UNIVERSITY OF NAIROBI

COMBATING NATIONAL SECURITY THREATS: A COMPARATIVE STUDY OF USA AND KENYA TERROR ATTACKS

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DECLARATION

This research study is my original work and has not been presented for any award to any other institution.

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Angela Melissa Moraa   **Date**

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

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Dr. Anita Kiamba   **Date**

DEDICATION

This project is dedicated to all persons who have lost their to terror activities. May their souls rest in perfect peace.

ACKNOWLEDGEMENT

I thank the Almighty God for his favour and blessings over my life that enabled me start my Masters and has seen me through to the end. To the former Ministry of Co-operative Development and Marketing for sponsoring my Masters I am indeed more than just thankful. This has been a journey that I have found support in Family Friends and most importantly academic guidance from my supervisor Dr. Anita Kiamba her guidance and support is appreciated. I will forever be indebted to my mother Eddah M'mboga for her encouragement and unconditional love. My brother Ian Gonji for his support and encouragement, I cannot take it for granted. And lastly my classmates who have been there to encourage and support me.

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LIST OF ABBREVIATIONS

AU   The African Union

BBC   British Broadcasting Corporation

CNN   Cable News Network

EAC   East African Community

IGAD   Intergovernmental Authority on Development

KDF   Kenya Defence Forces

NGOs   Non-Governmental Organizations

NIS   National Intelligence Service

OAU   Organization of African Unity

NSAC   National Security Advisory Committee

GoK   Government of Kenya

GoUSA   Government of United States of America

UN   United Nations

USA   United States of America

UNEP   United Nations Environmental Programme

UNGC-T   UN Global Counter-Terrorism Strategy

ABSTRACT

The human loss experienced is immeasurable and Kenyans are still reeling in the aftermath of the massacre of the terror attack on this great nation. In the quest to find a suitable definition for terrorism, much has been done but no one conclusive definition has been reached. In this project several definitions have been offered to try in understanding the acts and measure to counter them.

Terrorist attacks do not only cause loss of lives, they also have long-standing effects on the economy. In general, terrorism reduces consumers' and firms' expectations for the future and forces governments and the private sector to invest in security measures and redirect investment away from more productive economic uses. The Westgate terror attack not only caused Nakumatt to close down the tenants and even nearby residents some were forced to relocate either because they lacked where to go back to or the fear of the memories drove them away as the psychological effect of such experiences are not easily erased from the memory.

This Research Project provides an analysis of the terror experiences in Kenya and USA, challenges and lessons learnt. The study has also made various recommendations that could assist counter-terrorism policies. The research project reliedrely on the constructivism theory to explain terrorism and sought ways of combating terrorism. Constructivism's asserts that social norms shape interests and interests determine state behaviour. It argued that society creates the norms of each state; norms then define identities and identities are the synthesis of common views and values that form a group conscience that sets its behavior.

CHAPTER ONE:

INTRODUCTION

1.1 Background of the Study

National security is the requirement to maintain the survival of the state through the use of economic, diplomacy and political power. The concept was developed mostly in the United States of America after the Second World War. Initially focusing on military might, it now encompasses a broad range of facets, all of which impinge on the non-military or economic security of the nation and the values espoused by the national society. In order to ensure national security, a nation needs to possess economic security, food security, environmental security, health security, personal security, social/community security, political security.

Security threats involve not only conventional foes such as other nation-states but also non-state actors such as violent non-state actors, narcotic cartels, multinational corporations and non-governmental organizations; some others include natural disasters and events causing severe environmental damage in this category.[1]

During and after World War II, US leaders expanded the concept of national security and used its terminology for the first time to explain how America's with the rest of the world. For most of US history, the physical security of the continental United States had not been in jeopardy. But by 1945, this invulnerability was rapidly diminishing with the advent of long-range bombers, atom bombs, and ballistic missiles. A general perception grew that the future would not allow time to mobilize, that preparation would have to become constant. For the first time,

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[1] Gerstein, D. M. (2005). *Securing America's future: National strategy in the information age*. Westport, Conn. [u.a.: Praeger Security International.

American leaders would have to deal with the essential paradox of national security faced by the Roman Empire and subsequent great powers.[2]

According the Kenya'sConstitution 2010, Kenya's sovereignty revolves around its people, their rights, freedoms, property, peace, stability and prosperity, and other national interests.Kenya does not operate alone in the international system; hence its national interest goes beyond national borders to that of allies. To this end, the country has to associate with other countries in a mutual manner in order to meet some of her needs which can only be supplied by others. Moreover, the emerging threats in the anarchical international systems demand that Kenya networks with others to fight such threats as terrorism, drug trafficking, human trafficking, money laundering, piracy, arms smuggling and intellectual property crime, among others.[3]

National security threat emanate from within and without, combined with concerns over terrorist movements across Kenya's porous border with Somalia and along its coastline, and piracy off the coast. Threats from within such as influx of refugees, emergence of criminal gangs, poaching, banditry, cattle rustling, and high urban crime, as well as periodic outbreaks of communal violence, place competing domestic demands on Kenya's national security resources. Kenya has repeatedly been a target of international terrorist attacks, and the concentration of potential international and domestic targets in Nairobi remains a serious concern for Kenyan security systems. The September 2013 siege at the Westgate Mall in

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[2]David Jablonsky. The State of the National Security State. Carlisle Barracks, PA,: Strategic Studies Institute, (2002)

[3]Yahya-Othman, S., Warioba, J. S., &Kituo cha Katiba. (2007). *Moving the Kenya constitution review process forward: A report of the fact-finding mission to Kenya*. Kampala: Published by, Fountain Publishers on behalf of, Kituo cha Katiba.

Nairobi, a popular shopping destination for tourists, expatriates, and the Kenyan elite, is the most recent successful high profile terrorist attack in the country since the Al Qaeda attacks in 1998 Nairobi Bomb blast.

Kenya Defense Forces (KDF) was deployed into Somalia pursuant Article 51 of the United Nations charter that expressly provides for the right of countries to engage in self-defence, including collective self-defence, against an armed attack at a time when security in Kenya had been compromised and breached. Several terror related attacks and kidnappings of tourists and humanitarian workers inside the Country's borders had taken place one after another in tandem threatening to not only throw it into a frenzy over the situation but to also cripple its flourishing tourism industry that accounts for 12% of the Gross Domestic Product. Kenya's military success in Somalia has dwarfed the UN role and shames previous incursions including the American Black Hawk Down operation, the Ethiopian Military Operation, and the Ugandan half decade barren effort in Mogadishu among others.[4]

Despite the KDF's presence in Somalia, Kenya has experienced attack after attack by the Al-Shabaab. September terror attack in Westgate left 69 people dead and injuring more than 175. In June, 2014 heavily-armed gunmen killed at least 48 people in Mpeketoni town. In late 2014, two attacks carried out by Al Shabaab killed 64 people in Mandera County; 28 commuters and 36 quarry workers.[5]

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[4]B. Amaya (2012). 'Capture' of Kismayu by KDF has raised the profile of Kenya, AU. *The East African*, September 29 2012 at 22:21

[5] At least 28 killed in Shabaab attack on Nairobi-bound bus in Mandera. Nation Media Group, November 22, 2014. Kenya bus attack: Al-Shabaab militants slaughter 28 non-Muslims who failed to recite Koran. *The Independent,*December 02, 2014.

1.2 Statement of the Problem

It is the government's duty to maintain the security of the State and its people through the use of economic power, diplomacy, and political power projection. Kenya's response to the terror attack though similar to US's by the way of the Government reiterating its commitment to the fight against global terror and not being cowed down, there are, however, glaring disparate strategic responses by both governments that warrants a comparative study as to the Kenya's government failure to stem the incessant and inceasing terrorist attacks within Kenyan. For instance, just like the US, while Kenyan forces are doing a great job in Somalia, the same cannot be said of their performance in the Country.[6] The security forces have performed dismally, even in clearly defined situations like the Lamu, Mombasa and Mandera attacks.

Kenya as a country seems to lack strategy in dealing with Terrorist in terms of defeating them before attack and also cornering them when they succeed to attack as witnessed in the Westgate Attack where it was presumed that only four terrorist were present but due to the breakdown in communication between the forces in the country the process of defeating the terrorist was messed up.

1.3 Research Questions

The study sought to answer the following research questions:

i.   What is the extent of national security threats posed by alshabaab terror attacks in Kenya?

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[6] Alexander, Y. (2002). *Combating terrorism: Strategies of ten countries*. Ann Arbor, MI: University of Michigan Press.

ii. What are the national security strategies adopted by the Kenyan Government towards terror attacks in Kenya?

iii. How does national security responses adopted Kenyan Government to Westgate attacks compare to the those of the US Government responses to September 11 attacks?

1.4 Research Objectives

The study was guided by thefollowing research objectives:

i. To assess the extent of national security threats posed by terror attacks in Kenya;

ii. To determine the national security strategies adopted by the Kenyan Government towards terror attacks in Kenya; and,

iii. To compare the national security responses adopted Kenyan Government to Westgate attacks and contrast them with those of the US Government responses to September 11 attacks

1.5 Literature Review

This literature review sought to provide a critical summary of published research literature relevant to terrorism. Its purpose is to createfamiliarity withcurrent thinking and activities related to terror and terror activities.

This section aims to analyze some of the most important linguistic constructions around terrorism and some of the major sociopolitical implications of terrorismand counterterrorism.

There is no agreement concerning a definition of terrorism, it is perfectly true that, as an often-quoted saying goes, one person's terrorist is another's freedom fighter. But since even the greatest mass murderers in history such as Hitler had their admirers, such wisdom does not take us very far. Most of those who have studied terrorism and are reasonably free from bias will agree much of the time in their judgment of an action, even if perfect definitions of terrorism

do not exist. Someone has compared it with pornography or obscenity, which is also difficult to define, but an observer with some experience will know it when he sees it.

Title 22 of the U.S. Code Section 2656: defines terrorism as "premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents, usually intended to influence an audience. When the systematic study of terrorism began in the 1970s, it was believed by some that terrorism was more or less a monopoly of extreme left-wing groups, such as the Italian Red Brigades or the German Red Army or various Latin American groups hence the conclusion: Terrorism comes into being wherever people are most exploited and most cruelly oppressed. Therefore, terrorism could easily be sorted out by finding solutions to exploitation and oppression.[7]

However, it should have been clear even then that this could not possibly be a correct explanation as terrorism had been altogether absent precisely in the most oppressive regimes of the 20th century Nazi Germany and Stalinist Russia. There was virtually no terrorism in the very richest societies and the most egalitarian nor was there terrorism in the very poorest.

The most deadly terrorist act in the United States prior to September 11, 2001, was the 1995 bombing of a federal building in Oklahoma City, carried out by right-wing extremist sectarians. Nationalist terrorism continued, but the Islamist terrorism that figures so prominently today was, as yet, hardly in appearance except, sporadically, in some Middle Eastern countries.

There was no total unanimity, but the majority opinion was that terrorism was permissible in certain conditions. When a cruel oppressor, a tyrant being an enemy of all mankind, in violation of the law of God and human justice, left his victims no other way out of intolerable oppression,

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[7]Muga, E. (1975). *Crime and delinquency in Kenya: An analysis of crime rate of arrested and convicted persons by racial and ethnic groups, sex and age, offences committed, and urban and rural differentials*. Kampala [Uganda: East African Literature Bureau.

commission of a terrorist act was ultima ratio, the last refuge of the oppressed, all other means having been exhausted.

But philosophers and theologians were aware even then that there was a grave danger of misusing the doctrine of justifiable tyrannicide, claiming ultima ratio when, in fact, there was no justifiable reason for killing or when there existed other ways to express protest and resistance.

Terrorism reappeared after World War I in various countries, such as Germany and the Balkan nations. Before coming to power, both Fascists and Communists believed in mass violence rather than individual terrorist acts with some occasional exceptions, such as the assassination of the Italian Socialist leader Giacomo Matteoti.

Traditional terrorism had its "code of honor": It targeted kings, military leaders, ministers, and other leading public figures, but if there were a danger that the wife or the children of the target would be killed in an attack, terrorists would refrain from striking, even if doing so endangered their own lives.[8]

Today, indiscriminate terrorism has become the rule; very few leading politicians or generals have been killed, but very many wholly innocent people have. The term terrorism has, therefore, very negative connotations, and terrorists now insist on being called by another name.

When Boris Savinkov, who headed the Russian Socialist Revolutionaries before World War I, published his autobiography, he had no hesitation in giving it the title Memoirs of a Terrorist. Today this would be unthinkable the modern terrorist wants to be known as a freedom fighter, a guerrilla, a militant, an insurgent, a rebel, a revolutionary anything but a terrorist, a killer of random innocents.

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[8]Fereday, J., & Muir-Cochrane, E. (2006). Demonstrating Rigor Using Thematic Analysis: A Hybrid Approach of Inductive and Deductive Coding and Theme Development. *International Journal of Qualitative Methods* 5 (1): 4

Again, there are no clear-cut answers except in a very general way. Terrorism has seldom, if ever, occurred in effective dictatorships. In the modern world, it appears, ironically, that terrorists take advantage of the freedoms of thought, speech, religion, movement, and assembly offered by democracies. Terrorism is also a problem of failed states in which central power is weak or nonexistent. There was, for example, virtually no terrorism from the street in Franco's Spain, but as his dictatorship was dismantled, it appeared on the political scene. In the Middle East, even mildly authoritarian regimes have put down terrorism without great difficulty Turkey and Syria in the 1980s, Algeria and Egypt in the decade thereafter.[9]

Terrorism is largely a generational phenomenon, and even if defeated, it may recur at a later date. There is no good reason to expect the disappearance of terrorism in our time. In an age in which large-scale wars have become too dangerous and expensive, terrorism is the prevailing form of violent conflict. As long as there are conflicts on Earth, there will be terrorism.

1.5.1 Terrorism

Terrorisms commonly defined as violent acts intended to create fear, perpetrated for an economic, religious, political, or ideological goal, and which deliberately target or disregard the safety of non-combatants. Another common definition sees terrorism as political, ideological or religious violence by non-state actors. Some definitions now include acts of unlawful violence and war. [10]

The use of similar tactics by criminal organizations for protection rackets or to enforce a code of silence is usually not labeled terrorism, though these same actions may be labeled terrorism when done by a politically motivated group. Usage of the term has also been criticized for its

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[9] Wade, R. A. (2005). *The Russian Revolution, 1917*. Cambridge (GB: Cambridge University Press.

[10]Understanding Terrorism: A Socio-Economic Perspective, Raul Caruso, p 32, Raul Caruso - 2014

frequent undue equating with *Islamism* or *jihadism*, while ignoring non-Islamic organizations or individuals.[11] In the international community, terrorism has no legally binding, law definition.[12]

In some cases, the same group may be described as "freedom fighters" by its supporters and as "terrorists" by its opponents, a phenomenon giving rise to the cliché, "one man's freedom fighter is another man's terrorist. "The concept of terrorism may be controversial as it is often used by state authorities delegitimize political or other opponents, and potentially legitimize the state's own use of armed force against opponents. At the same time, the reverse may also take place when states perpetrate or are accused of perpetrating state terrorism.[13] The usage of the term has a controversial history, with individuals such as ANC leader Nelson Mandela at one point also branded a terrorist.[14]

According to the most influential theoretical model in contemporary social sciences, individuals, organizations and social movements usually behave like rational actors. A rational actor only chooses those actions that he considers as the most effective means to attain his objectives or satisfy his preferences. In its original version, Rational Choice Theory assumed that people always try to behave as rational actors and that human rationality tends to be almost perfect. In other words, it was understood that the actions undertaken by rational actors were the most effective according to the real situations in which they operate. Certainly, it seems that terrorist perceived themselves as rational actors. Many terrorist organizations have been able to

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[11]Spring Fever: The Illusion of Islamic Democracy, Andrew C. McCarthy - 2013

[12]African Politics: Beyond the Third Wave of Democratisation, Joelien Pretorius - 2008, page 7

[13]James, Paul (2005). *Global Matrix: Nationalism, Globalism and State-Terrorism*

[14]"Terrorism". Encyclopædia Britannica. p. 3. Retrieved 2015-01-07.

introduce changes into their strategies in order to adapt themselves to changing situations and to react to their opponents such as State and social audiences. Some authors have interpreted those adaptations as a substantial proof of the terrorist's rationality.[15]

1.5.2 Types of Terrorism

1.5.2.1 State Terrorism

State terrorism is the systematic use of terror by a government in order to control its population. State terrorism is entirely carried out by the group holding power in a country and not a non-governmental organization. It is the original form of terrorism. The 1793 French Revolution and the thousands of executions that resulted are often cited as the first instance of state terrorism, though rulers have plausibly been using it for centuries to control their subjects.

1.5.2.2 Religious Terrorism

Terrorism can be motivated by religious ideologies and grievances. Religious terrorism is particularly dangerous due to the fanaticism of those who practice it and their willingness to sacrifice themselves for the cause. Religious terrorists are more likely to use "all in" tactics such as suicide bombings. This is made possible by religious teachings used to justify and even encourage this kind of self-sacrifice. Al-Qaeda is perhaps the most prominent example of a group that can be characterized as religious terrorists. As well religious terrorism has a long history from Catholic-Protestant violence in Ireland to Muslim-Hindu tensions in Pakistan and India.

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[15] Crenshaw, M. (2001). Theories of terrorism: instrumental and organizacional approaches. En D. C. Rappoport (Ed.), *Inside terrorist organisations*. Londres: Frank Cass Publishers.

1.5.2.3 Right Wing Terrorism

This type of terrorism aims to combat liberal governments and preserve traditional social orders. Right Wing terrorism is commonly characterized by militias and gangs; many times these groups are racially motivated and aim to marginalize minorities within a state.[16]

1.5.2.4 Left Wing Terrorism

These groups seek to overthrow capitalist democracies and establish socialist or communist governments in their place. They want to attack the established system in order to do away with class distinction. While these groups still exist they are not as prominent as they were during the Cold War.The Revolutionary People's Liberation Party-Front in Turkey, Revolutionary Organization 17 November in Greece, and The Revolutionary Armed Forces of Columbia (FARC) are all current examples of left wing terrorist groups.

1.5.2.5 Pathological Terrorism

This describes the use of terrorism by individuals who utilize such strategies for the sheer joy of terrorizing others. Pathological terrorists often operate alone rather in groups like the others on this list and often are not true 'terrorists' as they lack any well-defined political motive. Pathological terrorism is most commonly seen in school shootings and serial killing scenarios. The shootings at Columbine High School and of Congresswoman Gabby Giffords all serve as examples of pathological terrorism since those who carried them out sought to use violence to terrorize for their own pleasure.[17]

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[16] Vito, G. F. (2006). *Criminology*. Sudbury, MA: Jones and Bartlett.

[17] Frey, B. S. (2004). *Dealing with terrorism: Stick or carrot?*. Cheltenham, UK: Edward Elgar Pub.

1.5.2.6 Issue Oriented Terrorism

This type of terrorism is carried out for the purpose of advancing a specific issue. Commonly these issues are social in nature or deal with the environment. The bombings of abortion clinics and the assault of whaling ships are the best examples of issue-oriented terrorism. Perhaps the best documented example of an ecoterror group is the Environmental Liberation Front (ELF) due to their attacks on ski resorts and logging operations.

1.5.2.7 Separatist Terrorism

Separatists seek to cause fragmentation within a country and establishment a new state. This type of terrorism is typical of minorities within a nation-state that desire their own, commonly due to discrimination from the majority group. Some prominent examples are the ETA Basque separatists in Spain, the Chechen terrorists in Chechnya, the Tamil Tigers in Sri Lanka, the Kurdish PKK in Turkey, and the Quebec Liberation Front in Canada.[18]

1.5.2.8 Narco-Terrorism

This term originally refers to organizations that gain funds through the sale of drugs. It can also deal with the use of violence by those groups or gangs designed to make the sale of their drugs easier.The cartels in Mexico have carried out beheadings, mass burials, and other severe acts of violence. Many times this violence is carried out to intimidate populations into not cooperating with authorities. Pablo Escobar also enacted the assassinations of Colombian politicians during the height of his power in order to intimidate the government into not interfering with his drug trafficking activity.[19]

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[18] Charters, D., & University of New Brunswick. (1994). *The deadly sin of terrorism: Its effect on democracy and civil*. Westport, Conn: Greenwood Press.

[19] Vito, G. F. (2006). *Criminology*. Sudbury, MA: Jones and Bartlett.

1.5.2.9 Bioterrorism

Bioterrorism refers to the intentional release of toxic biological agents to harm and terrorize civilians, in the name of a political or other cause.The U.S. Center for Disease Control has classified the viruses, bacteria and toxins that could be used in an attack. Category A Biological Diseases are those most likely to do the most damage. They include: Anthrax (Bacillus anthracis), Botulism (Clostridium botulinum toxin)

1.5.9.10 Cyberterrorism

Cyberterrorists use information technology to attack civilians and draw attention to their cause. This may mean that they use information technology, such as computer systems or telecommunications, as a tool to orchestrate a traditional attack. More often, cyberterrorism refers to an attack on information technology itself in a way that would radically disrupt networked services. For example, cyberterrorists could disable networked emergency systems or hack into networks housing critical financial information. There is wide disagreement over the extent of the existing threat by cyberterrorists.[20]

1.5.9.11 Ecoterrorism

Ecoterrorism is a recently coined term describing violence in the interests of environmentalism. In general, environmental extremists sabotage property to inflict economic damage on industries or actors they see as harming animals or the natural environment. These have included fur companies, logging companies and animal research laboratories, for [21]

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[20] Charters, D., & University of New Brunswick. (1994). *The deadly sin of terrorism: Its effect on democracy and civil*. Westport, Conn: Greenwood Press.

[21] Liddick, D. (2006). *Eco-terrorism: Radical environmental and animal liberation movements*. Westport, Conn: Praeger.

1.5.9.12 Nuclear terrorism

"Nuclear terrorism" refers to a number of different ways nuclear materials might be exploited as a terrorist tactic. These include attacking nuclear facilities, purchasing nuclear weapons, or building nuclear weapons or otherwise finding ways to disperse radioactive materials. [22]

1.5.9.13 Narcoterrorism

Narcoterrorism has had several meanings since its coining in 1983. It once denoted violence used by drug traffickers to influence governments or prevent government efforts to stop the drug trade. In the last several years, narcoterrorism has been used to indicate situations in which terrorist groups use drug trafficking to fund their other operations.[23]

1.5.3.14 The impact of terrorism on human rights

Terrorism aims at the very destruction of human rights, democracy and the rule of law. It attacks the values that lie at the heart of the Charter of the United Nations and other international instruments: respect for human rights; the rule of law; rules governing armed conflict and the protection of civilians; tolerance among peoples and nations; and the peaceful resolution of conflict. Terrorism has a direct impact on the enjoyment of a number of human rights, in particular the rights to life, liberty and physical integrity. Terrorist acts can destabilize Governments, undermine civil society, jeopardize peace and security, threaten social and economic development, and may especially negatively affect certain groups. All of these have a direct impact on the enjoyment of fundamental human rights.

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[22] Allison, G. T. (2006). *Nuclear terrorism: The risks and consequences of the ultimate disaster*. London: Constable.

[23] Davids, D. J. (2002). *Narco-terrorism: A unified strategy to fight a growing terrorist menace*. Ardsley, NY: Transnational Publishers, Inc.

The destructive impact of terrorism on human rights and security has been recognized at the highest level of the United Nations, notably by the Security Council, the General Assembly, the former Commission on Human Rights and the new Human Rights Council. Specifically, Member States have set out that terrorism:[24]

Threatens the dignity and security of human beings everywhere, endangers or takes innocent lives, creates an environment that destroys the freedom from fear of the people, jeopardizes fundamental freedoms, and aims at the destruction of human rights;

Has an adverse effect on the establishment of the rule of law, undermines pluralistic civil society, aims at the destruction of the democratic bases of society, and destabilizes legitimately constituted Governments;

Has links with transnational organized crime, drug trafficking, money-laundering and trafficking in arms, as well as illegal transfers of nuclear, chemical and biological materials, and is linked to the consequent commission of serious crimes such as murder, extortion, kidnapping, assault, hostage-taking and robbery;

Has adverse consequences for the economic and social development of States, jeopardizes friendly relations among States, and has a pernicious impact on relations of cooperation among States, including cooperation for development; and Threatens the territorial integrity and security of States, constitutes a grave violation of the purpose and principles of the United Nations, is a threat to international peace and security, and must be suppressed as an essential element for the maintenance of international peace and security. International and regional human rights law makes clear that States have both a right and a duty to protect individuals under their jurisdiction from terrorist attacks. This stems from the general duty of States to

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[24] Claude, R. P., & Weston, B. H. (2006). *Human rights in the world community: Issues and action*. Philadelphia: University of Pennsylvania Press.

protect individuals under their jurisdiction against interference in the enjoyment of human rights. More specifically, this duty is recognized as part of States' obligations to ensure respect for the right to life and the right to security.[25]

The right to life, which is protected under international and regional human rights treaties, such as the International Covenant on Civil and Political Rights, has been described as "the supreme right" because without its effective guarantee, all other human rights would be without meaning. As such, there is an obligation on the part of the State to protect the right to life of every person within its territory and no derogation from this right is permitted, even in times of public emergency.

The protection of the right to life includes an obligation on States to take all appropriate and necessary steps to safeguard the lives of those within their jurisdiction. As part of this obligation, States must put in place effective criminal justice and law enforcement systems, such as measures to deter the commission of offences and investigate violations where they occur; ensure that those suspected of criminal acts are prosecuted; provide victims with effective remedies; and take other necessary steps to prevent a recurrence of violations.

International and regional human rights law has recognized that, in specific circumstances, States have a positive obligation to take preventive operational measures to protect an individual or individuals whose life is known or suspected to be at risk from the criminal acts of another individual, which certainly includes terrorists. Also important to highlight is the obligation on States to ensure the personal security of individuals under their jurisdiction where a threat is known or suspected to exist. This, of course, includes terrorist threats.

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[25] Great Britain. (2008). *Counter-Terrorism Policy and Human Rights (ninth report): Annual renewal of Control Orders Legislation 2008 : report, together with formal minutes and appendices*. London: TSO.

In order to fulfil their obligations under human rights law to protect the life and security of individuals under their jurisdiction, States have a right and a duty to take effective counter-terrorism measures, to prevent and deter future terrorist attacks and to prosecute those that are responsible for carrying out such acts. At the same time, the countering of terrorism poses grave challenges to the protection and promotion of human rights. As part of States' duty to protect individuals within their jurisdiction, all measures taken to combat terrorism must themselves also comply with States' obligations under international law, in particular international human rights, refugee and humanitarian law.

1.5.3 Possible reasons for Target of Terrorism in Kenya

Kenya is a good target of global terrorism because of a combination of geographic, regional, historical, political, economic and sociocultural factors. Some of these factors are direct justifications of attacks while others facilitate the attacks. [26]

1.5.3.1 Historical Ties

Historical Ties to the West, Israel and the Middle East Kenya's coastal region has centuries old trading relations with states in Southwest Asia and the West. Ties with the West began with the coming of the Portuguese in the late 1400s and were strengthened in the colonial and postcolonial period. Since independence Kenya has aligned itself with U.S., European, Israeli and other western capitalist interests. This geopolitical stance led to beneficial economic and technological aid flows that have advanced many aspects of the country's development. The close relationship between Kenya and the West, together with an abundance of tourist

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[26]Rotberg, R. I., World Peace Foundation.,& Brookings Institution. (2005). *Battling terrorism in the Horn of Africa*. Cambridge, Mass: World Peace Foundation.

attractions and the country's pleasant tropical climate and alluring beaches, have made the country a major magnet for western tourists. [27]

Kenya also has a substantial presence of western interests, investments, installations, diplomatic corps, and the headquarters of international agencies such as the United Nations Offices. Many western countries and corporations run their Sub-Saharan African operations from Nairobi because the country's relatively well-developed infrastructure, financial system, and strong economy facilitate such endeavors. Moreover, Kenya has close military relationships with a host of western countries e.g., US, Britain, Germany, Italy, France and Israel (Somerville 2002, Harman 2002).[28] Many of these western nations run de facto military bases in Kenya

Kenya's June 1976 decision to offer Israel crucial logistical support in its raid on Entebbe Airport in order to free Israeli hostages held there by Palestinian hijackers allied to then Ugandan dictator Idi Amin (Kyemba 1977:56). [29]This assistance was later avenged in the 1980 bombing of the Israeli owned Norfolk Hotel in Nairobi.

 Israel's prompt dispatch of a strong contingent of an Israeli Defense Force rescue team to Nairobi during the 1998 terrorist attacks is another indication. The Israel team was the first to arrive from abroad. Given that one of Al Qaeda's major grievances against the US is its support of Israel at the expense of Palestinians, it is not surprising that Kenya's long pro-Israel stance is viewed by Al Qaeda as evidence of Kenya's support of US policy in the Middle East. Whether right or wrong, this makes Kenya a bona fide Al-Qaeda target

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[27] González, R. J. (2004). *Anthropologists in the public sphere: Speaking out on war, peace, and American power*. Austin, Tex: University of Texas Press.

[28]*Bishop Herman College, 1952-2002, 50 yrs*. (2002). Accra: publisher not identified.

[29]Kyemba, H. (1977). *A state of blood: The inside story of Idi Amin*. London: Corgi.

1.6.3.2 Economic Activities

The local tourism industry Kenya's vibrant tourism industry has also contributed to the country's vulnerability to terrorist attacks. Tourism, as it is practiced in the country's coastal beaches, is at odds with the local Islamic culture and customs. [30]For instance, Islam teaches that women should cover every part of the body except the eyes when in public and also forbids the consumption of alcohol. Yet in Kenya's coastal beachareas, women tourists walk around barely dressed and alcohol is freely served in the many bars that cater to tourists and non-Muslim Kenyans. [31]Moreover, tourism has also contributed to the high incidence of prostitution and drug use in coastal Kenya. In addition, the tourism industry has not really benefited local people, especially Muslims, because of three reasons. First, many of the area's tourist facilities are owned by the government and upcountry or foreign investors with slight trickle-down effect. Second, the facilities are oriented to Western tourists whereas most locals practice an Arabized Muslim lifestyle that is largely incompatible with the norms of Western style tourism. Lastly, many local Muslims, being schooled in Madrasasor Islamic schools and not in the country's western-style educational system, lack the skills that could enable them to work in the country's western-tourist dominated industry[32]

This disjunction between tourism and the dominant local culture have created low-key anti-tourism sentiment in the coastal regions of Kenya. Although some local Muslims have for years abhorred the role of tourism in degrading their culture and morals, the government has not ameliorated or shown enough sensitivity to this issue because its hands are tied given the many

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[30] Laws, E., Prideaux, B., & Chon, K. S. (2007). *Crisis management in tourism*. Wallingford, UK: CABI.

[31] Barrett, C. B., Mude, A. G., &Omiti, J. (2007). *Decentralization and the social economics of development: Lessons from Kenya*. Cambridge, MA: CABI.

[32] Forest, J. J. F. (2007). *Countering terrorism and insurgency in the 21st century: International perspectives*. Westport, Conn. [u.a.: Praeger Security International.

economic benefits of tourism to the local economy and country at large. Nevertheless, the anti-tourism sentiment among some of Kenya's coastal Muslim residents has made it easier for groups like Al-Qaeda to infiltrate the area in the guise of providing solutions to poverty and local Islamic cultural erosion. Moreover, in targeting Kenya's tourism facilities, Al Qaeda hopes to increase its chances of intimidating prospective tourists.

1.5.3.3 Religious Affiliations

Kenya in the larger Islam-Christianity contest for regional spiritual supremacy less well-documented, but widely acknowledged reason (albeit anecdotally) for Kenya's terrorist attacks, is its prominent role in the larger Christianity - Islam contest for spiritual supremacy in Sub-Saharan Africa. Whereas most countries in the horn of Africa have large Muslim populations, Kenya stands out with its predominantly Christian population and relatively large economy (Potter 2003). This presents a major stumbling block to Muslims who desire to play a larger role in the region's affairs by, for instance, offering Sharia (Islamic) law as solution to the region's socioeconomic challenges (IPS 2004). With this in mind, the terrorist attacks, besides mainly targeting US and Israeli interests in Kenya, were designed to strengthen the hand of Muslims in the country's national affairs, thereby aiding the cause of Islam in the country and region (Mbogo 2003). Review of Factors that Facilitate Terrorism in Kenya.[33]

1.5.3.4 Geographic and strategic location

Kenya occupies a geographically, regionally, and internationally strategic position that has enabled the country to become a regional hub of international air, road, maritime, and

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[33]Kuriakose, K. K. (2006). *Religion, terrorism and globalization: Nonviolence: a new agenda*. New York: Nova Science.

communications traffic from Europe, Asia, and the rest of Africa. These links make it easy for would be foreign and local terrorists to travel to, from, and within the country, to communicate easily, and to launch terrorist attacks against Kenya (Soke 2003, Cronin 2002). [34]

1.5.3. 5 Porous Borders

Kenya shares long, remote, sparsely populated, and poorly protected borders with Tanzania, Uganda, Sudan, Somalia and Ethiopia (Figure 2). All of these neighboring countries, except Tanzania, have varying degrees of political instability that undermine their ability to provide for their people's basic needs especially safety or protect their territorial integrity. Consequently, Kenya is home to refugees from surrounding countries such as Somalia, Ethiopia and Sudan. Many of them crisscross the country's international borders at will. Moreover, Kenya's own limited financial and human resources undermine its ability to better police her borders hence the country's inability to stop weapons smuggling and would be terrorists'entry into the country (Figure 2, Soke 2003, Somerville 2002). But of all surrounding countries, Somalia is perhaps the most worrisome neighbor from a security standpoint. Besides sharing a 700-kilometer boundary that is hardly marked, this border area that largely consists of North Eastern Province has been a zone of conflict since the colonial period (Weiss 2004). [35]

As a result the government maintains a significant military presence in the area in order to deal with sporadic armed conflict and banditry (ibid). Moreover, since the early 1990s Somalia has been embroiled in a civil war that caused the collapse of the Somali state in 1995 resulting in the country's control by warring clan factions. The clans conflicting interests have led to untold

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[34]Ramraj, V. V. (2011). *Global anti-terrorism law and policy*. Cambridge: Cambridge University Press.

[35]Anassi, P. N. (2004). *Corruption in Africa: The Kenyan experience ; a handbook for civic education on corruption*. Victoria, BC: Trafford.

suffering and bloodshed, a litany of broken peace treaties, and have transformed the country into a haven of numerous extremist Islamic have both managed to infiltrate cross-border refugee traffic and some Somali refugee camps in Kenya's North Eastern Province and have made their way into Somali dominated neighborhoods in Nairobi and Mombasa (Soke2003: no pp). From these convenient hideouts, these terror groups have been able to map their targets and mount terror attacks.

Somalia is also a source of danger to Kenya because the weapons used in the Mombasa attacks were smuggled into Kenya by sea from Somalia. Some of the same components were used in the bombs that destroyed the hotel in Kikambala Mombasa and the U.S. embassy in Nairobi in 1998 (Kelley 2003a: no pp). In sum, Somalia has become an Al-Qaeda (1) source of weaponry, (2) base of operation and attack, and (3) a convenient hideout for its attackers.

The long relations between Kenya and other parts of the world have also unwittingly endangered the country by creating a very diverse culture in cities such as Nairobi and Mombasa. Specifically: the country's open, and friendly posture coupled with lax security and immigration laws make it easier for a would be terrorist to enter and blend easily. Indeed the chief mastermind of August 1998 bombing, one Odeh, was able to enter the country, acquire citizenship and Kenyan passport, marry from the local community, and go on to establish a fish business that is believed he used as a cover whilst planning the embassy bombing (Soke 2003: no pp). [36]

Most Kenyan Muslims live in the Coast and Northeastern Provinces and in major upcountry urban areas such as Nairobi while most Christians live in the central and western parts of the

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[36]Anassi, P. N. (2004). *Corruption in Africa: The Kenyan experience ; a handbook for civic education on corruption*. Victoria, BC: Trafford.

country. However, because of the dominance of Christianity in Kenya, the relatively small proportion of Christians who live in the Coast Province, outnumber Muslims. Because Kenyan Muslims are generally less fundamentalist (Potter 2003) compared to their brethren elsewhere Muslim-Christian relations in the country have been generally cordial. Although the Kenyan Muslim population is relatively small, it is large enough to have unwittingly facilitated terrorist attacks by Muslim extremist groups such as Al-Qaeda. This is because the local Muslim population made it possible for terrorists to slip into the country unnoticed, blend in, plan, fundraise or set up cover businesses, and carry out their attacks (Soke 2003, Kelley 2003a). It also makes it easy for terrorists to slip out after the attacks. For instance, the accomplices of the Mombasa Hotel suicide bombers vanished into the local Muslim population before fleeing to Somalia two days later (Kelley 2003a). Moreover, the perpetrators knew that investigations into their crime would be complicated by the presence of a relatively large local Muslim population because any arrest and interrogation of local Muslim suspects could be easily interpreted as Muslim persecution by the country's Christian dominated government (Potter 2003, Chemchemiya Ukweli 2000).

1.5.3.6 Economic and political disenfranchisement of local coastal population

Kenya's coastal population has been marginalized politically and socio-economically since the colonial days creating an enabling environment of nonexistent social services and poverty (Cronin 2002:38) that facilitates terrorism (but does not necessarily cause it) by creating sympathy for terrorist causes in the local population. [37]The spatially unequal development

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[37]Rotberg, R. I. (2005). *Battling terrorism in the Horn of Africa*. Cambridge, Mass: World Peace Foundation.

process initiated by the colonial government has been accentuated by independent governments with most of the investment resources being concentrated in other areas of the country.[38]

Besides unfavorable colonial and postcolonial government policies, the coast region of Kenya lags behind other provinces in development because (1) it is an ecologically low potential region with few fresh water sources, (2) it has since the colonial era lacked sufficient agricultural extension services, (3) it has a shortage of agricultural labor owing to its sparse population (Meilink 2000), (4) of insecurity especially in areas outside of the main towns of Mombasa, Malindi and Lamu and, (5) the high incidence of landlessness especially among locals (Kanyinga 1998). The region's landlessness is partly attributable to hyperinflation of land costs due to the growth of beach tourism in the area. Meilink (2000:24) has aptly described the current socioeconomic situation of the Coast region: Reviewing...basic household welfare indicators such as child nutrition, child mortality, educational participation, and access to safe water, leads to the conclusion that Coast Province indeed finds itself in a disadvantaged position vis-à-vis the other provinces. It has the highest percentage of stunted children, a high child mortality rate and the lowest educational enrolment rates, while in terms of supply of safe water, households at the Coast are also worse off.

The above factors goes do demonstrate the vulnerability of Kenya as a country to matters concerning terrorism, The brief history given on relations with other countries, trading activities, geographical location also pose challenges. From these learning points we should be able to develop as a county mechanisms to effectively and efficiently respond to terror threats.

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[38]Kuriakose, K. K. (2006). *Religion, terrorism and globalization: Nonviolence: a new agenda*. New York: Nova Science.

1.5.4 National Security

The idea of the nation-state is commonplace today, yet it would be wrong to assume that it is the only way to look at international security. The pre-Westphalia international system was based on the assumption that there existed a universal principle governing the affairs of states led by emperors, popes, kings, and princes. That was indeed the principle of the Holy Roman Empire. The new idea of the nation-state took a different approach. Peace and stability could be better served if people were not slaughtering each other over some universal principle in that case, religion. It would be far better to have an international system based on the equilibrium of nation-states dedicated to the limited purposes of national sovereignty and self-defense.[39]

1.6 Justification of the Study

The study enables the documentation of the effective national security response strategies in the Country and also identify sustainable solution comparing it with the responses of US to 9/11 attacks. Thus, the study develops a package of recommendations which can be used to reinforce the current National Security response strategies. Further, strategies will identify long-term security solutions.

The study results provides information to policy makers at all levels of administration in the Kenyan Government, especially Ministry of Interior and Coordination of National Government on ways of combating the runaway terror threats facing the country. This will enhance information flow for decision making on this vital area of insecurity.

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[39] National Security Act of 1947 (Public Law 80-253), Section 101(a), now codified at (50 U.S.C. 3021).

Students, academicians and researchers will find this study important for further research and pedagogical purposes and it will act as a source of empirical reviews.

This study will promote a better understanding of the drivers of terrorism Kenya, a largely unexplored area in the academic field evidenced by limited academic work on the subject matter. The project intends to give an assessment of ways of combating National Security. The study will suggest areas of improvement and provide a doorway for further research on combating terror.

1.7 Theoretical Framework

1.7.1 Constructivism Theory

The study relied on the constructivism theory to explain terrorism and seek ways of combating terrorism. Constructivism's asserts that social norms shape interests and interests determine state behaviour. It argues that society creates the norms of each state; norms then define identities and identities are the synthesis of common views and values that form a group conscience that sets its behavior.

Wendt believes that anarchy is socially constructed by individual states, based on their 'identities and how they create their own security dilemmas. [40]Wendt claims that a state's construction of anarchy is based on how it sees 'the self and the other' through its shared cultural understandings that 'arise out of interactions.' While Wendt's claim mainly related to

inter-state interaction, the idea extends to the interaction between state and non-state (terrorist) actor as well.

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[40] Wendt, Alexander. (1992). Anarchy is what States make of it: The Social Construction of Power Politics. International Organization. 46(2) : p391-425

Counter-terrorism lends itself to Wendt's understanding of the three 'cultures of anarchy, which also depend on how identities are defined. In fact, terrorism and counter-terrorism is what states make of it.

1.8Methodology

The study seeks to analyze existing dataset previously collected and existing data on the subject. Published records and reports or existing quantitative data on terror threats and national security responses and strategies were analyzed.[41] The study also collected primary data from National Security Council Committee, senior officers in the Ministry of Interior and Coordination of National Government and also Police officer ranks of Inspector and senior inspector using structured interviewing questions. This brought about a comprehensive review of datasets and collect information, boosting it with primary data sources. The approach will, therefore, saves resources, in terms of time, money and personnel. It also provides for criticism of original work (secondary material) which will enhance analytical review.

The study targeted three directorates that deal directly with national security in Kenya: National Police Service, Directorate of Immigration, and Directorate of Criminal Investigation. The data collected will be analyzed using thematic content analysis. Thematic content analysis is qualitative analysis technique whose emphasis is recording, examining, pinpointing patterns within data along themes; that is, patterns in and among datasets.[42]

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[41]Cnossen, Christine (1997). Secondary Research: Learning Paper 7. *School of Public Administration and Law,the Robert Gordon University,* January 1997. Retrieved May 25, 2013, jura2.eee.rgu.ac.uk/dsk5/ research/material/resmeth

[42]Fereday, J., & Muir-Cochrane, E. (2006). Demonstrating Rigor Using Thematic Analysis: A Hybrid Approach of Inductive and Deductive Coding and Theme Development. *International Journal of Qualitative Methods* 5 (1): 4.

In this study, thematic content analysis involved: reading the data collected and transcribed from desktop review and research, noting items of interest or themes, and sorting the themes into subthemes. The prevalence of occurrence of the subthemes will be noted from one response to the other and arranged into a coherent and analyzed report. In so doing, the integration of qualitative content and thematic analysis will produce a report that pays greater attention to and lays emphasis on the qualitative aspect of the data so collected.

1.9 Chapter outline

Chapter one captures the introduction to the study. The chapter is broken down into background of national security challenges in Kenya and Government's responses, there-to. It also contains the statement of the problem, objectives and research questions, significance of the study, methodology and preliminary chapter breakdown.

Chapter two discusses Terrorism and National Security, National Security Organs and Security Threats

Chapter three presents the 9/11 terror attack in United States of America and Government responses.

Chapter four outlines and discuss in detail the Kenya Government responses to terror attack: the Post-Westgate attack era. The chapter will compare and contrast how Kenyan and US governments responded to the Westgate and 9/11 terror attacks, respectively.

Chapter five provides the conclusion and recommendation based on the findings and previous discussions.

CHAPTER TWO

2.0 NATIONAL SECURITY THREATS

2.1 Introduction

This chapter will discuss in detail Terrorism, National Security, National Security Organs and Security threats in Kenya. It will highlight events of terror attacks in our country and give in brief the events of the fateful actions. The chapter will mainly focus on Westgate attack since it is the subject of discussion.

On the afternoon of 21st of September, terrorist orchestrated what appeared to be a well-planned attack on Westgate. This is an upmarket shopping complex owned by a wealthy Israeli businessman. As is custom for most Kenyans of means, the place was filled with shoppers and fun seekers as they sought to relax in the company of friends and loved ones. Then the terrorists struck at around half past noon, turning an otherwise uneventful and quiet day into a dark chapter in the history of the state.[43]

Through the media, the police appeared to be taking lead on the matter. The ones that had arrived on the scene did what their basic police training could allow them. Granted that they initially thought that it was just another bank robbery they gave it their best shot until they realized they might have been way in over their heads. At that point, the elite Recce company was called in to assess and neutralize the threat as well as save 'hostages'.[44]

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[43] In Pahad, A., In Le, P. G., & In Strydom, M. (2015). *Promoting progressive African thought leadership*.

[44] Warah, R. (2014). *War crimes: How warlords, politicians, foreign governments and aid agencies conspired to*. Place of publication not identified: Authorhouse.

The terrorists did not appear to have made any demands using the civilian population as bargaining chips. Rather theirs was an insidious murderous plot that aimed to cause as much shock and pain on the civilian population as well as the security community.[45]

With the Recce in the fray, it appeared that the situation was being handled, after all they are trained for this sort of thing. However images of the military soon flashed across the screen. With what I can only refer to a projection of force, tanks from military barracks created blockades around the site. The military was now involved, and would be for the next four days.

In the process of military engagement, two Recce company officers were shot, one fatally. The move precipitated the withdrawal of the police unit and the taking over of the operation by the military which had to regroup and plan. It is alleged by the media and some security analysts that this may have given the terrorists valuable time to gain initiative from security forces.

This scenario raised some important question about our security policy, especially in emergency situations. One was why wasn't the military informed that Recce company was in the building and had cornered some of the terrorists. [46]

A logical concept of collectivities such as nation states has been made by Barry Buzan who conceptualizes that there are five major factors that affect national security: military, political, economic, societal and environmental. Military security concerns the two-level interplay of the armed offensive and defensive capabilities of states and states' perceptions of each other's intentions. Political security involves the organizational stability of states, systems of government and the ideologies that give the legitimacy. Economic security concerns access to

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[45]Rotberg, R. I. (2005). *Battling terrorism in the Horn of Africa*. Cambridge, Mass: World Peace Foundation.

[46] Alexander, Y., &Nanes, A. S. (1986). *Legislative responses to terrorism*. Dordrecht [Netherlands: M. Nijhoff.

resources, finance and markets necessary to sustain acceptable levels of welfare and state power. Societal security encompasses the sustainability of social systems, within acceptable conditions for evolution, of traditional patterns of language, culture and religious and national identity and custom. Environmental security concerns the maintenance of the ecosystem and planetary biosphere as the essential support system on which all other human enterprises depend.

It is well understood that these five sectors do not operate in isolation from each other. Each defines a focal point and a way of ordering priorities, but all are woven together.

The Kenyan Internal Security is as enunciated in Section 2 of the Preservation of Public Security Act (CAP 57). The Preservation of Public Security of persons and property, prevention and suppression of rebellion, mutiny, violence, intimidation, disorder, crime, attempts of overthrow the government, maintenance of the administration of justice, provision of sufficient supplies and services and provision of administration and remedial measures during periods of national danger and calamity.[47]

The presence and proliferation of small arms and light weapons in society especially amongst ordinary and unscrupulous offenders, criminals, terrorists and quasi-militia pose dangerous threat to public safety, human security, conflicts and development. They are a hindrance to peacemaking, negotiations and reconciliation.

Declining Economy: Poverty, unemployment, poor infrastructure, corruption, unchecked mushrooming of slums in urban areas, rising juvenile delinquency brought about by increasing population of street children are some of the serious threats facing our nation today. The

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[47]Percox, D. A. (2004). *Britain, Kenya and the cold war: Imperial defence, colonial security and decolonisation*. London [u.a.: Tauris.

increasing number of school dropouts due to lack of school fees and/or insecurity portends badly for the future. As mentioned these vulnerable groups are target population for terrorist who poach them in the false deceit of a better life. [48]

External security or security against external aggression is both a civil and military affair. It is military in execution but civil in design. Defense policy is derived from the foreign policy. Military action is the extreme end of failed diplomacy. The role of the military is basically defence against external aggression. Secondary roles include assistance to civil power in the maintenance of law and order and the show of national pride.

The military, in their support to civil authorities must have clear instructions on the exact activities they are expected to perform. Military role does not mix with law enforcement roles. What the military does is to facilitate agencies to perform their duties. For example, in extreme civil disorder the military can be used to enforce curfews, enhance the security of important state assets as witnessed in Lamu during the Mpeketoni attack by terror gangs. The Kenyan military are founded on an Act of Parliament Cap 199 of the Laws of Kenya.

Civil society is increasingly becoming a major player in search for peace and prosperity at all levels; international, regional, national and local non-governmental organizations (NGOs) have large networks world over with vast amounts of data, information and expertise which can assist/enhance governments' efforts for social development. Some of the NGO's have been associated with terror funding necessitating the need to vet to be able to tell the clear intention of their creation.

Our porous and undefined international borders are a threat to the security of this country. Sovereignty, being partly a product of clear and marked borders, can only be guaranteed when

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[48] Alexander, Y., &Nanes, A. S. (1986). *Legislative responses to terrorism*. Dordrecht [Netherlands: M. Nijhoff

and where the borders are clearly marked and agreed on between neighbouring states. The Ilemi Triangle, for example, which forms Kenya's northwestern border with Sudan, has three different borderlines depending on which map you look at. This is a potential border-based external threat. Internal borders, eg Masai Mara are recipes for internal insecurity and should be addressed if security is to be achieved.[49]

Terror has been practiced by state and non-state actors throughout history and throughout the world. The ancient Greek historian Xenophon c. 431–c. 350 bc wrote of the effectiveness of psychological warfare against enemy populations. Roman emperors such as Tiberius (reigned ad 14–37) and Caligula reigned ad 37–41 used banishment, expropriation of property, and execution as means to discourage opposition to their rule.

Each act of terrorism is a "performance" devised to have an impact on many large audiences. Terrorists also attack national symbols,[50] to show power and to attempt to shake the foundation of the country or society they are opposed to. This may negatively affect a government, while increasing the prestige of the given terrorist organization and/or ideology behind a terrorist act.[51]

The number of deaths from terrorism increased by 61% between 2012 and 2013. There were nearly 10,000 terrorist attacks in 2013, a 44% increase from the previous year. Militant groups Islamic State, al-Qaeda, Boko Haram and the Taliban were behind most of the deaths.

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[49]Percox, D. A. (2004). *Britain, Kenya and the cold war: Imperial defence, colonial security and decolonisation*. London [u.a.: Tauris.

[50]Rick Hampson (2009-07-06). "Statue of Liberty gets her view back". *USA Today*. Retrieved 2010-01-11.

[51]Juergensmeyer, Mark (2000). *Terror in the Mind of God*.

2.2 National Security

The definition of national security must be limited not only to decide what the government should be expected to do, but also, just as important, to decide what it should not do. This is especially true because of budget restraints. While it is proper to task the government with protecting a spectrum of national security interests from the financial and economic system to access to natural resources the lion's share of the government's interest and thus budgetary resources should be dedicated to safeguarding the country and its interests from foreign aggression.[52]

Focusing national security policy on what matters most requires a more accurate understanding of power. Power is the degree to which a state can influence and control its destiny. All too often in the debate over "trade-offs" between soft and hard power, people assume that the former is interchangeable with the latter.

In its crudest interpretation, it is the misguided belief that diplomats and troops are somehow interchangeable. Diplomats, particularly skilled ones, are no doubt important to security, but it is inaccurate to suggest that they play the same roles as troops.[53]2.3 Security Organs in Kenya

2.3.1 National Security Organs

National security is the protection against internal and external threats to Kenya's territorial integrity and sovereignty, its people, their rights, freedoms, property, peace, stability and prosperity, and other national interests.[54]

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[52]The White House, National Security Strategy, May 2010, p. 34, (accessed September 15, 2014)

[53] National Security Act of 1947 (Public Law 80-253), Section 101(a), now codified at (50 U.S.C. 3021)

[54]Mbondenyi, M. K., Ambani, O., & Kenya. (2013). *New constitutional law of Kenya: Principles, government and human rights*

Kenya has three (3) National Security Organs and each is tasked with different responsibilities:-

1. Kenya Defence Forces;

2. National Intelligence Service; and

3. National Police Service.

The primary objective of the National Security Organs and security system is to promote and guarantee national security in accordance with the principles mentioned in Article 238 (2).

The National Security organs are subordinate to civilian authority according to the constitution and Parliament shall enact legislation to provide for the functions, organization and administration of the national security organs.

The constitution establishes a National Security Council (NSC) consisting of The Executive, respective Cabinet Secretaries and Head of the institutions concerned and the State Law office. The President chairs all meeting National Security Council Meeting. Their main role being of NSC is supervisory control over national security organs and performs any other functions prescribed by national legislation.

The Council is to integrate the domestic, foreign and military policies relating to national security in order to enable the national security organs to co-operate and function effectively, assess and appraise the objectives, commitments and risks to the Republic in respect of actual and potential national security capabilities.

2.4 National Security Threats

The concept of national security concerns State security, which means, security of persons, institutions, properties and national territory.

National security is a state or condition where our most cherished values and beliefs, our democratic way of life, our institutions of governance and our unity, welfare and well-being as a nation and people are permanently protected and continuously enhanced.

National security is best described as a capacity to control those domestic and foreign conditions that the public opinion of a given community believes necessary to enjoy its own self-determination or autonomy, prosperity and wellbeing.[55]

The origin of the modern concept of "national security" as a philosophy of maintaining a stable nation state can be traced to the Peace of Westphalia, wherein the concept of a sovereign state, ruled by a sovereign, became the basis of a new international order of nation states.[56]It was Thomas Hobbes in his 1651 work Leviathan who stated that citizens yield to a powerful sovereign who in turn promises an end to civil and religious war, and to bring forth a lasting peace, and give him the right to conduct policy, including wage war or negotiate for peace for the good of the "commonwealth", a mandate for national security.The Clausewitzian view of diplomacy and war being the instruments of furthering national cause, added to the view of national security being sought by nations by exercising self-interest at all times.[57]

2.5 Elements of National Security

As in the case of national power, the military aspect of security is an important, but not the sole, component of national security. To be truly secure, a nation needs other forms of security. Authorities differ in their choice of nation security elements. Besides the military aspect of

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[55] Davis, J. (2007). *Africa and the war on terrorism*. Aldershot, Hants, England: Ashgate Pub.

[56]MacFarlane, S. Neil; Yuen FoongKhong (2006). S. Neil, MacFarlane; Yuen FoongKhong, eds. *Human security and the UN: a critical history*. United Nations intellectual history project (illustrated ed.). Indiana University Press. p. 346.Retrieved 23 September 2010.

security, the aspects of diplomacy or politics; society; environment; energy and natural resources; and economics are commonly listed. The elements of national security corelate closely to the concept of the elements of national power. Romm (1993) lists security from narcotic cartels, economic security, environmental security and energy security as the non-military elements of national security.

2.5.1 Military security

This is traditionally, the earliest recognised form of national security.[58] Military security implies the capability of a nation to defend itself, and/or deter military aggression. Alternatively, military security implies the capability of a nation to enforce its policy choices by use of military force. The term "military security" is considered synonymous with "security" in much of its usage. One of the definitions of security given in the Dictionary of Military and Associated Terms, may be considered a definition of "military security". A condition that results from the establishment and maintenance of protective measures that ensure a state of inviolability from hostile acts or influences.[59]

2.5.2 Political security

The political aspect of security has been offered by Barry Buzan, Ole Wæver, Jaap de Wilde as an important component of national security, Political security is about the stability of the social order. Closely allied to military security and societal security, other components proposed in a framework for national security in their book "Security: a new framework for analysis", it

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[58]Paleri, Prabhakaran (2008). *National Security: Imperatives And Challenges*. New Delhi: Tata McGraw-Hill. p. 521

[59]Security." *in* "Dictionary of Military and Associated Terms", 2001

specifically addresses threats to sovereignty. [60]System referent objects are defined, such as nation-states, nations, transnational groups of political importance including tribes, minorities, some religious organisations, systems of states such as the European Union and the United Nations, besides others. Diplomacy, negotiation and other interactions form the means of interaction between the objects,

2.5.3 Economic security

Historically, conquest of nations has made conquerors rich through plunder, access to new resources and enlarged trade by controlling a conquered nations' economy. In today's complex system of international trade, characterized by multi-national agreements, mutual inter-dependence and availability of natural resources. The freedom to exercise choice of policies to develop a nation's economy in the manner desired, invites economic security. Economic security today forms, arguably, as important a part of national security as military security. The creation and protection of jobs that supply defense and non-defense needs are vital to national security. Third world countries are less secure due to lack of employment for their citizens.[61]

2.5.4 Environmental security

Drought or general lack of rain means less pasture and water for pastoralists that lead into invasion of pasture across community borders. This creates violent conflicts among the communities. While all environmental events are not considered significant of being categorized as threats, many transnational issues, both global and regional would affect national security. Romm (1993) classifies these as:-

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[60]*Security: a new framework for analysis*. Lynne Rienner Publishers. 1998. p. 239

[61] Davis, J. (2007). *Africa and the war on terrorism*. Aldershot, Hants, England: Ashgate Pub

Transnational environmental problems that threaten a nation's security, in its broad defined sense. These include global environmental problems such as climate change due to global warming, deforestation and loss of biodiversity. Disagreements over water scarcity in the Middle East, lead to illegal immigration into the United States caused by the failure of agriculture in Mexico.[62] The genocide in Rwanda,indirectly or partly caused by rise in population and dwindling availability of farmland, is an example of the extremity of outcome arising from problems of environmental security.[63]

2.5.5 Security of energy and natural resources

A resource has been defined as a support inventory biotic or abiotic, renewable or expendable, for sustaining life at a heightened level of well-being.

Resources include water, sources of energy, land and minerals. Availability of adequate natural resources is important for a nation to develop its industry and economic power. Lack of resources is a serious challenge for Japan to overcome to increase its national power. In the Persian Gulf War of 1991, fought over economic issues, Iraq captured Kuwait in order to capture its oil wells, among other reasons. Water resources are subject to disputes between many nations, including the two nuclear powers, India and Pakistan. Nations attempt to attain energy and natural resource security by acquiring the needed resources by force, negotiation and commerce.

[46]Romm, Joseph J. (1993). *Defining national security: the nonmilitary aspects*. Pew Project on America's Task in a Changed World (Pew Project Series). Council on Foreign Relations. p. 122

[47]Kenya.,& International Monetary Fund,. (2010). *Kenya: Poverty reduction strategy paper*.

2.5.6 Cyber-security

Recently, cybersecurity began to be viewed as a pressing national security issue. Electronic information systems are vital for maintaining a national security of any state. Possible unauthorized access to the critical governmental infrastructures by state and non-state entities can create a serious threat and have a negative impact on political, economic and military security of a given nation.

In the United States, the Bush Administration in January 2008, initiated the Comprehensive National Cybersecurity Initiative (CNCI). It introduced a differentiated approach, such as: identifying existing and emerging cybersecurity threats, finding and plugging existing cyber vulnerabilities, and apprehending actors that trying to gain access to secure federal information systems.[64] President Obama issued a declaration that the "cyber threat is one of the most serious economic and national security challenges we face as a nation" and that "America's economic prosperity in the 21st century will depend on cybersecurity.[65]

2.6 Possible Loopholes aiding terrorism in Kenya

When Kenya took its anti-terror war to the doorsteps of the al-Qaeda-linked al-Shabab in Somalia in 2011, its mission was to cripple and wipe out the militants. The military incursion was launched after the Muslim extremists kidnapped several tourists and virtually brought tourism in Kenya, one of the country's top foreign exchange earners, to its knees.[66]

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[64]Rollins, John, and Anna C. Henning. Comprehensive National Cybersecurity Initiative Legal Authorities and Policy Considerations. Washington, D.C.: Congressional Research Service, 2009.

[65]White House: Cybersecurity

[66] Bellamy, A. J. (2014). *Responsibility to protect: A defence*. Oxford University Press

Initially, the war paid handsome dividends, with al-Shabab being pushed away from the Kenyan border and eventually being routed out of Kismayo a Somali city, whose port the group exploited to finance its terrorist network in East Africa. For months, Kenyan defense forces and the African Union Mission in Somalia (Amisom) thought they had dealt a serious blow to their enemy.

But the celebration was short-lived. In early 2012, al-Shabab started turning the tables on Kenya by attacking areas inside the East African economic powerhouse. The group also abandoned conventional warfare and adopted an asymmetric, hit-and-run approach using its cells in Kenya.

But if Kenya could pursue the terrorists in Somalia, why has it failed to stop them from slaughtering people within its borders? Below we look at some of the possible causes of aiding solid ground for terrorist.[67]

2.6.1 Weak security intelligence:

Most attacks, including the latest in Mpeketoni, caught Kenya's National Intelligence Service (NIS) on the back foot. The performance of the intelligence agency has come into question in recent months, and some Kenyan politicians have changes in leadership accusing those in position as who of failing to help security agencies stop terrorists in their tracks. The agency has failed to rise to the occasion even when foreign intelligence agencies warn of imminent attacks. A day before the Mpeketoni bloodbath, the Standard newspaper reported, Britain closed

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[67] Davis, J. (2007). *Africa and the war on terrorism*. Aldershot, Hants, England: Ashgate Pub

its consulate in Mombasa for fear of attacks. Despite these red flags, NIS seemed not to have been bothered after President Uhuru Kenyatta slammed the West over the travel advisories.[68]

2.6.2 Rank corruption:

For the past three years, Transparency International has ranked police and the immigration department among the most corrupt institutions in Kenya. Terror masterminds have capitalized on endemic graft to advance their agenda. Terror suspects have, for instance, walked to freedom after bribing police officers. On the other hand, some officers working for the immigration and registration of persons department have been prosecuted for issuing Kenyan identification documents to illegal foreigners from Somalia some of whom turn out to be al-Shabab terrorists.[69]

2.6.3 Poor anti-terror strategy:

Kenya's anti-terror plan has all the hallmarks of firefighting. Security agencies have been swinging into action, and at times violating human rights, after terrorists hit their targets. In the aftermath of an April grenade attack in downtown Nairobi, for example, Kenyan security agencies roughed up and detained more than 600 people for allegedly lacking proper documents.

The majority of those seized in the operation, code-named "Usalama Watch," were from the ethnic Somali community, and Somali leaders accused the government of ethic profiling. This has given rise to bad blood between police and members of the community. Al-Shabab

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[68] Lennon, A. T. J. (2009). *Democracy in U.S. security strategy: From promotion to support*. Washington, D.C: CSIS Press.

[69] Lennon, A. T. J. (2009). *Democracy in U.S. security strategy: From promotion to support*. Washington, D.C: CSIS Press.

has called for an end to this harassment in its list of demands to Kenya if Nairobi wants the group to halt its murderous mission in Kenya, as Daily Nation reports.[70]

2.6.4 Poor and inadequate equipment

Kenya's police, charged with maintaining homeland security, lacks modern machinery to deal with new security threats such as terrorism. Budget constraints and rank corruption have conspired to deny the officers sophisticated weapons to match the firepower of terrorists. Many police stations across the country lack basic equipment. In March, the Associated Press revealed that the anti-terror police unit in Nairobi was operating on a budget of $735 per month. In comparison, parliamentary salaries and allowances total about $15,000 per month, per representative. Poor pay and lack of basic amenities have demoralized the officers, and some are thought to be rocking the anti-terror boat from within.[71]

2.6.5 Poor local and regional cooperation

In the aftermath of the Westgate Mall attack, it emerged that the National Intelligence Service had warned security agencies of a possible attack. This warning was ignored because of poor coordination between NIS and police.

Regionally, Horn of Africa states have not been sharing intelligence on terrorism as much as they should. Kenya, Ethiopia, Uganda, Tanzania, Rwanda and Burundi are fighting a common enemy, but there has been little cooperation.[72]

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[70] Lennon, A. T. J. (2009). *Democracy in U.S. security strategy: From promotion to support*. Washington, D.C: CSIS Press.

[71] Daniels, C. L. (2012). *Somali piracy and terrorism in the Horn of Africa*. Lanham, Md: Scarecrow Press.

[72] United States., Bush, G. W., & United States. (2003). *George W. Bush*. Washington, D.C: U.S. G.P.O.

There is some hope though. Kenya and East African states seem to have learned their lessons the hard way and are working to right their mistakes. Kenya, for instance, has launched an ambitious plan to install CCTV cameras in all major towns. Police reforms are also targeted be give better security services to the country

Regionally, East African Community states have agreed to implement a common anti-terrorism strategy to combat terror and other transnational crimes a conference organized in Nairobi in June came together to discuss ways of combating violent extremism.[73]

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[73] Bellamy, A. J. (2014). *Responsibility to protect: A defence*. Oxford University Press.

CHAPTER THREE

3.0 TERROR RESPONSE IN USA

3.1 Introduction

This chapter will present the 9/11 terror attack in United States of America and Government responses to the events of that day. It will look at how the US Government responded to the attack and what countries like Kenya can borrow from such responses.

The September 11 attacks were a series of four coordinated terrorist attacks by the Islamic terrorist group al-Qaeda on the United States on the morning of Tuesday, September 11, 2001. The attacks consisted of suicide attacks used to target symbolic U.S. [74]building landmarks. The hijackers crashed planes into the World Trade Center in New York City, the Pentagon in Arlington County, and a field in Shanksville, after the passengers revolted.

The attacks claimed the lives of 2,996 people including 19 hijackers and caused at least $10 billion in property and infrastructure damage. Four passenger airliners which all departed from the U.S. East Coast to California were hijacked by nineteen (19) al-Qaeda terrorists to be flown into buildings. Two of the planes, American Airlines Flight 11 and United Airlines Flight 175, were crashed into the North and South towers, respectively, of the World Trade Center complex in New York City. Within two hours, both 110-story towers collapsed with debris and the resulting fires causing partial or complete collapse of all other buildings in the World Trade Center complex, including the 47-story 7 World Trade Center tower, as well as significant damage to ten other large surrounding structures. A third plane, American Airlines Flight 77, was crashed into the Pentagon the headquarters of the United States Department of Defense in Arlington County, leading to a partial collapse in the Pentagon's western side. The fourth plane,

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[74] Macdonald, F. (2004). *The September 11th terrorist attacks*. Milwaukee, WI: World Almanac Library.

United Airlines Flight 93, initially was steered toward Washington, D.C., but crashed into a field near Shanksville, Pennsylvania, after its passengers tried to overcome the hijackers.

Suspicion for the attack quickly fell on al-Qaeda. The United States responded to the attacks by launching the War on Terror and invading Afghanistan to depose the Taliban, which had harbored al-Qaeda. Also, many countries strengthened their anti-terrorism legislation and expanded the powers of law enforcement and intelligence agencies to prevent terrorist attacks. Although al-Qaeda's leader, Osama bin Laden, initially denied any involvement, in 2004, he claimed responsibility for the attacks.[75] Al-Qaeda and bin Laden cited U.S. support of Israel, the presence of U.S. troops in Saudi Arabia, and sanctions against Iraq as motives. Having evaded capture for almost a decade, bin Laden was located and killed by members of the U.S. military in May 2011.[76]

The destruction of the World Trade Center and nearby infrastructure caused serious damage to the economy of Lower Manhattan and had a significant effect on global markets, closing Wall Street until September 17 and the civilian airspace in the U.S. and Canada until September 13. Many closings, evacuations, and cancellations followed, out of respect or fear of further attacks. Cleanup of the World Trade Center site was completed in May 2002, and the Pentagon was repaired within a year. On November 18, 2006, construction of One World Trade Center began at the World Trade Center site. The building was officially opened on November 3, 2014.Numerous memorials have been constructed, including the National September 11 Memorial & Museum in New York City, the Pentagon Memorial in Arlington County, and the Flight 93 National Memorial in a field near Shanksville.

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[75]Smith, Aaron. "One World Trade Center opens today". *CNN Money*. Retrieved 4 November 2014.

[76] Hampton, W. (2011). *September 11, 2001: Attack on New York City*. Somerville, Mass: Candlewick Press.

Reactions to the September 11 attacks included condemnation from world leaders, other political and religious representatives and the international media, as well as numerous memorial services all over the world. The attacks were widely condemned by the governments of the world, including those traditionally considered hostile to the United States, such as Cuba, Iran, Libya, and North Korea. However, in a few cases celebrations of the attacks were also reported, and some groups and individuals accused the United States in effect of bringing the attacks on itself.

Many countries introduced anti-terrorism legislationand froze the bank accountsof businesses and individuals they suspected of having connections with al-Qaeda and its leaderOsama bin Laden, the accused perpetrators of the attacks.[77]

3.2 U.S.A GOVERNMENT RESPONSE TO 911

3.2.1 Creation of the United States Department of Homeland Security

The United States Department of Homeland Security (DHS) is a cabinet department of the United States federal government, created in response to the September 11 attacks, with the primary responsibility of protecting the territory of the United States from terrorist attacks, man-made accidents, and natural disasters. In fiscal year 2011, it was allocated a budget of $98.8 billion and spent, net, $66.4 billion. Whereas the Department of Defense is charged with military actions abroad, the Department of Homeland Security works in the civilian sphere to protect the United States from within. Its stated goal is to prepare for, prevent, and respond to domestic emergencies, particularly terrorism.

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[77]Hamilton, Stuart (August 18–24, 2002). "September 11, the Internet, and the effects on information provision in Libraries"(PDF). *68th IFLA Council and Conference*. Retrieved September 8, 2006.

With more than 200,000 employees, DHS is the third largest Cabinet department in the U.S. government, after the Departments of Defense and Veterans Affairs. Homeland security policy is coordinated at the White House by the Homeland Security Council. According to Peter Andreas, a border theorist, the creation of DHS constituted the most significant government reorganization since the Cold War and the most substantial reorganization of federal agencies since the National Security Act of 1947, which created the National Security Council and Central Intelligence Agency.[78]

3.2.2 USA PATRIOT Act

In October 2001, Congress just one vote short of unanimous bipartisan support passed the USA Patriot Act. The measure gave law enforcement officials sweeping new powers to conduct searches without warrants, monitor financial transactions and eavesdrop, and detain and deport, in secret, individuals suspected of committing terrorist acts.

In late December 2005, the New York Times disclosed that in 2002 President Bush had secretly authorized the National Security Agency (NSA) to wiretap domestic phone calls and emails without obtaining legally required warrants. Although the 1978 Foreign Intelligence Surveillance Act (FISA) already permitted the administration to wiretap on an emergency basis and apply for warrants retroactively, the administration maintained that FISA was too cumbersome when urgent issues of national security were at stake.

The new law gave legal immunity to the telephone companies that participated in the NSA secret wiretapping program after the Sept. 11, 2001, terrorist attacks and broadened the

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[78]McWhinney, E. (2004). *The September 11 terrorist attacks and the invasion of Iraq in contemporary law: Opinions on the emerging new world order system*. Leiden [The Netherlands: MartinusNijhoff Publishers.

government's ability to eavesdrop on those in the U.S. and abroad it suspects are linked to terrorist activities.

Similarly, the USA Patriot Act, set to expire at the end of 2005, was first extended and then renewed in 2006. The Obama administration has continued to use the law and technology to eavesdrop on terror suspects and to disrupt terror networks. In fact, President Obama is pushing to expand on the law to force telecommunications companies to allow their networks to be monitored and make sure their technology does not interrupt such surveillance.[79]

In May 2011, three provisions of the law scheduled to expire were extended: the use of "roving wiretaps" to follow individuals when they switch phone numbers or carriers; investigators may obtain court orders to search business records of an individual for "any tangible things" related to an inquiry; and officials have the authority to conduct surveillance on foreign individuals suspected of having ties to terrorist groups.[80]

3.3.3 National Defense Programs

The Washington Post released a series of articles that examine the incredible growth of the United States National Security since September 11, 2001. In a two-year investigation conducted by *The Washington Post*, the newspaper reported the discovery of what amounts to an alternative geography of the United States and programs that are rarely mentioned in the mainstream American media.

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[79] Anderson, D. (2004). *The terrorist attacks of September 11, 2001*. Milwaukee: World Almanac Library.

[80] Beth Rowen - Has the government's response to 9/11 compromised civil rights in the name of national security?

It has been estimated that 854,000 people, nearly 1.5 times as many people as live in Washington, D.C., hold top-secret security clearances. In Washington and the surrounding area, 33 building complexes for top-secret intelligence work are under construction or have been built since September 2001. The article notes that many of the security and intelligence agencies do the same work, creating redundancy and waste. For example, 51 federal organizations and military commands, operating in 15 U.S. cities, track the flow of money to and from terrorist networks.

In the Department of Defense, where more than two-thirds of the intelligence programs reside, only a handful of senior officials, called Super Users, have the ability to know about all the department's activities. In his interview with *The Post*, former Defense Secretary Robert Gates said that he does not believe the system has become too big to manage but that getting precise data is sometimes difficult. In 2010, Gates said "Nine years after 9/11, it makes a lot of sense to look at this and say, Okay, we've built tremendous capability, but do we have more than we need? " In 2010, the current U.S. Secretary of Defense Leon Panetta said that he has begun mapping out a five-year plan because the levels of spending since 9/11 are not sustainable, "with these deficits, we're going to hit the wall."[81]

3.3.4 Television and Music Censorship

The September 11 attacks had an impact on the audiovisual entertainment business. Television coverage of the terrorist attacks and their aftermath was the longest uninterrupted news event in the history of U.S. television. It lasted for 93 hours, day and night. After 9/11, a collection

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[81] Edwards, B. (2014). *The Rise of the American Corporate Security State: Six Reasons to Be Afraid*. San Francisco, US: Berrett-Koehler Publishers.

of movies were cancelled that were in production, and many movies were edited. The most common way of editing was to delete or obscure shots of the World Trade Center. In all, roughly 45 films were edited or postponed because of the terrorist attacks. Some of these include Spider-Man, Zoolander, Men in Black II, The Bourne Identity, and The Incredibles.[82]

3.3.5 Stellar Wind

Stellar Wind is the open secret code name for a collection of activities performed by the United States National Security Agency in the wake of 9/11 and revealed by Thomas M. Tamm. The operation was approved by President George W. Bush. The program's activities involve data mining a large database of the communications of American citizens, including e-mail conversations, phone calls, financial transactions, and Internet activity. The records include detailed call information, including the caller, receiver, date/time of call, and length of call. The data is used in traffic analysis and social network analysis.

It is the largest database ever assembled in the world. The existence of the call database has prompted fierce objections by many circles. It is often viewed as an illegal warrantless search and a violation of the pen register provisions of the Foreign Intelligence Surveillance Act and the Fourth Amendment of the United States Constitution. The Obama administration has neither confirmed nor denied the existence of the domestic call record database.[83]

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[82]Grare, F. (2002). *The Muslims of the Indian sub-continent after the 11th September Attacks*. New Delhi: Centre De Sciences Humaines.

[83] Edwards, B. (2014). *The Rise of the American Corporate Security State: Six Reasons to Be Afraid*. San Francisco, US: Berrett-Koehler Publishers.

3.3.6 Changes in University Programs

The 2001 terrorist attacks against the United States ushered in a major shift on American college campuses. A recent article published by Scott Gold of the *Los Angeles Times* examined the current trend in U.S. schools. Today, domestic security has become, by some measures, the fastest-growing area of study, fueled by an increase in federal money. A large collection of domestic security programs have popped up in community colleges and graduate schools. Students across the country are enrolled in courses that didn't exist a few years ago. Many of these classes examine the psychology of terrorists and rogue regimes, or, as at Purdue University, study emergency response by simulating mass-casualty disasters at the site of the Indianapolis 500.

The new focus at Purdue is largely the result of its Homeland Security Institute, established after the 2001 attacks to use campus resources to confront national-security threats. [84]

3.3.7 Post-9/11 Veterans Educational Assistance Act of 2008

The Post-9/11 Veterans Educational Assistance Act of 2008 became law on June 30, 2008. The act amended United States Code to expand the educational benefits for military veterans who have served since September 11, 2001. The law is an effort to fund the college expenses of veterans in a way similar to the original G.I. Bill after World War II. The main provisions of the act include funding 100% of a public four-year undergraduate education to a U.S. veteran who has served three years of active duty since September 11, 2001. The bill provides the option for the veteran to transfer benefits to a spouse or child after serving (or agreeing to serve) ten years.

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[84] In Burk, J. (2013). *How 9/11 changed our ways of war*.

As the veteran attends school, the act provides a monthly living stipend based on housing costs. This rate varies across the United States. In December 2010, U.S. Congress passed the Post-9/11 Veterans Education Assistance Improvements Act of 2010, which expands eligibility for members of the growing National Guard. The new bill includes a $17,500 a year cap on tuition and fees coverage for veterans attending private universities.[85]

3.3.8 President's Surveillance Program

The President's Surveillance Program (PSP) is a collection of secret intelligence activities authorized by George W. Bush after the September 11, 2001 attacks. It is part of the War on Terrorism. The only section of the President's program that has been publicly disclosed is warrantless wiretapping of international communications where one party is believed to be affiliated with Al-Qaeda. The other intelligence activities covered under the same Presidential authorizations remain classified information.

In 2007, the Protect America Act was enacted to address the government's ability to conduct domestic electronic surveillance. After the Protect America Act was expired, the U.S. government passed the FISA Amendments Act of 2008 to update the Foreign Intelligence Surveillance Act.[86]

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[85] United States. (1969). *Bills to increase Veterans' educational assistance allowances: Hearings, Ninety-first Congress, first session on H.R. 10290, 11872, 11873, 11925, 11959, and 12335, June 25, 1969*. Washington: U.S. Govt. Print. Off.

[86] Human Rights Watch (Organization). (2001). *Human rights watch: September 11 attacks : crimes against humanity : the aftermath : a compilation of Human Rights Watch documents*. New York, N.Y: Human Rights Watch.

3.3.9 Foreign Intelligence Surveillance Act Amendments of 2008

The FISA Amendments Act of 2008 is an Act of Congress that amended the Foreign Intelligence Surveillance Act. The update makes it illegal to intentionally engage in electronic surveillance under the appearance of an official government act. The act prohibits any person from illegally intercepting, disclosing, using or divulging phone calls or electronic communications. It prohibits the individual states from investigating, sanctioning, or requiring disclosure by large telecoms and protects them from lawsuits. The act requires the government to keep records on surveillance for a period of 10 years. It increased the time for warrantless surveillance from 48 hours to 7 days. It requires government agencies to cease warranted surveillance of a targeted American if they enter the United States. The new provisions to the surveillance act are scheduled to expire on December 31, 2012.

The amendment to the FISA prohibits the government from invoking war powers or other authorities to supersede surveillance rules in the future. The changes have been criticized by some as they have granted immunity to the telecoms. This created an immediate roadblock for a number of lawsuits intended to expose and thwart the alleged abuses of power and illegal activities of the federal government since and before the September 11th attacks. The changes to the Foreign Intelligence Surveillance Act allows the government to conduct surveillance of any person for up to one week (168 hours) without a warrant, increased from the previous 48 hours, as long as the FISA court is notified at the time such surveillance begins.[87]

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[87] Bush, George W. (2009). *The National Security Strategy of the United States of America*. Morgan James Pub.

3.3.10 Intelligence Reform and Terrorism Prevention Act

The Intelligence Reform and Terrorism Prevention Act of 2004 is a 236-page Act of Congress, signed by President George W. Bush that broadly affects U.S. federal terrorism laws. The act is composed of several separate titles with varying subject issues. It established both the position of Director of National Intelligence (DNI), the National Counterterrorism Center (NCTC), and the Privacy and Civil Liberties Oversight Board. The Director of National Intelligence is the person serving as the principal advisor to the President, the National Security Council, and the Homeland Security Council for intelligence matters related to national security.[88]

The Director of National Intelligence serves as the head of the sixteen-member U.S. Intelligence Community. Establishment of the DNI position was recommended in the report given by the 9/11 Commission investigating the September 11 attacks. The report, which was released on July 22, 2004, identified major intelligence failures that called into question how well the Intelligence Community protected U.S. national and homeland security interests against attacks by foreign terrorists. The new law requires the CIA Director to report his agency's activities to the DNI.[89]

Critics of the act say it comprises the official capacity of the DNI by limiting government clearance and power. In particular, the law left the United States Department of Defense in charge of the National Security Agency (NSA), the National Reconnaissance Office (NRO),

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[88] Bolton, M. K. (2008). *U.S. national security and foreign policymaking after 9/11: Present at the re-creation*. Lanham [u.a.: Rowman & Littlefield.

[89] Posner, R. A. (2005). *Preventing surprise attacks: Intelligence reform in the wake of 9/11*. Stanford, Calif: Hoover Institution, Stanford Univ.

and the National Geospatial-Intelligence Agency. The Joint Intelligence Community Council was appointed as an executive oversight body to the Intelligence Community. The Act established the Office of the Director of National Intelligence (ODNI) as an independent agency to assist the DNI. The budget for the ODNI and the Intelligence Community equal 43.5 billion.

Director of U.S. National Intelligence required that the Department of Homeland Security (DHS) take over the security of airlines and passenger information. In response, airline personnel has been given the right to demand government-issued ID be shown if asked to do so. The act is notable for a section, which directs the Commissioner of Social Security to "restrict the issuance of multiple replacement social security cards to 3 per year and 10 for the life of the individual."

3.3.11 Military Tribunals and Guantánamo

In Nov. 2001, President Bush signed an order that called for foreigners charged with terrorism to be tried by military tribunals and that they be classified as illegal enemy combatants. Such tribunals permitted the admission of hearsay and evidence obtained under coercion, and allowed secret evidence that would be shown to the jury but not the defendant. In addition, the defendant could be excluded from portions of his own trial. Critics of the tribunals pointed out that this suspension of due process goes against the very principles that the U.S. claims it is defending from terrorism.[90]

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[90]Scheppler, B. (2005). *Guantánamo Bay and military tribunals: The detention and trial of suspected terrorists*. New York: Rosen Pub. Group.

Bush's controversial decision to classify detainees in the war in Afghanistan as enemy combatants, and not as prisoners of war subject to the Geneva Conventions, meant the U.S. could employ more coercive interrogation techniques, indefinitely detain prisoners, and deny them the right to due process. White House Council Alberto Gonzales maintained that terrorism was "a new kind of war" that rendered portions of the Geneva Conventions "quaint." In June 2004, the Supreme Court rejected the Bush administration's claim that the executive branch has unreviewable authority in time of war, ruling that detainees were legally entitled to challenge their imprisonment. In another case, the Supreme Court ruled in June 2008 that prisoners at Guantánamo have a right to challenge their detention in federal court.[91]

[91]Scheppler, B. (2005). *Guantánamo Bay and military tribunals: The detention and trial of suspected terrorists*. New York: Rosen Pub. Group.

CHAPTER FOUR

TERROR RESPONSE IN KENYA

4.0 Background

Given that the Kenya government has vowed to pursue its military operations in Somalia, despite continuing retaliatory terror attacks, it is worth questioning and unmasking the political objectives and incentives by both sides. Undeniably, more traction is needed in trying to understand whether this conflict is about resources, will Kenya's intervention bring peace and good governance to the Somali people or should they devise their own hybrid solutions, what is al-Shabaab's strategic goal as well as how does Kenya plan to counter al-Shabaab's strategy constructively and inclusively.[92]

Firstly, the level of poverty, unemployment and under-development on the Kenya-Somalia border is high. There is rapid population increase; environmental degradation of rangelands in the region contributes to increased communal competition and pastoral conflicts over water and rangeland, expansion of cross-border commerce from Somalia into Kenya is having a variable effect on the conflict, spillover from protracted state collapse in Somalia has been a major driver of conflict in the border areas, producing destabilizing flows of refugees, gun smuggling, small-arms proliferation, banditry, warfare and clan tensions. It would not be too much of a stretch to argue that Somalia's state collapse is not the sole source of insecurity in Kenya; political and economic trends in the contemporary Kenya-Somalia border also seem to be a factor.[93]

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[92] Development Policy Management Forum. (2009). *Social policy, development, and governance in Kenya*. Nairobi, Kenya: Development Policy Management Forum.

[93] Lilbride, P. L., Njeru, E. H. N., &Suda, C. A. (2000). *Street children in Kenya: Voices of children in search of a childhood*. Westport, Conn. [u.a.: Bergin & Garvey.

Secondly, despite a history of extremism and unconventional political developments in the region, relatively little empirical research has been done to determine why individuals join al-Shabaab. Consequently expanding the role of local institutions, mediated state arrangements such as traditional leaders, religious leaders including the participation of Islamic leadership and peace committees can help both states fulfill core functions of governance as well as dispensation of justice where both Kenya and Somalia governments cannot extend their authority at the border zone. Arguably, these traditional institutions signify strong local ownership, commitment and knowledge of local conflicts and are more trusted by the communities.[94]

4.1 Kenya's Response to terror

Kenya, with its poor security checks at the airport at the time and its porous borders, had become a soft target for terrorists who found it increasingly difficult to attack Western countries because of their strict counterterrorism measures. A few days before the Mombasa terrorist attacks, Australia and Britain had issued travel advisories for their citizens not to visit Kenya, especially Mombasa, because of imminent terrorist attacks. Those countries had received intelligence that an active terrorist cell in Kenya was plotting to attack Western interests. Osama bin-Laden also had warned of an attack in his broadcast on Qatar television news in Al Jazeera.[95]

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[94]Obudho, R. A., International Development Research Centre (Canada), & Kenya National Academy of Sciences. (1999). *Environment and development in Kenya: Research papers presented at Academy Public Lecture Series on urbanization and management of Kenya's urban centres in the 21st Century*. Nairobi: Kenya National Academy of Sciences.

[95]Muga, E. (1975). *Crime and delinquency in Kenya: An analysis of crime rate of arrested and convicted persons by racial and ethnic groups, sex and age, offences committed, and urban and rural differentials*. Kampala [Uganda: East African Literature Bureau.

After these attacks, the government realized that burying its head in the sand and wishing the problem away would not help. It confronted the problem and publicly declared that transnational terrorism had taken roots in Kenya. To counter the threat, the GoK embarked on a multifaceted counterterrorism strategy and employed diplomacy, military, information, financial controls, intelligence, and law-enforcement instruments of power to respond to the threat.[96]

4.1.1 Changes made by GoK to Security Laws

Debate has been raging in Kenya after the passing of a law that the government thought would be crucial in the fight against terrorism. The law, the Security Laws Amendment Act, 2014 was enacted in December 2014.

In 2014 terrorists killed more than 140 people in Kenya. In 2013, Kenya witnessed one of the most daring terror sieges in history when Al-Shabab linked terrorists attacked the Westgate Shopping Mall in Nairobi and killed 67 people. Al-Shabab has claimed responsibility for almost every terror attack that has happened in Kenya since 2011 and demands the withdrawal of Kenya Defence Forces (KDF) from Somalia. They have alleged that KDF has been torturing, killing and raping women and children while looting and pillaging the South of Somalia. KDF entered Somalia in late 2011 as a response to Al-Shabab attacks at the Kenyan Coast and to assist the Somali government to eliminate the terror group.[97]

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[96]Muga, E. (1975). *Crime and delinquency in Kenya: An analysis of crime rate of arrested and convicted persons by racial and ethnic groups, sex and age, offences committed, and urban and rural differentials*. Kampala [Uganda: East African Literature Bureau.

[97] Aguilar, M. I. (1998). *Being Oromo in Kenya*. Trenton, NJ [u.a.: Africa World Press.

The response to terror attacks by the government of Kenya has been wanting. After the Westgate attack, the government harassed, arrested, allegedly tortured and detained many members of the Somali community and illegal immigrants for weeks on end without trial. At the time, the government claimed to have been implementing the Prevention of Terrorism Act, 2012 while it was infringing on fundamental rights and freedoms of members of certain ethnic groups in the pretense of fighting terror. The continued detention and profiling of certain communities did not avert the terror attacks that took place in 2014.[98]

Kenya's security forces have earned a reputation for a lack of professionalism, tribalism, being involved in corrupt and criminal activities and nepotism. Anecdotal evidence points to the fact that some members of the security forces and immigration officials have been in cahoots with terror cells, offering them safe passage into Kenya and facilitating terrorism activities. A UNEP report on environmental crimes released in 2014 indicated that KDF was indirectly funding Al-Shabab by facilitating the illegal trade in charcoal and sugar in Somalia. [99]

In the hope of dealing with the terror problem, the government crafted the Security Laws Amendment Bill 2014 and presented before the National Assembly. The National Assembly received views from members of the public on the content of the Bill and tens of amendments to the Bill were tabled before the National Assembly, seeking to change aspects of the bill that were deemed unconstitutional. The amendments sought to deal with unconstitutional clauses in the Bill.

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[98] Burbidge, D. (2015). *The shadow of Kenyan democracy: Widespread expectations of widespread corruption*.

[99] Brisman, A. (2015). *Environmental crime and social conflict: Contemporary and emerging issues*.

The Act made amendments to the Public Order Act, Penal Code, Criminal Procedure Code, Registration of Persons Act, Evidence Act, Prisons Act, Firearms Act, Radiation Protection Act, Traffic Act, Investment Promotions Act, Labour Institutions Act, National Transport and Safety Act, Refugees Act, National Intelligence Service Act, Prevention of Terrorism Act, Kenya Citizenship and Immigration Act, National Police Service Act and Aviation Act. [100]

Section 12 of the law limited the freedom of speech and freedom of media by limiting the publication or distribution of material likely to cause public alarm, incitement to violence or disturb public peace. The law does not define such material and hence gives broad discretion to the security services in deciding when and where to apply the law.

Section 16, was to allow the Prosecution to withhold evidence from the Defence up until close to the hearing date, and was also suspended. This arbitrarily limits the right to a fair trial which is a non-derogable right under the Constitution. [101]

Section 48 sought to limit the number of refugees and asylum seekers in Kenya. It states that number of refugees and asylum seekers permitted to stay in Kenya shall not exceed one hundred and fifty thousand persons. This is in a country hosting more than half a million refugees and asylum seekers. The United Nations Convention relating to the Status of Refugees and the Organization of African Unity [OAU] Convention Governing the Specific Aspects of Refugee Problems in Africa which Kenya has ratified are all against the principle of taking back refugees to areas where they may suffer harm. While there are no specific provisions on the Constitution,

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[100] In Mbondenyi, M. K., In Lumumba, P. L. O., In Odero, S. O., &LawAfrica (Firm). (2011). *The constitution of Kenya: Contemporary readings*.

[101] In Mbondenyi, M. K., In Lumumba, P. L. O., In Odero, S. O., &LawAfrica (Firm). (2011). *The constitution of Kenya: Contemporary readings*.

Section 48 of the Security Law goes against Article 2 of the Constitution that domesticates international treaties ratified by Kenya. [102]

Section 56 gave the National Intelligence Service powers to undertake covert operations and Section 64 that outlaws publication of material that supports terrorism, training for purposes of terrorism, foreign terrorist fighters and travelling to a country for purposes of terrorism was also suspended. Again, this gives wide discretion to the security agencies in determining who they perceive as a terror suspect, and under their own determination proceeding to limit fundamental freedoms such as freedom of movement.[103]

One fact that has not gained notoriety in the debate on the Security Law is that Article 24 of the Constitution does allow for the limitation of rights and freedoms through legislation. The limitations should be through the least restrictive means and respect the letter and spirit of the Constitution.

4.1.2 Combating insecurity

Since the September 11 attack in USA no other major terror event has befallen the American soil. This is not so in Kenya as several other attacks have been experienced that had even more casualties than the Westgate Attack. The Attack on Garissa University College is still a fresh in our minds and goes on record as one of the hardest hit by terrorist in our land.

One of the pilots in the planes that were involved in the 911 attacks was said to have been a citizen of USA just as was the case in the westgate attack where the suspects were believed to

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[102] In Mbondenyi, M. K., In Lumumba, P. L. O., In Odero, S. O., &LawAfrica (Firm). (2011). *The constitution of Kenya: Contemporary readings*.

[103] In Mbondenyi, M. K., In Lumumba, P. L. O., In Odero, S. O., &LawAfrica (Firm). (2011). *The constitution of Kenya: Contemporary readings*.

be Kenyan citizens but radicalized in Somalia. As we continue to fight terror we must be alive to the fact that we are not only fighting the enemy that comes out of our borders to destroy our land but also the enemy within who leaves only to come back as an enemy through extreme radicalization.

It is clear that when it comes to matters security it can be rather difficult differentiating between abuse and protection. While trying to protect the rights of the perpetrators a government could be found to be risking the lives of its citizens and while trying to protect the life of the citizens a government could be accused of abusing human rights of the perpetrators.

Kenyans continue to decry the escalating insecurity that affects their socio-economic fabric. They fault the government for not having forensic laboratories that can record data with profiles of suspected terrorists, their sponsors and sympathizers. Retired Captain SimiyuWerunga, who is a security expert and the director of African Centre for Security and Strategic Studies, maintains that it would be difficult for Kenya to win the war against terrorism in the absence of a proper mechanism to profile suspects, which creates a reserve of information that security organs can easily refer to." Nonetheless, the Anglo-Leasing scandal which rocked Kibaki's government during his first term, is blamed for having hindered the creation of such labs. The National Intelligence Service is also in question for not justifying its huge annual allocations of over Ksh10 billion, in relation to curbing insecurity. During the 2013/14 fiscal year, a total of Ksh1.2 billion has been set aside to erect a National Forensic Laboratory to facilitate criminal investigations in order to get justice for victims of crime.[104]

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[104]Simiyu, V. G. (1997). *Elijah Masinde: A biography*. Nairobi: East African Educational Publishers.

Kenyan government must have a new approach in fighting terrorism by advancing its weaponry, applying new technologies, gathering intelligence by infiltrating terrorist cells and by being ahead every time. Kenya is a key ally of the West in their fight against terrorism and should seek more assistance in terms of cash and equipment. In October 2012, former president Kibaki assented to the Prevention of Terrorism Act, 2012 which is expected to lawfully disrupt the networks of financiers and sympathizers used by terrorists, to conduct their crimes.

President Uhuru Kenyatta promised to form a commission of inquiry to investigate the attack and any failings by security agencies. But to date nothing has happened. Mr. Joseph Ole Lenku confessed that parliament had taken up the process and did their best and came up with a report that actually necessitated a number of actions towards improving the country's security. This is yet to be realized to date.

A military commander involved in the Westgate operation, who spoke to the BBC on condition of anonymity, said that is when things started to go wrong. "We entered the mall blindly with no guide, with no concept of anything. Command and control was not there," he said. "The police felt they were undermined. The military thought the police didn't want to give them enough information so everything went wrong." This clearly goes to show the lack of coordination in such operations which is the main ingredient required if we are to win the war.[105]

The appointment of Hon. Maj. Gen (Rtd) Joseph Nkaissery, as the Cabinet Secretary for Interior and Coordination of National Government can be said to be a positive move. This is because he has a background in Military unlike his predecessor who had no experience in matters security. It can be said that since he came to power there is proper communications when it

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[105] Burbidge, D. (2015). *The shadow of Kenyan democracy: Widespread expectations of widespread corruption*

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comes to matters security and not confused statements from different arms of the government.[106]

The military was accused of looting when CCTV footage emerged showing soldiers carrying bags out of the shopping center. When merchants returned to Westgate they found most of their shops had been vandalized. Pictures circulating on social media revealed shelves, cash drawers and safes broken into. Kenya military was accused of mishandling the takeover of the rescue. Accused of mass looting, but they denied the accusation. Police were accused of failing to react in time and preventing the attack. The National Intelligence Servicewasblamed for failing to detect the planned attack, but said seven top officials were given an intelligence report in 2012 warning of an attack.

In such situations the blame game does not assist at all it adds insult to injury. Proper coordination in operations, and maintenance of good public image should be ensured to also win the confidence of citizens and the world at large. Accusations of looting after such an attacks leave more questions than answers on the real intentions of the security personnel. Cooperation rather than competition should be encouraged in times of operations.

4.2 Interview Analysis and findings

45.2.1 Age: The responded ranged between the ages of 28 – 56

4.2.2   Sex: only three out of the 20respondents were female

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[106]Burbidge, D. (2015). *The shadow of Kenyan democracy: Widespread expectations of widespread corruption*.

4.2.3 Understanding terrorism

On this question several answers came up. The most repeated word in all the definition was fear. All the respondents at some point mentioned the instilling of fear by the perpetrators to be able to control the minds of the subjects. [107]

4.2.4 Westgate attack

All the respondents vividly remembered the events of that day. They narrated how they never expected such even though they are trained for emergencies it was hard for most of them to just imagine such could occur.

The National Intelligence Service (NIS) was strongly criticised for failing to warn of the attack after *The Star* reported that two unnamed NIS officers had told it that the NIS had passed warnings about an attack to the police, and that a pregnant woman had been warned by her brother, an NIS officer, not to visit the Westgate. The Observer reported that Kenya had prior intelligence of an attack in Nairobi, and that there were reports of NIS agents being at Westgate a few hours before the attack. From its start, the investigation was hampered by a wide range of conflicting eyewitness testimony about the number of attackers, the gunmen's true identities, and even their ultimate fates[108]

4.2.5 Involvement in the rescue operations

Only one out of the respondents was inside Westgate mall. The other respondents were either involved in transmission of command. Strategizing for the next move or on standby. Some of

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[107] Martin, G. (2010). *Understanding terrorism: Challenges, perspectives, and issues*. Los Angeles: Sage.

[108]*Bariyo, Nicholas; Vogt, Heidi; Bryan-Low, Cassell (25 September 2013).*

the respondents explained that though they were not directly involved the anxiety made them feel as if they were present

4.2.6 Major challenge during the operations

Proper coordination. So many of us were just told to report to Westgate there was an emergency. By that time others had already arrived at the scene. To agree on a common way of solving the situation and also common command proved to be difficult some of the respondents commented. Another respondent retaliated that it was difficult to

Availability of necessary tools for use during the operation?

4.2.7 What was the mood among the team tasked with the operations

In case of emergency that was expected. Yes there was panic even from the top most of the officials. No one expected the situation to unfold as it did. Everyone wanted to offer a solution. The media gave information whether verified or not the temperature were boiling there were instances where people did not agree but the best thing is we found one voice later and we can say in that situation that was the best that could have happened.

4.2.8 Cause of terrorism

5 out of the 20 respondents gave poverty as a motivator to terror. 10 spoke of false promises that brain wash the minds of the terrorists. While 5 others gave reasons related to identity. Finding a sense of belonging in a group where one feel appreciated. [109]

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[109] Burbidge, D. (2015). *The shadow of Kenyan democracy: Widespread expectations of widespread corruption*.

4.2.9 Ability of the Government to fight terror

The respondents agreed that the government is well able to fight terror. They said there are different companies in the police service that are trained well enough to be able to tackle such situations. As demonstrated by the RECCE squad on different occasions clearly the government only needs to train and deploy more of such throughout the country to be able to serve its people. They also were full of praises for the work being done by KDF in Somalia saying it has succeeded to show just how skilled they are to the whole world and make our country proud.

4.2.10 Level of Motivation to fight the war on terror

Most of the respondents were quite clear that they took oath to protect this great nation in the worst of situations. However they said their will without proper tools may not be much. Transport sometimes is a problem and this makes it hard for them to reach the venue of emergency in good time. They have however appreciated the effort by the government to work on leasing of vehicles to enable their smooth movement. They also appreciate that the government has realized that their wellbeing matters and ongoing plans to construct decent housing for them also serves as a motivation to give all they can to ensure protection of their country.[110]

4.2.11 Areas of improvement in fighting terror

Terrorism poses a real and serious threat to the security and safety of the Alliance and its members. It is a global threat that knows no border, nationality or religion a challenge that the international community must tackle together. NATO's work on counter-terrorism focuses on

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[110] Netanyahu, B. (2001). *Fighting terrorism: How democracies can defeat the international terrorist network*.

improved threat awareness and preparedness, developing adequate capabilities and enhancing

engagement with partner countries and other international actors.[111]

Provision of protective gear came up as one of the main issues. It was noted that most of the

police that were at the sight first lacked bullet proof vest, proper communication gadgets and

the kind of guns they had could not be compared to the ones that were being used by the

terrorists in terms of capacity to hold bullets and impact on shots fired. The terrorist invest in

weapons that cause maximum damage and overwhelm the persons who challenge them.

As much as all of the respondents agreed that money needs to be allocated for them to efficiently

and effectively manage terror. They said this was not the major issue. Proper communication

is what came out as the major issue. If communication is done properly across all personnel

involved there will be less time wasted easy and smooth execution and almost 100% sucess in

their operations. They agreed that in time of danger they rarely stop to consult. Anything at

that point goes whether it works or not. It was noted from the interview that it would be less

costly to stop and strategies rather than undertake an operation without proper direction.[112]

4.2.12 Consultation in terms of ideas

A number of Partners have expressed their wish to initiate or enhance cooperation with NATO

in the area of border control. In this unique context, priority may need to be given to Partners

from Central Asia, which, because of their geographic location, may require assistance to

prevent illicit movement of personnel and material across international borders.[113]

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[111]*Terrorism: Reducing vulnerability and improving responses : U.S.-Russian workshop proceedings*. (2004). Washington: National academy press.

[112]*Terrorism: Reducing vulnerability and improving responses : U.S.-Russian workshop proceedings*. (2004). Washington: National academy press.

[113]Netanyahu, B. (2001). *Fighting terrorism: How democracies can defeat the international terrorist network*.

Command comes from the op down there is no time for consultation. Consultations are only done in meetings such as NSAC where the deliberations are communicated to us for implementation.

The senior officers who form part of the committee agreed that they do consult amongst each other, compare to other nations and their reactions to similar situations and communicate the findings to the juniors for implementation.[114]

4.2.13 Frequency of meetings

When asked whether meeting are held to consult of ways of combating the menace. A member of the NSAC committee said they get reports from the police service and the Military on progress made where they are at and working on intelligence gathered they are able to come up with ways of dealing with emerging issues. Though a member of the police service said that one of the areas they feel fails them is that they are more reactive than pro-active. They are good in dealing with a situation more than preventing a situation from occurring. From the Ministry of Interior an officer said that they have now embraced the idea finding solutions to foreseen problems rather than waiting for the problem to occur for it to be solved.

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[114]*Terrorism: Reducing vulnerability and improving responses : U.S.-Russian workshop proceedings*. (2004). Washington: National academy press.

CHAPTER FIVE

5.0 COUNTER TERRORISM

Counter-terrorism incorporates the practice, military tactics, techniques, and strategy that government, military, police, violent non-state actors and business organizations use to combat or prevent terrorism.

Counterterrorism efforts have been largely successful since 9/11. All but four of the more than 40 known terrorist plots by homegrown jihadists have been thwarted by authorities. But this effort faces serious challenges as it seeks to counter an ever-evolving and increasingly diverse terrorist threat. A more holistic approach that better coordinates the resources of federal, state and local authorities is needed.

Counterterrorism is not just about daring raids and drone strikes. It is about the hard work of collecting and sifting through vast amounts of information and managing relationships among organizations that often regard sharing information as an unnatural act.

The growth of Islamic extremism in EA appears to be linked to the poor socio-economic conditions of countries in the region where Islamist groups, deliberately leveraging socio-economic grievances, penetrate EA societies. The use of humanitarian and development relief, social services, education, training and health care by Islamist groups on one hand aim at improving living standards of Muslims in the HOA.[115]

Al-Qaeda is however only one component of a much larger composition of radical Islamist groups and organisations in the region. There is also a number of other indigenous radical Islamist groups in EA, which have varying degrees of semblance to al-Qaeda‟s agenda.

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[115] Netanyahu, B. (2001). *Fighting terrorism: How democracies can defeat the international terrorist network.*

5.1 Counter- terrorism efforts in EA

5.1.1 The role of International and regional bodies

International actors such as the United Nations, the European Union, the United States and regional actors such as the African Union and Intergovernmental Authority on Development have comparative advantages in contributing towards counter-terrorism in EA.

They have at their disposal knowledge and expertise of local issues that makes them well suited to develop approaches that take into account cultural and other contextual issues and undertake region- or sub-region-specific initiatives that complement and build upon global counterterrorism objectives.

They can facilitate the exchange of expertise and information among governmental and non-governmental experts, as well as the sharing of good national practices and lessons learned from national implementation among the countries of the region.

This section focuses on the activities of the Intergovernmental Authority on Development (IGAD), the UN, the US and the EU. 13

5.1.2 The African Union (AU)

The AU plays an important role in the HOA especially in relation the areas of peacekeeping, conflict prevention and crisis management. In the context of counterterrorism, these three dimensions of AU engagement are important given EAs persistent regional tensions and conflicts which allow terrorist activities to flourish. Although there are many other priorities to be addressed in the African Union" Peace and Security Council (PSC), there are also different levels of the terrorist threat perceptions within the member states of the AU. An added challenge is that the Au's CT resources are scarce thereby reducing its ability to actively fully realize its

CT policy. In 2004 the AU established the African Centre for Study and Research of Terrorism (ACSRT) to specialize on matters relating to terrorism and implementation of the AU counterterrorism programme.

The ACSRT is responsible for organizing functions aimed at improving counterterrorism capacities and cooperation among AU member states. It aims to educate AU members about the threat of terrorism in Africa, provide capacity-building assistance to enhance national and regional capabilities, create a mechanism for all member states to access expert guidance, build a database to facilitate the sharing of intelligence and other terrorism-related information; harmonize and standardize domestic legal frameworks with the AU and international counterterrorism frameworks; and disseminate counterterrorism research across the continent.

5.2.3 Intergovernmental Authority on Development

Initially after its formation, the initial focus of IGAD was on development issues yet over time the organization gradually took on security matters, an evolution that highlights the importance of the development-security nexus in the HOA region. In 2006, IGAD launched a four-year programme in Addis Ababa called the IGAD Capacity Building Program against Terrorism (ICPAT), funded by EU and other donors This programme has largely focussed on issues regarding capacity- and confidence-building in the IGAD region and it also works closely with partners at the regional and global level. It targets five areas: (a) enhancing judicial measures; (b) working to promote greater inter-agency coordination on counterterrorism within individual IGAD member states; (c) enhancing border control; (d) providing training, sharing information and best practices; and (e) promoting strategic cooperation.19[116]

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[116] [116]Muga, E. (1975). *Crime and delinquency in Kenya: An analysis of crime rate of arrested and convicted persons by racial and ethnic groups, sex and age, offences committed, and urban and rural differentials*. Kampala [Uganda: East African Literature Bureau.

ICPAT faces a number of challenges, the first of which regarding the conditions in the region sub-region, which hinder the development of a successful sub-regional security and counterterrorism agenda.

5.2.4 The U.S. Counterterrorism Programmes in the HOA

The U.S. military presence in the HOA with headquarters in Djibouti is known as the Combined Joint Task Force-Horn of Africa (CJTF-HOA). The CJTF-HOA is a component of the wider U.S. Africa Command (AFRICOM), which was established in October, 2008. CJTF-HOA operations encompass Kenya, Ethiopia, Eritrea, Sudan, Somalia, Djibouti, Yemen, and the Seychelles and it also works on projects in Uganda and Tanzania.

The main strategic objectives of the CJTF-HOA are:- To foster a regional perspective on security problems, build littoral capabilities, and support the AU and UN peacekeeping operations. The CJTF-HOA has worked with other external powers especially the UK to provide counterterrorism training in Yemen as well as build its Coast Guard. It has also provided military training to Ethiopia, Uganda, and Djibouti; and trained the navies of Kenya and Djibouti.[117]

The CJTF-HOA also recognizes the importance of civil affairs operations in efforts towards countering insurgency and terrorism. It has also contributed towards renovation of schools in Djibouti and Ethiopia; provided medical and veterinary services; and drilled water wells in Kenya.The main Western counterterrorism programme in the HOA and EA is the EA Counter-Terrorism Initiative (EACTI) led by the U.S. This programme is based on the model of the

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[117] Aguilar, M. I. (1998). *Being Oromo in Kenya*. Trenton, NJ [u.a.: Africa World Press.

Trans-Sahara Counter-Terrorism Initiative (TSCTI) and the Global Peace Operations Initiative (GPOI).

5.2.5 The United Nations and Counterterrorism in the HOA

The UN General Assembly unanimously adopted the UN Global Counter-Terrorism Strategy (UNGC-T Strategy) on 8 September 2006, which calls for a holistic, inclusive approach to counterterrorism. Both the UNGC-T Strategy and the 2008 Resolution adopted by the General Assembly recognize the need to enhance the role of regional and sub-regional organizations (SROs) as well as other stakeholders especially the UN member states .The UN has four-pillar plan of action includes measures to address conditions conducive to the spread of terrorism, measures to prevent and combat terrorism, capacity-building, and an 17 Approach based on human rights and the rule of law to counter terrorist threats.[118]

5.2.6 The European Union and Counterterrorism in HOA

The EU has adopted a very broad approach to cooperation with Africa. Most EU diplomatic and policy interventions in Africa are undertaken within the framework of Cotonou Partnership Agreement and the Africa-EU Strategic Partnership Agreement. Both call for cooperation in various areas, including politics, development and security. Under these treaties parties commit themselves "to the implementation of UN Security Council Resolutions 1325 on Women in Peace and Security and 1612 on Children in Armed Conflicts"

As set out in its Action Plan to Combat Terrorism, the EU seeks to address root causes of terrorism to tackle the factors that lead to the recruitment and radicalization of people by radical Islamist organizations. Root causes refer to the eradication of poverty, introduction of

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[118] Wanyonyi, S. S. W. (2014). *Shine: A conceptual, organizational, and praxis model for evangelism leadership in a globalized context*

democracy, protection of human rights and the rule of law. Violent radicalization may simultaneously be an aid to terrorism and a threat to democracy in 18 developing countries. The EU has funded a counterterrorism programme through IGAD with one billion euros allocated to the APSC.26 The IGAD Capacity Building Programme Against Terrorism (ICPAT) was established in 2006 and is based in Addis Ababa.[119]

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[119] Forst, B. (2009). *Terrorism, crime, and public policy*. Cambridge: Cambridge University Press

CHAPTER SIX

6.0 SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATION

6.1 Findings

Both Governments have appreciated the need to strengthen institutions after the attacks this can be seen in the reshuffle of senior government officers including Cabinet Secretaries in Kenya that can be compared to the creation of department of Homeland Security in the USA after the 9/11 attack. This is a clear indication of the commitment of both Governments to curb the menace that is Terrorism.

The Government of USA introduced the USA Patriotic Act that was basically to monitor communication without knowledge of the persons to be able to effectively manage crime the same was attempted by the GoK though it was not 100% Successful in the introduction of the Security Laws Amendment Act 2014, as it was challenged in court by the Opposition and ruled in their favour.[120]

The GoK has increased its allocation to the police. In an attempt to have a properly coordinated police force the Administration Police, General Service Unit and the Regular Police have been merged to create on Police Service Commission. This is aimed at having one voice when reacting to emergencies. The different command points that existed before this merger made it difficult for the units to properly respond as all of them had their commander and could not take orders from any other.

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[120]Wanyonyi, S. S. W. (2014). *Shine: A conceptual, organizational, and praxis model for evangelism leadership in a globalized context*.

The GoK gave warning over publications and posting of photos of victims. This was perceived to create tension among the citizens, was seen as disrespectful to the families who lost their loved ones. By publishing and posting the events it was seen as free advertising for the terrorist. This was discouraged to deny them the mileage of creating fear even in the population that was not directly affected. The GoUSA also had a television and Mucsic Censorship that also aimed to edit and delete shots that showed the effect on the World Trade Centre after the attack.

In the Academic institutions both the GoK and the GoUSA have introduced programmes on Terrorism. In Kenya the University of Nairobi has been in the fore front through the Institute of Diplomacy and International Studied that a Symposium attended by Senior Government officials among them the Cabinet Secretary of Defense and Attorney General on Counter Terrorism was organized in June 2015.[121]

In solidarity with the Security personnel involved in the war on Terror, the both presidents have in public praised their efforts and re-affirmed their commitment to fighting terror. They have also made visits to the injured and to their camps in an effort to encourage and assure their positions in this war.

6.2 Conclusion

Some factors affecting the security sector in Kenya include: lack of modernization of the security system and serious lapses of coordination between intelligence, the police and the Executive. Generally, there is no centralized coordination in the security sector. Within the top security apparatus, there is the element of shifting blame and giving excuses such as "I was not

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[121]Wanyonyi, S. S. W. (2014). *Shine: A conceptual, organizational, and praxis model for evangelism leadership in a globalized context.*

aware; I was not informed; we were not given the intelligence; this caught us unawares." Last year, the former Internal Security minister admitted that the National Police Service lacks sufficient personnel and equipment to combat crimes in the country. There are around 80,000 regular and Administration Police for over 40 million Kenyans.[122]

Kenya's Presidents have been loath to give up their control over policing; it has always been the surest way for them to gather intelligence on threats to their authority and has forever been a tool for interdicting this threat. Previous Presidents used the police to stamp their authority in Kenya; but none of them saw fit to direct that, policing's principal purpose was the safety of the public first, and national security, that is, the preservation of the State and its authority, next. As a result, even in the early years of Kenya's Independence, citizens were frequently at the mercy of bandits and criminals, but the presidency, the State and State authority was always secure

The attack on the Westgate shopping centre in Nairobi by Islamist militants from the Somali-based al-Shabaab terrorist group is a direct product of the long-running failure of western powers and African Union countries to end more than 20 years of anarchy in the "failed state" of Somalia. But it also reflects the outcome of a brutal power struggle within al-Shabaab that has brought the group's hardline global jihadist wing to the fore. Tisdall suggests that Al-Shabaab has internal leadership wrangles and that the Nairobi attack was an effort to stamp its authority, despite being weakened by the Kenyan military.[123]

The Shabab, who have pledged allegiance to Al Qaeda, used to control large parts of Somalia, imposing a harsh and often brutal version of Islam in their territory. They have beheaded

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[122]Wanyonyi, S. S. W. (2014). *Shine: A conceptual, organizational, and praxis model for evangelism leadership in a globalized context*.

[123]*Bariyo, Nicholas; Vogt, Heidi; Bryan-Low, Cassell (25 September 2013).*

civilians and buried teenage girls up to their necks in sand and stoned them to death. But in the past two years, the African Union forces, including the Kenyans, have pushed the Shababout of most of their strongholds. The worry now, current and former American officials said Saturday, is that this attack could be the start of a comeback.[124]

The fight against crime cannot be fought alone and fortunately, many countries including the United States are placing substantial resources within the borders of Kenya. Stability within Kenya has the potential to create an example for surrounding African nations. While the figures of crime facing Kenya are still some of the worst in East Africa, there is still considerable potential for a stable economy, government, and successful police force. First, the ratio of police to citizens needs to improve drastically. It is extremely unlikely for such a low number of police to actually make a significant difference in Kenya's security. In addition to hiring more police officers, the salary and living conditions need to improve. Low pay and a lack of public respect breeds a sizeable amount of corruption, which puts a severe damper on the economy. Until the relationship between the police and Kenyan people improves, it is unlikely for crime levels to make any major statistical decline. [125]

Furthermore, the court system in Kenya needs a reorganization and overhaul because the utilization of police prosecutors has proven itself to be ineffective and outdated. It has been urgued that the law also makes it difficult to detain terror suspects. This must also be looked into to ensure that the risk of releasing a possible terrorist back to the society simply because the time needed is more than that that is provided by the law, is taken care of.

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[124]NATO Advanced Research Workshop on Sociological and Psychological Aspects of Terrorism, Ozeren, S., Gunes, I. D., & Al-Badayneh, D. M. (2007). *Understanding terrorism: Analysis of sociological and psychological aspects*. Amsterdam, the Netherlands: IOS Press.

[125]Borgeson, K., & Valeri, R. (2009). Terrorism in America. Sudbury, Mass: Jones and Bartlett.

The war on terror in Kenya is a male dominated affair. From the interview held the only positions held by women are very few. Most of the committees tasked with National Security issues are all male dominated. It is important to note that we need to be on a step ahead of the terrorist. They have embraced women as equals or leaders in their groups and this we also need to embrace in our quest to fight terror.

6.3 Recommmendations

The Kenyan government needs to put more efforts in the overall employment of the instruments of power to improve on the measures in fighting the transnational terrorism threat in the country. To reduce the risks for future terrorist attacks, the government needs to seriously address the elements of the threat factors in order to deter any future attacks. In the fight against terrorism in Kenya, qualitative improvement is what is needed as opposed to quantitative. The government should therefore show political will by enacting antiterrorist legislation and focus on allocating adequateresources to the following instruments of power to mitigate the threat: information; law enforcement and intelligence; and socioeconomic development.[126]

Terrorism is not just military and police affairs, it is a society and governance issue that requires citizens, organizations and other relevant institutions to be meaningfully involved. The government should train its citizens on basic survival tactics in times of attacks. This will help reduce the number of casualties as the professional help is find its way to the ground.[127]

The relevant institutions should establish centers in all counties that have professionals to deal with such emergencies. The same way there are ambulances all over the country the police

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[126]Forst, B. (2009). *Terrorism, crime, and public policy*. Cambridge: Cambridge University Press.

[127]Martin, G. (2010). *Understanding terrorism: Challenges, perspectives, and issues*. Los Angeles: Sage.

force should at least have trained personnel of terrorism based in all counties this will reduce the time taken to transport help to the area of need. It took more than 11 hours for the Recce Company based at Ruiru to travel to Garissa to counter the four terrorist in Garissaif his time was reduced the casualties would also be reduced. One life saved is enough effort made.

Religious groups, particularly the Muslims clergies and organizations should take lead in the anti-radicalization strategies. They should be core group to work with the government to understand the terrorist mentality and counter brain washing of youths.[128]

More women should be engaged in the fight against Terror. As is with terrorist who have also moved from only recruiting men to including women in their troops and entrusting them with leadership the same should be done with counter terrorism to enable similar thinking application and achievement of better results.[129]

The Government should sieve its promises only make those it is able to fulfil so as to maintain its image to the public. Promises made and not fulfilled reflect negatively on the government.

The security personnel should be encouraged to cooperate and not compete. This will ensure proper coordination and assure better results than in a competitive environment.[130]

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[128]*Terrorism: Reducing vulnerability and improving responses : U.S.-Russian workshop proceedings*. (2004). Washington: National academy press.

[129]Borgeson, K., & Valeri, R. (2009). Terrorism in America. Sudbury, Mass: Jones and Bartlett.

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