

THE EFFECTS OF COUNTERTERRORISM MEASURES ON HUMAN RIGHTS
AND CIVIL LIBERTIES IN KENYA: A CASE OF KAMUKUNJI CONSTITUENCY,
1998- 2014

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Masters of Arts Degree in Political Science and Public Administration of the University of
Nairobi

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DECLARATION

This research project is my original work and has not been presented for a degree or other award in any university.

Signature-----



Date.....

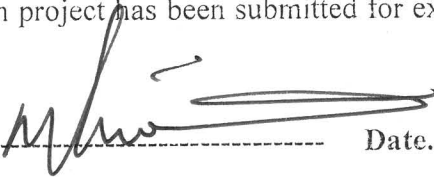
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Date.....

24/11/2015

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DEDICATION

To my loving wife Kanini, I am highly favoured to have you in my life. To my Sons Sila (R.I.P) and Kitonga, it's a blessing being your father. Dad Dave and mom Liz, thank you for giving me the foundation and motivation to seek greater heights academically. The pursuit continues.

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I recognize with profound gratitude the patience, support and understanding of my wife and best friend, Miriam Kanini that she accorded me. Thank you for allowing me to pursue my studies uninterrupted. This is our success. I recognize the understanding and encouragement I received from my lovely children Sila(deceased) and Gift Kitonga. It indeed gave me the motivation to work very hard. To my parents, David Katuta& Elizabeth Nduku, your faith in me and firm belief that I can conquer and subdue the earth has brought me this far. My solemn promise is this. I will pursue this noble cause even to greater heights.

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LIST OF ACRONYMS

ACLU	American Civil Liberties Union
AU	African Union
ATPU	Anti- Terrorism Police Unit
CIA	Central Intelligence Agency
CID	Criminal Investigation Department
DOD	Department of Defence
DPP	Director of Public Prosecutions
ECHR	European Convention on Human Rights
FRA	European Union Agency for Fundamental Rights
FRC	Financial Reporting Centre
IEDs	Improvised Explosive Devices
IPOA	Independent Policing Oversight Authority
KDF	Kenya Defence Forces
KNCHR	Kenya National Commission on Human Rights
MCA	Member of County Assembly
MP	Member of Parliament
MUHURI	Muslims for Human Rights
NCTC	National Counter- Terrorism Centre
NPSC	National Police Service Commission
NPS	National Police Service
NSC	National Security Council
NSIS	National Security Intelligence Service
OCSO	Oromo Civil Society Organization
OLF	Oromo Liberation Front
PC	Police Commissioner
POTO	Prevention of Terrorism Ordinance Act
RIISA	Regional Information Intelligence Sharing Agreement
SPSS	Statistical Package for Social Sciences
TSA	Transport Security Administration

ABSTRACT

The main objective of this study is to examine the effects of counterterrorism measures on human rights and civil liberties. The study is based on a case study of Kamukunji Constituency. A combination of qualitative and quantitative methods including interview sessions and use of a questionnaire was used to collect and analyze data on the extent of human rights and civil liberties infringement. The respondents from the community were taken through a questionnaire that had both closed and open ended questions. For the Key informants, interview schedules were conducted.

For the purpose of this study, the Bill of Rights in the Constitution of Kenya, 2010 was used to conceptualize what human rights and civil liberties entails. This study established that counterterrorism measures negatively affect human rights and civil liberties. The study found that arrests of the respondents by security agencies were characterised by torture, beatings and harassments. It also emerged that raids and searches and mass arrests and screening of arrested people at Kasarani were riddled with discrimination based on ethnic group and religion. There was also massive bribe taking. The rights of arrested terrorism suspects including right to challenge ones detention pending trial and right to life were violated by long detention without trial and enforced disappearances by security agencies while waging war on terrorism.

The study concludes by recommending that there is need for the government to change its strategies on fighting terrorism in the country. Intelligence driven counter terrorism measures, incorporation of the youths in anti terrorism strategies, embracing of Muslim and Somali Community by the state in its efforts to fight terrorism is recommended. Nyumba Kumi Initiative is also recommended as a good platform that the state can use to work effectively with the society in war against terrorism.

CHAPTER ONE

INTRODUCTION

1.1 Background to the Study

Security and human rights are among the most highly treasured values that a civilized society aspires to provide for its citizens. The signing of *Magna Cartain* 1215 between the King and the nobles in England, the enactment of Habeas Corpus Act of 1679 and the adoption of English Bill of Rights in 1688 demonstrated the importance of human rights and civil liberties. The crown's initial unchecked powers including powers to arbitrary detain, imprison freemen and impose heavy fines were limited by these monumental Acts.

Thomas Hobbes (1588- 1679) and John Locke (1632-1704) emphasized the importance of security. To Hobbes, security was the reason that led man to abandon the state of nature and form a polity. John Locke argued that men abandoned the state of nature and formed a political society for the mutual preservation of their lives, liberties and estates. If these values cannot be guaranteed, then the society is justified to revolt against the government. According to Waldron (2003), without security, human rights and civil liberties cannot be enjoyed. On the other hand, Latimer (2011) argues that civil liberties can only exist under governments that have powers and authority to protect them from assault.

From 19th century, to date, terrorism has posed challenges to security, human rights and civil liberties. Terrorism which is defined as, 'premeditated use of violence by non-state actor against civilians in the furtherance of broader political objectives' Omelicheva (2010, p. 1) has had devastating repercussions in the society. It has led to loss of life and property. It is also threat to democracy. A threat to democracy because, when security is not guaranteed, fundamental freedoms like right to life, freedom of movement, and right to worship are severely jeopardized. (Kaponyi (2007) states that the goal of terrorism violence is to destroy human rights by creating fear and provoking conditions that will precipitate the destruction of the prevailing social order.

Faced with this challenge, states have found themselves in a dilemma on how to balance between provision of security, human rights and civil liberties. Latimer (2011, p. xv) argues

that, “the appropriate balance between liberty and security presents a paradox: government is viewed as both as a threat to and as a defender of our liberty.” Meissels (2008, p. 57) concurs “neither personal security nor individual liberty is ever fully realized- both are a matter of degree- and they are often perceived as being at odds with each other.” It is this dilemma that has led to emergence of ‘surveillance societies’ in that, citizens’ data is stored biometrically and can be retrieved and shared by security agencies easily (David *et al*, 2006)

September 11, 2001 terrorist attack in USA was the watershed of global war on terrorism. However, in Kenya, the fight against the vice started after a major terrorist attack that occurred on 7th August, 1998. Suspected Al Qaida terrorists bombed the USA Embassy in Nairobi leaving over two hundred and fifty people dead and nearly five thousand injured (Otiso, 2009). It was followed by another attack in 2002 that was targeted at Israeli Owned Paradise Hotel in Kikambala near Mombasa which killed thirteen and injured at least eighty people (*ibid*)

In the wake of the terrorist attacks in the USA, several counterterrorism measures were put in place in a period of two months. The United States Congress authorized the president to use military force against the suspected terrorists, financiers and sympathizers of terrorism on September 18, 2001. USA Patriot Act was enacted on October 2001 to provide required legal frameworks of waging war on terrorism in the USA and abroad. On November 13th the same year, President Bush signed an executive order authorizing military tribunals to detain and conduct trials for noncitizens in the USA on terrorism related offences (Latimer, 2011). These measures fundamentally altered the relationship between the State and its citizens.

Anti- Terrorism, Crime and Security Act of 2001 and Antiterrorism Security Act of 2005 were also passed in Britain as a response to global terrorism. These Acts had effects on human rights because they legalized long detention without trial of terrorism suspects in contravention of the European Convention on Human Rights (ECHR) (Sidel, 2004). They also had provision for freezing of suspected terrorist’s financial accounts during investigations without approval of courts. This denied the suspects right to be presumed innocent until proven otherwise. The same laws have been cited as the reason why there were harassments of citizens by police, repeated searches and mass detention of peaceful protestors in 2002 and 2003 during the USA-led war in Iraq and Afghanistan (*ibid*)

In Australia, counterterrorism measures which encroached on citizen's privacy included investigations of over 17,000 mails for Australians in 2002, issuance of court warrants to wiretap over 25,000 telephones and investigation of over 733,000 telephone bills by the Australian government (Sidel, 2004). Two years later after September 11 terrorist attacks the Australian Intelligence Organization (Amendment) Act of 2003 was officially enacted. (Ibid)

The Prevention of Terrorism Ordinance Act (POTO) of 2002 was passed in India. Law enforcers invoked this Act's provision to arrest and prefer terrorism charges on hundreds of civilians in the Eastern Indian State of Jharkhand following a mass action in the area. Security agencies too relied on the same laws in 2002 and 2003 to arrest and detain masses following a communal violence in the state of Gujarat (Sidel, 2004)

Following the USA Embassy bombing by Al Qaida terrorists in Kenya on 7th August 1998, Kenya responded by deregistering six Islamic Charities and threatened to deregister more that were suspected of funding terrorism. The state further investigated activities of Madrasas that were accused of teaching extremism and too deported radical foreign Muslim clerics (Mogire & Mkutu, 2011). These measures limited freedom of worship of Muslims in Kenya. In addition to that, the government lobbied and supported African Union (AU) military intervention in Somalia. Surveillance and searches at airports, tourist destinations and embassies was also enhanced and in 2003, the state published Anti-Terrorism Bill- Suppression of Terrorism Bill of 2003 (ibid)

Anti- Terrorism Police Unit (ATPU) and National Counter- Terrorism Centre (NCTC) were created in 2003 (Kelly, 2003b). ATPU was charged with responsibility of providing institutional framework of combating terrorism threats (Munaita & K.J, 2004). These institutions have been accused of torturing terrorists' suspects, extrajudicial killings, enforced disappearances and long detentions of suspects contrary to constitutional provisions for respect of human rights and civil liberties (Horowitz, 2013). There was also replacement of personnel at the top echelons in the police force; The Police Commissioner (PC) and budgetary allocations of \$. 641 million was added (ibid). In 2006, Money Laundering Act, 2006 and Witness Protection Act of 2006 were enacted (Mogire & Mkutu, 2011)

Scotland Yard Anti- Terrorism Police Unit was also outsourced to aid in training of local law enforcers on how to combat terrorism (Otiso, 2009). There was also technical collaboration on how to detect, disarm bombs and protect government leaders (Munaita & K.J, 2004). The USA further provided Kenya with computer system for thorough screening of travellers at the airport. Cooperation between the two countries in developing a means of blocking clandestine terrorist financing was also enhanced (ibid)

Additionally, the Ministry of Finance formed a Taskforce on Anti- Money Laundering and Combating the Financing of Terrorism that consisted of representatives from Finance, Trade and Foreign Affairs Ministries, the Central Bank of Kenya (CBK), the Police, the Criminal Investigation Department (CID) and the then National Security Intelligence Service (NSIS). The Finance Ministry also signed the Regional Information and Intelligence Sharing Agreement (RIISA) (Harman, 2002), (Federal Bureau Investigations, 1998)

On October 2011, Kenya sent its troops to Somalia as a response to increased terrorism activities from Al Shabaab in the Coastal region and North Eastern Kenya. The goal of the operation dubbed '*linda Nchi*' was to pursue kidnappers, destroy, weaken their influence and ultimately create a buffer zone in Kenya's border and Somalia (World Organization Against Torture(OAK), 2012). In 2012, additional measures including enactment of Prevention of Terrorism Act of 2012 and establishment of Financial Reporting Centre (FRC) were put in place.

The Prevention of Terrorism Act of 2012, together with Anti- Money Laundering Act of 2009 and Prevention of Organized Crime Act of 2010 gave criminal justice system effective laws to prosecute terrorism suspects including Iranian citizens- Ahmad Abolfathi and Sayed Mansouri who had already been charged with possession of explosives (United States Department Of State Publication. Bureau of Counterterrorism, 2013)

On 31st March, 2014, three simultaneous explosions occurred at Nairobi, Eastleigh Estate claiming lives of six people and injuring thirty-one others (IPOA, 2014). The government responded on 5th April 2014 by carrying out security operation dubbed 'Operation Sanitization of Eastleigh'. Police targeted Eastleigh Estate and other areas perceived to be hideouts for illegal immigrants. The aim of the operation was to "flush out Alshabaab

adherents/aliens and search weapons, Improvised Explosives Devices (IEDs)/ explosives and other arms so as to detect, disrupt and deter terrorism and other organized criminal activities”(Ibid)

The state went a step further and enacted Security (Amendment) Bill, 2014 that amended twenty two legislations related to national security. The Bill also established Counterterrorism Centre. The institution is headed by a Director who is appointed by National Security Council (NSC). The personnel are drawn from the three national security organs- National Intelligence Service, Kenya Defence Forces (KDF), the National Police Service (NPS) and other agencies that NSC determines. The institution overall objective is to coordinate counterterrorism measures (National Council for Law Reporting, 2014)

Against this background therefore, this study sought to investigate the extent to which counterterrorism measures taken by the state of Kenya affect human rights and civil liberties using a case study of Kamukunji Constituency.

1.2 Statement of the Research Problem

The effects of counterterrorism measures on human rights and civil liberties can be as a result of enacted measures, their implementation or enforcement. For the purposes of this study, the focus was on enforcement of counterterrorism measures by the security agencies.

This is due to the fact that terrorists inflict harm on the victims with an aim of creating widespread fear beyond their immediate targets (Grayling, 2009). Terrorism aims to disrupt social order of a society and thus, ‘combating terrorism is not simply a matter of taking a battle to an enemy. It also involves the preservation and protection of the social order’ (White, 2006, p. p.32).Therefore, respect for human rights and civil liberties should be the basis upon which states enact antiterrorism measures but not a hindrance (Kaponyi, 2007)

Kenya, as a democratic state, is expected to be guided by the Constitution of Kenya, 2010 and international laws and treaties in its fight against terrorism. The Bill of Rights, Article 238 (2) (b), Article 244 (c), (National Police Act, 2011) (Independent Policing Oversight Act, 2011)are some of the constitutional and legal frameworks that the state is expected to comply with while waging war on terrorism. For example, Article 238 (2) (b) states that “national security shall be pursued in compliance with the law and with the utmost respect

for the rule of law, democracy, human rights and fundamental freedoms.” Article 244 (c) on the other hand states: “The National Police Service shall comply with constitutional standards of human rights and fundamental freedoms.” Additionally, the National Police Service Commission (NPSC) created under article 248 of the Kenyan Constitution also sets human rights standards that law enforcers should adhere to while executing their duties(Horowitz, 2013)

Against this background, has Kenya adhered to these constitutional set standards for respect of human rights and civil liberties? In 2007, for example, ATPU was accused of arresting and detaining terror suspects without preferring any charge against them. These suspects were also denied access to legal assistance and right to contact their relatives (Lorna McGregor & Clara Ferstman, 2009). In the same year, Kenya rendered to Somalia about 90 people who were later transferred to Ethiopia (Human Rights Watch, 2008). The suspects were not brought to court within twenty four hours as stipulated in the constitution and they were denied a right to an extradition and deportation procedure in contravention to Kenya’s domestic law (Horowitz, 2013)

During ‘Operation Sanitization of Eastleigh’ on 5th April, 2014, most of the detainees were delayed up to fifteen days before being taken to court to answer charges contrary to article 49 (f) of the Constitution of Kenya which provides for a twenty- four –hours window. There was also arbitrary deprivation of liberty without cause by rounding up people with valid and credible identification documents in contravention of Article 29 (a) that requires a just cause to deny that right.

Children were locked up into the same cells with adults as opposed to article 53 (1) (f) and fifth schedule of the (National Police Act, 2011) that provides for separation of children from adults in police cells. Right to equality and equal protection before the law as per article 27 (4) of the Constitution was also not adhered to because the security agencies targeted the Somali Community who are majority residents in Eastleigh Estate and its surrounding (Independent Policing Oversight Authority, 2014)

These actions bring to light the fact that there are discrepancies between counterterrorism measures and adherence to constitutional and international accepted standards for respect of

human rights and civil liberties by security agencies during war on terror. This study therefore sought to find out to what extent had these counterterrorism measures affected human rights and civil liberties of Kenyans and make appropriate recommendations depending on result finding. Kamukunji Constituency was considered an appropriate study area due to sizeable Somali Community that resides there. Several security operations had also been carried out in the Constituency.

1.3. Research Questions

The study sought to answer the following questions:

1. What are the effects of counterterrorism measures on human rights of Kamukunji Constituency residents?
2. What are the effects of counterterrorism measures on civil liberties of Kamukunji Constituency residents?
3. To what extent do the security agencies respect human rights of arrested terrorism suspects?

1.4. Objectives of the Study

The overall objective of the study was to establish the extent to which counterterrorism measures in Kenya were affecting human rights and civil liberties of its citizens. Specifically, the study sought to:-

- 1) To find out the extent to which counterterrorism measures had affected human rights of Kamukunji Constituency residents.
- 2) To establish the extent to which counterterrorism measures affected civil liberties of Kamukunji Constituency residents.
- 3) To explore whether security agencies respected the rights of arrested terrorism suspects as specified in the Bill of Rights.

1.5. Justification of the Study

In spite of the fact that war on terrorism is a complex endeavour, the need to protect human rights and civil liberties is of great importance. Increased terror attacks have put the state on spotlight concerning its ability to protect its citizens. It is the responsibility of the state to

protect human rights and civil liberties and at the same time ensure security. It is also imperative for the state to adhere to the rule of law in this noble exercise. Therefore, this study sought to fill the knowledge gap that exists on effect of counterterrorism measures on human rights and civil liberties in Kenya.

The findings of this study informs the policy makers, security agencies, and Criminal justice departments like the Office of Director of Public Prosecutions (DPP) in coming up with measures that ensures compliance to Constitutional requirements for respect of human rights and civil liberties during war on terror. The study also provides empirical evidence on the state's performance on human rights and civil liberties during its war on terror. This forms the basis of future reference that can be cited by human rights defenders, human rights organizations and even legal practitioners in law courts.

1.6. Scope and Limitations of the Study

The study focused on Kamukunji Constituency that is in Nairobi County. The target population was all residents of Eastleigh and Pumwani Divisions. Bahati Division was not covered due to constraints of time and finance. The study covered the period from 1998-2014. This is because the major terrorist attacks in Kenya occurred in 1998. Since then up to 2014, there were other subsequent attacks in the country including Westgate, Mandera, and Lamu attacks in 2014 which led to various counterterrorism measures.

The research topic was quite sensitive. This posed a challenge of unwillingness of the respondents to provide information because of fear of the unknown especially in Eastleigh North Sub Location which was predominantly a Somali residence. It was also an area that several anti- security operations had been carried out by the government.

There was also the challenge of establishing the real residents of Kamukunji Constituency due to the fact that some of its areas like Eastleigh and Gikomba are trading hubs in Nairobi County. There were people who do business trading there but do not reside in Kamukunji Constituency. The researcher was also aware that there are citizens who are registered voters in Kamukunji Constituency but do not live in the area.

To overcome these challenges, a good rapport with the authorities and respondents before and during the period of data collection was also established so as to get the required

information from the respondents. In Eastleigh North Sub Location, the researcher arranged with area chief to have two point persons i.e. a male and a female from the Somali community. This was necessitated by the fact that, most of the residents were apprehensive to responding to the research questions. Data collection in the area had to be extended for two days so as to reach enough respondents. In addition, respondent's information confidentiality assurance both from the research team and the point persons was stressed at all times.

To overcome the challenge of interviewing non-residents of Kamukunji Constituency, the researcher sampled respondents in their houses. Period of residence of at least 1-3 years was the bare minimum requirement for one to qualify as a respondent. Thus, any respondent who notified the research team that he or she had stayed in Kamukunji for less than one year was not interviewed. Point persons were also consulted for assistance in positive identification of real residents of Kamukunji Constituency.

1.7 Definition of Concepts

Human Rights: Several scholars have defined human rights to mean series of immunities and protections that are guaranteed in the constitution. They are non- derogatory rights that cannot be suspended under any circumstances (Fenwick and Glancey, 2013; Davis, 2013 and Richard, 2014). In this study, human rights were freedom from torture and cruel, inhuman or degrading treatment or punishment, the right to life, the right to an order of habeas corpus and freedom and security of the person.

Civil Liberties: Civil liberties have been defined to mean the broad class of civil as well as political rights. They are limited to those freedoms that relate specifically to a person as a citizen in a democratic society e.g. right to vote and freedom of association (Fenwick and Glancey, 2013)). In the context of this study, civil liberties meant equality and freedom from discrimination, right to privacy, freedom of movement, and freedom of worship.

Counterterrorism Measures: This refers offensive measures taken in response to terrorist acts (Department of Defense, 1982 and Joint Chief of Staff, 1984). In the context of this study counterterrorism measures meant offensive measures taken to prevent, deter and respond to terrorism. They were legitimate measures that the state used to protect its citizens against terrorism activities. They included security operations and trial of terrorism suspects.

Security operations were used in the context of arrests, raids, searches and screening of arrested people.

Security: Several scholars have defined security to mean being free from harm (safe)(Waldron, 2003 and Meissels, 2008).In the context of this study, security was used to refer to state's concerted efforts to prevent terrorism attacks within Kenya.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This section presents reviewed literature in relation to the specific objectives. The first subsection discusses the effects of counterterrorism measures on human rights and civil liberties and subsection two focuses on security agencies compliance to constitutional requirements of respect for rights of arrested terrorism suspects.

2.2 The Impact of Counterterrorism Measures on Human Rights and Civil Liberties

(Edward and Kendra, 2004), carried out two surveys in the USA to find out the role of the 50 States in countering terrorism. The first survey involved all Fifty State Homeland Security Directors as respondents. The aim was to get information on duties, constraints and the status of homeland security offices. The second survey targeted the Directors of State Chapters of the American Civil Liberties Union (ACLU) as respondents

In the first survey, study found that the states' response terrorism was constrained due to overreliance of technical support from federal government and lack of adequate federal funding. The second survey found evidence that majority of states were cautious and considerate in their actions against terrorism suspects except of a few states like the State of Maryland and Iowa. ACLU opined that enactment of electronic surveillance laws that allowed use of "roving wiretaps" without the approval of courts was in contravention of Fourth Amendments of the USA Constitution. A precise description of search was therefore required by the supreme law. The human rights body was also concerned that there would be eavesdropping of innocent people private conversations by security agencies in contravention of their right to privacy.

However, this study did not carry out an evaluation on the effects of the measures taken by the states on human rights and civil liberties. This was informed by the fact that the states' program had been in force for just a year. To overcome this shortcoming, this study sought to evaluate the effects of counterterrorism measures on residents of Kamukunji over a decade.

The researcher considered this period of time long enough to undertake a comprehensive analysis to establish the extent to which counterterrorism measures affected human rights and civil liberties

Axel *et al* (2007) found that there is evidence that terrorism reduces human rights and civil liberties although the reduction is rarely dramatic. The impact also on human rights is more pronounced than on civil liberties. The study further found that citizens of democratic states feel more constrained by the counterterrorism measures than those in totalitarian states. The study therefore concluded that, terrorism substantially increases probability of extrajudicial killings, political imprisonments and torture.

This study did not take into consideration that reduction of human rights and civil liberties might not be uniformly distributed among members of the society. There was an assumption that the state is a monolithic entity and therefore its actions affect all citizens uniformly. The study failed to recognize diversity of societies in states. There is likelihood of some communities to suffer more than others.

Bekele (2010) explored how Ethiopian authorities' uses counterterrorism measures to suppress political pluralism in the country. Using desktop, internet and library to collect both primary and secondary data for analysis, (Bekele, 2010) found that since the September 11 terrorist attack in USA, there was systematic crackdown on opposition groups in Ethiopia. The Ethiopian State targeted the Omoro Liberation Front (OLF), it harassed political dissidents and independent voices, and intimidated legally registered opposition parties and civil society organization e.g. the Tulema Association which is the oldest and vibrant Oromo Civil Society Organization (OCSO)

The study further found that, there was increase in arrests, mass detentions and imprisonments of individuals in the country under the guise of war on terrorism. For example, in 2007 and 2008, at least 550 individuals were arrested and charged on grounds of supporting OLF. In 2009, the state enacted the Anti -Terrorism Proclamation of Ethiopia whose main aim according to (Bekele, 2010)was to further limit political space in the

country. This study did not take into consideration that the groups accused of terrorism could be originating from a different state. The study did not recognize the international character of contemporary terrorism; a phenomenon that is dominant in terrorism activities facing Kenya.

Omelicheva (2010) researched on the fifteen Post- Soviet Nations' to find whether there were violations of human rights under the guise of war on terrorism from the year 1993- 2005. The researcher used content analysis to analyze original data on security rights violations of suspected individuals, their family members or people associated with them. Contrary to the expectations of the study, the researcher found that there was no empirical evidence to support human rights violations in the pretext of war on terrorism in the majority of Post Soviet Union States.

Political conflict was the major cause for human rights violations among the states. However, the study did not take into consideration that counterterrorism measures taken by the state could be influenced by government's interests and perception. The study failed to recognize that government responses on terrorism do not rely entirely on statistical risks.

Eijkman and Schuurman (2011) researched on UK and Netherlands find out whether minority groups i.e. Muslims and Asians are victimized on the basis of their race and religion in European Union. The researchers found that police officers in the UK used their stop search powers more to search Muslims and Arabs and Asians than other nationalities in the country. The study also noted that there were police websites that directly searched on Muslims minorities in UK. Whereas it is true for the above authors, this study did not envisage a scenario whereby, it might be difficult to distinguish the minorities from foreigners because they share similar physical features as well as cultural values.

(Khan and Mythen (2009) conducted a qualitative study on the impact of pre-emptive regulation on Muslim minority groups at the University of Liverpool. The study was designed to explore the relationship between victimization, identity and cultural values amongst young Pakistanis of UK nationality. The researchers conducted focus group

discussions and in-depth interviews. Four sessions were held in different venues with a sample of 32 British Muslims of Pakistan heritage aged between 18- 26 years.

There was evidence that there was victimization at national institutions, of British Muslims. E.g. the respondents reported that they were physically attacked, spat on and verbally abused. There was also collective victimization of minority groups which was manifested in institutional policies. The researchers singled out security policy, foreign policy, education policy and media policy as policies that encouraged minority profiling. However, the sample size of the study was not representative enough to draw generalizations of diverse minorities in UK. Whereas it is true for the above study, the age limit and gender of the respondents was not representative enough to make generalizations that captures the wider minority groups in the society.

Choi and Piazza(2014) researched on 'Ethnic Groups, Political Exclusion and Domestic Terrorism' and found that when people are politically excluded from affairs of their state based on their ethnic background, there is likelihood for them to resort to domestic terrorism. The study concluded that states were bound to come up with policies that ensured inclusivity as a way of countering domestic terrorism. However, this study did not address the challenge of having domestic terrorism that is partly influenced by a clandestine group from a foreign country. This study didn't also envisage a scenario whereby there could be an intricate link between foreign and domestic terrorism due to socio cultural ties.

According to Piazza, (2011), there exists a correlation between minority economic discrimination and domestic terrorism. The researcher defines discrimination to mean: employment discrimination, unequal access to government health, educational or social services, formal or informal housing segregation and lack of economic opportunities available to the other members of society.

Using negative binomial regression models to analyse incidences of domestic terrorism of 172 countries from 1972 to 2006, the study found that countries that discriminate their minority sub national groups economically are prone to rise of domestic terrorism. However,

the scholar did not take into consideration that the economic discrimination could also be the cause for international terrorism. The study failed to recognize significance of discrimination at policy implementation level between government officials and the sub national groups in the society.

European Union Agency for Fundamental Rights(2010) carried out a survey research in all twenty-seven European Union states to ascertain whether respondents experienced discrimination based on their minority background and whether victimization happened partly or completely because of their minority background. Majority of the respondents noted that police used their stop and search powers in a discriminatory manner. Minorities were more stopped and searched than the majority in the European Union. However, the study did not cover mass arrests, detentions and inhuman treatment of terrorism suspects as part of discriminatory actions by security agencies.

2.3 Security Agencies Respect for Rights of Arrested Terrorism Suspects

Alston (2011) argues that Central Intelligence Agency (CIA) did not comply with domestic and international laws in its targeted killings in foreign countries. The special operations were surrounded by secrecy and lack of accountability by the security agencies. Although the CIA claimed that it had its internal self-regulating mechanism to ensure human rights compliance, according to Alston the reality was on the contrary. He argued that what had been put in place by the Congress, Executive and Judiciary were just but mere formalities that did not provide any meaningful internal or external accountability. While it is true for the above author, the scholar focused on legal compliance of USA on foreign countries. This study focussed on constitutional compliance of security agencies at domestic level.

Kleiner (2010) argues that airport security strategies amounted to racial profiling contrary to US. Constitution that proscribes discrimination based on race, national origin, religion and ethnicity. The scholar found that Transport Security Administration (TSA) the body charged with ensuring US. Security in airports carried out weeklong screening of passengers through observation techniques. The program was prone to abuse by security officers based on preconceived notions of passenger's race.

Those who were perceived to be Muslims, Arabs and South Asian bore the brunt of this discrimination. The program wrongly reinforced the idea that a terrorist suspect could be identified by their race, ethnicity or religion. The study however focused on racial discrimination on travellers at the airports. This study intends sought to establish whether there was ethnic profiling during security operations in Kamukunji Constituency.

According to Scharf, (2010) there is varied evidence of compliance to international law during times of crisis in the USA. On Guantanamo Bay's case, the study found that the state did not comply with international law. For example, a bipartisan committee of twenty five senators unanimously agreed that government officials were responsible for violations of human rights in detentions facilities. US. Supreme Court also ruled that executive order that created military tribunals to prosecute al Qaeda suspects was unlawful.

The Supreme Court also ruled that the treatment of the detainees in the detention camps violated Torture Convention, Geneva Conventions and Customary International Law which was applicable and binding to USA security agencies. However, the respondents to the study consisted of government officials only. This partly made the study biased towards government performance. The study too focused on compliance of international law with little regard of municipal law.

2.4 Theoretical Framework

Several theories and approaches have been advanced by scholars to explain counterterrorism measures. They include instrumental approach, organizational theory and just war theory among others. This study is premised on Just War Theory due to its relevance to the topic of study. The other two approaches focus more on the reasons that make groups resort to terrorism than on the reasons that the state uses to justify its use of violence to combat terrorism.

2.4.1 Just War Theory

The theory was developed by Saints Ambrose and Augustine and later elaborated by Saint Thomas Aquinas (Smock, 2003). Like any other theory; Just War Theory is based on several

assumptions. These assumptions can be categorized broadly into two: 'justice on the way to war and justice in the midst of war'. In the first category, the assumptions are that it is a legitimate authority that makes the decision to resort to violence and that violence can be justified on grounds of self-defence, recovery of stolen assets and punishment for wrongdoing. There is also an assumption that the legitimate authority has a clear goal of peaceful intention; to use force to achieve peace. In addition to that, violence is used as a last resort when all other reasonable avenues have been exploited with no success.

The second category of assumptions explains how the state should conduct itself during the war period. There is an assumption of proportionality in the midst of the war. This means that the force used by the state should be proportional to the threat posed by the enemy. It also implies that the disadvantages of the war must be minimal compared to the benefits obtained from the war. There must be "discrimination or non-combatant's immunity." This means that, there needs to be a clear distinction between the combatants and the non-combatants; the culprits and the innocents. Military necessity is also a paramount consideration by the state. If there are other security organs that can be deployed and successfully win the war, military intervention should be avoided.

Against this background one can authoritatively ask: is the state of Kenya justified to use various counterterrorism measures? It is true that it is a legitimate duty of the state of Kenya to use all means possible to protect its citizens against aggression. If those measures include resorting to violence, so be it. Kenya has on several occasions through the president i.e. the head of state and government reiterated its desire to pursue terrorists within and outside the country until the physical integrity of its citizens is assured. There has also been justification that various counterterrorism measures used are for peaceful intentions and violence is always used as a last resort when all other reasonable peaceful avenues have been exploited.

In spite of repeated calls by the opposition to pull out Kenyan troops from Somalia, the state has categorically maintained that the benefits of the war in Somalia and in Kenya far outweigh the disadvantages. The state also argues that its intention has never been to target innocent individuals or communities in the war against terrorism but the suspected terrorists

and their sympathizers. As to whether domestic military intervention is necessary, the state has maintained that the troops are deployed under special circumstances; when their services are highly needed. It is also argued that, security agencies have conducted themselves professionally when countering terrorism in Kenya. In conclusion therefore, Just War theory rightly fits the bill of explaining counterterrorism measures in Kenya.

2.5 Conceptual Framework

In this study, counterterrorism measures are the independent variables while human rights and civil liberties are the dependent variables. The relationship has been presented as shown in figure 2.1.

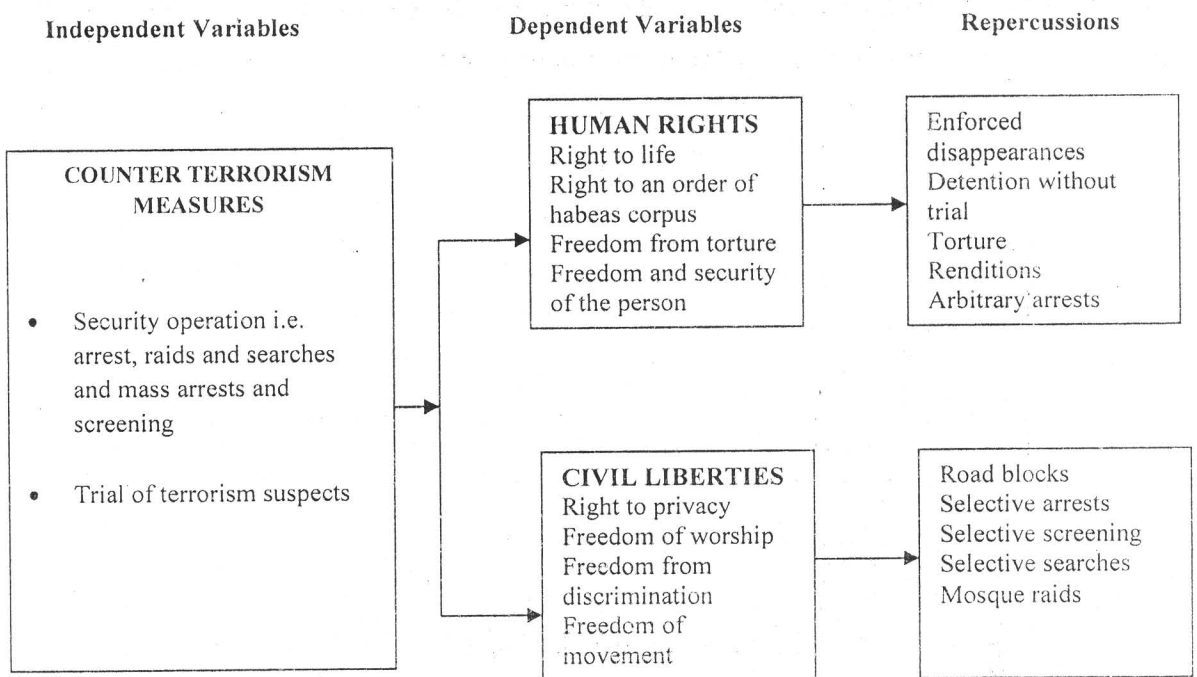


Figure 2.1: Conceptual Framework

The conceptual framework was divided into three sections to explain the relationships of variables assumed. The first section enumerates counterterrorism measures; both offensive

and defensive that the state takes to protect, deter and reduce vulnerability to terrorism attacks in Kenya. The general assumption is that, these measures have a negative impact on citizens' human rights and civil liberties.

The second section makes a distinction of what human rights and civil liberties entails. The researcher relied on the (Constitution of Kenya, 2010) in conceptualizing human rights and civil liberties. Literature reviewed and counterterrorism activities in the country helped the researcher come up with the third section of repercussions. This is the end result of the impact of counterterrorism measures and civil liberties in Kenya. It is also this section that the study relied on to prepare the questionnaire.

2.6 Hypotheses

This study was guided by three hypotheses:

- (a) Counterterrorism measures have negative effects on residents' human rights.
- (b) Counterterrorism measures negatively affect Kamukunji Constituency residents' civil liberties.
- (c) Security agencies do not respect the rights of arrested terrorism suspects' while waging war on terrorism.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

This section explains how the research was carried out. Specifically, this section focuses on study area, research design, sampling method, data collection and data analysis techniques.

3.2 Study Area

The study was carried out in Nairobi County, Kamukunji Constituency. The choice of the constituency was based on the fact that there is a sizeable population of Muslim and Somali community that resides in the area. Kamukunji Constituency had also had numerous terrorism attacks and several security crackdowns by security agencies. The constituency area covers an approximate 8.8 square kilometres. For administrative purposes, the Constituency is divided into three administrative divisions namely Pumwani, Bahati and Eastleigh. The divisions are further subdivided into nine locations and eighteen sub locations.

Politically, Kamukunji Constituency has an elected Member of Parliament (MP) and five civic wards; Pumwani, Eastleigh North, Eastleigh South, Airbase and California wards. The estimated population of the Constituency is 261, 885. Male are the majority – 136, 290 and female are estimated to be 124, 935. Population density is 45, 147 people per square Kilometre (Kenya Bureau of Statistics, 2010). The study however, focussed on Eastleigh and Pumwani Divisions. Eastleigh Division was considered as densely populated with Muslim and Somali community while Pumwani Division as a cosmopolitan area.

3.3 Sampling Techniques

The researcher used purposive sampling for key informants and simple random sampling for the community respondents to get a sample size for data collection. The reason for using purposive sampling technique for key informants was to enable the researcher to sample persons that had required information with respect to the objective of the study. Simple random sampling on the other hand, was considered much easier and economical to select respondents from the community. 95 respondents; 12 key informants and 83 respondents

from the community were interviewed by use of a questionnaire that had open and close ended questions. The researcher was assisted by a research assistant to collect data from the community. Key respondents were government workers who work on security docket, religious leaders from Mosques and main stream churches, Community leaders and a staff from the DPP's office. By the virtue of their positions in the society and Place of work, they had vital information on how the state has been responding to terrorism in Kamukunji Constituency, Pumwani and Eastleigh Divisions.

They interviewed were: One District Officer (DO) from Eastleigh Division, Deputy District Commissioner (DDC) of Kamukunji District, three chiefs from Kiambiu, Eastleigh and Majengo locations, one Divisional Administration Police Commander from Eastleigh division, four religious leaders (two Pastors, Imam and a Sheikh), One Community Representative at District Security Committee and one staff from the DPP's office in charge of prosecuting terrorism suspects.

The respondents from the community were picked from six sub locations in a ratio of 1:2. This was because Eastleigh Division had 8 sub locations and Pumwani Division 4 sub locations. In Pumwani Division, the researcher purposively picked two sub locations picked sub locations in one location. This was due to the fact, during pilot survey, it emerged that the two sub locations had experienced several terrorism attacks and various security crackdowns in response to those attacks. Majengo/ Gorofani and Bondeni/ Gorofani/Gikomba Sub Locations were purposively picked. In Eastleigh Division, simple random technique was used to pick the first number between 1 and 2. Two was picked and therefore used to systematically four sub locations that were represented by 2, 4, 6, and 8 in the listing of all eight sub locations. The four sub locations that were therefore picked in Eastleigh Division were: Eastleigh North, California, Madiwa and Airbase Sub Locations

For the purposes of administration, the study found that the sub locations were further divided into clusters. The number of the clusters in a sub location was the discretion of the either the chief or assistant chief of that sub location. There were those who preferred to subdivide their sub locations into as few as six clusters like Airbase and California Sub

Locations and others as many as 16 clusters in the case of Madiwa and Eastleigh North and Bondeni/Gorofani/ Gikomba Sublocations. Majengo/Gorofani Sub Location had 22 clusters. All these clusters had a six- member committee that the study relied as point persons in their areas of jurisdiction. All of them were not interviewed either as key informants or respondents from the community to avoid biasness in favour of government in the study. Their role was solely to help the research team penetrate into their clusters.

The study purposively decided to have eight clusters in every sub location and then interview two respondents in each cluster save for Eastleigh North Sub Location that had 10 clusters. The respondents were required to be residents in their clusters so as to be interviewed. In Airbase and California Sub Locations that had 6 clusters each, two more clusters were created by the researcher for the purposes of collecting data.

In Madiwa and Bondeni Sub Locations that had 16 Clusters each, the total number in each sub location was divided by eight and then a simple random technique was used to either pick one or two so as to select the required 8 clusters through systematic random sampling. The same criterion was used to pick eight clusters in Eastleigh North Sub Location while the two extra clusters were purposively picked in Eastleigh Estate that had experienced several anti- terrorism security operations. In Majengo Sub Location, the 22 administrative clusters were divided by eight and three was chosen as (N) number to systematically pick eight clusters.

Table 3.1: Summary of the sample population

Categories of respondents	Respondent	Number
Office of the president	District Officer(DO)and Deputy District Commissioner(DDC)	2
	Chiefs	3
Kenya Police Service (KPS)	Administration Police Divisional Commander	1
Community leader	Community Representative at District Security Committee	1
Director of Public Prosecutions Office	Prosecutor in charge of terrorism charges	1
Religious Leaders	Pastor(Seventh Day Adventist Church & a Catholic Priest	2
	A Sheik & and Imam	2
Community Respondents	Local respondents from Majengo, Bondeni, California, Eastleigh, Madiwa and Airbase Sub Locations	83
Totals		95

3.4 Methods of data collection

The researcher used both primary and secondary data. Primary data was collected by use of questionnaires and interviews. The questionnaires consisted of structured (closed ended) and open ended questions. The respondents from the community were taken through the questions by the researcher and the research assistant. Their responses would be written on the questionnaires as they responded during the interview. It took an average of fifteen minutes for the respondents from the community respondents to respond to all questions. The questionnaires were then safely kept to ensure that no data was lost.

For the key respondents, interview sessions were used. A question was read to a key informant and then given time to respond. Notes were taken by the researcher during these interactive sessions. In instances where information given was not clear, more probing was done by clarifying the question or by asking a different question that relates to the information that was being sought. It took an average of forty-five minutes to interview a key informant.

Secondary data was drawn from human rights legal documents and books, online publications from different scholars, journals, stake holder's reports, Acts of parliament, executive orders among many others. Key among these was publications from KNCHR, IPOA Reports and Human Rights Watch. The purpose of this data was to make a comparison with the primary data and ascertain the level of validity between what was written and the experience on the ground.

3.5 Data Analysis

The researcher used quantitative and qualitative method of data analysis. For the quantitative analysis, the questionnaires were checked for accuracy and completeness and then coded using the Statistical Package for Social Science (SPSS) version 20 for analysis in order to minimize margin of error, and accuracy during analysis. Descriptive statistics were also used to enable the researcher to describe distribution of scores and give expected summary statistics of the variables being studied. Likewise, frequency distributions were presented in graphs, charts and tables.

Qualitative data which consisted of general statements was analysed using content analysis from data that was organized along two themes as identified from the repercussions drawn from the conceptual framework. The first theme consisted of repercussions on human rights while the second theme focussed on end results of counterterrorism measures on civil liberties.

CHAPTER FOUR STUDY RESULTS

4.1 Introduction

This chapter discusses findings of the study on the effects of counterterrorism measures on human rights and civil liberties in Kenya. Demographic information of the respondents and the three objectives of study have been presented in form of tables, graphs, and narrative to explain the results. The findings and discussion have been presented based on the objectives of the study namely: the effects of counterterrorism measures on human rights; the effects of counterterrorism measures on civil liberties and respect for human rights of arrested terrorism suspects by security agencies. At the end a chapter summary is provided.

4.2: Demographic Data

The study found that majority of the respondents had resided in Kamukunji Constituency for at least seven years and above. This category of the respondents was rated at 71.1% (59). In terms of age bracket, most of the respondents were in their youthful age i.e. 18-29 (34.9%) (29) and 30-39 (34.9%) 29 respectively. These two categories combined accounted for 69.9% (58) respondents.

Majority of the respondents had attained primary education at 37.3% (31) and secondary school education at 32.5% (27) respondents. These two categories thus represent 69.9% (58) respondents out of 100% (83) respondents who were interviewed.

In terms of sex, males were the majority rated at 53% (44) and ladies at 47% (39) respondents. It is also evident from the table that Christians were the majority at 59% (49) while Muslims were 41% (34) respondents. Business turned out to be the major source of income of most respondents rated at 65.1% (54) respondents followed by private sector that accounted for 13.3% (11) respondents, Government employee were 2.4% (2), Student who identified pocket money as their major source of income were 7.2% (6), old people who were pensionable were 4.8% (4) and community workers were 7.2% (6) respondents.

4.3 Effects of Security Operations on Human Rights and Civil Liberties in Kamukunji Constituency

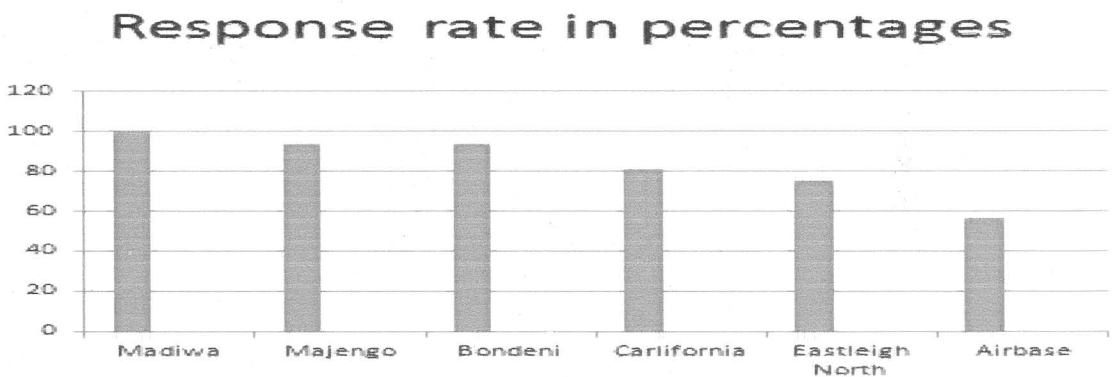
4.3 Response Rate

The study intended to sample 100 respondents from the community. However, 83 respondents participated in the study by being interviewed by use of a questionnaire that had both closed ended and open ended questions. The number of respondents from the community who participated in the study represents 83% while non response was 17%. While the overall percentage of the response rate from the six sub locations was 83%, there were variations in the six sub locations that data was collected from.

The study intended to sample 16 respondents in each sub location except in Eastleigh North Sub Location where the intended sample size was projected to be 20 respondents. Security agencies had carried out several security operations in the area. There were also several terrorist attacks in the same Sub Location. Eastleigh North Sub Location is also densely populated by the Somali community. There were complains that they were being discriminated by the state on its war on terrorism.

The area also leads in terms of business establishments in the Constituency. Based on these reasons, the study increased the sample size from 16 to 20 respondents in the area.

Figure. 4.1: Bar graph showing the response rate in percentages



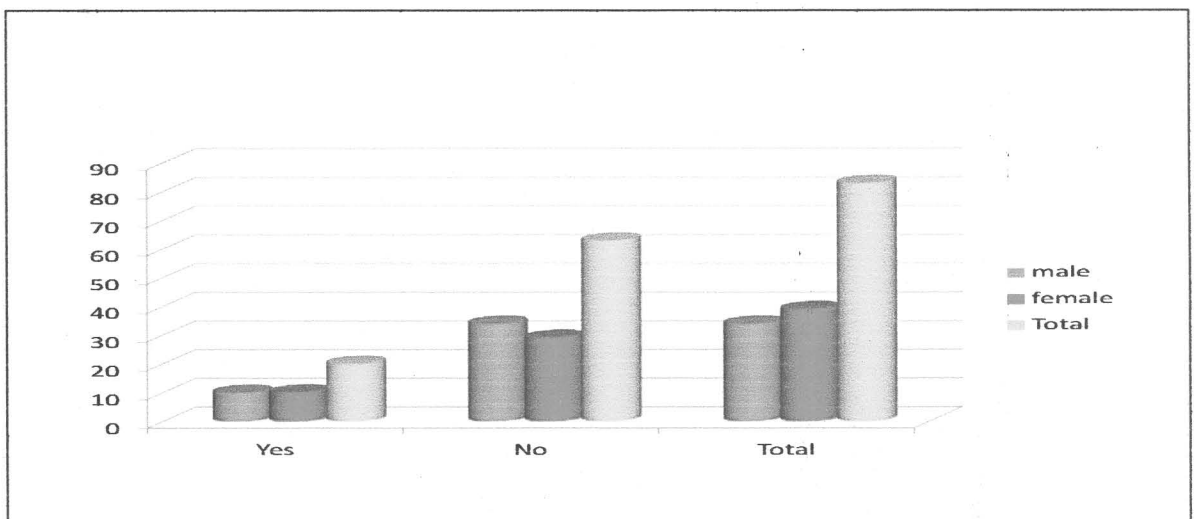
Source: Generated from study data, 2015

The Highest response rate of 100% (10) was in Madiwa Sub Location, followed by Majengo/Gorofani and Bondeni/Gorofani/Gikomba 93.75% (15) respondents in each, California Sub Location 81.25 (13), Eastleigh North Sub Location 75% (15) and Airbase Sub Location at 56.25(9) respondents. This is summarized in bar graph 4.1

The first objective sought to find out how security operations in the context of arrests affected human rights. Respondents were asked whether they were personally arrested, had relative and friend who had ever been arrested or were aware of any person who had ever been arrested

4.3.1 Arrests

Figure .4.2: Personal arrests by security agencies during security operations.



Source generated from study data, 2015

The study findings in figure 4.2 indicate that total of 20 respondents i.e. 10 males and 10 females were personally arrested by security officers during anti- terrorism security operations. These respondents were considered to have firsthand information on repercussions of arrests. The study further sought to find out whether the respondents had a

friend who had ever been arrested by security officers. The response is presented in table below

Table 4.1: Friend's arrests by security agencies during anti- terrorism security operations

Response	Frequency	Percent	Valid Percent	Cumulative Percent
Yes	37	44.6	44.6	44.6
No	46	55.4	55.4	100.0
Total	83	100.0	100.0	

Source: Generated from study data, 2015

44.6% (n=37) respondents had a friend who had been arrested by agencies during security operations in Kamukunji to combat terrorism activities. This is an increase from those who were personally arrested. Despite the fact that these category of respondents were reporting on behalf of their friends, their information was important in finding out whether arrests as a counterterrorism measure had negative effects on human rights and civil liberties. The respondents were too asked whether they had a relative who had ever been arrested. Table 4.2 presents the responses.

Table 4.2: relative's arrests by security agencies during security operations in Kamukunji Constituency

Response	Frequency	Percent	Valid Percent	Cumulative Percent
Yes	23	27.7	27.7	27.7
No	60	72.3	72.3	100.0
Total	83	100.0	100.0	

Source: Generated from study data, 2015

The study findings in the table 4.2 indicates that 27.7% (n= 23) respondents had a relative who had been arrested by security officers during anti- terrorism security operations in Kamukunji Constituency. The researcher considered this category of respondents to have vital information because they were reporting on behalf of their relatives including their children, parents, partners among others.

Information was also sought on whether the respondents were aware of any person who had been arrested by security officers during anti- terrorism operations. Table 4.3 presents the responses.

Table 4.3: Awareness of any person who had been arrested by security agencies during security operations in Kamukunji Constituency

Response	Frequency	Percent	Valid Percent	Cumulative Percent
Yes	28	33.7	33.7	27.7
No	55	66.3	66.3	100.0
Total	83	100.0	100.0	

Source: Generated from study data, 2015

Awareness of any person who had ever been arrested by police officers during operations had the second largest responses rated at 33.7% after friends' arrests response that was 44.6%.

The researcher identified statements suggesting human rights violations in Kamukunji Constituency. Respondents were thereafter asked to indicate their level of agreement with the statements on an ordinal scale. The response is presented in table 4.4 below.

Table 4.4: Police raped, looted, asked for bribes, and beat residents during security operations in kamukunji .

Response	Religion		Total
	Christian	Muslim	
Strongly disagree	7	2	9
disagree	1	2	3
agree	6	5	11
not sure	8	3	11
strongly agree	27	22	49
Total	49	34	83

Source: Generated from study data, 2015

Majority of the respondents (60) agreed that operations were characterized by lawlessness. Except for rape cases, other crimes i.e. looting, bribe taking, and beating of residents were common.

Information on the experience of those personally arrested showed that 27.8% (n=5) were released after bribing security officers and 16.7%(n=3) were brutally arrested with their kids and while in custody, they were denied food for long hours. 8.7%(n=2) were arrested even after producing identification card as ordered because of resisiting sexual advances from the security agencies.

26.7% (n=8) respondents who had friends who had ever been arrested said that the arrests were on grounds of not having identification cards but they were released after bribing the police, 6.7% (n=2) were detained for resisiting to bribe the security agencies and 13.3 %(n=4) were forcefully arrested and put in police cells that were in poor human condition.

29.2%(n=7) respondents who were aware of a person who had ever been arrested reported that the arrested persons were beaten, tortured and threatened by security agencies, 12.5%(n=3) were ruthlessly arrested and 12.5% (n=3) were detained until they falsely confessed that they were terrorists. After confession, they were coerced to bribe the police officers so as to be released. 8.3%(n=2) respondents just described the arrests as terrible.

The response on all types of arrests show that, human rights of the residents of Kamukunji Constituency were negatively affected. There were cases of bribe taking, harassments,

intimidations, coercion to accept incriminating evidence, and issuance of threats by the security agencies.

Freedom from torture and cruel, inhuman or degrading punishment; the right to a fair trial and the right to an order of habeas corpus are human rights that cannot be limited under any circumstances according to the Bill of Rights article 25 in the Constitution of Kenya, 2010. Article 29 (a), (d), (f) on the other hand states that "Every person has the right to freedom and security of the person which includes the right not to be deprived of freedom arbitrarily or without just cause, subjected to torture in any manner, whether physical or psychological, and not to be treated or punished in a cruel, inhuman or degrading manner." This was the basis upon which the objective on human rights was analysed.

A total of 10 respondents which translates to 50% who were personally arrested shows that their human rights including freedom from torture and freedom and security of the person were infringed upon. They were deprived of their freedom arbitrarily. There was no just cause of their arrests. Five of them were released after bribing the police. The reason of their arrests was lack of identification cards.

They were expected to produce the identification cards to secure their freedom. Two were arrested and detained for resisting sexual advances from the police officers again depriving them of their freedom without any just cause. Three respondents on the other hand were subjected to torture by being denied food for long hours together with their children while in police custody contrary to section 29(d) that demands that a person cannot be subjected to torture in any form whether physical or psychological.

On friends' arrests, it was evident 46.7%(n=12) respondents had their human rights including freedom from torture and freedom and security of the person violated. eight respondents were arrested and detained for lack of identification cards but were released after bribing the police. An inquiry on what the law says about identification cards was done during in-depth interview at the Office of the DPP. The key informant said that it was unlawful for someone

not to have identification card when asked for it. However, the law gives a window period of 24 hrs to produce it failure to which the arrested person should be charged in court of law.

Thus, arresting a person for lack of Identification Card and later releasing him or her after taking bribe amounts to deprivation of freedom arbitrarily and without just cause. It is evident that 6.7 %(n=3) respondents in this category were detained for not being able to pay the demanded bribe. 13.3 %(n=4) respondents on the other hand were arrested and locked up in police cells that were in poor human condition.

Further inquiry revealed that most of these arrests are done on Fridays outside ordinary court hours. The motive is to collect bribes from residents who cannot wait up to Monday to be arraigned in court as provided for in the Bill of Rights article 49(i) (f) (ii) that requires if the twenty- four hours ends outside ordinary court hours, or on a day that is not an ordinary court day, the end of the next day.

From respondents who had any person shared with them of their arrests, it is true that human rights of 54.2 %(n=13) arrested persons were affected. The violations ranged from beatings, torture, issuance of threats and intimidations, ruthless arrests and coercion to accept incriminating evidence. This is contrary to constitutional provisions that guarantee freedom from subjection to torture in any manner, whether physical or psychological. It was also contrary to article 49(1) (d) that states that “an arrested person has the right not to be compelled to make any confession or admission that could be used in evidence against the person.

Bekele (2010) established that a state can violate citizens rights and freedoms under the pretext of waging war on terrorism. The situation is not much different in Kenya. In the cases of arrests which are supposed to deter terrorism activities, their enforcement is riddled with mal practices that contradicts the intended purpose. It can thus be concluded that arrests in Kamukunji Constituency in spite of not being rampant, negatively affected human rights of the residents as guaranteed in the constitution of Kenya, 2010. The physical integrity of the respondents was compromised. As a matter of fact, 60 respondents agreed that save for

rape, security agencies took bribes, looted and beat residents during anti- terrorism operations. One key respondent in the Provincial administration when asked to rate government adherence to the Bill of Rights while waging war on terrorism gave a response of fair. He noted the operations are characterized by brutality from his juniors which as a commander during the operations would like not to see.

4.3.2 Raids and Searches, Mass Arrests and Screening.

The second objective sought to establish how security operations in the context of raids and searches and mass arrests and screening affected civil liberties in Kamukunji Constituency. Respondents were asked whether their houses had ever been raided and searched, whether they were aware of any home, village or estate that had ever been raided and searched and whether they were aware of mass arrests and screening at Kasarani National Stadium by security agencies. The responses are as follows.

Table 4.5: Personal house raids and searches by security agencies during anti- terrorism security operations.

Response	Religion		Total
	Christian	Muslim	
Yes	14	15	29
No	35	19	54
Total	49	34	83

Source: Generated from study data, 2015

Table 4.4 indicates that a total of 29 out of 83 respondents had their homes raided and searched. A cross tabulation of religion shows that more Muslims' homes were searched than those of Christians in spite of the Christians being majority of the respondents in this study. Kleiner (2010) and Khan and Mythen (2009) found that there is likelihood of states to discriminate against minority groups while waging war on terrorism. In Kamukunji Constituency, the case was the same. There is evidence of security agencies targeting Muslims and the Somali Community homes during raids and searches.

Table 4.6 Awareness of any home, village or estate that was raided and searched by security agencies during anti- terrorism security operations in Kamukunji Constituency.

Response	Religion		Total
	Christian	Muslim	
Yes	39	25	64
No	10	8	18
Total	49	33	82

Source: Generated from study data, 2015

Table 4.5 shows that majority of the respondents (64) were aware of either a home, estate or village that was raided and searched. Out of 34 Muslims interviewed, only nine were not aware as compared to 10 Christians out of 49 that were interviewed. Majority of the respondents (39) were aware of a village that was raided and searched followed by an estate as shown in table 4.6

Table 4.7 Responses on whether a home, village or estate was raided and searched

Description	Religion		Total
	Christian	Muslim	
Home	1	4	5
Estate	6	7	13
Village	26	13	39
home, estate, village	1	1	2
estate, village	4	1	5
Total	38	26	64

Source: Generated from study data, 2015

In Eastleigh Division, California Sub Location, Kinyago and Kanuku villages were identified as areas that raids and searches were frequently done while in Pumwani Division, Digo2 and 3 villages that fall in Majengo/Gorofani Sub Location were spotted as the villages that were known by most of the respondents to have ever been raided and searched.

According seven respondents i.e. six Christians and one Muslim, the police turned everything in the house including furniture and beds upside down. Five respondents i.e. one Christian and four Muslims also noted that the search was done in a manner that the owner of house could not monitor it. *“A group of at least ten officers would enter into your house and simultaneously search different items in your house. You would have someone searching your wardrobe, another one your cupboard and another one your fridge. In such circumstances, you cannot hold anyone accountable.”* noted one respondent in this category. Four respondents, two Christians and two Muslims further noted that there were no security raids and searches in Kamukunji Constituency but money extortion exercise. Those who had money were let free even without identification cards. It is only those who could not buy their freedom that were taken to police custody.

However, four respondents, two Christians and two Muslims noted that the searches and raids were peacefully done an argument that was supported by five other respondents, one Christian and four Muslims who reported that the security officers asked for identification cards for positive identification and left after confirming that the respondents were Kenyans. From these responses, it can be deduced that most of the raids and searches were characterized by malpractices like bribe taking, lack of accountability from the security officers and discrimination based on one’s religious orientation.

Table 4.8 Mosque raids by security agencies during anti-terrorism security crackdowns are justified.

Response	Religion		Total
	Christian	Muslim	
Strongly disagree	17	20	37
disagree	1	0	1
agree	3	0	3
not sure	2	1	3
strongly agree	26	13	39
Total	49	34	83

Source: Generated from study data, 2015

In table 4.7, a justification for mosque raids by security agencies proved to be an emotive issue that divided the respondents in to two big camps depending on the religion one subscribed to. 29 Christians and 13 Muslims agreed while 18 Christians and 20 Muslims disagreed that mosque raids can be justified. Only 3 respondents i.e. 2 Christians and 1 Muslim were not sure on what should be done. However, it can be deduced that not all Muslims are opposed to mosque raids. Further inquiry revealed that they were opposed on how the raids are done but not on the raids per se.

Mass arrests and screening at Kasarani National Stadium by security agencies following several terrorism activities was considered a major anti- terrorism measure in Kenya. This study sought to find whether the exercise negatively affected civil liberties of Kamukunji Constituency residents. The respondents were asked whether they were aware of the operation, their views about it and what was common in the exercise. The response on awareness is presented in table 4.9 below.

Table 4.9: Awareness of arrests and screening at Kasarani National Stadium

Response	Frequency	Percent	Valid Percent	Cumulative Percent
Yes	69	83.1	84.1	84.1
no	13	15.7	15.9	100.0
Total	82	98.8	100.0	
Missing System	1	1.2		
Total	83	100.0		

Source: Generated from study data, 2015

The study found that majority of the respondents were aware of a major security operation dubbed “Usalama Watch” in Kamukunji Constituency. Majority of the respondents were of the view that this exercise was a good one. It was meant to positively identify Kenyans from illegal immigrants and refugees. It thus targeted everyone especially those without identification cards. This category had a total of 32 respondents; 21 Christians and 11 Muslims.

It was also noted by 12 respondents, eight Christians and four Muslims that the exercise was characterized by bribe taking from those who didn't have identification cards, innocent people suffered in police cells just because they could not buy freedom, the arrests and screening targeted the Muslim and the Somali community based on their names on identification cards. It can be deduced that although majority of the respondents were in support of the exercise, incidences of civil liberty violations like discrimination based on one's religion and ethnic group, characterized the 'Usalama Watch' operations.

Article 27(1, 2 and 4) of the Constitution of Kenya provides that "every person is equal before the law and has the right to equal protection and equal benefit of the law. Equality includes the full and equal enjoyment of all rights. The state shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language or birth."

Article 31(a, and b) states that "every person has the right to privacy, which includes the right not to have their person, home or property searched and their property seized." Article 32 (1 and 2) on the other hand provides that "every person has the right to freedom of conscience, religion, thought, belief and opinion. Every person has the right either individually or in community with others in public or in private to manifest any religion or belief through worship, practice, teaching or observance of a day of worship. "Article 39(1) state that "every person has the right to freedom of movement."

Based on these constitutional provisions, the second objective sought to find out to what extent civil liberties were affected by counterterrorism measures in Kamukunji Constituency. The raids and searches of personal houses were biased. It was not by coincident that 15 houses of Muslims were searched as compared to 14 houses of Christians in spite the fact that Christians were the majority respondents in this study. It was also evident that majority of the respondents who were aware of a village that was raided and searched identified areas that were predominantly populated by the Muslim community.

Seven Muslims and six Christians too were aware of Eastleigh Estate that was raided and searched which is also occupied by the Somali community. It can therefore be argued that the state discriminated against the Muslim and Somali Community in identifying the places to raid and search.

A total of 12 respondents out of 29 whom their houses were searched noted that the searches were roughly done. The right to privacy as guaranteed in the constitution was not respected. Everything would be turned upside down. In fact, according to these respondents, an exercise that was expected to be a noble one turned out to be a looting spree.

Arrests and screening at Kasarani National Stadium was a major anti-terrorism security operation not only in Kamukunji Constituency but also in the whole country. This assertion is supported by the fact that 69 respondents i.e. 84.1% were aware of it. As a matter of fact, out of 34 Muslims who participated in this study as respondents, only 4 were not aware of it as compared to 10 Christians out of 49 who were respondents.

The objective in this section was to ascertain whether the Somali ethnic group and the Muslims were discriminated against by the state contrary to Bill of Rights article 27(1&2) that states that "Every person is equal before the law and has right to equal protection and equal benefit of the law. Equality includes the full and equal protection of all rights." Therefore, it is unconstitutional to discriminate someone directly or indirectly on the basis of his religion or ethnic group.

Responses on what was common on the arrests and screening indeed showed that the exercise targeted the Somali and Muslim Community. A total of 49.3% gave responses that revealed discrimination. 33.8% opined that the arrests targeted either Muslims or the Somali Community; 8.5% said that while the arrests targeted everyone, the screening targeted Muslims based on the names on identification cards; 2.8% reported that those arrested were Muslim males; 2.8% too said that the arrests targeted Eastleigh and the Somali Community. From these different responses, a trend of discrimination on the basis of ethnic group, names and religion was seen.

Right to freedom of worship also was violated in the sense that majority of the respondents i.e. 37 respondents strongly disagreed that there can never be a justification for Mosque raids in search for terrorism suspects. Further information revealed that majority of the Muslims are not opposed to the raids but security agencies must observe religious obligations like removing shoes. It was also argued that the government can use secret agents in Mosques to track terrorism suspects instead of raiding sacred places of worship.

4.3.3 Security Agencies Respect for Human Rights of Arrested Terrorism Suspects in Kamukunji Constituency.

The third objective sought to examine the extent to which security agencies respected human rights of arrested terrorism suspects as guaranteed in the Bill of Rights in the Constitution of Kenya, 2010. The researcher identified an open ended question on respondents' views on trial of terrorism suspects in court. The respondents were also required to indicate their level of agreement with the statements that denoted rights of arrested terrorism suspects. This section too sought respondents' views on enforced disappearances and renditions which have been reported in the country and which are unconstitutional.

Table 4.10 Respondent’s general view on trial of terrorism suspects in a court of law

Description	Religion		Total
	Christian	Muslim	
it’s a trial based on rumors	2	1	3
Suspects who have been found with grenades and bombs should not be released on bond during their trial	6	0	6
Court is the best place to try a terror suspect if at all government wants to win war on terrorism	29	28	57
I don’t support a terror suspect being taken to court. They should either be killed or deported to Somalia.	8	1	9
The trials cannot convict a suspect because of loopholes in the constitution that need to be addressed.	0	1	1
the trials are weak due to loopholes in the constitution that needs to be amended	1	1	2
need for a pre- trial chamber of terror suspects to ascertain facts before sending the terror suspect to a full trial	1	1	2
Total	47	33	80

Source: Generated from study data, 2015

The researcher asked respondents’ views on trial of terrorism suspects in a court of law. 57 respondents i.e. 29 Christians and 28 Muslims were categorical that terrorists deserved a fair trial and therefore court was the best place to try them if the government wanted to win war on terrorism. On the other hand, 8 Christians and 1 Muslim were of the view that terrorism suspects did not deserve fair trial in a court of law. They ought to be killed or deported to Somalia.

It was also argued that terrorism suspects who had been found with arsenals like grenades and bombs during arrests did not deserve to be released during their trial in a court of law. 2 Christians and 1 Muslim noted that the trial of terror suspects was a weak one that could not

lead to convictions. This was attributed to weaknesses in the constitution that from respondents' point of view needed to be streamlined to match with the realities that security agencies face in war against terrorism.

It can be argued that most of the respondents believed in a fair trial. They were also confident that Kenyan courts had the ability to try and convict terrorism suspects. However, a few respondents raised concerns that were echoed by a key informant from the Office of the DPP. The informant noted that the current Bill of rights in Constitution of Kenya, 2010 had weaknesses that needed to be rectified.

The informant cited the right of an accused person to an order of habeas corpus pending trial as a weakness in law that is out of touch with reality of prosecuting terrorism suspects. It was also noted by the same key informant that Prevention of Terrorism Act of 2012 and as legislations that had flaws when prosecuting terrorism suspects. For example, the informant argued that some clauses on threshold of evidence needed to be adduced before a court of law to convict terrorism was unrealistic. Terrorist suspects operate in secret. Most of the information about them is in a form of intelligence reports that in most cases are considered weak to convict a terror suspect.

During the interview on arrests, respondents were asked how they knew the arrests of their relatives. The purpose for this question was to know whether arrested persons were given permission to inform their kinsmen as required by the constitution. Table 4.11 gives the response.

Table 4.11: How respondents knew the arrests of their relatives.

Response	Frequency	Percent	Valid Percent	Cumulative Percent
Was Contacted by the security officers	1	1.2	4.3	4.3
Was Informed by a friend	5	6.0	21.7	26.1
The arrested relative called me	10	12.0	43.5	69.6
I learnt it through media	2	2.4	8.7	78.3
we searched for them for two weeks and found them locked up in cells	5	6.0	21.7	100.0
Total	23	27.7	100.0	
Missing System	60	72.3		
Total	83	100.0		

Source: Generated from study data, 2015

Table 4.11 indicates that 43.5 % (n=10) respondents were given permission to contact their relatives and inform them of their arrests. However, 21.7 % (n= 5) were detained incommunicado for two weeks. On an ordinal scale, respondents were also asked on how they agreed with this statement: Terror suspects are allowed to contact their family members after arrests. The response is given in table 4.12 below.

Table 4.12 Response on granting terrorism suspects to contact their family members.

Response	Religion		Total
	Christian	Muslim	
Strongly disagree	20	11	31
disagree	4	2	6
not sure	14	3	17
strongly agree	11	18	29
Total	49	34	83

Source: Generated from study results, 2015

Table 4.12 presents that 29 respondents i.e. 11 Christians and 18 Muslims agreed that terror suspects are given an opportunity to contact their relatives and notify them of their arrests. The majority of Muslims in this category can be interpreted to mean that they are majority who are arrested by police officers therefore have vast experiences on this constitutional requirement. It is also worth noting that the second largest respondent in this category strongly disagreed that terrorism suspects are given a chance to let their relatives know. Table 4.12 shows that a total of 31 respondents; 20 Christians and 11 Muslims strongly disagreed. It can therefore be deduced that this constitutional provision is a contested issue in Kamukunji Constituency based on the religion a resident subscribes to.

Table 4.13 Terror suspects are allowed to contact their lawyers after arrests

Response	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree	22	26.5	26.5	26.5
disagree	2	2.4	2.4	28.9
agree	8	9.6	9.6	38.6
not sure	35	42.2	42.2	80.7
strongly agree	16	19.3	19.3	100.0
Total	83	100.0	100.0	

Source: Generated from study data, 2015

In table 4.14, it is evident that majority of the respondents rated at 42.2% (35) were not sure whether terrorism suspects were given an opportunity to contact their lawyers. This could be interpreted to mean that majority of the respondents did not have lawyers or were not aware of this provision in the constitution.

Table 4.14 Security agencies take more than twenty four hours to take terror suspect to court

Response		Religion		Total
		Christian	Muslim	
	Strongly disagree	1	7	8
	disagree	5	1	6
	Agree	5	1	6
	not sure	10	7	17
	strongly agree	28	18	46
Total		49	34	83

Source: Generated from study data, 2015

33 respondents agreed that security agencies take more than 24 hours to take terrorism suspects to court contrary to article 49(i) (f) that demands an arrested person be brought before a court as reasonably possible but not later than twenty – four hours after being arrested. The number of those who were not sure i.e. 17 respondents were however more than of those who disagreed rated at 6 respondents. This could be interpreted to mean that a lot of respondents were not aware of this constitutional provision.

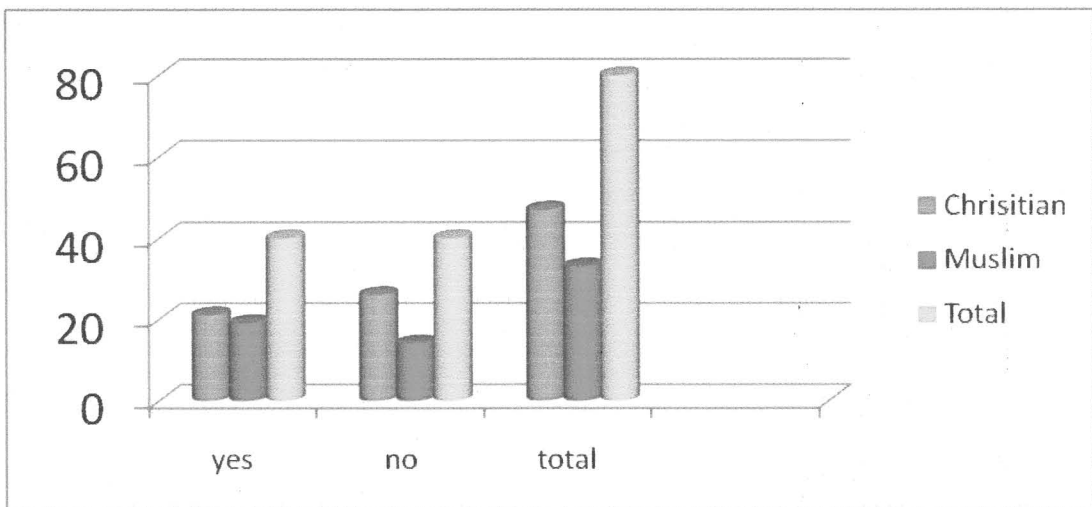
Table 4.15: Response on whether the state is using excessive force when dealing with terrorism suspects

Religion		Sex		Total
		Male	Female	
Christian	Strongly disagree	19	10	29
	disagree	1	1	2
	agree	3	3	6
	not sure	0	5	5
	strongly agree	3	4	7
Total		26	23	49
Muslim	Strongly disagree	7	7	14
	disagree	0	1	1
	agree	2	0	2
	not sure	1	3	4
	strongly agree	8	5	13
Total		18	16	34
Total	strongly disagree	26	17	43
	disagree	1	2	3
	agree	5	3	8
	not sure	1	8	9
	strongly agree	11	9	20
Total		44	39	83

Source: Generated from study data, 2015

It was strongly disagreed by both male and female, Muslims and Christians that the state use excessive force when dealing with terrorism suspects. One key respondent from the Office of the President opined that the state was too lenient on terrorism suspects due to the Bill of Rights in the constitution that granted a lot of rights and freedoms that are incapable of implementation. Right of an arrested terrorism suspect to be released on bond according to this key informant was a fundamental concern that needed to be amended in the constitution. Table 4.15 shows that a total of 43 respondents strongly disagreed. Out of these, 26 were male and 17 females. It can therefore be concluded that the state complied with constitutional provision of humane treatment of terrorism suspects pending their trial. It can also be deduced that the security agencies respects presumption of innocence of a suspect until proven otherwise in a court of law.

Figure 4.3 Awareness of terrorism suspects that disappear without a trace

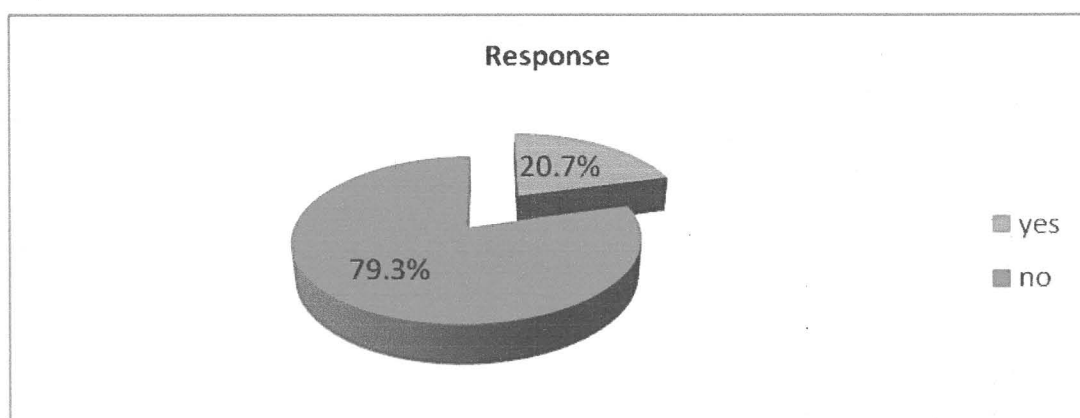


Source: Generated from study data, 2015

The study sought to know whether the respondents were aware of enforced disappearances in the Kenya and their views about it. 21 Christians and 19 Muslims were aware as presented in fig. 4.3. It can be deduced from the response rate in this question that more Muslims than Christians were aware of enforced disappearances in the country. It must however be noted that most of the respondents who were aware of this were from Majengo/ Gorofani Sub Location followed by Eastleigh North Sub Location.

From the 15 respondents interviewed in Majengo Sub Location, only one respondent was not aware of the enforced disappearances. This can be interpreted to mean that the two sub locations recorded the most responses on terrorism activities in Kamukunji Constituency. The researcher found that Majengo Sub Location was predominantly populated by Muslim converts. It was also the sub location that hosts the controversial Ridhaa Mosque that had been raided by security officers in year 2014 on grounds that it was a breeding ground for extremist teachings.

Figure . 4.4 Awareness of summary renditions in Kenya



Source: generated from study data, 2015

It however emerged that most Kenyans were not aware of renditions of terrorism suspects in Kenya. Only 20.7% were aware while 79.3% were not aware. This can be interpreted to mean that the practice is not widespread in Kenya as compared to enforced disappearances that 40 respondents were aware of it. The few who were aware about renditions in the country were of the view that the terrorism suspects deserved to be tried in Kenya because Kenyan courts are capable of trying them.

Table 4.16: Harassment, coercion, intimidation and beating of terrorism suspects so as to extract information is justified.

Response	Religion		Total
	Christian	Muslim	
Strongly disagree	24	27	51
disagree	2	1	3
agree	4	0	4
not sure	2	0	2
strongly agree	17	6	23
Total	49	34	83

Source: Generated from study data, 2015

In table 4.16, 54 respondents disagreed that torture of terrorism suspects cannot be justified whatsoever. However, 27 respondents agreed. Based on religious affiliation, the highest number of Muslims rated at 28 respondents disagreed and only 6 agreed. Christians on the other hand had a least number of those disagreeing rated at 26 respondents and the largest number of 21 respondents opining that torturing terrorism suspects can be justified. This can be interpreted to mean that religious views have influence on the position that someone takes on terrorism phenomenon.

The Bill of Rights in the Constitution of Kenya, 2010 Articles 26(1) (3), 49(1) (c, d, f (i,ii), and h) provides that: “Every person has the right to life. A person shall not be deprived of life intentionally except to the extent authorized by this constitution or other written law; every an arrested person has the right to communicate with an advocate and other persons whose assistance is necessary; not to be compelled to make any confession or admission that could be used in evidence against the person; to be brought before a court as soon as reasonably possible but not later than twenty hours after being arrested or if the twenty- four hours ends outside ordinary court hours or on a day that is not an ordinary court day, the end of the next court day and to be released on bond or bail on reasonable conditions pending a charge or trial unless there are compelling reasons not to be released.”

This study found that terrorism suspects were given permission to contact their relatives when arrested by security agencies. This was confirmed by respondents who had relatives who were arrested by security agencies during anti- terrorism security operations. 43.5% of those arrested were allowed to let their relatives know. From the likert scale responses, 42.1% of the respondents too agreed that this right was granted by security agencies as provided for by Article 49(1) (c) that requires an arrested person to be granted permission to communicate with either an advocate or a person whom they need their assistance. However, this study could not establish whether the arrested terrorism suspects got permission to communicate with their lawyers because majority of the respondents rated at 42.2% were noted sure.

The study also found that indeed security officers violated the right of arrested terrorism suspects to be arraigned in court as soon as was reasonably possible with 62.6% of the respondents agreeing. On whether the state was using excessive force when dealing with terrorism suspects, the study found that it was not true with 55.4% respondents disagreeing. In fact, they argued that the state was too lenient on terrorism suspects.

Information on enforced disappearances and summary renditions showed that enforced disappearances in Kamukunji were more wide spread than summary renditions. This is because; those who were aware of enforced were 50% and those aware of the summary renditions were only 20.7%. The state was mostly blamed as the agent responsible of enforced disappearances with 68.4% being of the view that it was the security agencies that were responsible of their disappearances.

Only 13.1% argued that Alshabab terrorist networks were to be blamed for their disappearances. Further information was sought from the respondents on why they apportioned the big blame on the state for terrorism suspects' disappearances. It was noted that most of the disappeared terrorism suspect must have been arrested at some point by unknown people claiming to be security officers i.e. the ATPU. The arrested terrorism suspects were thereafter taken from one police station to another without being booked until it became unclear of their whereabouts. This was different from those whom the respondents who apportioned the blame on Alshabaab. They claimed that those who went to join the

Alshabab in Somalia disappeared quietly and also there was no information of any arrests on them.

It was also established that these measure was wide spread in Majengo Sub Location and mostly among the Muslim converts. At least 99% of all respondents in this Sub Location were aware of someone who had disappeared. The respondents argued that the state was targeting this category of Muslims on ground that their conversion to Islam was just to hide under Islam religion while engaging in terrorism activities. Thus, right to life as guaranteed in the constitution of Kenya is violated by the state while waging war on terrorism. In spite of summary renditions being not much reported in this study, 52.9% of those who were aware of it were of the view that it was good to try terrorism suspects in Kenya. They cited confidence in Kenyan courts as the reason of their support.

CHAPTER FIVE

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This chapter presents the summary of findings, conclusions and recommendations of the study. The major objective of this study was to examine the extent to which human rights and civil liberties of Kamkunji Constituency residents are affected during war on terrorism. It has been observed that war on terrorism negatively affects human rights and civil liberties.

5.2 Summary

The study has established that human rights and civil liberties are negatively affected although the effects are not uniformly distributed among all members in the society. The minority groups and in the case of this study the Muslim and Somali community are likely to suffer more compared to other dominant groups. The study also established that the effect of a measure on a civil liberty can be indirectly linked to the measure taken. For example, this study found that freedom of movement as a civil right was not just limited by road blocks. It was also limited by widespread fear of arrests in the area. out this fear, businesses were also affected because the residents were afraid of moving freely to do transactions.

On the first objective, study found that security operations, human rights in the context of freedom from torture, freedom from cruel, inhuman and degrading punishment, right to challenge one's detention pending charges and trial were infringed upon. This is because an average of 50.3% of those arrested were subjected to various human rights abuses. They were tortured, beaten coerced to accept incriminating evidence, arbitrarily arrested and detained for long without being taken to court to be charged.

The findings on raids and searches also show that civil liberties including right to privacy and freedom from discrimination were also affected. 23.3% of respondents who's their houses were searched noted that their right to privacy was not respected. The searches were haphazardly done. It was difficult to monitor the exercise. The findings also show that this home raids and searches targeted Muslims houses with 15 homes out of 29 being that of

Muslims in spite of them being the minority respondents in this study. The study also established that the mass arrests and screening at Kasarani National Stadium were discriminatory by targeting the Somali and Muslim community. 49.3% noted that discrimination and biasness characterized the exercise.

On the third objective, are varied results on rights of arrested terrorism suspects. There are instances where the security agencies complied with the constitution like in the case of not using excessive force against them. 43 respondents out of 83 interviewed confirmed that excessive force was not used. It was also true that terrorism suspects are given permission to contact their family members with an average of 42.8% agreeing. However, the results show right to be arraigned in court as soon as reasonably possible i.e. within 24 hrs after arrest is grossly violated with 62.6% agreeing with this.

The study also establishes that illegitimate measures like renditions and enforced disappearances of terrorism suspects are practiced in Kenya. 68.4% blamed the security agencies for terrorism disappearances and 52.2% said that it was not good to render terrorism suspects to foreign countries. Kenyan courts have the capacity to try them.

5.3 Conclusions

Based on the above findings, the study concludes that there are negative effects of counterterrorism measures on human rights and civil liberties although the situation in Kamukunji is not as gloomy as portrayed by the media and human rights organizations including MUHURI, Human Rights Forum, and Human Rights Watch. The study established that majority of the respondents overwhelmingly supported government's efforts on war on terrorism in the area. the respondents concern was not on the strategies but how they are executed.

The society opines that the government does not fully incorporate the locals who are well informed about their areas of residence. The study too established that lack of honesty from the government too hindered war on terrorism in Kamukunji. It was argued that a lot of routine operations in Kamunji have been turned to money extortion exercises.

According to the study findings, there is need to make improvements on the tactics that government use to wage war on terrorism in Kamukunji. The suggested changes include improvement of capacity building of the intelligence agencies in the area and eradication of entrenched corruption by security agencies. The changes should further involve embracing the youth who are the majority of residents in the area. one key informant who represents the community in District Security Committee noted that the governments war on terrorism will forever remain a pipe dream unless the youths who are vulnerable to radicalization are not meaningfully involved. The long arm of the government must not always be an iron fist. It can be a caressing hand; hand that gives incentives to youths to take charge of their destiny.

5.4 Recommendations

Based on the study findings, this study makes the following recommendations for the government, stakeholders and the community.

1. The state should embrace Nyumba Kumi Initiative to counter terrorism activities in Kenya
2. The state should Involve the locals and especially the Somali and Muslim community in its efforts to combat terrorism in Kenya
3. The cases of enforced disappearances need to be investigated by an independent body and its report made public. It is raising anxiety in Kamukunji Constituency
4. The state should involve the youth in its strategies to fight terrorism. The long arm of the government must not be an iron fist. It can be a part on the shoulder.
5. The stake holders in the security sector need to embrace the community fully. War on terrorism is a collective responsibility between the government and the society
6. The community should also embrace dialogue as opposed to constant complains on how the government is failing.

5.5 Suggested Areas for Further Studies in Counterterrorism Measures and Human Rights and Civil Liberties

Based on the findings, the researcher recommends further studies in the following areas.

1. Coordination among security agencies and anti- terrorism operations in Kenya
2. Assessing the security value of introduction of alternative anti-terrorism measures to replace security operations.
3. Possible areas of constitutional review to enhance counterterrorism performance.

REFERENCES

- Alston, P. (2011). *The CIA & Targeted Killings and Beyond Borders*. Cambridge: Presidents and Fellows of Harvard College.
- Axel, D., Martin, G., & Cars, S. H. (2007). *Does Terror Threaten Human Rights?* Zurich: Swiss Economic Institute.
- Bekele, M. A. (2010). *Counter- terrorism and the Suppression of Political Pluralism: An Examination of the Anti- Terrorism Proclamation of Ethiopia*. Accra : Univerisity of Ghana.
- Choi, S. W., & Piazza, J. A. (2014). *Ethnic Groups, Political Exclusion & Domestic Terrorism*. Chicago: University of Illinois.
- Constitution of Kenya. (2010). *Government of Kenya*. Nairobi: National Council for Law Reporting.
- David(ed), M. W., Ball, K., Lyon, D., Norris, C., & Raab, C. (September, 2006). *A Report on the Surveillance Society*. London: Surveillance Studies Network.
- Davis, H. (2013). *Human Rights and Civil Liberties*. Portland: Willan Publishing.
- Department of Defense. (1982). *Protection of DOD Personnel and Resources against Terrorists Acts*. Washington: Department of Defense.
- Edward, S., & Kendra, S. (2004). Terrorism, Security and Civil Liberties: The State Responds. In D. Cohen, & J. Wells, *American National Security and Civil Liberties in an Era of Terrorism* (pp. 125-146). New york: The University of Michigan Press.
- Eijkman, Q., & Schuurman, B. (2011). *Preventive Counterterrorism & Non Discrimination in the European Union: A Call for Systematic Evaluation*. Hague: International Centre for Counter-terrorism.
- European Union Agency for Fundamental Rights. (2010). *Towards more Effective Policing. Understanding and Preventing Discriminatory Eathnic Profiling: A guide*. Luxembourg: Publications Office of the European Union.
- Federal Bereau Investigations*. (1998, August 27). Retrieved March 15, 2015, from National Press Office: <http://www.fas.org/irp/news/1998/africast.htm>
- Fenwick, H., & Glancey, R. (2013). *2013- 2014 Civil Liberties and Human Rights*. Newyork: Routledge.

- Grayling, A. (2009). *Liberty in the Age of Terror: A Defense of Civil Liberties and Enlightenment Values*. London: Bloomsburg Publishing PLC.
- Harman, D. (2002, December). *Israeli Mossad, the CIA and the Kenyan Intelligence Agencies Work Together to Determine who is Behind the Kenyan Bombing*. Retrieved March Tuesday, 2015, from Democracy: <http://www.democracy now.org/>
- Horowitz, J. (2013). *We are Tired of Taking You to the Court: Human Rights Abuses by Kenya's Anti- Terrorism Police Unit*. New York: Open Society Foundations.
- Independent Policing Oversight Act. (2011). *Independent Policing Oversight Act*. Nairobi: National Council for Law Reporting.
- Independent Policing Oversight Authority. (2014). *Monitoring Report on Operation Sanitization Eastleigh Publicly Known as "Usalama Watch"*. Nairobi: Independent Policing Oversight Authority(IPOA).
- Joint Chief of Staff. (1984). *Department of Defense Dictionary of Military & Associated Terrorism Terms*. Washington: Joint Chief of Staff.
- Kaponyi, E. K. (2007). Upholding Human Rights in The Fight Against Terrorism. *Society and Economy* , pp 1-41.
- Kelly, J. (2003b, June Thursday). *Daily Nation on the web*. Retrieved March Tuesday, 2015, from Daily Nation Digital news: <http://www.nationdigitalnews.com/>
- Kenya Bureau of Statistics. (2010). *The 2009 Kenya Population and Housing Census*. Nairobi: Kenya Bureau of Statistics.
- Kenya, G. o. (2010). *The Constitution of Kenya*. Nairobi: National Council for Law Reporting.
- Khan, F., & Mythen, G. (2009). *Futurity, Governance and the Terrorist Risk: Exploring the Impacts of Pre-emptive Modes of Regulation on Young Muslims in the UK*. Liverpool: University of Liverpool.
- Kleiner, Y. S. (2010). Racial Profiling in the name of National Security: Protecting Minority Travlers' Civil Liberties in the Age of Terrorism. *Boston College Third World Law Journal* , 103- 144.
- Latimer, C. P. (2011). *Civil Liberties and the State: A Documentary and Reference Guide*. Carlifornia: Greenwood.
- Lorna McGregor & Clara Ferstman. (2009). *Kenya and Counter-terrorism: Time for Change.A Report by Redress and Reprieve*. Nairobi: Redress and Reprieve.

- Meissels, T. (2008). *The Trouble With Terror: Liberty, Security and Response to Terrorism*. New York: Cambridge University Press.
- Mogire, E., & Mkutu, E. (2011). Counterterrorism in Kenya. *Journal of Contemporary African Studies* , 473-491.
- Munaita, P., & K.J, K. (2004, April Monday). *The East African on the web*. Retrieved March Tuesday, 2015, from nationaudio: <http://www.nationaudio.com/>
- National Council for Law Reporting. (2014). *Security Laws(Ammendments) Act*. Nairobi: National Council for Law Reporting.
- National Police Act. (2011). *National Police Act*. Nairobi: National Council for Law Reporting.
- Omelicheva, M. Y. (2010). Security Violations in The Context of Counterterrorism: An Analysis of the Post- Soviet Nations. *The International Journal of Human Rights* , 166- 188.
- Otiso, K. M. (2009). Kenya in the Cross Hairs of Global Terrorism: Fighting Terrorism at the Periphery. *Kenya Studies Review* , Vol. 1, Number 1.
- Piazza, J. A. (2011). Poverty, Minority, Economic Discrimination and Domestic Terrorism. *Journal of Peace* , 339- 353.
- Richard, S. (2014). *Textbook on Civil Liberties and Human Rights*. Oxford: Oxford University Press.
- Scharf, M. P. (2010). International Law in Crisis: A Qualitative Contribution to the Compliance Debate. *Cardozo Law Review* , 45-97.
- Sidel, M. (2004). *More Secure Less Free? Anti- Terrorism Policy and Civil Liberties after September 11*. Michigan: University of Michigan Press.
- Smock, D. (2003). *Would an Invasion of Iraq be a Just war?* Washington DC: United Institute of Peace.
- United States Department Of State Publication. Bureau of Counterterrorism. (2013). *Country Reports on Terrorism 2012*. Washington: Bureau of Counterterrorism.
- Waldron, J. (2003). Security and Liberty: The Image of Balance. *The Journal of Political Philosophy* , 191- 210.
- White, J. r. (2006). *Terrorism and Homeland Security*. Belmont: Thomsom Wadsworth.

World Organization Against Torture(OAK). (2012). *State of Torture and Related Human Rights Violations in Kenya: Alternative Report to the Human Rights Committee*. Geneva: World Organization Against Torture.

APPENDICES

APPENDIX 1: QUESTIONNAIRE FOR KEY INFORMANTS

The Effects of Counterterrorism Measures on Human Rights and Civil Liberties in Kenya: A case of Kamukunji Constituency, 1998- 2014

I am Katuta Paul Ngei currently pursuing Masters of Arts Degree in Political Science and Public Administration at the University of Nairobi. I am carrying out a study on the effects of counterterrorism measures on human rights and civil liberties of Kamukunji Constituency residents. This study is likely to help in coming up with better policies on how to deal with terrorism activities in Kenya in general and particularly in Kamukunji Constituency. I will ask you several questions which are related to the study. Your responses will be treated with confidentiality at all levels and data will be presented in such a way that your identity cannot be disclosed at any point.

Date:.....

Time Taken During Interview.....

Start:.....

End.....

SECTION A: DEMOGRAPHIC INFORMATION

1) What is your age?

- 18- 29 () 30-39 ()
40-49 () 50 and above ()

2) Sex

- Male () Female ()

3) What is the highest level of education have you ever attained

- a) Primary
- b) Secondary
- c) College Certificate
- d) College Diploma
- e) University Degree
- f) Post Graduate
- g) Other

(Specify.....)

4) What is your religion

- a) Christian ()
- b) Muslim ()
- c) Other (Specify).....

SECTION B: THE EFFECTS OF COUNTERTERRORISM MEASURES ON HUMAN RIGHTS AND CIVIL LIBERTIES IN KENYA: THE CASE OF KAMUKUNJI CONSTITUENCY, 1998- 2014

Interview Schedule

- 1) What is your general view on government's war on terrorism in Kamukunji Constituency?
- 2) Kamukunji Constituency has had numerous anti- terrorism operations. What is your opinion on those operations?
- 3) Do you receive complaints from the residents of Kamukunji of violation of their human rights and civil liberties
 - a) Yes ()
 - b) No ()
- 4) If yes, how often?
 - a) Daily, b) weekly c) fortnightly, d) Monthly, e) Other (Specify).....
- 5) What accounts for the frequency of your response above?
- 6) How will you rate government's compliance to the Bill of Rights in the Constitution of Kenya, 2010
 - a) Poor, b) fair, c) good, d) very good, e) excellent
- 7) What accounts for your rating?
- 8) What is your opinion on anti- terrorism laws in Kenya?
- 9) Are you aware of terrorism suspects who have taken to foreign countries to face trial?
 - a) Yes
 - b) No
 - c) If yes, what is your view about it?
- 10) The state has deregistered and also threatened to deregister institutions and organizations that are suspected to support terrorism in Kenya. What is your view about it?
- 11) Should the military be involved in fighting terrorism within the country?

- 12) What is your opinion on the argument that counterterrorism measures are discriminatory?
- 13) Are you aware of terrorism suspects who have disappeared in Kenya?
- a) Yes
 - b) No
 - c) If yes, what is your view about it?
- 14) What do you think should be done to effectively fight terrorism and at the same time respect human rights and civil liberties?

Thank you for your participation

APPENDIX 11: QUESTIONNAIRE FOR COMMUNITY RESPONDENTS
The Effects of Counterterrorism Measures on Human Rights and Civil Liberties in Kenya: A case of Kamukunji Constituency, 1998- 2014

I am Katuta Paul Ngei currently pursuing Masters of Arts Degree in Political Science and Public Administration at the University of Nairobi. I am carrying out a study on the effects of counterterrorism measures on human rights and civil liberties of Kamukunji Constituency residents. This study is likely to help in coming up with better policies on how to deal with terrorism activities in Kenya in general and particularly in Kamukunji Constituency. I will ask you several questions which are related to the study. Your responses will be treated with confidentiality at all levels and data will be presented in such a way that your identity cannot be disclosed at any point.

Date:.....

Time Taken During Interview.....

Start:.....

End.....

SECTION A: DEMOGRAPHIC INFORMATION

1) How long have you resided in Kamukunji Constituency?

- a) 1- 3 years ()
- b) 4-6 years ()
- c) 7 years and above ()

2) What is your age?

- 18- 29 () 30-39 ()
- 40-49 () 50 and above ()

3) Sex

- Male () Female ()

4) What is the highest level of education have you ever attained

- h) Primary
- i) Secondary
- j) College Certificate
- k) College Diploma
- l) University Degree
- m) Post Graduate
- n) Other

(Specify).....

5) What is your religion

- d) Christian ()
- e) Muslim ()

Other (Specify).....

6) What is your major source of income?

- a) Business
- b) Employed in private sector
- c) Government employee
- d) Other (Specify).....

SECTION B: THE EFFECTS OF COUNTERTERRORISM MEASURES ON HUMAN RIGHTS AND CIVIL LIBERTIES IN KENYA: THE CASE OF KAMUKUNJI CONSTITUENCY, 1998- 2014

- 7) What is your general view on government's anti- terrorism measures in Kamukunji Constituency?
- 8) As a resident in Kamukunji Constituency, how is your daily life affected during anti-terrorism security operations?
- 9) Have ever been personally arrested by police officers during anti- terrorism security operations?
- a) Yes ()
 - b) No ()
 - c) If yes, briefly explain.....
.....
.....
.....
- 10) Do you have a relative who has ever been arrested by security officers during anti-terrorism security operations?
- a) Yes ()
 - b) No ()
 - c) If yes, how did you know of the arrests?
 - i) Was contacted by the security officers
 - ii) Was informed by a friend
 - iii) The arrested relative called me
 - iv) Learnt it through the media
 - v) Other (specify).....
- 11) Do you have a friend who has ever been arrested by security officers during anti-terrorism security operations?
- a) Yes ()
 - b) No ()
 - c) If yes, has the friend ever shared his/ her experience of arrests with you?
 - i) Yes ()

ii) No ()

d) If yes, briefly explain what you were told.....

.....
.....
.....

12) Do you know any person i.e. your neighbour, colleague, workmate, a leader etc who has ever been arrested by security officers during anti- terrorism security operations in Kamukunji Constituency?

a) Yes ()

b) No ()

c) If yes, did they share with you their experience of arrests?

i) Yes ()

ii) No ()

d) If yes, what did they tell you?.....

.....
.....
.....
.....

13) Has your house ever been raided and searched by police officers during anti-terrorism security operations in Kamukunji Constituency?

a) Yes

b) No

c) If yes, briefly explain how the raid and search was done.....

.....
.....

14) Are you aware of any home, estate, village that was raided and searched by security officers during anti- terrorism security operations in Kamukunji Constituency?

a) Yes ()

b) No ()

c) If yes, specify which one

i) Home

- ii) Estate
- iii) Village
- iv) Other (specify).....
- d) Briefly explain how the raids and searches were done.....
-
-

15) Are you aware of mass arrests and screening at Kasarani National Stadium by security agencies in Kamukunji Constituency?

- a) Yes ()
- b) No ()
- c) If yes, what is your view about the exercise?.....
- d)
-
-
- e) In your opinion, what was common on those arrests and screening at Kasarani National Stadium?.....
-
-
-

16) What is your view on trial of terror suspects in a court?.....

.....

.....

17) Are you aware of terrorism suspects who disappear without a trace?

- a) Yes ()
- b) No ()
- c) What is your view on their disappearances.....
-
- d) What do you think should be done on their disappearances?

.....
.....
.....

18) Are you aware of Kenyan terrorism suspects who have been taken to foreign countries to be tried there?

a) Yes ()

b) No ()

c) What is your view on their transfer?.....
.....

.....

19) On a scale of 1-5, where 1- strongly disagree, 2- disagree, 3- agree, 4- not sure, 5- strongly agree, state the extent to which you agree with the following statements.

20) In your view, what do you think should be done to effectively fight terrorism and at the same time ensure respect for human rights and civil liberties?

.....
.....
.....
.....

Thank you for your participation

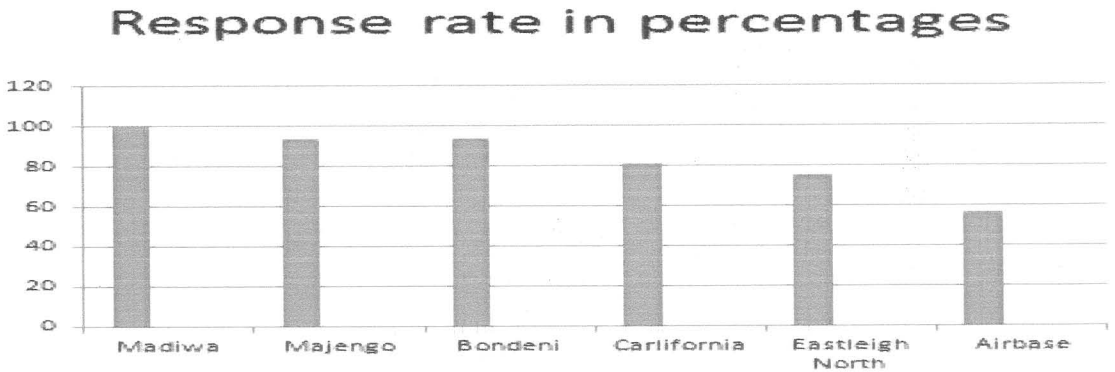
4.3 Response Rate

The study intended to sample 100 respondents from the community. However, 83 respondents participated in the study by being interviewed by use of a questionnaire that had both closed ended and open ended questions. The number of respondents from the community who participated in the study represents 83% while non response was 17%. While the overall percentage of the response rate from the six sub locations was 83%, there were variations in the six sub locations that data was collected from.

The study intended to sample 16 respondents in each sub location except in Eastleigh North Sub Location where the intended sample size was projected to be 20 respondents. Security agencies had carried out several security operations in the area. There were also several terrorist attacks in the same Sub Location. Eastleigh North Sub Location is also densely populated by the Somali community. There were complains that they were being discriminated by the state on its war on terrorism.

The area also leads in terms of business establishments in the Constituency. Based on these reasons, the study increased the sample size from 16 to 20 respondents in the area.

Figure. 4.1: Bar graph showing the response rate in percentages



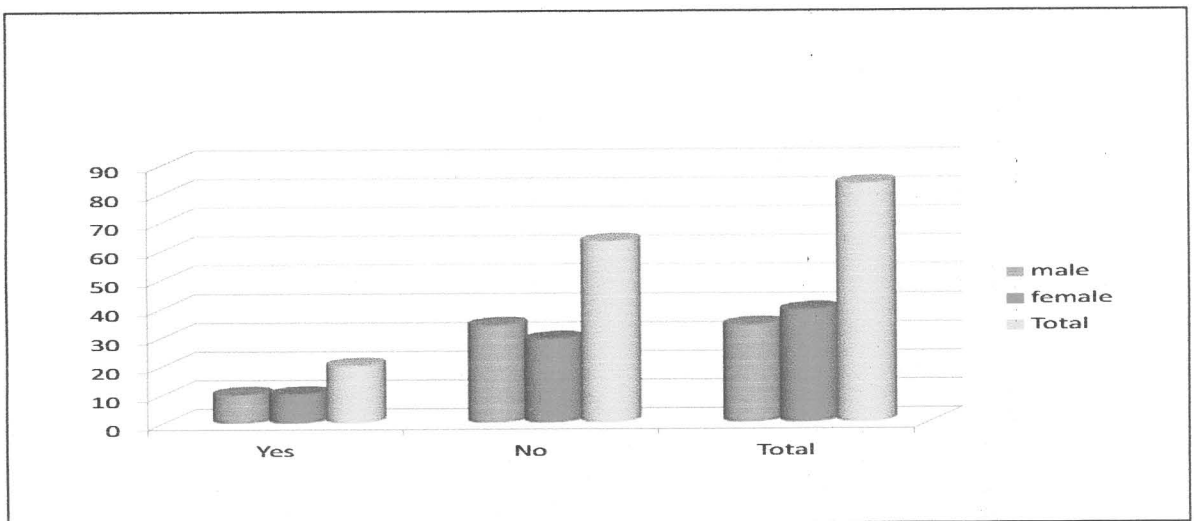
Source: Generated from study data, 2015

The Highest response rate of 100% (16) was in Madiwa Sub Location, followed by Majengo/ Gorofani and Bondeni/Gorofani/Gikomba 93.75% (15) respondents in each, California Sub Location 81.25 (13), Eastleigh North Sub Location 75% (15) and Airbase Sub Location at 56.25(9) respondents. This is summarized in bar graph 4.1

The first objective sought to find out how security operations in the context of arrests affected human rights. Respondents were asked whether they were personally arrested, had relative and friend who had ever been arrested or were aware of any person who had ever been arrested

4.3.1 Arrests

Figure .4.2: Personal arrests by security agencies during security operations.

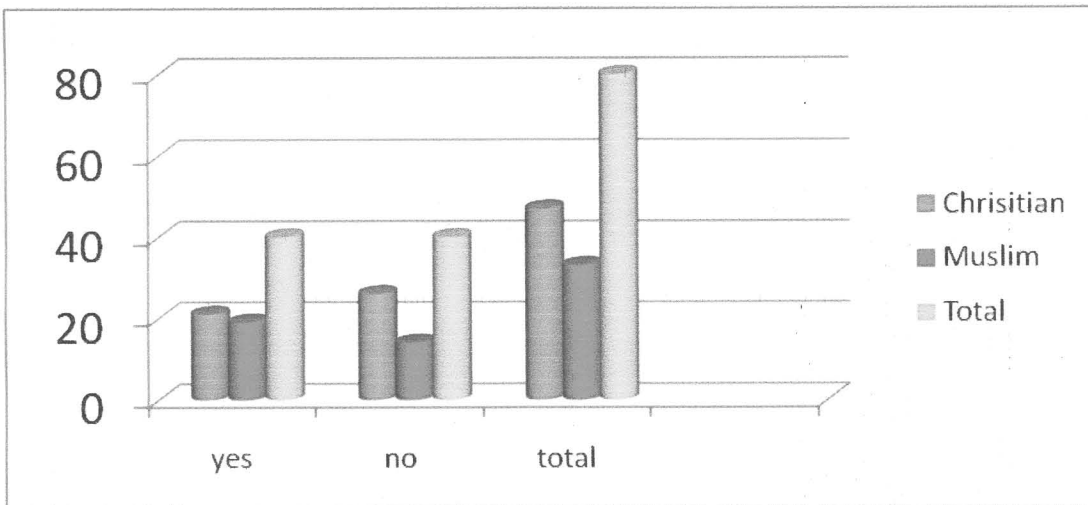


Source generated from study data, 2015

The study findings in figure 4.2 indicate that total of 20 respondents i.e. 10 males and 10 females were personally arrested by security officers during anti- terrorism security operations. These respondents were considered to have firsthand information on repercussions of arrests. The study further sought to find out whether the respondents had a

It was strongly disagreed by both male and female, Muslims and Christians that the state use excessive force when dealing with terrorism suspects. One key respondent from the Office of the President opined that the state was too lenient on terrorism suspects due to the Bill of Rights in the constitution that granted a lot of rights and freedoms that are incapable of implementation. Right of an arrested terrorism suspect to be released on bond according to this key informant was a fundamental concern that needed to be amended in the constitution. Table 4.15 shows that a total of 43 respondents strongly disagreed. Out of these, 26 were male and 17 females. It can therefore be concluded that the state complied with constitutional provision of humane treatment of terrorism suspects pending their trial. It can also be deduced that the security agencies respects presumption of innocence of a suspect until proven otherwise in a court of law.

Figure 4.3 Awareness of terrorism suspects that disappear without a trace

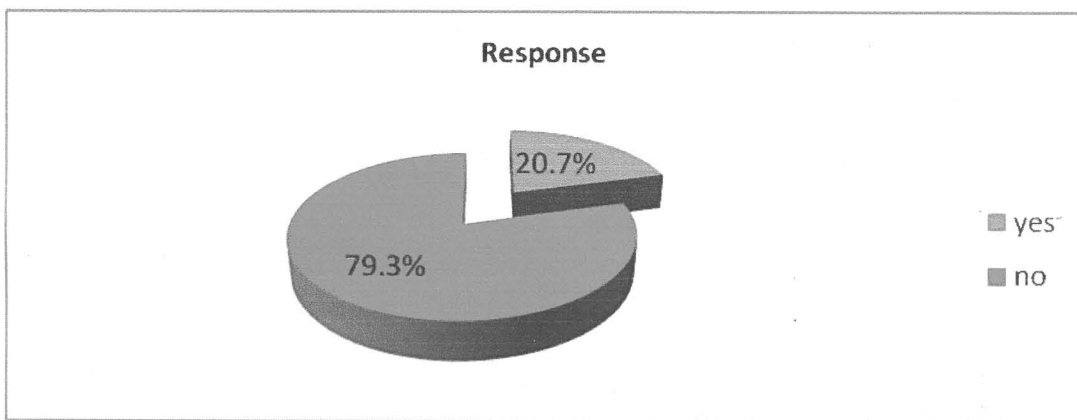


Source: Generated from study data, 2015

The study sought to know whether the respondents were aware of enforced disappearances in the Kenya and their views about it. 21 Christians and 19 Muslims were aware as presented in fig. 4.3. It can be deduced from the response rate in this question that more Muslims than Christians were aware of enforced disappearances in the country. It must however be noted that most of the respondents who were aware of this were from Majengo/ Gorofani Sub Location followed by Eastleigh North Sub Location.

From the 15 respondents interviewed in Majengo Sub Location, only one respondent was not aware of the enforced disappearances. This can be interpreted to mean that the two sub locations recorded the most responses on terrorism activities in Kamukunji Constituency. The researcher found that Majengo Sub Location was predominantly populated by Muslim converts. It was also the sub location that hosts the controversial Ridhaa Mosque that had been raided by security officers in year 2014 on grounds that it was a breeding ground for extremist teachings.

Figure . 4.4 Awareness of summary renditions in Kenya



Source: generated from study data, 2015

It however emerged that most Kenyans were not aware of renditions of terrorism suspects in Kenya. Only 20.7% were aware while 79.3% were not aware. This can be interpreted to mean that the practice is not widespread in Kenya as compared to enforced disappearances that 40 respondents were aware of it. The few who were aware about renditions in the country were of the view that the terrorism suspects deserved to be tried in Kenya because Kenyan courts are capable of trying them.

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