicator of AQIM adaptive and learning nature was observed when AQIM staged a double suicide bombing killed 41 in Algeria on 11 December 2007. On the other hand, Indicator of GICM adaptive and learning nature was observed when perpetrated synchronized attacks by five suicide bombers in five different places within 30 minutes<sup>111</sup>. The Al Shabaab learning and adaptive nature was observed in the manner

<sup>109</sup> Riefl, Clarissa. "Video'Kony 2012'sebagai alat Invisible Children untuk mendorong gerakan sosial." (2019).

<sup>110</sup> GTI 2019

<sup>111</sup> Goerzig, Carolin. "Terrorist learning in context—the case of Al Qaeda in the Islamic Maghreb." *Critical Studies on Terrorism* 12, no. 4 (2019): 629-648.

it employ 5 coordinated suicide attacks in 2008 in Mogadishu after the death of its leader Aden Hash and the 17 September 2009 twin suicide bombing of AU HQ in Mogadishu.

Data collected related to terrorist groups claiming responsibility for their action showed that generally, terrorist groups often claim responsibilities for their action. The two exceptions however were observed. The October 2017 Mogadishu bombing and 24 November 2017 attack on Mosque in Sinai. Possible explanation of the failure of Al-Shabaab to take credit for their action could be attributed to the fact that over 600 innocent civilians died. Claiming responsibility will further isolate Al-Shabaab from popular support, which had dwindled to 5% since 2016.

### 3.2.1 Ethical Principles of Military Counterterrorism cooperation applicable to counterterrorism agenda

Data collected on ethical approach regarding counter-terrorism cooperation approach is as shown in the table

**Table 4: CT cooperation strategy in Africa**

Lead country	Countries involved	Justification	The ethical debate for cooperation
MNJTF led by Chad	Benin	Counter the spread of Boko Haram	Realist(regionalization threat to national security)
	Nigeria		
	Cameroon		
	Chad		
	Niger		
Operation Serval led by France	France	Mali existence threatened by Sahel Islamic terrorists	Realism(Preserve National security)
	Mali		
	Chad		

AMISOM supported by EU and US	Kenya Uganda Djibouti Burundi Somalia Ethiopia	Somalia existence threatened by Al Shabaab	Realism( preservation of Somali national interests) Realism(curb regionalization of Al Shabaab and hegemonic influence) The US and EU hegemonic influence
Operation Observant Compass sanctioned by AU and led by the US	Uganda, CAR, DRC, and South Sudan	Defeat LRA and curb regionalization of LRA	Realism( threat to the national security of Africa states due to regionalization of LRA Realism(Hegemonic influence of US)
Operation Bakhane led by France		CT against Islamic terrorist groups with AQIM and Boko Haram as the primary threat	Realist (regionalization of Boko Haram threat to the existence of West African States) Realism( French cooperation extension of hegemonic influence on francophone countries
	Chad		
	Niger		
	Cameroon		
	Mali		
Nigeria			

Data collected suggest that the strategy of CT cooperation conforms to realism ethical approach, State cooperate to maximize gain out of the cooperation and if possible outweigh the others within the cooperation. Operation Serval, for example, favours Mali because the threat to national existence is more pronounced than Chad. Nigeria, on the other hand, will benefit from MNJTC because they experience the most frequent attacks by Boko Haram compared to other countries. Troop Contributing countries in AMISOM such as Uganda, Djibouti, and Kenya were likely to benefit more from AMISOM (curb regionalization of Al-Shabaab) than the countries that decline the pledge, AMISOM Force. How does realism ethical approach to military counterterrorism related

Data collected revealed that despite the military counter terrorism effort in Africa, terrorist attacks still occurred. It was observed that a total of 2244 terrorist incidents (46.8 attacks per month) of which, 1053 terrorist incidents occurred in Nigeria alone) the African Union authorized the formation of Multinational Joint Task Force(MNJTC) from Nigeria, Chad, Cameroon, and Niger to conduct CT Military operation against regionalization threat of Boko Haram<sup>112</sup>. A total of 95 terrorist incidents by LRA were observed during the period of Operation Observant Compass<sup>113</sup>. It was also revealed that t after operation observant compass, LRA strike 34 times in CAR since 2017. In 2018 alone LRA abducted 218 civilians while in 2019, 9 civilians were killed while 129 abducted<sup>114</sup>.

It was observed that 86 terrorist incidents (4.8 attacks per month) occurred in Mali during the operation Serval out of which three major terrorist attacks were perpetrated by AQIM ( 30 killed on 30 March 2013), MUJAO(30 killed and 4 injured on 6 February 2014) and MNLA ( 44killed and 91 injured on 17 May 2014)<sup>115</sup>.

Data collected o the effectiveness of Operation Barkhane showed that Between 1 August 2014 to 14 February 2018(3 years 6 month), a total of 59 attacks (1, 42 attacks per month) occurred in Sahel perpetrated by AQIM of which 11attacks (4 Burkina Faso being the highest) occasioned the death of more than 10 people with major attacks cost lives of 82 and injured 115 on 18 January 2018 in Mali<sup>116</sup>. The reduction of terrorist attacks during the operation suggests that the operation was effective.

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<sup>112</sup> START GTD 2019

<sup>113</sup> START GTD 2019

<sup>114</sup> Ibid.

<sup>115</sup> START '' GTD 2020

<sup>116</sup> SART GTD 2020

Data collected on AMISOM Operations indicated that 4450 terrorist attacks perpetrated Mainly by Al Shabaab as primary perpetrators occurred between 21 February 2007 and 29 December 2018(31.34 attacks per month)<sup>117</sup>. The data therefore suggested that new terrorism is characteristics by indiscriminate and unpredictable attacks, which makes military cooperation as suitable strategy that conforms to ethical principles in order to safeguard national interests and regionalization of terrorism

### 3.2.2 Ethical Principles of Military Counterterrorism Operations by Individual states Applicable to Counterterrorism Agenda

The data collected on the ethical approach to military CT strategies by African states is as shown

**Table 5: Ethical debate on Military CT strategy in Africa**

Country	Military CT Operation	Justification	The ethical debate for cooperation
Nigeria JTF	June 2011 Operation restore order	Counter Boko haram growing threat to national security	Realism
	14 May 2013 Operation Boyona	State of emergency declared. Respond to the reign of terror in North Eastern	
	19 July 2020 Operation Lafiya Dole(Peace by Force)	Ruthless determination to defeat Boko Haram by all means	
Uganda	14 December	Pursue LRA for	Realism( use of

<sup>117</sup> START GTD 2018.



	2008 Operation LIGHTNING THUNDER	the failure to sign peace deal on 30 November 2008	military power to for national security)
	March 2002 Operation Iron Fist 1	LRA re incursion to Northern Uganda and renewed atrocities Stockpiling of arms threaten Uganda national security	Realism( LRA capability threaten national security)
	March 2004 Iron Fist 2	Preserve Human security due to increased atrocities and displacement of 800,000 IDPs 21 February Bartonyo massacre of 300 civilians	Realism( Threat to national security)
Egypt	Comprehensive Operation Sinai 2018	Preserve secured environment for Egypt Election process in March 2018 In reaction to the major terrorist attack in Al-Rawdah mosque that killed 300 Muslim worshippers	Realism( Preserve national security)

The data collected showed that states are realist and tend to employ military counterterrorism operation to preserve national security at all cost

Data collected on the Military counterterrorism strategies strategy revealed that Nigerian overwhelming force comprising of 30000 security personnel managed to split Book Haram into two groups led by Shekau and Abu Musab Yusuf Al- Barnawi. It was further observed that at

least 1737 terrorist incidents (42.4 attacks per month) occurred between 15 June 2011 and the formation of January 2015 MNJTC Headquarters in Chad<sup>118</sup>. Despite Uganda forces conducting Operation North in 1991 against LRA, it was observed that LRA lethality increased after the Operation North in 1991. They include Atiak massacre in 1995( 170-220 killed), March 1996 Karuma massacre(50 killed), The July 1996 Acholpi camps massacre(100 killed) and 1997 Lokung Palabek massacre(400killed )<sup>119</sup>.Data collected further revealed that A total of 25 terrorist incidents by LRA occurred during operation lightning thunder.

Algeria employed Long Range Surveillance (LRS), air assets, and ground troops along the border, employs search and seizure of arms and use of the drone. The operation has led to the killing of at least 500 AQIM members between 2015 and 2018<sup>120</sup>. Only seven (0.17 attack per month) attacks by AQIM took place in Algeria between 01 August 2014 to 14 February 2018 resulting in 22 deaths. The data suggest that the Algeria counterterrorism operation is the most effective military CT. The data collected therefore revealed that new terrorism is more lethal, unpredicted and causes mass casualties. In response to that, African states prefer to employ overwhelming force against terrorist groups to safeguard their national security hence they adhere to realism ethical principle of counterterrorism.

### **3.2.3 Ethical Principles of counterterrorism strategy of negotiation with Terrorist Groups Applicable to Africa Counterterrorism Agenda**

Data collected on an ethical approach to negotiation as a CT strategy is as shown.

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<sup>118</sup> START GTD 2020

<sup>119</sup> Ibid.

<sup>120</sup> Porter, Geoff D. "AQIM Pleads for Relevance in Algeria." , Combating terrorist center, (12) 3, March 2019

**Table 6: Ethical debate on CT strategy of negotiation**

Country	CT strategy	Justification	Ethical debate(base on state's view)
Uganda	1994 Gulu ceasefire	A permanent solution to no-violence in Northern Uganda	Consequentialism
	2003 ceasefire	Prevent further massacre to civilian(Atiak Karuma, Acholi and Lokung- Palabek massacre)	Consequentialism
	2006 -2008 cease fire agreement	Prevent civilian massacre and restore peace in Northern Uganda	Consequentialism
Nigeria	12 October 2016 Release of 21 Chibok girls and 6 May 2017 release of Chibok girls and 19 February 2018 release of 110 Dapchi girls abducted	In exchange of 5, Boko Haram commanders held Prisoners, military withdrawal in Boko Haram stronghold	consequentialism
	2009 Negotiation with Boko Haram initiated by Borno state Governor	Appease Boko Haram from retaliation in reaction to the killing of its leader Yusuf and other members	Consequentialism
	August 2011 Amnesty	Amnesty to surrender Boko Haram	Consequentialism
	16 September 2011 Negotiation by Boko Haram	Cessation of hostilities	Consequentialism
	17 April 2013 amnesty committee of 24 members by Good Luck		Consequentialism
	Algeria	1999 Truce	Amnesty to GIA under 1999 law o civil concord relevant after 100,000 civilian death since
Mali	Ransom negotiation and prisoners release	Release of foreigners kidnapped by AQIM <sup>121</sup>	Realism( Gain support from Western countries

<sup>121</sup> Goita, Modibo. *West Africa's Growing Terrorist Threat: Confronting AQIM's Sahelian Strategy (Africa Security Brief, Number 11, February 2011)*. NATIONAL DEFENSE UNIV WASHINGTON DC AFRICA CENTER FOR

Data collected revealed that the counterterrorism strategy of negotiation follows a consequentialism approach in the sense that states negotiated with terrorism for the common good of the country. Nigeria's negotiation with Boko Haram for the release of kidnapped girls in exchange for the Boko Haram prisoners release was arguable for the good of Nigeria as a whole. On the other hand, the ransom negotiation with AQIM in exchange for the release of foreign national kidnapped conformed to realism ethical approach in the sense that negotiation was meant to allow Mali to obtain support and confidence of foreign nationals to advance her foreign relation. Gulu agreement between LRA and government was arguably the government's tactic to exploit popular support that has been missing since the colonial period.

### 3.2.4 Ethical Principles of Counterterrorism Strategy of proscription of Terrorist Groups Applicable to Counterterrorism Agenda in Africa

Data collected on the ethical debate on CT strategy of proscription of terrorist groups is as shown below:

**Table7: Ethical debate on CT strategy of proscription**

Country	Terrorist group	Justification	Ethical debate
Uganda	Proscription of Al-Shabaab and ADF	Implicated in Kampala bombing. The threat to national security.	Realism
	Proscription of LRA	The threat to national security	Realism
Egypt	Proscription of Muslim brotherhood	Implicated on 24 December 2013	Realism
Nigeria	Proscription of Boko Haram	Legitimize state of emergence and use of force after a series of attacks by Boko Haram in North-Eastern Nigeria	Realism( legitimize the use of force for national security
	3 June 2011 PTA and MLPA	Series of domestic mass terror attacks,	Realism(national

		restore international community confidence Nigeria blacklisted underwear bomber(Nigeria citizen) implicated in failed Christmas bombing	after was when was was failed	security, International cooperation with the US to further Nigeria interests)
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Source: Author conceptualizing ethical debate on the proscription of the terrorist group<sup>122</sup>

Data collected revealed that proscription of terrorist groups occurs after a major terrorist attack. Uganda's prevention of terrorist act no 30 of 2012, gazette notice no 9662 designated Al Qaeda, Lord's Resistance Movement, Lord's Resistance Army, and Allied Democratic Forces as terrorist organization groups after the 2010 Al- Shabaab attack<sup>123</sup>. In response to the reign of terror in North-Eastern Nigeria perpetrated by Boko Haram, President Jonathan Good luck authorized the proscription of Boko Haram in June 2013 under Proscription order notice 2013 pursuant to section 2 of terrorism, Prevention Act, 2011<sup>124</sup>. Egyptian Government on the other hand proscribed Muslim Brotherhood in list of terrorist group following the deadly police HQ attack on 24 December 2013<sup>125</sup>. The data collected suggested therefore that states prefer realism ethical approach to proscribe terrorist groups to legitimize the employment of military force to project her national interests.

<sup>122</sup> Titeca, Kristof, and Daniel Fahey. "The many faces of a rebel group: the Allied Democratic Forces in the Democratic Republic Of Congo." *International Affairs* 92, No. 5 (2016): 1189-1206; The Prevention of Terrorist Act, no 30 of 2012: Terrorist Groups and Other Specified Entities, Gazette notice No 9262, No 30 Of 2012.; Bianquart, Gabrielle. "Boko Haram: Terrorist Organization, Freedom Fighters or Religious Fanatics? An Analysis of Boko Haram Within Nigeria, an Australian Perspective and the Need for Counter Terrorism Responses that Involves Prescribing them as a Terrorist Organization." (2012).; BBC " Egypt Muslim Brotherhood declared terrorist group, 5 December 2013

<sup>123</sup> The Prevention of Terrorist Act, no 30 of 2012: Terrorist Groups and Other Specified Entities, Gazette notice No 9262, No 30 Of 2012.

<sup>124</sup> Usman, Talatu. "Jonathan officially declares Boko Haram a terrorist organisation." *Premium Times* 4 (2013).

<sup>125</sup> BBC " Egypt Muslim Brotherhood declared terrorist group, 5 December 2013.

Data collected revealed that terrorist attacks continued despite the proscription of terrorist groups. For example between 25 December 2013 and 31 December 2018, 42 terrorist attacks that were perpetrated by the Muslim Brotherhood in Egypt occurred<sup>126</sup>. The possible explanation is that the proscription legitimized the use of force against terrorist groups, which in turn increased the number of civilian and military attacks by terrorist groups or due to combat action between government forces and terrorist groups.

### 3.2.5 Ethical Principles of counterterrorism strategy of Targeted Assassination of Terrorist Leaders in Africa Applicable to Counterterrorism Agenda

Data collected related to ethical debate related to targeted assassination of terrorist leaders in African counterterrorism agenda is as shown in the table below:

**Table 8: Ethical debate on targeted assassination in Africa**

Country	CT strategy	Justification	Ethical debate(base on state's view)
Somalia	The assassination of Ahmed Ayro(Al-Shabaab)	Capture not feasible	Just war(last resort)
	Assassination of Ahmed Godane ( Al-Shabaab)	Capture not feasible	Just war(last resort)
	The assassination of Saleh Nabhan( AQEA)	Capture not feasible	Just war(last resort)
Nigeria	The assassination of Yusuf Mohammed ( Boko Haram)	Captured and killed in Police custody	Unclear
Algeria	The assassination of Hassan Hatab (AQIM)	Capture not feasible	Just war(last resort)
	The assassination of	Capture not feasible	Just war (last

<sup>126</sup> START GTD 2019.

	Abdel Malek Drukdal (AQIM)		resort)
Mali	The assassination of Yahya Abu Hammam (JNIM)	Capture not feasible	Just war(last resort)
Mauritania	February 2013 Muhammed Lemim Ould (AQIM chief ideologies in Mauritania)	Capture not feasible	Just war(last resort)
	November 2013 assassination of Hassan Ould Khalil	Capture not feasible	Just war(last resort)

Source: Ethical approach to targeting the assassination of terrorist leaders<sup>127</sup>.

Data collected showed that states justify targeting killing of terrorist leaders in basis that terrorist are not committed to be captured. Hence, the strategy is perceived to be employed as last resort. Data collected on the strategy of targeted assassination revealed that the strategy was only effective against GIA in Algeria. It was observed killing of GIA terrorist leaders rendered Algerian Armed Islamic Group (GIA) ineffective<sup>128</sup>. Although Uganda has killed at least 26 LRA commanders since 1987, LRA has not been defeated 1987<sup>129</sup>. Al Shabaab leaders killed include Aden Hash Ayro on 01 May 2008 and Ahmed Abdi Godane killed on 1 September 2014 (aka Mukhtar Abu Zubair). Other local commanders killed include Mohamed Mohamud aka "Gamadhere" and Ahmed Ayman. Saleh Nabhan. Data collected revealed that total of 2242 terrorist attacks perpetrated by Al Shabaab has occurred four and a half years after the death of

<sup>127</sup> Freeman, Michael. "A theory of terrorist leadership (and its consequences for leadership targeting)." *Terrorism and Political Violence* 26, no. 4 (2014): 666-687.; Al-Qaeda in the Islamic Maghreb: Algerian Challenge or Global Threat? Jean-Pierre Filiu

<sup>128</sup> Freeman, Michael. "A theory of terrorist leadership (and its consequences for leadership targeting)." *Terrorism and Political Violence* 26, no. 4 (2014): 666-687.

<sup>129</sup> Cakaj, Ledio. "The Lord's Resistance Army of Today." (2010).

Godane<sup>130</sup>. Between assassination of Aden Ayro and assassination of Godane (6 years and 4 months), 1540 terrorist incidents perpetrated by Al Shabaab took place<sup>131</sup>. The Nigeria security forces killed the then Boko Haram leader Mohammed Yusuf and 40 members after raiding Boko Haram Head Quarter<sup>132</sup>. However, Shekau succeeded Yusuf.

### 3.2.6 Strategic Guidance by Policy Makers through the use of speeches and their implication on the ethical debate of counterterrorism strategies in Africa

Data collected strategic guidance given by policymakers through speeches and their ethical approach to CT strategies are as shown below:

**Table 9: Strategic guidance by African policymakers**

Policymaker	Speech	Justification	Ethical debate(base on state's view)
Nigerian President Muhammadu Buhari's speech during his inauguration on 1 April 2015	"I Can assure you that Boko Haram will know the collectiveness of our will!"	Justify the use of military force against Boko Haram	Realism, just war
Nigerian President Jonathan Good Luck broadcast in a Pre-recorded address broadcast on 14 May 2013	"... It would appear that there is a systematic effort by insurgents and terrorists to destabilize the Nigerian state and test our collective resolve.....The destruction of state buildings, taking of women and children hostages amount to a declaration of war and deliberate attempt to undermine the authority of Nigeria state and threaten [its ] territorial integrity.."	Legitimize the employment of hard power (military force against Boko Haram)	Just war, Realism

<sup>130</sup> START "GTD" 2020.

<sup>131</sup> Ibid.

<sup>132</sup> Ibid.



President Yoweri Museveni's speech after 7/7 Kampala bombing in 2010	The President intended to send troops to AMISOM of up to 20000 to "eliminate the hardline Islamic group.... We are going to be offensive and go for all who did this in all areas starting here"	Justify increase in military capability in terms of personnel against Al Shabaab	Realism (precautionary principle)
President Yoweri's Museveni speech on 28 May 2005 in an interview with Integrated Regional Information Network (IRIN) when he reminded them he was not a proponent of negotiation strategies	"There are those who believe in the magic of peace talks – which I do not believe in. However, I do not want to be obstructive to those who wish to pursue this avenue – if you believe you can convince evil to stop being evil, go ahead. But in the meantime, I do not want to give up my [military] option <sup>133</sup> ."	Justify the use of Military force as a solution to defeat terrorism without the possibility of negotiation	Realist(self-defence, deterrence)
Malian President Ibrahim Boubacar Keita's decree on 30 January 2020 on Operation Maliko	"counter-terrorism in the Northern and central Mali and declared the two regions as restrictive regions"	Justify the derogation of civil liberty as unavoidable in the military CT operation	Realist(Defence of national security by all means)
Secretary-General of Mali's Ministry of Defence, General Ibrahim Fane commented on 22 February 2020	"This cancer will spread far beyond here if we don't fight together to end it"	In reaction to the death of 100 soldiers by terrorists since October 2019 and his growing concern that JNIM's ever-increasing his capabilities and merger with ISIL and AL Qaeda with intention of establishing	Realism(Mali benefit more out of regional cooperation)

<sup>133</sup> Uganda: Waiting for Elusive Peace in the War-Ravaged North', IRINnews.org, 9 June 2005, [http://www.irinnews.org/report.asp?ReportID % 47568&SelectRegion % East\\_Africa](http://www.irinnews.org/report.asp?ReportID % 47568&SelectRegion % East_Africa) (accessed on 16 February, 2020).

		Caliphate in the Great Sahara.	
Mauritanian Minister of Foreign Affairs and Cooperation, Isselkou Ould Ahmed Izid Bih speech on 17 September 2017 to UNGA	"After heavy fighting in 2010 and 2010 and despite a complex regional situation, Mauritania has faced the threat of terrorism successfully. We have strengthened our defensive capabilities while respecting human rights and putting in place a policy of sustainable development"	Justify counter-terrorism operation while balancing with civil liberty and social-economic development	Consequentialism
Algerian President Abdel Madjid Tebboune speeches on Tuesday 9 June 2020 following the assassination of AQIM leader Abdel Malek Drukdal	Calls for "International cooperation against terrorism...terrorism has an international dimension and the fight against it is the responsibility of the international community"	Justify CT cooperation in the Sahel region as a solution to defeat terrorist groups such as AQIM	Realism( regional cooperation benefit Algeria)
Excerpt of Somalia President Mohammed Abdullah Farmajo's opening speech on the future of Somalia on 11 May 2017in London	"...The government needs the necessary tools to be able to defeat Al- Shabaab. For a long time, our security forces and terrorist groups have been fighting using the same type of light weapons-mostly AK 47s.....The long-standing arms embargo on Somalia severely restricts our ability to procure heavy weapons.."	Justify the use of military capabilities against Al-Shabaab through weapon system as a solution to defeat Al-Shabaab	Realism( building up of military offensive capability against Al Shabaab and ultimately his neighbors)
During the Ethiopian entry in Somalia to fight ICU, Meles Zenawi, the then Prime Minister of Ethiopia declared that	"It could take a week or maximum of two to wipe out the Islamists"	Justify defeat of ICU using the military mightly	Realism(hegemonic influence in Somalia)
President Abdel Fattah El Sisi in a speech to mark the birth anniversary of Prophet Muhammad at	"I have the will of steel in confronting savage terrorism.....the unrelenting determination in facing evil and evil people"	Military CT Operation solution against terrorist groups	Realism

International Conference Center on 7 November 2019 commented that			
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Data collected shows that most policymakers have a worldview that conforms to the realism approach when adopting CT strategies against terrorist groups. Most of the guidance legitimizes the use of the military in CT to defeat terrorist groups. Data collected further reveal that most of the decision to legitimize military force against terrorist groups occurred after a major terrorist attack has occurred.

#### **Chapter 4: Kenya's experience with ethical issues in as far as counter-terrorism is concerned**

This section collected data related to Kenya's experience in ethical issues as far as counterterrorism is concerned. The data collected depicted how the nature of traditional and new terrorism shapes counterterrorism strategies employed and the degree at which the Kenya was willing to adhere to ethical principles in counterterrorism.

##### **4.1 Ethical issues in Kenya's counterterrorism strategies during the traditional terrorism**

Data collected showed that Kenya did not embrace Counter-terrorism strategies between 1975 and before 1998 when it experienced two major terrorist attacks. The possible explanation could be attributed to the argument that the isolated terrorist attacks were economically unviable to formulate counterterrorism strategy. Another possible explanation could be attributed the fact no terrorist groups claimed responsibility for the acts. The failure by MLF and PFLP to claim responsibility may be attributed to fear of retribution against the terrorist group and their state sponsor of terrorism (in the case of PFLP). Terrorist groups in the traditional terrorism being centralized in the structure were susceptible to retaliatory attacks and decapitation of their leaders.

Taking responsibility would have justified legitimization of force against the groups by Kenya and her Israel ally. Terrorist groups did not threaten Kenya's existence. Protection of Kenya' national security against potential threat of existence was therefore considered ethical (realism approach) in itself should the situation demand so.

#### 4.2 Ethical issues in Kenya's counterterrorism strategies during the new terrorism

This section provides data that revealed how the nature of new terrorism informs policy decisions in adopting counterterrorism strategies and extent to which the policymakers are willing to adhere to ethical issues in the counterterrorism strategies.

Data collected revealed that mass casualty, indiscriminate attacks, lethality and unpredictability were the most dominant characteristics of new terrorism experienced in Kenya (see table ten below). These characteristics shape the manner in which Kenya adopts her counterterrorism strategies and ethical issues regarding the strategies.

**Table 10: Mass casualty terrorist attacks in Kenya**

Ranking	Terrorist Event	casualties	Remarks
1.	August 1998 US Embassy bombing in Nairobi By AQEA	228 killed, 4000 to 5000 wounded Damaged US Embassy, Ufundi house, Cooperative Bank, and two buildings, two to the three-block radius ((Crowe report, 1999, p.1).	Also ranked 1 in terms worth of property destruction
2.	2 April 2015 Garissa University terrorist attack	152 death, 104 injuries before over 600 hostages were rescued	Also ranked 3 in terms of potential mass casualties (600 hostages rescued )
3.	21 September 2013 Westgate Mall attack	72 killed, 201 injured, Property worth 5 Billion in insurance compensation destroyed	Also ranked 2 in terms worth of property destruction
4.	15 June 2014 attack on both AP Division HQ and Mpeketoni Town in Lamu	48 killed, 3 injured, 44 vehicles and 26 buildings burned	Also ranked 3 in terms worth of property destruction
5.	2 December 2014 Mandera quarry workers terrorist attack	36 killed	
6.	22 November 2014 Bus attack	28 killed	
7.	28 November 2002 Paradise bombing in Kikambala	16 killed, 80 wounded and Hotel extensively damage (renovated with 37 million)	Also Ranked 5 in terms worth of property destruction

8.	15 January 2019 Dusit complex terrorist attack	21 killed, 28 injured, 700 evacuated and incur losses of Insurance worth Kshs 400 million	Also Ranked 4 in terms worth of property destruction and ranked 3 in terms of potential mass casualties (700 hostages rescued)
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Source. GTD/GTI 2020

The lethality nature of these are evidence in manner in which The 1998 US Embassy bombing, West gate, and Garissa university terrorist attacks were ranked 3<sup>rd</sup>, 8<sup>th</sup>, and 9th worst terrorist attacks globally in during their respective years. Further evidence of lethality nature is manifested in the Kenya's global ranking. Kenya is averagely ranked position 20 globally having attained the following positions between 2011 and 2019: 18(2011), 12 (2013), 18(2014), 19(2015), 22(2017), 18(2018) and 22(2019)<sup>134</sup>. All the major attacks occurred randomly and unpredictable dates which did not portray any symbolic significant.

In reaction to the US Embassy bombing of 1998 and 2002 Paradise hotel bombing in Kikambala, Kenya enhanced counter-terrorism Cooperation with the US, Kenya formed National Security act 11 of 1998 which commenced on 19 January 1999 ,closed of six Islamic NGO foundations linked with Al-Qaeda and introduce Suppression of Terrorist in 2003 .The bill was enacted on 14 October 2012 that legalize rendition and impose a 30-year term of imprisonment for financiers and sympathizers, 20 years term for being I possession of terrorism-related paraphilia and criminalize cats carried out for the commission of the terrorist act in foreign

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<sup>134</sup> Index, Global Terrorism. "Measuring the impact of terrorism." *Institute for Economics & Peace. November. URL: <http://visionofhumanity.org/app/uploads/2018/12/Global-Terrorism-Index-2018-1.pdf> (accessed: 04.02.2019) (2020).*

states<sup>135</sup>. The indiscriminate and unpredictable nature of terrorism revealed that 159 terrorist attacks occurred prior to the West gate Mall attack in 2013.

In reaction to major terrorist attack against Westgate Mall attack Kenya introduced two counterterrorism strategies of reforming urban refugees and operation Eastleigh Sanitization. On 25 March 2014, Government closed all urban refugee camps in Malindi, Nairobi, Mombasa, Isiolo, and Nakuru and ordered all refugees to relocate to Kakuma and Dadaab for registration<sup>136</sup>. All refugees residing outside Kakuma and Dadaab camp were ordered to relocate to the camps<sup>137</sup>. The strategy aimed at preventing Al Shabaab's potential recruitment after the refugee camp was identified to be involved in a series of attacks in Garissa, Nairobi, and Mombasa.

On 5 April 2014, the government launched security operations nicknamed Operation Sanitization in the general area of Eastleigh estate to flush out illegal immigrants, Al-Shabaab, search for weapons and disrupt Al-Shabaab terrorist activities<sup>138</sup>. The operation was later on stopped due to non-compliances with law, respect for the rule of law, democracy among

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<sup>135</sup> Kibaki signs historic Anti- terrorism Bill', Standard Digital, 14 October 2012( Accessed 2 July 2020)

<sup>136</sup> Kumssa, Asfaw, James Herbert Williams, John F. Jones, and Eric A. Des Marais. "Conflict and migration: The case of Somali refugees in Northeastern Kenya." *Global Social Welfare* 1, no. 4 (2014): 145-156.

<sup>137</sup> Ombati, C 'Refugees Ordered to Relocate to Kakuma, Dadaab camps as Urban Registration Centres Shut', *The Standard*, 25 March 2014(Accessed 2 July 2020)

<sup>138</sup> Independent Policing Oversight Authority(IPOA): *Monitoring Reports on Operation Sanitization Eastleigh Publically Known as "Usalama Watch"* (Chairman Macharia Njeru, 14 July 2014)

others<sup>139</sup>. Data collected on the effectiveness of the counter-terrorism strategy and reduction of terror attacks revealed that 76 attacks took place including Mpeketoni Attack (8.33 attacks per month).

In reaction to Mpeketoni attack, the government imposed curfew in Lamu County.<sup>140</sup> The Curfew was further extended to 25 January 2015 siting insecurity<sup>141</sup>. Data collected shows that after the imposition of a curfew on 15 June 2014 and before the extension of curfew by one-month o 25 December 2014, there were 12 terrorist attacks sin Lamu that cost 51 death (2 attacks per month and 8.5 deaths per month). Data collected further shows that there were three attacks in Lamu between 25 December ads 25 January 2015 (three attacks per month).

Operation Linda Boni is a multi-agency operation that was officially launched in September 2015 in reaction to the Mpeketoni attack and thereafter series of terrorist attacks in Lamu and to counter Jaysh Ayhman, Al-Shabaab based Lamu terrorist group that with sanctuaries in Boni since June 2012. Data collected shows that there were a total of 67 terrorist attacks (1.68 attacks per month) in villages covered by Operation Boni compared to 237 terrorist attacks that occurred in Kenya from September 2015 to 15 January 2019 Dusit attack (28.27 %). Data therefore reveal that unpredictable nature of major terrorist attacks informed policy decision to employ counterterrorism strategies.

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<sup>139</sup> Independent Policing Oversight Authority(IPOA): *Monitoring Reports on Operation Sanitization Eastleigh Publically Known as "Usalama Watch"* (Chairman Macharia Njeru,14 July 2014)

<sup>140</sup> Nation Reporter, 15 Killed in Fresh Mpeketoni attack, Daily Nation, June 17, 2014

<sup>141</sup> Standard Reporter "Interior CS Joseph Nkaisserry extends Lamu Curfew to January 25. Standard, January 15,2015 (Accessed 3 July 2020)



Data collected indicated that there was one counter-terrorism strategy implemented after quarry attack and before the Garissa University attack, which is Security (amendment) Act 2014. On 22 December 2014 President Uhuru signed into law the security laws(Amendment) Act 2014, a set of provisions that alter 20 existing laws to further strengthen Kenya's legislative framework to fight terrorism. Data collected further showed that 10 attacks after the signing of the security act and before the Garissa University Attack (2.5 attacks per month).

Data collected shows that in reaction to Garissa University attack and before Dusit, 6 counter-terrorism strategies were instituted namely Kenya-Somalia wall construction, imposition of curfew, Government amnesty to Kenyan Al-Shabaab youth, proscription of terrorist groups, banning of suspected financial organization and bounty. In reaction to Garissa attack, and series of major and minor attacks occurring in Kenya particularly Lamu, Nairobi, Wajir, Tana River, and Mandera County, the construction of 700km Kenya-Somalia border was officially initiated on 14 April 2015. Data collected shows that a total of 268 terrorist attacks since the commencement of the security wall and Dusit attack in Nairobi. 207 attacks out of 268 (77%) occurred in the counties bordering the Kenya-Somalia border<sup>142</sup>.

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<sup>142</sup> Levy, Ido, and Abdi Yusuf. "How Do Terrorist Organizations Make Money? Terrorist Funding and Innovation in the Case of al-Shabaab." *Studies in Conflict & Terrorism* (2019): 1-23.; Matthews, Earl G., and Paul Rexton Kan. *Cutting Off the Spigot: A New Strategy for Combating Al-Shabaab*. US Army War College, 2016.; Keatinge, Tom, and Royal United Services Institute for Defence and Security Studies. *The role of finance in defeating Al-Shabaab*. RUSI, 2014).ng the security wall construction( Mandera.Wajir, Garissa, and Lamu counties).

The government imposed curfew in Garissa immediately after the Garissa University attack and was extended to cover Wajir, Tana River, and Mandera<sup>143</sup>. The ban was lifted during the 2015 Ramadhan (17 June to 16 July 2015). Data collected shows that 20 (eight attacks per month) terrorist attack occurred in Garissa, Wajir, and Mandera during the imposition of curfew.

On 7 April 2015, the Inspector General (IG) of Kenya policed invoked section 3 of the Prevention of Terrorist Act (POTA), published in the Gazette Notice No 3 2326 and proscribed organizations namely Al Qaeda, Al-Shabaab, ISIS, Boko Haram, and MRC as terrorist groups<sup>144</sup>. Data collected shows that No MRC attack took place after the 7 April Proscription compared to 12 attacks that occurred before the proscription.

The CBK revoked 13 money Remittance Providers (MRPs) located in Nairobi as one of the counter-terrorism efforts to prevent financial terrorism after the 2 April 2015 Garissa University terrorist and frozen 86 entities including individuals suspected of facilitating terrorist attacks in Kenya<sup>145</sup>. Data collected failed to obtain direct impact but the equity bank raid in Elwak on 23 June 2017 may be interpreted as an indicator of raising funds to compensate Al-Shabaab dwindling financial sponsorship<sup>146</sup>.

Data collected Between 2 April 2015 and December 2017 Indicate that the Government of Kenya offered over 300 million bounties for information leading to the capture or killing of 35

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<sup>143</sup> Abdi Malik Hajir 'No word from Police IG over fate of curfew imposed after Garissa attack, Daily Nation, April 21, 2015.

<sup>144</sup> Republic of Kenya 'The Kenya Gazette', CXII-36, Nairobi, 07 April 2015.

<sup>145</sup> Daily Nation 'Bus companies linked to aiding terrorism stripped of insurance', April 9, 2019.

<sup>146</sup> Levy, Ido, and Abdi Yusuf. "How Do Terrorist Organizations Make Money? Terrorist Funding and Innovation in the Case of al-Shabaab." *Studies in Conflict & Terrorism* (2019): 1-23.; Matthews, Earl G., and Paul Rexton Kan. *Cutting Off the Siphon: A New Strategy for Combating Al-Shabaab*. US Army War College, 2016.; Keatinge, Tom, and Royal United Services Institute for Defence and Security Studies. *The role of finance in defeating Al-Shabaab*. RUSI, 2014).

most wanted terrorists among them Ahmed Imam (2 million Mohammed Kuno aka Garmadere(20million). Although Al-Shabaab terrorist leaders such as Muhammed Kuno and Ahmed Ayman have been killed. There was no data to suggest that the employment of bounty has had an impact on capturing or killing of Al-Shabaab leadership.

#### 4.2.1 Ethical Principles Applicable to Kenya's counterterrorism strategies

The degree of which counterterrorism strategies in Kenya adhered to certain ethical principles is informed by the nature of new terrorism. The sample of counterterrorism strategies and the ethical principles associated with them are as shown in tables below:

##### 4.2.1.1 Ethical debate on hard power CT strategies during the new era of terrorism

Data collected on the ethical debate on hard power CT strategies are shown in the table below.

**Table 11: Ethical debate on hard power CT strategies in Kenya**

CT Strategy	Justification	Ethical Debate
2007 Border closure	Prevent terrorist from infiltrating to Kenya under the guise of refugees	Realism(national security protection against the internationalization of terrorism from Somalia)
Operation Sanitization in Eastleigh	Apprehend suspected Al-Shabaab operatives and sympathizers Major terrorist attacks such as Westgate linked partly to East Leigh	Realism ( National security against domestic terrorism/threat)
Operation Linda Boni	Disrupt Terrorist group sanctuaries in Boni In reaction to the Mpeketoni attack and series of attacks in Lamu	Realism ( Jaysh Ahmani threat to national security and counter likely spread from Lamu to other counties)
Closure of Urban refugees center and relocation to Kakuma and Dadaab	Urban refugees suspected involvement in terrorist attacks in major towns. For easy of accountability of refugees.	Realism ( national security priority compared to refugee well-being)
Operation Linda Nchi	Pursue Al Shabaab groups in their sanctuaries. In reaction to kidnapping of foreign workers.	Realism (damage to the national economy(tourism) and preservation of national security)

Imposition of curfew	In reaction to major terrorist attacks	Consequentialism(deter terrorist while sacrificing civil liberty through restriction of movement and confinement in one area
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States generally prefer hard power CT strategy as the best strategies to defeat terrorist groups in a short time. The state will also be willing to protract hard power CT strategies at the expense of national security thereby suggesting that hard power strategies conform to realism ethical debate. The 2007 border closure was aimed at safeguarding national security by preventing regionalization of terrorism from Somalia.

#### 4.2.1.2 Ethical Debate on Kenya anti-terrorism legislation and Soft Power approach

Data collected on the ethical debate on Soft power CT strategies are as shown in the table.

**Table 1: Ethical debate on Soft power CT strategy in Kenya**

CT Strategy	Justification	Ethical Debate
Proscription of MRC	Disrupt MRC agenda for secession	Realism (Secession agenda threaten the existence of Kenya)
Proscription of Al Shabaab	Legitimize CT Operation against the group	Realism( Threat to national security, pursue national security through military power)
2012 enactment of prevention of terrorism law	legalize rendition and impose a 30-year term of imprisonment for financiers and sympathizers, Impose 20 years term for being in possession of terrorism-related paraphilia and criminalize cats carried out for the commission of terrorist activities in foreign states <sup>147</sup> .	Consequentialism; Harsh punishment deter being AS operatives

<sup>147</sup> Kibaki signs historic Anti- terrorism Bill', Standard Digital, 14 October 2012( Accessed 2 July 2020)

December 2014 enactment of security laws(amendment ) act 2014	In reaction to Garissa attack and to stiffen the laws against terrorists Legalize rendition	Realism(preserve national security against further major terrorist attacks, deter foreign terrorist fighters from committing terrorist acts in Kenya)
2015-2017 Bounty on terrorist head	a. Reinforce reward to the population in supporting the war on terrorism b. Make terrorists aware that they are being targeted c. Legitimize use of force if terrorists fail to surrender	Just war( last resort principle)
2015 Amnesty to	Reintegrate Al-Shabaab into society and reduce terrorist attacks	Consequentialism
The banning of and freezing of assets to suspected financial institution and financiers of Al Shabaab	In reaction to the funding of Garissa attack Disrupt terrorist financial system and reduce their operation	Realism( disrupt Al-Shabaab operation and reduce attacks in Kenya)

Data on the ethical debate on the soft power approach revealed that states still conform to realism ethical approach when instituting soft power strategies. Although previous data found no relation between the effectiveness of bounty strategy with reduction of terrorist attack, the strategy conforms to last resort principle of just war in the sense that targeting killing of terrorist leaders only occurred as the last resort if bounty failed to succeed in capturing them. The strategy of amnesty conforms to the consequentialism approaches because the government decision of pardoning Al-Shabaab terrorists who have perpetrated terrorist acts so that they can prevent further attacks in Kenya. On the other hand, proscription of MRC arguably conforms to realism ethical principles because the MRC's secession agenda threaten Kenya's existence. States are realists and consider preservation of their national security morally right.

#### 4.2.1.3 Strategic guidance by policymakers issued through speeches

Data collected on five strategic guidance issued by policymakers through speeches are shown in the table below:

**Table 2: Strategic guidance by Kenya policy makers**

Policymaker	Speech	Justification	Realism(base on state's view)
Internal Security Minister George Saitoti comment on 15 October regarding Kenya's entry to Somalia	"Government has decided to take robust measures which also include aerial bombing raids on Somalia target to preserve the integrity of the country following a series of provocations by Al-Shabaab militia" <sup>148</sup> .	Al-Shabaab acts constituted acts of war	Realism(preservation of national security)
President Uhuru's speech in reaction to the killing of Government official by Al-Shabaab in Lamu	"Kenya will use deadly force against suspected Islamist militants...we shall bury them. The fire must be met with fire...I have no apology in taking tough measures we are taking" <sup>149</sup> .	Act of kidnapping and killing of government official amount to acts of war	Realism(pursue national security through hard power)
President Uhuru's speech during routine security brief in Mombasa	"We will respond robustly by mounting the operation against the operatives and sleeper cells especially in the North-Eastern and Coast...Illegal deals fund Al-Shabaab. I also expect more on dealing with the sponsors and recruits" <sup>150</sup> .	Legitimize domestic counter-terrorism against false flag operation	Realism(Preserve national security against domestic threat)

<sup>148</sup> Capital "Kenya Forces enter Somalia", November 1, 2011 (Accessed 7 July 2020)

<sup>149</sup> George Obulutsa "Kenya's President says will hunt down Islamist attackers", Reuters, July 17, 2017 (Accessed 7 July 2020).

<sup>150</sup> Muhammed Ahmed "Uhuru Signals anti-terror sting operations", Daily Nation, 17 January 2020 (Accessed 7 July 2020)

The late Assistant Minister for internal security, Orwa Ojode guidance on targeting Eastleigh as the centre for Al-Shabaab recruitment	"The war against the militant is like fighting a big animal with its main network in Kenya and only a fraction of it extending in Somali. This is a big animal with its head in Eastleigh, Nairobi, and its tail in Somali" <sup>151</sup> .	Legitimize counter-terrorism operation against false flag operation	Realism( Preserve national security against domestic threat )
President Uhuru' comment after June 2014 Mpeketoni attack	"The attack in Lamu was well planned, orchestrated and politically motivated ethnic violence against a Kenyan community to profile them and evict them for political reasons. This, therefore, was not an al-Shabaab attack" <sup>152</sup> .	Legitimize counter-terrorism operation against false flag operation	Realism( Preserve national security against domestic threat )

Data collected revealed that Kenya policymakers' worldviews conforms to realism ethical approach when deciding on the suitable CT strategies to be adopted against terrorist groups. A total of 60% of policymakers feels that CT strategies that conform to the realism ethical approach are the suitable to address terrorism perpetrated through false flag operations.

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<sup>151</sup> Ibid.

<sup>152</sup> Burchard, Stephanie . 'Kenya: The Mystery Behind The Lamu Attacks-Terrorism or Politics', *Africa Watch*, 3 July 2014( Accessed 7 July 2020).

## **5.0 Chapter 5: Findings, Summary, and Conclusion**

### **5.1 Findings**

This chapter examines the findings relating to the data collected on the objectives of the research, theory, and hypothesis

#### **5.1.1 To assess the place of ethical issues in counter-terrorism agenda in the 21 century**

The first objective of the study sought to assess the ethical issues in the counter-terrorism agenda in the 21 century. Findings were grouped into three parameters namely characteristics of new terrorism, counter-terrorism strategies and ethical debate of counter-terrorism strategies

The research obtains the most interesting findings on the characteristics of new terrorism, which represent the 21-century terrorism. Mass casualties, lethality, global presence, and decentralization and the unpredictable nature of terrorist attacks were found to be the most dominant characteristics of new terrorism. At least six major attacks that cost lives between 600 and 3000 were recorded. 9/11 was the most lethal terrorist attack in the world followed by the Baqa massacre that claims over 2000 death in Nigeria. Taliban, ISIL, Khorasan, Boko Haram, and Al-Shabaab were observed to be the deadliest terrorist groups. In all the major attack that has occurred since the late 1990s, there were no micro indicators of warning intelligence to counter the threats suggesting that major attacks are unpredictable. Findings related to global presence shows that ISIL has attacked at least 28 countries while Al Qaeda 12. Contrary to the finding, LRA and Jemmah Islamiya were found to be highly centralized yet their survivability has not



been threatened though scholars such as Sageman view that the JI may susceptible to future decapitation due to their centralized nature<sup>153</sup>.

Religious motivation/fanaticism terrorism was observed to be Islamic dominant due to the majority of terrorist groups' prophecies Islamic religion with 93 % of all attacks perpetrated by Terrorist groups that prophecize Islamic faith (GTD 2020).

Findings relating to counter-terrorism strategy employed in 21 century were also manifested. Military counter-terrorism operation is the most preferred strategy. A possible explanation is that countries are arguably realist in nature and pursue national interest through power projection. Further findings show that the military counter-terrorism operation through bilateral and regional and international cooperation is preferred. Possible explanation is that states are realist in nature and may exploit gains to outweigh other states from the cooperation. Proscription of terrorism by states may be interpreted to mean that there is a possibility that the strategies aimed at legitimizing the use of force against the terrorist group and seek international support (finding may not be replicable to all states). Most states proscribed terrorist groups after major attacks have occurred in their respective countries. Once again the explanation could be attributed to the need to justify the use of force (realist view). It was found however that Pakistan despite proscribing 45 terrorist groups, has not proscribed Jama'atud-Dawa (JuD – former LeT) yet it was arguably perpetrated the 2008 Mumbai terrorist attack. The possible explanation could be attributed to a realist view of Pakistan whose objective is to destabilize her neighbor India hence support any effort to destabilize India through false flag operations. It is important to bear in

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<sup>153</sup> Marc Sageman, *Understanding Terror Networks* (Philadelphia: University of Pennsylvania Press, 2004).

mind that accusations and counter-accusations of false flag operations have constantly been manifested between Pakistan and India.

The general finding shows that effective military counter-terrorism operations may be inversely proportional to the civilian casualties. In justifying civilian casualties in the ongoing war on terror Rumsfeld commented that

“the harm to civilians was both unavoidable and unintended: We know that victory will not come without a cost. War is ugly. It causes misery and suffering and death, and we see that every day. And brave people give their lives for this cause, and, needless to say, innocent bystanders can be caught in crossfire...<sup>154</sup>”

Further finding generally shows that decapitation of terrorist leaders have generally reduced terrorist attack but not disrupted terrorist leadership succession. Iraq and Somalia provide a good illustration of AQI and Al Shabaab leadership succession and terrorist retaliation after terrorist leaders were assassinated. Srilanka and Algeria were found to be exceptional in that they succession disrupted LTTE and GIA and subsequently lead to their demise. However, the two countries employ military force and ruthlessly suppress the terrorist group resulting in several civilians killed in Combat.

Contrary to most countries' policies of non- negotiation with terrorists, it was surprising to note that some states have negotiated with terrorist groups. The 2002-2008 Srilanka's cease-fire agreement with LLTE and UK good Friday agreement with PIRA provides a good illustration.

Findings related to the Ethical debate on 21-century counter-terrorism has had some mix results

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<sup>154</sup> Crawford, Neta C. "Just war theory and the US counterterror war." *Perspectives on Politics* 1, no. 1 (2003): 5-25.

Analysis of the six strategic guidance through the use of speech by various political leaders in the world finds that political leaders advance world view that conforms with the realist approach. The military counter-terrorism operation was, therefore, a dominant strategy employed to advance the world view. The finding of the study shows Proscription of terrorist groups conforms with the ethical debate of realist view in the sense that prescription legitimizes the employment of force against terrorist group whom after the prescription is considered an enemy of the state.

In this study, Negotiation with the terrorist group was found to be generally conforming to the ethical debate of consequentialism. Consequentialism in the sense that the action of negotiation may be necessary if it produces the best desirable result of preventing further mass killings of innocent civilians. A good illustration is a negotiation between Pakistan government and foreign fighters during operation Al Miza to persuade them to leave or surrender to Pakistan to prevent further terrorist attacks. The Israel negotiation with Hamas and the Pakistan deceptive negotiation with terrorist during Shakai agreement to capture the local terrorist leader

Findings indicated that the targeting of terrorist leaders conforms with perceived just war principle of last resort and proportionality. Last resort in the sense that states argued that it is impossible to capture terrorist leaders alive due to their elusiveness or suicidal tendency. Proportionality in the sense that state perceived collateral damage and civilian casualty as unintended and proportionally compared to the value of the target. The assassination of Salah with a 2000 pound bomb also occasion the death of his wife and other civilians.

Counterterrorism cooperation strategy was found to conform with the realist view in which the state has interests and tend to benefit from the cooperation. The global presence and decentralization of transnational terrorism have led to internationalization and regionalization of

terrorism and states survival being crucial will tend to cooperate to limit the threat of these terrorist groups against threatening national security.

### **5.1.2 To analyze the experience of African countries with ethical consideration in the war against terrorism**

The second objective of the study focused on analyzing the experience of African countries with ethical considerations in the war against terrorism. The objective was operationalized into three parameters namely characteristics of new terrorism, counter-terrorism strategies, and ethical debate of counter-terrorism strategies in the African context.

The finding shows that characteristics of new terrorism were replicated in African states in various ways Findings indicate at estimated 7 incidents of mass casualties between 1997 and 2019 that involved over 300 death occurred. 2015 Baka massacre by Boko haram(2000death), 2008 Christmas massacre by LRA(896 death), and October 2017 Mogadishu bombing by Al – Shabaab(600 death) respective the highest mass casualties in the world.

Lethality of new terrorism in Africa has been surprisingly among the highest in global terrorism. 2015 Baqa massacre and 2017 Mogadishu bombing were the deadliest terrorist attacks in the world. Between 2012 and 2018, Boko Haram was among the top four terrorist groups in the world that contribute to about 29% of all death in 2012 and 57.8% death in 2018. Al Shabaab, on the other hand, was the deadliest terrorist group in 2017 and reverted to position 2 In 2018 and currently ranked 6 in the world. Boko Haram is ranked 4 in the world and is responsible for 87% of all death by female suicide bombers in the world. LRA, on the other hand, is the cruelest and enduring terrorist group in the region.

The finding related to the unpredictable nature of terrorists in Africa s confirms that most major terrorist attacks in African states occur on diverse dates and randomly. The emergent behavior of

female suicide bombers that contributed to 87% of all deaths by female suicide bombers in the world occurred unexpectedly. The 24 November 2017 attack in Egypt against Muslims in a mosque came as a surprise since Terrorist groups in Egypt are known to attack Coptic Christian targets.

The presence of AQEA, AQIM affiliates of Al Qaeda, Al Qaeda merger with Al-Shabaab with GICM and Boko Haram reveal the global nature of transnational terrorism. Regionalization of African terrorism is also manifested in the Boko Haram attacks in Cameroon, Mali, Nigeria, Chad, and Niger. AQIM has extended her attacks from Algeria to Mauritania, Chad, Mali, Burkina Faso, and Libya while Al-Shabaab has extended her attacks beyond Somalia to Kenya, Uganda, and has attacked Ethiopia and Burundi, US and Turkey (in Somalia soil). Findings show that two terrorist groups in Africa namely GIA and LRA portrayed centralized leadership instead of a centralized approach. Islamic Group (GIA) of Algeria collapsed when it changed its structure from decentralized to the centralized organization<sup>155</sup>. LRA has however survived disruption for 30 years despite being a centralized terrorist organization. A possible explanation could be the LRA has exploited ungovernable spaces and protracted conflict within the region. This supports the statistics that 95% of all terrorist attacks occurred in conflict areas and terrorist attacks in conflict areas increased 3 times than in non-conflict areas. Findings related to popular support indicate that only AQIM enjoy popular support in Libya.

Findings show that religiously motivated terrorism is more pronounced in Africa. Africa recorded 60% (3 out of 5 major attacks) of major terrorist attacks that occurred during the month of

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<sup>155</sup> Freeman, Michael. "A theory of terrorist leadership (and its consequences for leadership targeting)." *Terrorism and Political Violence* 26, no. 4 (2014): 666-687.

Ramadhan. Further findings show that Boko haram killed 200 people between 25 June to 8 July (33.33 attacks per day) while Cameroon experience 15 suicide attacks by Boko Haram during 2017 Ramadhan between 13 to 23 June 2017(1.5 attacks per day).

Contrary to the general findings that terrorist groups in new terrorism era that takes credit for their action, there were six incidents in which terrorist failed to take responsibility for their terrorist action in Africa. The possible explanation for example for AL Shabaab refusal to take credit for 14 October 2017 terrors attack that claims 600 lives in Mogadishu may be attributed to too many civilian casualties that may add to the dwindling popular support which stand at 5% at 2016.

Finding related to counter-terrorist strategies in Africa have been manifested. Finding relating to Proscription of terrorist organization generally indicate that except for Morroco, African states have generally proscribed terrorist groups as a form of counter-terrorism strategies

Proscription as a counter-terrorism strategy alone has not reduced terrorist attacks. For example, a total of 42 attacks occurred after the proscription of Muslim brotherhood and before 25 December 2018 <sup>156</sup>.

General Findings relating to the strategy of Negotiation with terrorist groups shows that African states such as Algeria Nigeria, Mali, Uganda have negotiated with terrorists at least twice. Aid workers in Somalia negotiate with Al Shabaab to access the area controlled by Al Shabaab. Mali negotiation generally focused on the release of foreign nationals in change for ransom and the release of terrorist-held prisoners. Finding related to Targeting of terrorist leadership reveal the

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<sup>156</sup> START GTD 2019.

strategy was only successful against GIA leadership because it led to the demise of the terrorist organization. The assassination of Al Shabaab leaders has not disrupted the leadership succession of the group. Shekau took over Boko Haram leadership after the killing of Boko Haram leader Muhammed Yusuf while at least 26 LRA commander have been killed but Joseph Kony managed to replace them

Finding related to counter-terrorism cooperation in Africa reveal that regional counter-terrorism strategies with strong association between African states and West such as the UK, France and the US. Possible explanation attributed to the realist view (state survival) in which states form cooperation to prevent regionalization of terrorist groups and also advance their interest in international relations. Nigeria, for example, tends to benefit more from MNJTF because they are the most affected by Boko Haram. Mali benefits from operation Serval and Bakhane because they are mostly hit by the terrorist group and its existence threatened.

An interesting finding pointed out Mauritania has not been attacked since 2011. Declassified document from the US links the association between the absence of terrorist attacks by AQIM to false flag operation in which Mauritania paid between 10 to 20 million Euros to Al-Qaeda to allow AQIM shift her focus to Algeria. The release of AQIM operative, Sidi Muhammed in 2015 unconditional was linked to the false flag operation. The association suggests an existence of weak link which require further declassification of documents.

Findings related to Military counter-terrorism indicated that this strategy was the most preferred. However, like the proscription of terrorist organizations, the strategy was observed to be reactive. Major military operations have been conducted concerning major terrorist attacks. Employment of military counter-terrorism strategy was attributed to the realist view in which states pursue national interest through the projection of military force. The surprising finding

shows that effective military counter-terrorism has been associated with an increased number of civilian casualties due to combat engagement and increased terrorist attacks. The demise of GIA was attributed to ruthless suppression of GIA between 1992 and 2000 in which over 100,000 civilians died. In the words of AQIM leader Abdelmalek Droukdel in 2017 interview regarding the implication of the dark decade on AQIM's effort in Algeria

“That particular phase..was very dark and painful in its own right, and also because of the negative imprints it left on the innocent victims of the crime committed by the despotic regime or the deviant extremist remnants of Armed Islamic Group<sup>157</sup>”

Findings related to the Ethical debate on African counterterrorism strategies reveal several operations. Analysis of the 11 strategic guidance through the use of speech by various political leaders in Africa found that their world view conforms with the realist approach. 10 out of 11 speeches support military counterterrorism operations against the terrorist group as the main strategy to defeat terrorism.

The finding of the study shows Proscription of terrorist groups and enactment of anti-terrorism legislation in Africa conforms with the ethical debate of realist view in the sense that proscription legitimizes the employment of force against terrorist group whom after proscription is considered an enemy of the state. Further finding shows the Proscription and enactment of anti-terrorism laws by states conforms with the realist view as a form of counter-terrorism cooperation with Western states to either gain financial support or win international confidence.

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<sup>157</sup> Porter, Geoff D. "AQIM Pleads for Relevance in Algeria." *CTC Sentinel* 12: 32-36.



In this study, Negotiation with the terrorist group was found to have a mixed ethical debate of realism, consequentialism. For example, ransom negotiation between Mali and AQIM to release foreign nationals conforms with realism view in the sense that Mali intended to restore confidence and also improve future relations with affected foreign countries. One exceptional finding from the Gulu cease-fire in Uganda was observed. Gulu cease-fire may be interpreted to mean Government effort to gain the lost popular support that has been missing since the British colony in Uganda. The study, therefore, interprets the finding to conform with Mystic Diamond theory developed by Gordon McCormick and it explains the interaction between population, terrorist group, government forces, and external linkage<sup>158</sup>. The central idea of the mystic diamond approach is that the part which possessed information superiority or the side which discerns and resolves its information disadvantage quickly may emerge the winner<sup>159</sup>.

Findings indicated that the Targeted killing of terrorist leaders conforms with perceived just war principle of last resort and proportionality. Targeting killing is viewed as a resort in the sense that states argued that it is impossible to capture terrorist leaders alive due to their elusiveness or suicidal tendency. Counterterrorism cooperation as an Africa CT strategy was found to conform with the realist view IN which state has interests and tend to benefit from the cooperation. Nigeria and Mali tend to benefit more from MNJTF and operation Serval since they experience most terrorist attacks than the rest of the coalition.

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<sup>158</sup> Freeman, Michael, and Hy Rothstein. *Gangs and guerrillas: Ideas from counterinsurgency and counterterrorism*. (No. NPS-DA-11-001. (Naval Postgraduate School Monterey CA Defense Analysis Dept, 2011).

<sup>159</sup> Ciolponea, Constantin-Adrian. "Counterinsurgency Strategy Principles And Practical Applications." In *International Scientific Conference "Strategies XXI"*, vol. 1, p. 166. "Carol I", (National Defence University, 2013).

### **5.1.3 To critically analyze Kenya's experience with ethical issues in as far as counter-terrorism is concerned**

The third objective of the study was to critically Kenya's experience with ethical issues as far as counter-terrorism is concerned. The objective was operationalized into three parameters namely characteristics of new terrorism, counter-terrorism strategies, and ethical debate of counter-terrorism strategies in the Kenyan context.

The finding shows that the characteristics of new terrorism were replicated in African states in various ways. The findings show that nearly all major terrorist attacks in Kenya (99.6%) occurred in the era of new terrorism suggesting the dominant characteristics of mass casualties and lethality. Findings indicate that 8 terrorist incidents occasion mass casualties between 1998 and 2019. 1998 US Embassy bombing and the 2015 Garissa University attacks were the deadliest terrorist attacks with 228 and 152 death respectively.

Lethality of new terrorism increased from 2012, Possible explanation could be attributed to Al-Shabaab merger with Al-Qaeda on 9 February 2012 and learning nature of Al-Shabaab that enabled them to learn to attack foreign targets with lethality. Lethality of new terrorism in Kenya has been surprisingly among the highest in global terrorism. Between 2012 and 2019. The 1998 US Embassy terrorist attack was the third most lethal terrorist attack in the world after the LTTE attack in Sri Lanka on 1 February 1998 ( 320 death) and 3 August 1998 terrorist attack by FARC in Colombia ( 275 death). West gate and Garissa University terrorist attacks were the 8<sup>th</sup> and 9<sup>th</sup> worst terrorist attacks in the world in 2013 and 2014 respectively.

Findings also indicate that global presence and regional nature of Al- Qaeda, and Al- Shabaab terrorist groups has affected Kenya in various ways. Al Qaeda presence and decentralized was manifested by the 1998 and 2002 attacks by AQEA were made possible with the help of Kenyan

operatives Jihad Mohamed aka Azzam, Rashid Daoud aka O' while) Saleh Nabhan and ABoud Rogo under the leader Fazul Abdullahi Mohamed( holding Kenyan passport but Comoros nationality).ISIS presence is manifested by the arrest of suspected ISIS members and the escape of Kenyan from ISIS, Kenyan woman ranked 7<sup>th</sup> in the world as being the financier of ISIS. Findings on the decentralization and regional presence of Al Shabaab and its implication on Kenya was manifested by the involvement of Kenyan Al Shabaab operatives who participated in the Kampala bombing, the formation of Jaysh Ahman terrorist group in Lamu and the statistics showing 25% of Kenyan are in Al Shabaab terrorist group.

The finding related to popular support as one of the characteristics of new terrorism may be interpreted in the number of attacks that occurred in the ungovernable spaces. A total of 207 attacks (out of 270 attacks occurring between 2 April 2015 and 15 January 2019) occurred in the counties bordering the ungovernable spaces in Kenya along the porous border<sup>160</sup>. According to Rabasa, lack of popular support( lack of state penetration) constitute 25%(1 of the four indicators of ungovernability) of all indicators of ungovernable space. This study implies that 25% of the 207 attacks (52 attacks) may be due attributed to popular support.

Findings revealed that terrorist attacks in Kenya during Ramadhan between 2012 and 2018 constituted an average of 9.9% attacks compared to non-Ramadhan days signifying weak link association between religious fanaticism and attacks during Ramadhan.

The study further sought to find out the counter-terrorist strategies employed in Kenya and their effectiveness and impact on civilians casualties.

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<sup>160</sup> START Global Terrorism Database; Jane's World Insurgency and Terrorism database; ACLED; U.S. Department of State, Country Reports.

Findings on the introduction of prevention of terrorism bill indicated that it took 9 years( 2003 to 2012) to enact prevention of terrorism law due to perceived pro-America and discrimination against religious orientation. The signing of the security law act of 2014 was signed to further strengthen anti-terrorism legislation

Findings related to the 2007 border closure Counter-terrorism strategy of border closure was aimed at preventing terrorism from infiltrating to Kenya through the porous border in disguise as refugees. The strategy further suspended all flights to and from Somali except for humanitarian relief aid and Transitional Federal Government(TFG) through the suspension ended in August 2007. The possible explanation for the short-lived border closure is associated with balancing between economic and counter-terrorism strategies.

Findings related to military counter-terrorism target indicated that Operation Linda Nchi and Operation Linda Boni were the major operations conducted by the military and multi-agency. The military operations conformed with reality view in the sense that Kenya pursues her national interest through the option of hard power. Findings indicate that areas covered by operation Linda Boni have experiences 28.27(67 out of 237) of the total attacks in Kenya. Possible explanation attributed to the ungovernable space of Lamu county

Findings related to the strategy of Kenya border wall construction indicate that 77% of all attacks took place along the counties bordering the security wall construction. The security wall is far from completion hence the attacks could be attributed to the ungovernable spaces of the counties bordering the security wall

Findings relating to the strategy of imposing curfew in Lamu, Tana River, and North Eastern Province shows that at least 8.5 attacks per month occurred during the first four-month of curfew

in the affected regions between June to December 2014. The possible explanation could be attributed to the characteristics of the ungovernable space of the counties.

Findings related to the strategy of Amnesty given to Al Shabaab show that Kwale has the highest number of returnees and 6 terrorist attacks in 4 years implying that the majority of returnees have not engaged are not abetting terrorism. Although Lamu, Tana River, and Garissa have the unknown number of returnees who have not reported to authority and are believed to aid terrorism, Malini and Kilifi had 1 and nil terrorist attacks since 2015 while Lamu and Garissa still experience terrorism attacks<sup>161</sup>.

Findings related to the proscription of terrorism groups reveal that only MRC attacks ceased compared to 12 attacks that took place before the proscription on 7 April 2015. At least 268 attacks occurred after the proscription of Al Shabaab on 7 April 2015. The possible explanation may be attributed to the size and experience and transnational nature of terrorism. Zachary observed that increased organization age, size, and ideology makes a terrorist organization more resilient to disruption and subsequently collapsed especially when a single leader is arrested or killed<sup>162</sup>.

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<sup>161</sup> Source: [ Kalume Kazungu and " Al- Shabaab returnees hinder elimination of terrorists, Nation, 6 October, 2017( Accessed 3 July 2020).;Charles Lwanga " KDF saves 13 Youth from Al- Shabaab, Nation , 30 April 2018 ( Accessed 3 July 2020).;Republic of Kenya. "The Security Laws (Amendment) Act, 2014 No. 19 of 2004. Kenya Gazette Supplement No. 167 (Acts No. 19)." (2014).;Cyrus Ombati " Kenya announces Amnesty and reintegration to youth who denounce Al- shabaab, Nation, 14 April 2015 ( Accessed 3 July 2020 );Relief Web ' Kenya announces an amnesty and reintegration policy for youth who renounce Al- Shabaab, 15 April 2015 ( Accessed 3 July 2020)']; Charles Lwanga and Winnie Atieno "State takes 40 Kilifi Shabaab returnees for rehabilitation", 20 February 2020( Accessed 3 July 2020)

<sup>162</sup> Cleary, Zachary. "Re-evaluating the Efficacy of Targeted Killing." *The Illini Journal Of International Security* 4, no. 1 (2018): 77-83.

Findings related to banning and Freezing of suspected Financial organizations and individual assets such the 13 money Remittance Providers (MRPs) and frozen 86 entities including individual suspected of facilitating Garissa terrorist attacks shows that Al Shabaab compensated its disruption of revenue by implementing measures such taxation, extortion and bank robbery(23 June 2017 Elwak bank raid)<sup>163</sup>. Extortion of locals in Somali explain why Al Shabaab popular support stood 5% since 2011). Extortion and bank robbery further doubted the religious nature of Al Shabaab and instead qualified Al-Shabaab as rational actors. The finding confirms with Juergensmeyer's observation that religion may not be the "root cause" of discontent; instead, it initially may be primarily a way through which grievances are expressed and individuals mobilized"<sup>164</sup>.

Findings related to the Ethical debate on Kenya's counterterrorism strategies revealed several observations

Analysis of the 5 strategic guidance through the use of speech by various political leaders in Kenya found that their world view conforms with the realism approach. Surprising findings pointed out the association between terrorist attacks and false flag operations( 60% of the speeches). Businessmen conducting illegal trade such as human and sugar smuggling in Kenya

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<sup>163</sup> Levy, Ido, and Abdi Yusuf. "How Do Terrorist Organizations Make Money? Terrorist Funding and Innovation in the Case of al-Shabaab." *Studies in Conflict & Terrorism* (2019): 1-23.;

Matthews, Earl G., and Paul Rexton Kan. *Cutting Off the Sipgot: A New Strategy for Combating Al-Shabaab*. US Army War College, 2016.;

Keatinge, Tom, and Royal United Services Institute for Defence and Security Studies. *The role of finance in defeating Al-Shabaab*. RUSI, 2014.)

<sup>164</sup> Juergensmeyer, Mark. *Terror in the mind of God: The global rise of religious violence*. Vol. 13. Univ of California Press, 2017,p 222.

were arguably responsible for financing Al-Shabaan terrorism activities. The finding implies developing counter-terrorism strategies that deal with terrorist threats emanating from within.

Finding related to the strategies of border closures, Operation Linda Nchi, Operation Linda Boni, Security wall constructions, proscription terrorism groups and enactment of security law in 2014 also conforms to realism view in the sense that the strategies aimed at pursuing military power against violation of territorial integrity by Alshabaab terrorist group. Pursue of Al Shabaab inside Somalia in Operation Linda Nchi, for example, was due to Al-Shabaab violation of territorial integrity and harm to economic interests.

The finding related to strategies of curfew enforcement and relocation of urban refugees revealed a consequentialism approach to ethical debate. The restriction of movement in curfew and confinement of refugees to Kakuma and Dadaab was deemed necessary for the better good of preserving national security against the threat of terrorism.

The finding related to the strategy of employing amnesty to allow youth who have joined Al-Shabaab to surrender to the authority was observed to adhere to the consequentialism ethical approach. The government was faced with the dilemma of pardoning Al- Shabaab who have committed terrorist acts against the countries for the greater good that will prevent further terrorist attacks.

#### **5.1.4 Emerging Theoretical Framework**

The theories grounded in the data identified include consequentialism, just war, mystic diamond, and realism theory. Further finding, however, reveals that the most emergent theory generally grounded in most data is the realism theory. How does realism theory applicable to the current study?. Lethality, mass casualties, unpredictable nature, and global presence compel states to adopt CT strategies that conform with realism which is a more intrusive ethical school of

thought. Julian pointed out that the use of invasive techniques against terrorists such as torture, surveillance, and targeted assassination of terrorist leaders may be appropriate to safeguard national interests in the anarchical world<sup>165</sup>. The then Vice President, Dick Cheney, for example, emphasized that 'enhanced interrogation is not torture'<sup>166</sup>. Major CT strategies employed such as military CT, proscription of terrorist groups, CT cooperation, and strategic guidance given by political leaders through speeches generally conformed to the world view of realism. For example, according to Lefebvre, the primary objective of the cooperation is to advance national foreign policy objectives in their self-interest of states<sup>167</sup>. He further warned that the global nature and decentralized nature of transnational terrorist groups such as Al-Qaeda in the current era of new terrorism makes isolation an impossible option<sup>168</sup>.

## 5.2 Summary

This present study was designed to examine ethical considerations in counter-terrorism by critically examining Kenya's experience. The research was guided by three objectives; to assess the place of ethical issues in counter-terrorism agenda in the 21 century; to analyze the experience of African countries with ethical considerations in the war against terrorism and critically analysis of Kenya's experience with ethical issues in counter-terrorism. Justification of the study is guided by the argument that the formulation of effective counter-terrorism strategies not only mitigate curet terrorist threats but also reduced the cost of counter-terrorism

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<sup>165</sup> Richards, Julian. "Intelligence dilemma? Contemporary counter-terrorism in a liberal democracy." *Intelligence and national security* 27, no. 5 (2012): 761-780.

<sup>166</sup> Blakeley, Ruth. "Dirty hands, clean conscience? The CIA inspector general's investigation of "enhanced interrogation techniques" in the war on terror and the torture debate." *Journal of Human Rights* 10, no. 4 (2011): 544-561.

<sup>167</sup> Lefebvre, Stéphane. "The difficulties and dilemmas of international intelligence cooperation." *International Journal of Intelligence and CounterIntelligence* 16, no. 4 (2003): 527-542.

<sup>168</sup> Ibid



cooperations which divert funds meant for development. Each of the three objectives of the research was operationalized into indicators namely characteristics of new terrorism, counter-terrorism strategies, and ethical debate.

Finding on the first objective revealed that mass casualties, lethality, global presence, and unpredictable nature of terrorist attacks are the dominant characteristics of new terrorism in the 21 century which have informed states to prefer hard power strategies such as military counterterrorism, CT cooperation, proscription of terrorist groups. Proscription of terrorist groups after major terrorist attacks suggests the willingness of the state to legitimize the use of force against the terrorist groups. Global nature and the decentralization of terrorist groups make counter-terrorism cooperation a preferred choice to mitigate the internationalization of terrorism. Findings suggest in general that effective military counter-terrorism strategies have had a heavy toll on civilians as manifested in Sri Lanka's military counter-terrorism operations against LTTE from 2009. Analysis of strategic guidance by policymakers revealed that most states conform to the world view of realism which hard power CT strategies.

Finding related to the second objective related to African experience with ethical consideration in the war against terrorism indicate that major terrorist attacks such as the Baka massacre and Mogadishu bombing were the deadliest attacks in the world. Further findings show that Boko Haram and Al-Shabaab are among the deadliest terrorist groups in the world while LRA is the most enduring and cruel terrorists group in the region.

Finding further reveal that African states prefer counter-terrorism strategy is military counter-terrorism. Targeted killing of terrorist leaders, proscription of terrorist groups, and negotiation.

Finding further show that except for GIA in Algeria, targeted assassination has not disrupted leadership disruption. Effective counter-terrorism was also observed to cause mass civilian

casualties and limit other civil liberty as manifested in Algeria's dark era. Most counter-terrorism strategies in African were observed to conform with realism ethical debate

Finding related to Kenya's experience with ethical issues in counter-terrorism shows that 99.6% of all major terrorist attacks were unpredicted, exhibited mass casualties, and took place during the new terrorism era. Lethality of terrorist groups was evident in a manner in which the lethality of the attacks was ranked globally. 1998 US Embassy bombing was ranked the 3<sup>rd</sup> deadliest in the world while the West gate and Garissa University attack were ranked 8<sup>th</sup> and 9<sup>th</sup> respectively. Like the previous result, finding related to ethical debate on strategic guidance given by policymakers through speeches reveal that policymakers prefer realism as an ethical debate approach to counter-terrorism that legitimizes military counterterrorism. Finally, finding shows that major CT strategies such as military CT, proscription of theorist group, security wall construction conformed with the realism approach to ethical debate.

### **5.3 Conclusion**

This present study was designed to examine ethical consideration in counter-terrorism by critically examining Kenya's experience and was guided by three objectives; to assess the place of ethical issues in counter-terrorism agenda in the 21 century; to analyze the experience of African countries with ethical consideration in the war against terrorism and critically analysis of Kenya's experience with ethical issues in counter-terrorism.

#### **5.3.1 To assess the place of ethical issues in counter-terrorism agenda in the 21 century**

The first objective of the study sought to assess the ethical issues in the counter-terrorism agenda in the 21 century. The objective was operationalized into three parameters namely characteristics of new terrorism, counter-terrorism strategies and ethical debate of counter-terrorism strategies

Findings related to characteristics of new terrorism in the 21-century conclude that Mass casualties, lethality, global presence, and decentralization and unpredictable nature of terrorist attacks were found to be the most dominant characteristics of new terrorism. Religious motivation/fanaticism terrorism was observed to be Islamic dominant due to the majority of terrorism prophecies Islamic religion with 93 % of all attacks perpetrated by Terrorist groups that prophesize Islamic faith .

Findings relating to counter-terrorism strategy employed in 21 century revealed that Military counter-terrorism operations, Targeting assassination of terrorist leaders, CT cooperation, proscription of terrorist groups were the most preferred CT strategies. The strategic guidance by policymakers further supports the evidence that states prefer legitimizing the use of force against terrorist groups. The general finding shows that effective military counterterrorism operations may be inversely proportional to the civilian casualties. Further finding generally shows that decapitation of terrorist leaders have generally reduced terrorist attack but not disrupted terrorist leadership succession.

Although findings related to the Ethical debate on 21-century counter-terrorism reveal the application of various ethical debates, it was generally revealed that most states conform with reality view as the preferred ethical debate in their counter-terrorism strategies. Analysis of the six strategic guidance through the use of speech by various political leaders in the world finds that political leaders advance world view that conforms with the realist approach. In this study, Negotiation with the terrorist group was found to be generally conforming to the ethical debate of consequentialism. Findings indicated that the Targeting of terrorist leaders conforms with perceived just war principle of last resort. Last resort in the sense that states argued that it is impossible to capture terrorist leaders alive due to their elusiveness or suicidal tendency. The

current study found no relationship between deontology as an ethical debate and 21-century counter-terrorism strategies thereby suggesting that deontological ethical debate has no place in the 21-century counter-terrorism strategies.

### **5.3.2 To analyze the experience of African countries with ethical consideration in the war against terrorism**

The second objective of the study was focused on analyzing the experience of African countries with ethical considerations in the war against terrorism. The objective was operationalized into three parameters namely characteristics of new terrorism, counter-terrorism strategies, and ethical debate of counter-terrorism strategies in the African context.

The finding shows that mass casualties, lethality, unpredictability were the dominant characteristics of new terrorism in Africa. 2015 Baka massacre by Boko Haram (2000 deaths) and October 2017 Mogadishu bombing by Al-Shabaab (600 deaths) were the deadliest terrorist attacks in the world. Boko Haram was the deadliest attack in the world between 2012 and 2018 while Al-Shabaab was the deadliest in 2017 and 2 in 2018 and LRA is considered the longest and most cruel in the region. Findings related to popular support indicate that AQIM enjoys popular support in Libya.

Findings related to counter-terrorist strategies in Africa show that the four dominant characteristics of new terrorism have made the state to prefer hard power strategies such as military CT, targeted assassinations of terrorist leaders, CT cooperation, and proscription of the terrorist group. Major operations such as Operation Barkhane, Operation Lightning Thunder suggest the state's willingness to use the military option. Findings reveal that although negotiation with a terrorist is more dominant in African states, willingness to employ hard power has always been preferred. The surprising finding showed that effective military counter-terrorism has been

associated with an increased number of civilian casualties due to combat engagement and increased terrorist attacks. The demise of GIA was attributed to ruthless suppression of GIA between 1992 and 2000 in which over 100,000 civilians died.

Findings related to the Ethical debate on African counterterrorism strategies reveal that most African states conform with the realistic view of ethical debate in their counter-terrorism strategies observations. Analysis of the 11 strategic guidance through the use of speech by various political leaders in Africa for example found that their world view conforms with the realist approach. 10 out of 11 speeches support military counterterrorism operations against the terrorist group as the main strategy to defeat terrorism. Negotiation with terrorism in Africa reveals that the strategy generally conformed to consequentialism ethical debate. As in previous findings, the current study on the ethical debate in African counterterrorism found no association between deontology approaches an ethical debate and the African counter-terrorism strategies.

### **5.3.3 To critically analyze Kenya's experience with ethical issues in as far as counter-terrorism is concerned**

The third objective of the study was to critically analyze Kenya's experience with ethical issues as far as counter-terrorism is concerned. The objective was operationalized into three parameters namely characteristics of new terrorism, counter-terrorism strategies, and ethical debate of counter-terrorism strategies in the Kenya context.

The finding shows that the characteristics of new terrorism show that nearly all terrorist attacks in Kenya (99.6%) occurred in the era of new terrorism suggesting the indiscriminate and lethality characteristics of new terrorism. Lethality of new terrorism increased from 2012; possible explanation could be attributed to Al-Shabaab merger with Al-Qaeda on 9 February 2012 and the learning nature of Al-Shabaab that enabled them to learn to attack foreign targets with lethality.

Lethality of new terrorism in Kenya has been surprisingly among the highest in global terrorism. Between 2012 and 2019.

Findings indicate that 8 terrorist incidents occasion mass casualties between 1998 and 2019. 1998 US Embassy bombing and the 2015 Garissa University attacks were the deadliest terrorist attacks with 228 and 152 death respectively. Findings related to the global presence and regional nature of terrorism reveal the presence of transnational terrorist organization namely Al-Qaeda, ISIL, and Al-Shabaab terrorist groups.

Findings related to counter-terrorism strategies in Kenya reveal that Kenya's major counter-terrorism strategies employed in Kenya are military counter-terrorism operations such as operation Linda Nchi and operation Boni. Other strategies include enactment of terrorism legislation, proscription of terrorism organizations among others.

Although Findings related to the Ethical debate on Kenya's counterterrorism strategies reveal deserve ethical debates namely just war, consequentialism and realism, It was revealed that realism view was the most preferred form of ethical debate in formulating counterterrorism strategies. Analysis of the 5 strategic guidance through the use of speech by various political leaders in Kenya found that their world view conforms with the realism approach. Surprising findings pointed out the association between terrorist attacks and false flag operations (60% of the speeches). The finding implies developing counter-terrorism strategies that deal with terrorist threats emanating from within.

Findings related to the effectiveness of employing bounty as the strategy was however not established. The finding related to the strategy of the bounty that conforms with just war principle of last resort should, therefore, be interpreted with caution.

From the finding that dominant characteristics of new terrorism make counter-terrorism strategies to conform with realism ethical debate, this study, therefore, deduces three hypotheses:

*Hypothesis(H1) that the unpredictable nature of major terrorist attacks in the new terrorism era makes counter-terrorism strategies of most states in the 21 century conforms with the realist view.*

*Hypothesis (H2) that Vagueness of international and terrorism law facilitate states to interpret terrorism concepts in a realism ethical school of thought*

*hypothesis (H3) Global nature and decentralization characteristics of new terrorism make counter-terrorism strategy of cooperation relevant to curb regionalization and internationalization thereby compelling states to conform to realism ethical debate.*

#### **5.3.4 Limitation of the study**

The findings of this study were subjected to 3 limitations. First, although major terrorist attacks took place despite counterterrorism strategies employed, the study did not examine in depth whether the unpredictable nature of major terrorist attacks makes counter-terrorism strategies against terrorist groups ineffective. Second, the study has only examined the major terrorist attacks reported but not the number of major terrorist attacks thwarted by security forces. The comparison would have allowed a more accurate analysis of the effectiveness of counter-terrorism strategies. Lastly, ungovernable spaces in Kenya had an impact on the relationship between counter-terrorism strategies and frequency of terrorist attacks and therefore constituted intervening variable which the study had no control of.

### **5.3.5 Recommendations**

The government should exploit mystic diamond to its advantage order to win the heart and mind of the population

The construction of Kenya Somalia security wall should be completed on time to minimize terrorist attacks that are facilitated by the porous border

Social-economic infrastructure should be developed in the ungovernable spaces to enhance state penetration

Counter-terrorism strategies should be employed to augment each other

Enduring counter-terrorism strategies should be formulated in instead of reactive strategies

### **5.3.6 Area of future study**

Further study should be done to determine the following

Effectiveness of counterterrorism strategies in preventing major terrorist attacks

The impact of ungovernable spaces in CT strategies.

CT terrorism successes as a measure of the effectiveness of CT strategies: Case study of Kenya's experience with the Al-Shabaab terrorist group.



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