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COLLEGE OF HUMANITIES AND SOCIAL SCIENCES

INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES

COUNTERING RADICALIZATION AND ITS IMPACT ON NATIONAL SECURITY IN EAST AFRICA: THE CASE FOR THE DIPLOMATIC APPROACH IN KENYA.

BY

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DECLARATION

I declare that this research project is my original work and has not been presented or submitted for award of any degree in any University or learning institution.

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This Project has been submitted with my approval as a University supervisor.

Signature…………………………….. Date ………………………

PROF. AMB. MARIA NZOMO

DEDICATION

This research project is dedicated to my Wife Nimo Ahmed and my brother Abdinoor Bulle.

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LIST OF ABBREVIATIONS

AHF: Al Haramain Foundation

AMISOM: African Mission in Somalia

AML: Anti-Money Laundering

ASD: Acute Stress Disorder

ATPU: Anti-Terrorism Police Unit

AU: African Union

AFRICOM: Africa Command

CBK: Central Bank of Kenya

CFT: Combating the Financing of Terrorism

CJTF-HOA: Combined Joint Task Force-Horn of Africa

COMESA: Common Market for East and Southern Africa

CTF: Counter Terrorism Financing

EAC: East African Community

EACTI: East African Counter-Terrorism Initiative

E.O: Executive Order

ESAAMLG: East and Southern Africa Anti-Money Laundering Group

FATF: Financial Action Task Force

FIU: Financial Intelligence Unit

FTO: Foreign Terrorist Organization

FRC: Financial Reporting Centre

GDP: Gross Domestic Product

IAAF: International Association of Athletics Federations

IGAD: Inter-Governmental Authority on Development

IMF: International Monetary Fund

KNCHR: Kenya National Commission on Human Rights

NCTC: National Counter Terrorism Centre

NGO: Non-Governmental Organization

OFAC: Office of Foreign Assets Control

PLO: Palestinian Liberation Organization

PTSD: Post-Traumatic Stress Disorder

RPG: Rocket Propelled Grenade

SOT: Suppression of Terrorism

TFG: Transitional Federal Government

TIP: Terrorism Interdiction Program

UDHR: Universal Declaration on Human Rights

UN: United Nations

UNCTAD: United Nations Conference on Trade and Development

UNSC: United Nations Security Council

USA: United States of America

WB: World Bank

WoT: War on Terror

ABSTRACT

This study sought to analyze and examine the countering of radicalization and its impact on national security in East Africa. More specifically, the study analyzes the case for the diplomatic approach to countering radicalization in Kenya with a view to assessing the socio-economic and political impacts. The significance of the study is that, the study explores key thematic questions in regard to the impact of the application of the diplomatic approach to countering radicalization thus leading to knowledge driven policies on countering radicalization.

The study employed Barry Buzan's securitization theory which primarily views securitization as the process through which non-politicized issues i.e., issues which are not talked about or politicized issues that are publicly debated are elevated to security issues that need to be dealt with urgency with choices of strategies for securitization.

In terms of methodology, the study adopted a case study research design with a focus on Kenya upon which generalizations will be made. Data was collected using both qualitative and quantitative methods with a view to enriching the findings of the study.

The study established that Kenya's efforts to countering terrorism have led to loss of life and property and threatens the dignity and security of human beings. These diplomatic efforts also affect fundamental rights like right to life, right to liberty and right to be free and can lead to arrest of innocent people during pursuit of terrorists.

If the Kenya State is genuinely committed to protecting citizens from the threat of terrorism, then the Kenya State has a clear duty to demonstrate realistically the extent of the threat and how citizens can guard against it by giving the diplomatic approach a chance which is evident in the extent to which the strategy has been applied.

The study recommends that Kenya foreign policy strategists in the pursuit of diplomatic efforts to countering terrorism in Kenya must calculate the political, economic and security costs of certain policy positions especially given the religious and cultural heterogeneity of the country. The final foreign policy decisions must be in line with the most favorable long-term interests of the country diplomacy notwithstanding.

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CHAPTER ONE

INTRODUCTION AND BACKGROUND TO THE STUDY

1.1 Background to the Study

The East Africa and the Horn region in Sub-Saharan Africa form one of the most threatened regions by indigenous and international terrorism. The nature of the threat is such that there are three kinds of terrorism in Eastern and the Horn of Africa. "These are acts perpetrated by organizations based outside the region, those by an organization within the region but aimed at a neighboring country, and those instigated by an internal insurgent group against authority in a single country."[1]The history of Kenya's relationship with terrorism on a domestic level, the rise of terrorism in Kenya, and the attractive target to terrorist that Kenya is; not only offers some of the counter-terrorism strategies the government of Kenya has undertaken to deal with terrorism but also serves to inform our understanding of the social impact of diplomatic efforts to countering terrorism in Kenya.

"The need to understand the impact of diplomatic driven counter-terrorism laws, policies and practices on the social structure and order, governance of society and politics, cohesion, equality and human rights in the Kenya community is critical."[2] Concerns have been raised that Kenya's counter-terrorism laws and policies are socially alienating a section of the community especially young people and students, and that the connection between Kenya's counter-terrorism measures and Kenya's diplomatic orientation may themselves feed and sustain terrorism in Kenya. This paper seeks to examine the social impact of Kenya's diplomatic efforts to countering terrorism in general, and on the well-being of individual and families as members of the Kenyan society in particular. Building on existing studies, this paper contributes to wider public discussion through a review of the experiences of diplomacy and counter-terrorism in Kenya.

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[1]Shinn, D. H. Terrorism in East Africa and the Horn: An overview in *The Journal of Conflict Studies*, Vol. XXIII, No. 2, (Fall 2003). Retrieved from https://journals.lib.unb.ca/index.php/jcs/article/view/218/376#a1

[2]Choudhury, T. & Fenwick, H.The impact of counter-terrorism measures on Muslim communities in *Equality and Human Rights Commission Research Report series,* Report No. 72, (Spring 2011). Available at www.equalityhumanrights.com

In this regard, this study seeks to analyze and examine the countering of radicalization and its impact on national security in East Africa with a view to establishing the impact of the diplomatic approach to countering radicalization in Kenya.

1.2 Statement of the Problem

Radicalization has become a major problem resulting to a more unstable and conflict prone world. Radicalization leads to violent extremism and the final stage is terrorism. The ease to radicalize people is as a result of marginalization in areas such as economic, social and political exclusion, fight for religious ideologies as well as human rights violations. These factors breeds fertile ground for terrorist groups to take advantage of to recruit and radicalize people making them believe that they are fighting injustices done to them.

The fight against terrorism cannot be won if effective counter-radicalization measures are not put in place. Majority of the states have in most cases been reactive in countering radicalization and more so through the use of force that is to say through the use of the military and the police force. This has proved to be counterproductive as the use of force only hardens the terrorists who take advantage of this reaction to recruit on the basis of revenging for their members.

The Kenyan Government has realized that a diplomatic approach can yield results in addition to enhancing other national security measures. It is against this background that this study seeks to analyze and examine the ways in which states can counter radicalization and its impact on national security. More specifically, the study seeks to analyze the diplomatic approach to countering radicalization in Kenya and its impact on national security.

1.3 Research Questions

This study is guided by the following research questions

i. What are the social impacts of using the diplomatic approach to countering radicalization in Kenya?

ii. What are the economic impacts of using the diplomatic approach to countering radicalization in Kenya?

iii. What are the political impacts of using the diplomatic approach to countering radicalization in Kenya?

1.4 Objectives of the Study

1.4.1 Overall Objective

The overall objective of the study is to analyze and examine the countering of radicalization and its impact on national security in East Africa with a focus on the case for the diplomatic approach in Kenya.

1.4.2 Specific Objective

i. To examine the social impacts of using the diplomatic approach to countering radicalization in Kenya

ii. To analyze the economic impacts of using the diplomatic approach to countering radicalization in Kenya

iii. To assess the political impacts of using the diplomatic approach to countering radicalization in Kenya

1.5 Significance of the Study

The research study seeks to benefit the policy maker on effects of radicalization and from the findings, the study will add to the existing literature relevant to the research, and contribute to the counter radicalization measures that are very important in the War on Terror (WoT). In policy formulation, the study will benefit with the on-going police reforms that are need understanding the legal, socio-economic and political challenges faced in counter radicalization, and mostly on understanding the dynamics of radicalization. The research is bound to provide pertinent policy-related answers and solutions as far as radicalization and eventually counterterrorism

management is concerned. The findings of this study will be instrumental in the development of sound policies to manage the vice, thereby preventing the conflict. The recommendations will assist policymakers and law enforcement officers by providing a thorough understanding the threat posed by radicalization and the ultimate consequences.

1.6 Literature Review

As a form of unconventional threat to the national security of states, "terrorism has led to the need to devise methods for fighting against it, with states adapting their security assessments and countermeasures in order to overcome terrorism."[3] The challenge however is that "the existential threat that transnational terror organizations pose unto the national security of the state has been increasing in complexity making states predisposed to the need to rope in the support, either overt or covert of other actors both within and without the state with a view to take a multipronged assault on terrorism and terror actors. This has taken different approaches. One of the most potent one, the diplomatic approach has been a subject of usage in countering terror as well as containing it."[4]

Writing on the diplomatic response of the United Nations Security Council (UNSC) in countering terrorism for instance, Paul Norman (2004) argues that "it offers a unique case for the usage of the diplomatic approach through the UNSC's international criminal justice policy-making, articulated through the broad-based ongoing enforcement and capacity-building work of a 'Counter Terrorism Committee'. This has largely been made possible through the political commitment and financial sponsorship of the Group of Eight and other international organizations in which these countries play key roles, a key diplomatic venture. In addition, the strategy to concurrently push the agenda downwards and outwards to regional and international organizations, has led to the adoption of counter-terrorism as a criminal justice priority by a wide range of regional and sub-regional organizations thus providing longevity in the strategy."[5] While Paul Norman (2004) extrapolates on the challenge underpinning radicalization and the

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[3] Perl, Raphael Enhancing Diplomatic Effectiveness: A Common-Sense Risk Management Approach to Counterterrorism. *The Quarterly Journal* (2009) pp. 99-105

[4] Norman, Paul. The United Nations and Counter-Terrorism after September 11: Towards an Assessment of the Impact and Prospects of Counter-Terror 'Spill-Over' Into International Criminal Justice Cooperation. *British Society of Criminology Conference, 6-9th July 2004* (Portsmouth: University of Portsmouth, 2004).

[5] Ibid

need to resort to diplomacy, the issue he doesn't examine the process of carrying out diplomacy at the sub-national level.

Radicalization has been of particular concern with states finding the need to address radicalization through various counter-radicalization measures. The rationale behind this is that "when central state authorities clearly start to lose their legitimacy, non-state actors increase their capacities with a view to being organized at the grassroots level, a rationale that augurs well with terrorism since most terrorist groups are initiated at transnational or regional level. As a result of their capacity to build closer and face-to-face networks, they increase their legitimacy and soft power over people usually through the radicalization process."[6]

However, counter-radicalization measures aimed at restoring the primacy of the state is this value calculus has left central authorities having more difficulty to connect with people and to develop a force of attraction. In this context, "there have been calls on the need to change security perceptions in the post-Cold War period with a need to turn to a state's soft power as well as expand the space given to soft power in the country's counter-radicalization schema. The logic underpinning this is that with the increase of asymmetric threats at global and regional scale, such as radicalization and terrorism, there is a need for states to search for new methods and tools to combat these types of threats. In this regard, soft power and diplomacy are seen as important elements of the state in this context. This is because to be able to effectively counter radicalization states have to develop new instruments in order to increase their legitimacy and their capacity to inform people about the problems regarding illegal organizations."[7]

'Effective counter-terrorism efforts require practical and realistic risk management decisions. Since our resources are limited, clearly we should allocate them in sensible proportions and on parallel tracks in order to achieve optimal results over the long term'. Unfortunately, "while we are good at mobilizing resources to defend against perceived imminent threats, we often neglect or underfund other important activities, such as enhanced diplomacy, which could reduce those

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[6] Centre for Strategic Research,The Role of Diplomacy and Soft Power in Combatting Terrorism: Concepts, Fighting Methods and Case Studies. (Ankara: Centre for Strategic Research, 2015).
[7] Ibid

threats in the future."[8] According to Raphael (2009), "there is a need for states to refocus their attention on diplomacy if states are to win the war on radicalization with an emphasis on regional diplomacy as well as on decentralized, person-to-person diplomatic efforts. Expanded diplomacy, he postulates, is a fundamental prerequisite for coordinated intelligence and coordinated action against terrorism and its causative factors such as radicalization. Furthermore, through improved interpersonal diplomacy, nations will find common ground for better teamwork in the multi-faceted war on terror. This is because while written agreements or memoranda may form a basis for joint efforts, but "connecting the dots" i.e., a puzzle whose answer is seen only after following many linked relationships, will remain elusive until law enforcement officials and their diplomatic colleagues forge durable relationships with communities."[9]

Raphael further argues "that diplomacy acts as a type of insurance policy which reduces the risk of terrorism through prevention or mitigation of terrorism in the long run by reducing the influence of its causative and constitutive factors. If successful, this approach leverages the money spent on diplomacy by a huge multiplier in terms of avoided security costs. This approach is further augmented by the fact that other entities, particularly non-profit, non-governmental organizations also employ this strategy of diplomacy, multi-cultural understanding, and similar aspects of national and international cooperation in countering radicalization. These contribute effectively to diplomacy, and through it, to counter-terrorism and other coordinated efforts."[10]

Diplomacy is also pivotal in countering radicalization due to the fact that it "is necessary to have good command of the cultures of the societies providing a base for the terrorist organizations and in this way local actors can be incorporated into the efforts. This is because terrorist organizations have developed their sphere of influence and activity areas at a great pace by spreading their ideology through radicalization thanks to the educational programs developed especially towards the youth. In this regard, soft power instruments are implemented more effectively by terrorist organizations such as Al-Qaeda with schools and madrasas in countries

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[8] Perl, RaphaelEnhancing Diplomatic Effectiveness: A Common-Sense Risk Management Approach to Counter-terrorism.The Quarterly Journal; pp. 99-105(2009).

[9] Perl, Raphael. Enhancing Diplomatic Effectiveness: A Common-Sense Risk Management Approach to Counter-terrorism The Quarterly Journal; (2009)pp. 99-105

[10] Ibid

such as Pakistan and Syria put to use to brainwash youngsters. This is also seen in Africa in the Arab Spring of 2011 where terrorist organizations like Al-Qaeda expanded their bases by spreading the belief that they are protectors and securers of justice. This they achieved through the sabotage of the educational programs of the respective states. In lieu of this, it is important for states to counter this through diplomatic efforts aimed at controlling the educational programs that they provide for the children and young people in order to spread a counter ideology."[11]

In regard to "negotiation as a diplomatic approach to countering radicalization, it is important to note that governments are often forced to negotiate with terrorists, especially in case of hostage taking with the aim of making them give up their intention and turn themselves in, or, if they are under control or in prison, to cooperate on the detection of the terrorist network and intentions. This is a very specific type of negotiations while on the one side there is the state, and on the other individuals or organizations that are not recognized, but that obtain the negotiation status through sheer force or threat of sheer force. This is largely through the offer of a combination of safe surrender, amnesty or diminishing of sentences for previous criminal offences, benefits and security guarantees for them or their family members. The purpose of these settlements is to reduce the number of terrorists and weaken their network. A side effect may be distrust and suspicion among the terrorists."[12]

1.7 Hypothesis of the Study

H₁: Socially, the employment of the diplomatic approach to countering radicalization in Kenya will lead to horizontal harmony and thus denying terror groups basis for radicalization

H₂: Economically, the employment of the diplomatic approach to countering radicalization in Kenya will lead to economic inclusivity and the expansion of opportunities both horizontally and vertically thus reducing the vulnerability of economically disgruntled citizens to radicalization

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[11] Centre for Strategic Research The Role of Diplomacy and Soft Power in Combatting Terrorism: Concepts, Fighting Methods and Case Studies. (Ankara: Centre for Strategic Research, 2015).

[12] Pešto, Haris, The Role of Diplomacy in the Fight against Terrorism. *The Quarterly Journal*(2011).

H₃: Politically, the employment of the diplomatic approach to countering radicalization in Kenya will lead to the reduction of political contradictions and thus reducing the state's vulnerability to the sharpening of these contradictions through radicalization

1.8 Theoretical Framework

This study will employ Barry Buzan's securitization theory. Barry Buzan's securitization theory views securitization as the process through which non-politicized issues i.e., issues which are not talked about or politicized issues i.e., issues that are publicly debated are elevated to security issues that need to be dealt with urgency with choices of strategies for securitization. The choice of the securitization theory is informed by the fact that it offers the potency to examining the realization of a state's national security by expanding the scope of securitization beyond the state and onto the societal, economic and political sectors in what Barry Buzan calls the triage of the state.

1.9 Methodology of the Study

1.9.1 Research Design

The study will utilize mix method research design which utilizes both qualitative and quantitative data. A case study approach will be adopted. The study seeks to undertake a holistic study to examine Kenya's diplomatic approach to countering radicalization. The study will employ secondary data to achieve its objectives. The secondary data to be used in the study will be collected using qualitative data collection methodologies. This data will be collected through reports and books which will then be analyzed using content analysis.

This approach is specifically chosen as it will aid the researcher in analyzing this data. The researcher will also employ inductive analysis where the patterns, themes and categories of analysis that come from the data will be analyzed and interpreted. Further verification of information will be collaborated from other sources to ascertain validity of the research findings. The people who will be selected for the study will form the sample of the study, usually referred to as the target population of the study.

1.9.2 Sampling Technique

The researcher will use purposive sampling to be able to get the respondents for the study. This is because it gives the researcher flexibility to be able to get the right information from the people who have that information which is necessary for the success of this study. The researcher sampled respondents from the Anti-Terrorism Police Unit, the National Counter Terrorism Centre, Jamia Mosque, Nairobi, Masjid Musa Mosque, Mombasa and the Kenya Red Cross.

1.11 Summary of the Chapter

This chapter sought to introduce the study by offering a background to the efforts to secure national security in East Africa by addressing the roots of one of the existential threats to national security in East Africa; radicalization with a view to recruiting for terror groupings operating in the East Africa as well as the Horn of Africa region. The chapter focused on three fundamental issues, namely, the socio-economic and political impacts. The study employed Barry Buzan's securitization theory due to the fact that it offers the potency to offering a lens for examining the realization of a state's national security by expanding the scope of securitization beyond the state and onto the societal, economic and political sectors. The hypothesis of the study was that first, at the social level, the employment of the diplomatic approach to countering radicalization in Kenya will lead to horizontal harmony and thus denying terror groups basis for radicalization; secondly, at the economic level, the employment of the diplomatic approach to countering radicalization in Kenya will lead to economic inclusivity and the expansion of opportunities both horizontally and vertically thus reducing the vulnerability of economically disgruntled citizens to radicalization. Finally, at the political level, the employment of the diplomatic approach to countering radicalization in Kenya will lead to the reduction of political contradictions and thus reducing the state's vulnerability to the sharpening of these contradictions through radicalization. The study primarily used secondary sources of data which were then analyzed using content analysis.

CHAPTER TWO
TERRORISM IN EAST AFRICA

2.1 Introduction

The most prominent feature of terrorism is the use of violence, often accompanied by the wanton destruction of property, and maiming and killing of victims. The conceptualization of terrorism is enmeshed in controversy. Perception and misperception are often dictated by the side of the divide on which the interpreter sits. Defining the term, therefore, "would depend on whether the definer is a state authority, an onlooker and analyst, victim or terrorist."[13] To the state authority, "terrorism is the premeditated threat or use of violence by sub-national groups or clandestine individuals intended to intimidate and coerce governments, promote political, religious or ideological outcomes, and inculcate fear among the public at large."[14] This chapter examines terrorism in East Africa.

2.2 The Concept of Terrorism

According to Adeniran[15], "terrorism denotes the brutish tactic that thrives on the use of violence, generally in an indiscriminate way, to harm, cause distress and inflict fear upon the population. Shaw conceives of terrorism as a criminal act directed against a state and intended to create terror in the minds of particular persons, a group of persons or the general public."[16] According to these views, terrorism endangers the orderliness and peace of the state. To the onlookers and analysts, "terrorism is an antisocial behavior which poses great threats to peaceful daily life.

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[13] Okumu, W., & Botha, A. (eds). Domestic terrorism in Africa: Defining, addressing and understanding its impact on human security, (5 and 6 November 2007). Institute for Security Studies (ISS), 2009). Available at www.issafrica.org

[14] Whittaker, D. J. Terrorism: Understanding the global threat. (London: Longman)

[15] Adeniran, T. International relations, (Lagos: Macmillan Nigeria Publishers Limited,2007).

[16] Shaw, M. N. International Law,(New York: Cambridge University Press,1997)

Terrorists, on the other hand, see the use of the word 'terrorism' as a misnomer. Most terrorists believe that their acts are justified, and that they are delivering a political message to the authorities. The end is considered a justification of the means."[17] Terrorists do not see themselves as terrorists, but as nationalists, liberators, freedom fighters, emancipators and revolutionaries.

These contending views show that there is no consensus or unanimity on the definition of terrorism. The definition of the "concept depends on who is defining it, the attitudes of the definers and the prevailing circumstances—all these variables alter with time. Diplomacy is the instrument of power that builds political will and strengthens international cooperation."[18] Diplomatic exchanges promote counter terrorism cooperation with friendly nations that serve each other's mutual interests. International terrorism has no boundaries and requires governments to reach out to their neighbors and allies to forge a multilateral approach in the fight against this threat. Diplomacy supports the other instruments of national power in numerous ways.

2.3 Lack of a Social Understanding of Grievances Leading to Terrorism

East Africa's diplomatic efforts to "countering radicalization and terrorism in general have failed to begin in the building of peaceful and inclusive societies and effective and accountable institutions. The country has failed to launch, in cooperation with its diplomatic allies, centers that could help restructure the religious sector by interpreting texts of the Koran and the Hadith or training young preachers on the Islamic principles of dialogue, tolerance and respect for others. Instead, all of East Africa's counter-terrorism efforts focus on the effects of terrorism. Although the establishment of an interagency National Counter Terrorism Centre and a National Strategy to Counter Violent Extremism has since taken effect; a "whole of government" and a "whole of society" response is lacking. To this effect there lacks a coordinating efforts of counter-terrorism practitioners that involve police, prosecutors, educators, and mental health and

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[17] Whittaker, D. J. Terrorism: Understanding the global threat. (London: Longman, 2002).

[18] H. H. Adan, Combating transnational terrorism in Kenya in *Master's thesis presented to the faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas* (2005)

social services partnering with families and communities, as well as the private sector at both local and regional levels."[19]

Njogu Regina argues that "the most effective method for countering terrorism—one that is missing in East Africa's diplomatic efforts to countering terrorism—that is currently being used by advanced nations is an all-inclusive approach referred to by theorists and analysts as counter-insurgency as opposed to mere counter-terrorism. Counter-insurgency is an all-encompassing modus operandi that entails military, police, political, economic, psychological, and civic actions. It includes empowering local communities, gaining their trust, winning legitimacy, and incorporating them into anti-terrorism efforts. However, the adoption of Western ideals by countries in East Africa such as Kenya in her counter-terrorism strategies continues to deny the country an opportunity to reach out to other stakeholders. Aided by diplomacy, the notion "we do not negotiate with terrorists" seem prevalent in the text document and practice of Kenya's anti-terror tactics. Decreased engagement, where community leaders target and mentor individuals who are presumably susceptible to terrorism recruitment, is evidently missing as an important facet of Kenya's counter-terrorism strategies. Efforts to include meetings to foster understanding and peace between the Kenyan people who subscribe to different faiths is lacking as well. Although social understanding of any grievances that might be solved is crucial in pursuing Kenya's diplomatic efforts to countering terrorism as a strategy; this too is lacking."[20]

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[19]United Nations. Fight against terrorism begins in peaceful, inclusive societies: Speakers tell sixth committee as debate on scourge continues in *General Assembly Sixth Committee Seventieth Session 3rd Meeting,* (13 October 2015). Retrieved from http://www.un.org/press/en/2015/gal3497.doc.html

[20]Njogu, R. Kenya's anti-terrorism strategy must evolve to target all facets of this war in *Daily Nation*, (19 April 2015). Retrieved from http://www.nation.co.ke/oped/Opinion/Kenya-anti-terrorism-strategy-must-evolve/440808-2690912-v4fp7bz/index.html

CHAPTER THREE
SOCIAL IMPACTS OF USING THE DIPLOMATIC APPROACH TO COUNTERING RADICALIZATION IN KENYA

3.1 Introduction

This chapter analyzes the social impacts of the diplomatic approach in countering radicalization especially in regard to societal polarization, co-existence and terror and radicalization escalation and de-escalation.

3.2.1 Social Impacts of Using the Diplomatic Approach to Countering Radicalization in Kenya

3.2.1.1The General Populations' Pattern of Response

"Radicalization has harmful effects on human beings of any culture and geographic area."[21] On the other hand, counter-radicalization strategies, too, taken usually within the rubric of countering terrorism have important social effects on human beings as a collectivity. Bonanno argues that the pattern of response of the general population is more often one of resilience than of vulnerability to Kenya's diplomatic counter-terrorism acts. Resilience has been defined as "the ability to maintain a relatively stable, healthy level of psychological functioning" in the face of highly adverse events"[22] or the "adult capacity to maintain healthy, symptom-free functioning."[23] The positive social impacts drawn from diplomatic counter-terrorism efforts have the advantage of changing the lives of the general population of members of the Kenyan community. This is because in situations of continued counter-terrorism characteristic of sustained diplomacy, a phenomenon of collective habituation has been observed in Kenya. Arguing that Kenya's collective punishment is still not counter-terrorism or counter radicalization; Simon Allison writes that "Kenya's "Operation Usalama Watch" is a reflection of

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[21] World Health Organization, World report on violence and health. (Geneva: Switzerland.2002)..

[22] Bonanno, G. A. Loss, trauma and human resilience: Have we underestimated the human capacity to thrive after extremely aversive events? in*American Psychologist*,(2004) Vol. 59, pp. 20-28.

[23] Bonanno, G. A., Galea, S., Bucciarelli, A., &Vlahov, D. Psychological resilience after disaster: New York City in the aftermath of the September 11th terrorist attack in *Psychological Science*, (2006) Vol. 17, pp. 181-186.

elements of apparent resilience and that continued counter-terrorism may not significantly negatively affect aspects of positive functioning of the Kenyan society."[24]

Because diplomatic counter-terrorism is closely related with "the dynamic interaction between terrorism and counter-terrorism; the importance of consistent, long-term incremental steps taken against a phenomenon that will not disappear; the necessity for a multifaceted policy that includes political, legal, social, diplomatic, economic and military elements; the growing promise of international cooperation against the reversal of counter-terrorism efforts to terrorism; and the increasing dissociation of States from terrorism and an increasing willingness of States to combine their efforts to encourage counter-terrorism efforts."[25] Kenya's counter-terrorism efforts have been criticized for socially 'panicking' the public and ratcheting-up the fear of imminent terror attacks in the Kenyan capital city, Nairobi. Such a sense of fear has been increased by a series of police raids in local neighborhoods in relations to plots against the Nairobi Metropolitan areas and its environs.

The country's diplomatic partners, particularly Western countries, 'have coerced the Kenyan government to develop a dialogue with individuals and community groups. Such discussions have been linked to individuals taking greater responsibility for their own risk management as well as feeding into city-wide resilience discussions. This 'communicating with the public duty', is now facilitated through a series of working groups who focus upon communicating with the citizens and local businesses about the social impacts they stand to face as a result of the Kenyan government's implementation of its diplomatic-supported counter-terrorism efforts. This 'warning and informing' group, unlike other elements of resilient planning work which have been characterized by a professional and exclusive remit, focuses upon consulting the public about a variety of themes. For example: what new measures they might like to see in place; what problems they have faced in previous emergency (not necessarily terrorist-related) incidents; and how they would like to be kept informed about threats and emergency incidents. This has been

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[24] Allison, S, Analysis: Kenyan blasts prove that collective punishment is still not counter-terrorism (*Daily Maverick: Africa, 24 August 2014*). Retrieved from http://www.dailymaverick.co.za/article/2014-05-05-analysis-kenyan-blasts-prove-that-collective-punishment-is-still-not-counter-terrorism/#.V71nv6KBb4Y

[25] Cronin, A. K. The diplomacy of counterterrorism: Lessons learned, ignored, and disputed in *Special Report*, (Washington, D.C | United States Institute of Peace, 14 January 2014). Available at http://www.usip.org/sites/default/files/sr80.pdf

seen as community-friendly engagement strategy that is now characteristic of Kenya's diplomatic efforts to countering terrorism".

3.2.2 Damaging Community-Police Relations

Previous research suggests that Kenya's counter-terrorism policies and practices have created a well of sympathy and silence among sections of the Kenyan society. Seen large as targeting the Muslim community, Kenya's diplomatic efforts to countering terrorism have been termed as increasing repression or stigmatizing and alienating this community.[26] Studies show that terrorist groups and organizations closely linked to violent extremism operating in Kenya are currently using the discriminative and marginality social nature of Kenya's diplomatic-backed counter-terrorism efforts against Muslims as part of their narrative for recruiting Kenyans to violence.[27]

"To better our understanding of the reversal social effects of a State's counter-terrorism efforts against a country's population from a diplomatic perspective; this paper borrows from the United Kingdom's own experience in Northern Ireland which provides a significant evidence of the potential ways in which counter-terrorism measures can be counterproductive. "[28,29,30] "The United Kingdom government's review of its counter-terrorism legislation on communities in the UK identified aspects of the social impact of diplomacy based counter-terrorism as focusing on perceptions of discrimination, human rights and confidence in public bodies. The recurrent perception among UK Muslim populations was that counter-terrorism laws are applied in an unfair or discriminatory manner."[31,32]

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[26] Silke, A.. Fire of Iolaus in Bjorg, T. (ed.) *the Root Causes of Terrorism: Myths, Reality and Ways Forward.* (New York: Routledge,2005) pp. 242-248.
[27] Wiktorowicz, Q. Radical Islam rising: Muslim extremism in the West. Maryland USA: (Rowman and Littlefield,2005),.
[28] Campbell, C., & Connolly, I. . A model for the war against terrorism?: Military intervention in Northern Ireland and the 1970 falls curfew in *Journal of Law and Society,*(2008) Vol. 33, No. 3, p. 341.
[29] Hillyard, P. Suspect community: People's experiences of the prevention of terrorism acts in (Britain. London: Pluto Press,1993).
[30] Hillyard, P. The war on terror: Lessons from Ireland in European Civil Liberties Network in *Essays for Civil Liberties and Democracy in Europe.*(2005)Available at: http://www.ecln.org/essays/essay-1.pdf
[31] McEvoy, K. Paramilitary imprisonment in Northern Ireland. (Oxford: OUP, 2001).
[32] Slucka, J. Hearts and minds, water and fish: Support for the IRA and INLA in a Northern Ireland ghetto. Connecticut: (JAI Press,1989)

Contextualized to the Kenyan setting and in understanding the impact of counter-terrorism laws on the Kenya Muslim community today; one notes aspects of the legal and policy framework that contributes to the treatment of its members as 'suspects'. This include: the diplomatic use and disproportionate focus of anti-terrorism legislation and policy on members of one community; the use of the anti-terror police unit (ATPU) for gathering intelligence and information; and the treatment of terrorism and terrorist suspects as distinct from other crimes and criminal offenders through the creation of different rules and procedures of questioning and detention. In support of Pantazis and Pemberton one can then argue that "Muslims are the new 'suspect community'."[33] The "impacts of a range of specific counter-terrorism laws, policies and practices, namely the use of police stop and search powers, stops at ports and airports, arrests and pre-charge detention, indirect incitement and banning of organizations; appear to be socially damaging community-police relations and undermining the willingness of Kenyans to talk to the Kenyan police. There are signs that this is leading to individuals disengaging. Attitudes towards counter-terrorism policing are shaped by experiences of policing the young demographic profile of the Kenyan Muslim population. According to Spalek this means that Muslims are at greater risk of being victims of crime than the general population."[34]

Kenya's Muslim experiences of interactions with the Kenyan police as victims of crime reveals an important influence on trust and confidence in the Kenyan police. Because they are more likely than the general population to believe that the Kenyan police will treat them worse other Kenyans; "poor relationships between local Muslim youths and the Kenyan police underpinned the tensions that existed in Mombasa prior to the country hosting the International Association of Athletics Federations (IAAF) World Cross-County Championships on 24th March 2007 over Kenya's diplomatic possibility to host the United States Africa Command, AFRICOM, intensifying their protests against the Kenyan police against what they termed religious harassment in the guise of the "war on terror"."[35] Individuals have been reporting negative experiences of policing ranging from a failure of police to respond to reports of crime or to take

[33] Pantazis, C. & Pemberton, S., From the "old" to the "new" suspect communities: Examining the impact of recent UK counter-terrorist legislation in *British*. (2009). *Journal of Criminology* 49: 646-666.

[34] Spalek, B. Muslims and the criminal justice system in *Muslims in the UK: Policies for Engaged Citizens*. Budapest: (Open Society Institute, 2005).

[35] West, S. Kenya braces for Muslim protests in Mombasa in *Terrorism Focus,* Vol. 4, Issue 6, (20 March 2007). (The James Foundation, 2007). Retrieved from http://www.jamestown.org/single/

such reports seriously, through to instances of bullying or abuse from individual officers. Innes *et al* argue that "the ways in which the Kenyan police deal with hate crimes are particularly important, as they are identified as 'signal crimes' that have a major effect on the Kenyan Muslim community's' perceptions of safety and an 'important role in stimulating processes of radicalization'."[36] Where such crimes are not always taken seriously by the Kenyan police, they severely undermine trust and confidence in the Kenyan police and Kenya's criminal justice process.

3.2.3 Kenya's Diplomatic Counter-Radicalization Structures and Social Impacts on Civil Society

Kenya's diplomatic efforts to countering terrorism have been criticized as not upholding the notion that fundamental women rights must be protected, mechanisms to fight terrorism must safeguard women rights and that counter-terrorism should be a partnership between the State and society and not a unilateral extension of bureaucratic and policing powers. Kenya's counter-terrorism measures have socially impacted on civil society's operational and political space in several ways. Because of Kenya's diplomatic obligation legislation, although enacted at the national level, is enacted within, and responsive to, a global framework of measures. One such measure is the "Financial Action Task Force (FATF) of which Kenya—along with another 179 States—has endorsed. The FATF's Anti Money Laundering/Countering Financing of Terrorism standard assumes that non-profits are vulnerable to abuse for terrorism financing. In recent years, Kenya has started to use the FATF standard, and specifically Recommendation 8,"[37] as a pretext to clamp down on civil society space. Kenya is subject to a peer evaluation by the FATF every 6 to 7 years. It is worth noting that receiving a low FATF rating for Kenya immediately influences the country's international financial standing in her international relations with the world's financial institutions such as the World Bank and the International Monetary Fund (IMF).

The National Counter Terrorism Centre (NCTC) is implementing a National Counter Radicalization Strategy. This strategy aims at "building communities' resilience to reject,

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[36] Innes, M., Abbott, L., Lowe, T. & Roberts, C.. Hearts and minds and eyes and ears: Reducing radicalization risks through reassurance oriented policing. (Cardiff: Universities' Police Science Institutes,2007)

[37] The Financial Action Task Force (FATF). Best practices on combating the abuse of non-profit organisations..(2016) Retrieved from http://www.fatf-gafi.org/publications/fatfrecommendations/documents/bpp-combating-abuse-npo.html

prevent and counter radicalization and promote community as well as national security. It further promotes dialogues forums and capacity building as a strategy to challenging extremism. The Counter Radicalization Strategy has seven key pillars: a media strategy; psycho-social strategy; faith based strategy; capacity building strategy; political strategy; education and security strategies."[38]

Although the country often denies that this is the case, evidence is growing that upcoming FATF "evaluations can have a preemptive chilling effect on the Kenya civil society space."[39] This is a direct result of the Kenyan government's desire to show the FATF that it is capable of preventing terrorist financing abuse through its non-profit sector. As a result of these mechanisms, "a growing number of women activists in Kenya are experiencing growing pressures on their capacity to undertake peace and human rights activism, including restrictive NGO legislation, suffocating financial regulations, intimidating surveillance practices and exhaustive reporting requirements. The cumulative effect of the range of pressures is that the enabling space for women's civil society work is shrinking and therefore progressive and pioneering work for inclusive development, peace and women's rights becomes frustrated. The implications for broader security concerns are worrying. When alternative civil society voices and constructive seeds of change are not provided with the soil to take root, threats to the daily security of the Kenyan people and communities are given free reign. As such, opportunities for actors looking to exploit these vulnerabilities increase."[40] In other ways—it has been argues—the spaces for Muslim women to organize have been constrained by Kenya's counter-terrorism measures and practices.

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[38]Government of Kenya and United Nations Development Program. (2015, January). *Documents:Strengthen Community's Capacity Against Radicalization and Violent Extremism in Kenya.* Retrieved September 29, 2016, from United Nations Development Program Web Site: https://info.undp.org/docs/pdc/Documents/KEN/(Kenya%20rev%20270115)%20Kenya%20Counter%20Terrorism%20project%20Document%20FINAL.pdf

[39]Howell, J. & Jeremy, L. *Counter-terrorism, aid and civil society: Before and after the war on terror. (Basingstoke: Palgrave/Macmillan., 2009).*

[40]Geuskens, I.. Shrinking space: The impact of counter-terrorism measures on the Women, Peace and Security agenda, (8 MAY 2015) Retrieved from https://sustainablesecurity.org/2015/05/08/shrinking-space-the-impact-of-counter-terrorism-measures-on-the-women-peace-and-security-agenda/

3.2.4 A Social Cost to Kenyans Right to Education and Health

Against the backdrop of shifting State–civil society relations in a politically and socially fractured landscape, the Kenyan government has instituted a range of new counter-terrorism structures, but outside of a legal and policy framework. These structures encompass a suite of measures to "enhance intelligence gathering as well as policing and surveillance of suspect communities, including, for example, the Anti-Terrorist Police Unit (ATPU), the draft Suppression of Terrorism (SOT) Bill,"[41] and "the proposed Proceeds of Crime and Anti-Money Laundering Bill. NGOs have been a specific focus of money laundering suspicions in Kenya."[42] In general, "the Kenyan government has increased checks on NGOs as part of its diplomatic counter-terrorism efforts. However, pressures and threats for civil society generated by new counter-terrorism structures have disproportionately impacted non-governmental organizations and groups where a 'siege mentality' has begun to take hold. The closer inspection of NGOs goes back to the aftermath of the 1998 bombing of the US embassy, when several NGOs providing relief assistance in refugee camps in North Eastern Province bordering Somalia were forced to close or suspend their activities."[43]

In the intervening period, five Muslim NGOs were proscribed often at the behest of foreign governments. The Saudi Al Haramain Foundation was proscribed in 2003 and has been subject to investigations in the USA. The Crescent of Hope, which did relief work in Northern Kenya, was forced to close. Some organizations voluntarily closed down under immense government pressure, such as the Al Ibrahim Foundation. Other organizations such as the Africa Muslim Agency, Young Muslims Association and Northern Aid continue to operate but under stringent conditions and in spite of administrative interference by provincial authorities. Many civic leaders in Muslim communities contend that the crackdown on larger welfare-oriented Muslim NGOs has caused a ripple effect impacting community-based organizations which partnered with the larger NGOs in running orphanages, schools and health centers, particularly in North Eastern Province. The "longer-term impact of the clampdown has been to cast suspicion over Muslim

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[41] KNCHR. Suppression of Terrorism Bill, 2003: Critique by the Kenya National Commission on Human Rights. *Nairobi: Kenya National Commission on Human Rights (mimeo)*(2003).

[42] BBC News Online.*(2007). Africa's year of terror tactics, (2 January 2007). Retrieved from* http://news.bbc.co.uk/2/hi/africa/6217895.stm

[43] Kenya Human Rights Institute. Special brief: Civil society responses to the Kenyan crisis. (*Nairobi: Kenya Human Rights Institute,* 2008*).*

community groups, madrasas, local chapters of Middle Eastern charities and Muslim philanthropists."[44] "The number of children denied schooling or orphans being turned away as a result of the loss of Middle Eastern philanthropy is on the rise and Muslim groups fear that this lot of unschooled, uneducated and unemployment youth could be a prime target for radicalization and Islamism recruitment or organized crime particularly drug trade and drug use in Kenya that further characterize drug trafficking."[45]

3.2 Kenya's Diplomatic Battle against Terrorism

Kenya's diplomatic efforts to countering terrorism have been intense for ethnic Somalis in Kenya. The net effect of these efforts on the Somali community and their well-being as individuals and families has been negatively impacted with many illegal Somali immigrants being deported, the movement of Somali refugees being restricted and many arrests of Somalis taking place. These "actions were taken by the Kenyan government after several terrorist attacks in the country conducted by Al-Shabaab, a Somali Islamist militant group affiliated with Al-Qaeda since February 2012. The Kenyan government claimed that Somali communities and refugees within the country are serving as a hideout and breeding place for extremism linked to Al-Shabaab."[46]

3.2.1 Kenya's Anti-Terrorism Campaigns and the Somali Community
3.2.2 Refugees: Ethnic Somalis of Somalia Origin

Amanda Ekey's investigative study on the relationship between the presence of refugee populations in a country and the numbers of terrorist attacks that groups based in that country are responsible for reveals that "the size of refugee populations has a significant impact on terrorist activity."[47] "Extrapolated to the Kenyan, this particular group of refugees faces adverse and negative effects owing to Kenya's diplomatic efforts to countering terrorism. Demonstrative of the important role of humanitarian aid to refugees in curbing terrorist activity is the lack of

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[44] Amnesty International. *(2005). Kenya: The impact of "anti-terrorism" operations on human rights, (23 March 2007). Retrieved from* http://asiapacific.amnesty.org/library/Index/ENGAFR320022005?open&of=ENG-KEN

[45] National Assembly Official Record. Official report, (24 November 2010).(National Assembly Records, Hansard,2010) Retrieved from https://books.google.co.ke/books

[46] Global Policy Watch. Kenya's battle against terrorism, (14 May 2014)..(Global Policy Watch 2014). Retrieved from https://globalpublicpolicywatch.org/2014/05/14/kenyas-battle-against-terrorism/

[47] Ekey, A. The effect of the refugee experience on terrorist activity in *An Investigations of How the Humanitarian Refugee Crisis is Impacting Global Terrorism*. (New York NY University Department of Politics,2007)

efficient resolutions to conflicts that produce refugee populations on terrorism. Having refugees experienced the horrors of terrorism firsthand in their own country—Somalia—ethnic Somali refugees upon seeking asylum in Kenya wage personal wars against poverty and political or social oppression."[48,49,50]The Kenyan government efforts are denying the ethnic Somali refuge population an opportunity to integrate with the Kenyan society.

3.3 Summary of the Chapter

The social effects of Kenya's diplomatic counter radicalization are pronounced and far-reaching, influencing many different aspects of the Somali community residing in Kenya. "The starting point for the impact of Kenya's diplomatic counter terrorism efforts on the Somali community is the affect that such measures have upon the community's beliefs and attitudes."[51] A sense of victimhood is common to the Somali community in Kenya that is experiencing the projection of diplomatic anti-terrorism strategies by the host government. Both refugees and civilians who happen to be ethnic Somalis are not expected to be victims of Kenya's diplomatic counter terrorism efforts; hence, as a public they feel victimized when they are the target of diplomatic counter-terrorism strategies. The argument then is that the more the Somali population is targeted, the more this sense of victimhood increases. This sense of victimization in turn leads to a de-legitimization of the terrorists and the people they claim to represent. Consequently, the targeted Somali community has become unwilling or unable to consider the Kenyan government's grievances and objectives. No longer is the government of Kenya—largely perceived to be the opposing group—believed to have rational objectives and/or justifiable grievances. Instead, the worst views have become 'common sense,' among the Somali community especially those concerning militant group's propensity towards terrorism.

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[48] Crisp, J. Mind the gap! Humanitarian assistance, the development process and UNHCR in *International Migration Review*,(UNHCR,2001). Vol. 35, No. 133.

[49] Crisp, J.. No solutions in sight: The problem of protracted refugee situations in Africa in *Evaluation and Policy Analysis Unit*,(Geneva, UNHCR 2003a) Working Paper No. 75. UNHCR, Geneva. Retrieved from http://www.unhcr.org/research/RESEARCH/3e2d66c34.pdf

[50] Crisp, J. Refugees and the global politics of asylum in *Evaluation and Policy Analysis Unit.(*UNHCR, Geneva,2003b)

[51] Keren, S. Jewish-Israeli attitudes regarding peace in the aftermath of terror attacks: The moderating role of political worldview and context. Paper presented at the annual meeting of the Israeli Sociological Society,Tel-Hai, Israel (Tel-Hai, Israel. 2005).

CHAPTER FOUR
ECONOMIC IMPACTS OF USING THE DIPLOMATIC APPROACH TO COUNTERING RADICALIZATION IN KENYA

4.1 Introduction

This chapter seeks to examine the economic impacts of countering radicalization in Kenya with to establishing the impact of the diplomatic approach to countering radicalization especially in regard to terror financing, economic structures as well as global terror finance networks.

4.2 Economic Impacts of Using the Diplomatic Approach to Countering Radicalization in Kenya

Terrorism has become a common device utilized by groups at both national and international levels to further political and socioeconomic interests. The terrorist attacks of 11 September 2001 demonstrated some cogent lessons. One is that no nation, however powerful, is above terror attacks. In fact, "powerful nations are even more vulnerable to attacks than the weak ones."[52] This paper examines "the effect of terrorism on the economy of Kenya. It describes changes in business revenue and business profits. It specifically investigates the economic impact of conducting international relations through the intercession of professional diplomats with regard to issues of trade. It argues that despite the diplomatic efforts made by the government to curb terrorism, it is clear that terror activities seem to be changing Kenya's economic setting."[53]

4.3 Terrorism, the Economy and New Concepts of Diplomacy

In Kenya there has been a significant conceptual shift in the study of terrorism and diplomacy. "Scholars have highlighted the necessity of understanding international relations outside the

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[52] Okumu, W., & Botha, A. (eds). Domestic terrorism in Africa: Defining, addressing and understanding its impact on human security, (5 and 6 November 2007). (Institute for Security Studies (ISS)(2009). Available at www.issafrica.org

[53] Nyangaga, P. The Socio-Economic and Political Impact of Terrorism: A Case Study of Kenya, (Thursday 28 January 2016). (Institute of Diplomacy and International Studies, University of Nairobi, 2016). Retrieved from http://idis.uonbi.ac.ke/node/74018

narrow state-centric security nexus". In the light of this, this section focuses on how contributors to this developing debate have moved the study of terrorism and diplomacy towards a better understanding of the processes and practices of economic diplomacy. "Scholars have imported analytical tools from other social science fields and in particular International Political Economy and Business Studies to highlight the importance, and impact, of economic actors and economic interests to diplomatic efforts employed in countering terrorism in Kenya".

"In so doing they have developed new concepts of diplomacy catalytic diplomacy, network diplomacy, multi-stakeholder diplomacy which provide new tools not only to recognize a greater variety of State and non-state actors in diplomatic practice but also to highlight the varied and changing character of economic processes that result from countering terrorism. In essence the practice of diplomacy employed as a counter-terrorism strategy has shifted from a focus on the diplomacy of economics in which the key theme was the economic tools of statecraft to the study of economic diplomacy in which two themes emerge. The first is that of diplomat as agent in International Relations and International Political Economy. The second theme is how to fit non-state and non-foreign ministry officials into diplomatic agency".

4.4 Conceptualizing Economic Diplomacy in Kenya's Diplomatic Efforts to Countering Terrorism

The "emergence of explicit concepts of economic diplomacy is a relatively recent development in the study of diplomacy that dates from the 1980s. The key theoretical issue in the study of economic diplomacy is the extent to which economic diplomacy is tied to the state and public interests or whether it pertains to a broader range of social actors and interests. This classic debate lingers, of course, in analyses of diplomacy *per se*. It is also at the very root of our understanding of the practice and purpose of economic diplomacy in countering terrorism". "Economic diplomacy is the pursuit of economic security within an anarchic international system". At the power play end of economic diplomacy is what Baldwin"[54]calls "economic statecraft which is the strategic use of positive and negative economic sanctions such as trade embargoes as well as aid programs by States and other actors such as the United Nations to coerce other States and terrorist groups to cooperate in countering terrorism."[55] Thus "economic diplomacy conceived in this realist way is concerned with the economic agenda which can be distinguished from the political agenda. It does not involve a different type of diplomacy or a different set of diplomatic actors."[56]And "similar concepts such as *trade diplomacy* and *commercial diplomacy* are, for the most part, also conceived in this way."[57]

In Kenya economic diplomacy is a key strand in diplomatic strategies to countering terrorism. It has therefore "become necessary for the State to develop an integrated or coordinated diplomacy. In this sense when we think of diplomacy the `national diplomatic system' becomes a more useful concept."[58]This concept better captures the diverse and complex nature of coordinated diplomacy in countering terrorism. Economic diplomacy may be driven by the foreign ministry, but it involves those with economic responsibilities and interests inside and outside of

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[54]Baldwin, D.A.. Economic statecraft. (Princeton: Princeton University Press,1985).

[55]Davis, P.A. Theart of economic persuasion: Positive incentives and German economic diplomacy. (Michigan: University of Michigan Press.1999); Hogan, M. The Marshall Plan: America, Britain and the reconstruction of Western Europe, 1947-1952. (Cambridge: Cambridge University Press,1987); Kunz, D. Butter and guns: America's Cold War economic diplomacy. (New York: Free Press,1997); and Zimmerman, R.F. Dollars, diplomacy, and dependency: Dilemmas of US economic aid. (London: Lynne Rienner,1993)

[56]*See* for example the entry on economic diplomacy in Berridge and James's *Dictionary of Diplomacy*, 2003: 91).

[57]Berridge, G.R. & James, AAdictionary of diplomacy 2nd edition.(Houndmills: Palgrave,2003)..

[58]The concept of the NDS is developed in Hocking (2007)

government at all levels of governance. In the national diplomatic system rendering of diplomatic structures and process, the foreign ministry becomes the integrator or coordinator of diplomacy. That is, working with 'partners' such as other government departments, as well as business and civic groups to counter terrorism. Kenya has since developed new institutional structures within government as a way of formalizing this coordinating role.

4.5 The Impact of Commercial Diplomacy

"One of the key developments of diplomatic efforts to countering radicalization in Kenya has been the growth of commercial diplomacy in the 'national diplomacy system'."[59,60,61]Countering terrorism diplomatically in this sense is seen to have increased the economic vulnerability and/or opened up new opportunities for trade and investment growth for Kenya in the world market. The impact on the Kenyan economy is twofold. "First has been the institutional impact. The Kenyan government has increased commercial diplomatic activities by increasing funding for export and investment support in the foreign ministry and other agencies as well as creating new or bolstering existing institutional frameworks as best exemplified by the statutory establishment of Kenyan Investment Authority (Ken Invest) through an Act of Parliament, Investment Promotion Act of 2004, with the main objective of promoting investments in Kenya."[62]

"Second has been the drawing in of private actors from business. Responding to economic challenges posed by terrorism against competitive pressures and the need to find and exploit new markets for domestic goods and services; commercial diplomacy primarily involves export and investment support and advocacy for Kenya's domestic business. Commercial diplomacy focuses on building networks of diplomats and business groups based in overseas missions to promote trade and investment as well as business advocacy for Kenya. The African Growth and Opportunity Act"[63] and the Economic Partnership Agreement [64] are two such examples that

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[59]Coolsaet, R. Trade and diplomacy: The Belgian case in *International Studies Perspectives*,(2004) Vol. 5, No. 1, pp. 61-65.

[60] Lee, D. The growing influence of business in U.K. diplomacy in *International Studies Perspectives*, (2004) Vol. 5, No. 1, pp. 50-54.

[61]Rana, K. Economic diplomacy in India: A practitioner perspective in *International Studies Perspectives*, (2004) Vol. 5, No. 1, pp. 66-70.

[62]COMESA.Kenya Investment Authority (KenInvest) in *Regional Investment Agency*.Retrieved from http://www.comesaria.org/site/en/kenya-investment-authority-keninvest.115.html

[63]AGOA.African Growth and Opportunity Act in *About Agoa*. Retrieved from https://agoa.info/about-agoa.html

Kenya, in her diplomatic efforts to countering terrorism, benefits from the US and European Union, respectively. For Kenya commercial diplomacy also includes tourism promotion as a primary activity.

In her diplomatic efforts to countering terrorism, "Kenya has established diplomatic networks. These networks provide Kenya with commercial intelligence, tourism marketing, business links and partner searches, as well as business assistance. With about one million visitors per year, international tourism contributes 10% of Kenya's exports. The tourism industry in Kenya is the third most important sector in the economy, accounting for nearly 12 per cent of GDP. Kenya's vital tourism industry, which suffered a severe downturn over the past few years as a result of the combined effects of civil unrest, the bombing of the US Embassy in Nairobi and a negative international image, has been making a determined effort to recover and even to expand. With a united front from all sectors of the tourism industry, the Government of the Republic of Kenya is firmly committed to promoting tourism, as tourism in Africa has been seen as a key means of revitalizing the economy."[65]

"Conceptually, studies of commercial diplomacy point to complex organizational networks involving ministries of commerce (often with trade promotion agencies/departments), trade and finance, in addition to the foreign ministry. Business groups are also, not surprisingly, key players in these networks and in many cases are formally placed into overseas missions and consuls through secondment programs."[66] It is argued that in "this conceptualization of commercial diplomacy, business actors are merged with the State rather than autonomous and as such both public and private interests are included in diplomatic efforts to countering terrorism in Kenya". A good example is the inclusion of the 'private sector' in the just concluded United Nations Conference on Trade and Development, UNCTAD-14.

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[64]European Commission.Economic partnerships in *Trade.*Retrieved from http://ec.europa.eu/trade/policy/countries-and-regions/development/economic-partnerships/
[65]Sinclair, T., Sugiyarto, G., &DeHaan, C. The Mombasa attack could damage the process of tourism recovery in Kenya. Tourism and Travel Research Institute
[66] Lee, D. The growing influence of business in U.K. diplomacy in *International Studies Perspectives*,(2004) Vol. 5, No. 1, pp**.** 50-54.

4.5The Impact of Trade Diplomacy

Studies of trade afford Kenya new ways of conceptualizing diplomacy in her diplomatic efforts to countering terrorism. "The scholarship on trade diplomacy serves to shape the way counter-terrorism practitioners re-think diplomacy by highlighting the role of non-state actors, networks, ideas and institutions in diplomatic processes and outcomes. The extension of the trade talks agenda to include new issues such as terrorism and counterterrorism builds upon already established developments in international trade relations such as the growth of regional trade organizations, the creation of the World Trade Organization. However, the achievement of the need to highlight, to recognize and to understand the new actors, new topics and new forums of economic diplomacy in countering terrorism point to the necessity of moving beyond the predominant realist conception of diplomacy. Kenya's diplomatic efforts to countering terrorism "continue to emphasize the role of the States in trade diplomacy but also points to the role of non-state actors in multilateral, regional and bilateral trade relations."[67]

"Trade diplomacy is often regarded as a zero sum game of hard intergovernmental bargaining between rational-actor states in pursuit of maximum concessions from others whilst conceding little as possible."[68]Much of our understanding of the diplomacy of economic negotiations has been imported from prominent International Political Economy scholars such as John Odell.[69] "Odell makes use of game theoretical models to tease out the diplomatic processes involved in negotiations in the world economy in order to explain "cooperative behavior bargaining and outcomes among self-interested States in forums such as the World Trade Organization". Adopting a similar neo-liberal game theoretic approach, Putnum has been influential in "highlighting the importance of domestic as well as international factors in international economic negotiations. In this seminal work he developed the highly influential concept of 'two-level games'"[70] and, with others, also introduced "the concept of 'double-edged diplomacy'"[71] to "highlight how diplomatic processes involve bargaining at both domestic and systemic levels,

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[67] Hocking, B., & McGuire, S. Government-business strategies in EU-US Economic relations: The lessons of the foreign sales corporations issue in *Journal of Common Market Studies*,(2002) Vol. 40, No. 3, pp. 449-470.

[68] Odell, J.S. Negotiating the world economy.Ithica: (Cornell University Press, 2000).

[69] Steinberg, R.H. In the shadow of law or power? Consensus based bargaining outcomes in the GATT/WTO in *International Organisation*,(2003) Vol. 56, No. 2, pp. 339-374.

[70] Level I refers to international bargaining and Level II refers to domestic level bargaining between interest groups.

[71] Evans, P. B., Jacobson, H. K., &Putnum, R (eds.) Double-edged diplomacy: International bargaining and domestic politics. Berkeley: University of California Press.

as well as the opening up of economic diplomacy to include legislators and, consequently, domestic based interest groups".

4.6 The Impact of Finance Diplomacy

"Another key issue area in the global economy is international finance. In the context of globalization, finance diplomacy is mainly concerned with attempts by governments to create stability in a regime which lacks the rules and laws of the international trade regime. Much like studies of trade diplomacy, the literature goes a long way to shaping a broader conceptualization of economic diplomacy since it points to the role of nontraditional diplomatic actors such as finance ministries, central banks such as the Bank of England, business groups and the banking sector, as well as nontraditional diplomatic forums such as the World Economic Forum."[72]

"Most studies of financial diplomacy are concerned with the failure of financial diplomacy to avert the various financial crises of recent years such as the Asian Financial Crisis of the 1990s and studies of the IMF and WB generally focus on the economic effects of the policies of these organizations rather than the diplomatic process of the negotiations. In one notable exception, Kahler adopts the two-level approach to financial diplomacy"[73] "developed by Putnam to account for the failure of the IMF to reach agreement with developing countries. Kahler finds Level II factors within the IMF as well as the recipient countries best explain the failure to reach agreement despite the apparent structural power of the IMF".[74] "Recent developments such as the G20 meetings of Finance Ministers as well as the now regular meetings of the fast developing countries and interested parties through the newly created BRICSAM organization which is a network of states, NGOs and business"[75] "have expanded analysis of finance diplomacy to include networks of state and non-state actors as well as new regimes".[76]

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[72]Pigman, G.A.) Making Room at the Negotiating Table: The Growth of Diplomacy between Governments and Non-State Economic Entities. *Diplomacy & Statecraft* 16 (2), (2005) pp 385-401.

[73]Kahler, M. Bargaining with the IMF: Two-Level Strategies and Developing Countries. In Evans, P.B., Jacobson, H.K., &Putnum, R (eds.) *Double-Edged Diplomacy: International Bargaining and Domestic Politics*. Berkeley: (University of California Press, 1993) pp 363-394.

[74] Ibid.

[75] Cooper, A.F., Antkiewicz, A., & Shaw, T.M. Lessons from/for BRICSAM about North-South Relations at the Start of the 21st Century: Economic Size Trumps All Else? *International Studies Review* 9 (4),(2007) pp 673-689.

[76] Ibid.

4.7 Kenya's Diplomatic Efforts to Countering Terrorist Finance

4.7.1 Financial Controls

To counter the threats brought about by international terrorism, the Government of Kenya embarked on "comprehensive counter terrorism efforts through its foreign policy strategy and employed financial controls to respond to the threats."[77] The use of money has often been described as key to international terrorism, thus tracking it is paramount to the success of counter terrorism efforts. As an instrument of power, the government in the early 2000s did not enact any legislation on financial controls. However, "the government then established a task force on anti-money laundering and on the financing of terrorism."[78] The mandate of the task force was to review existing legislation at the time and come up with a draft of a national policy on combating the financing of terrorism. Since then, Kenya has taken significant steps towards "improving its Anti-Money Laundering (AML)/Combating the Financing of Terrorism (CFT) regime, by passing the Proceeds of Crime and Anti-Money Laundering (AML) Act that was signed in December 2009 and came into effect on June 28 2010. It enables for the identification, tracing, freezing as well as seizure and confiscation of proceeds of crime."[79]

Prior to the enactment of the act in 2010, Kenya was one of the countries where money laundering was always on the rise. "Terrorists might have also exploited this weakness to advance terrorist activities in the country and the region. Until April 2013, the hawala[80] system of money transfer was unregulated. There are numerous hawala systems of money transfer operating in the country. The hawala traditional system of money transfer is based on mutual trust and sometimes transactions are made by a phone call leaving no paper trails. For example, you deposit money in the US then instruct the agents in the beneficiary country to issue the money to the beneficiary. A key component of anti-terrorism strategy should be starving terrorists of the resources they need to operate. As a sign of commitment to fighting terrorism,

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[77] H. H. Adan, Combating transnational terrorism in Kenya in Master's thesis presented to the Faculty of the U.S. Army Command and General Staff College, (Fort Leavenworth, Kansas,2005)

[78]Khadiagala, G. Kenya: Haven or helpless victim of terrorism. in Special Report 113, Terrorism in the Horn of Africa. United States Institute of Peace.(2004) Retrieved from www.usip.org/pubs/specialreports/sr113.

[79] Why financial integrity is critical for the private sector: Measures to combat money laundering and terrorism financing not fully implemented. Available at: http://www.kepsa.or.ke/index.php/rss-feeds/175-why-financial-integrityis-critical-for-the-private-sector-measures-to-combat-money-laundering-and-terrorism-financing-not-fullyimplemented

[80] http://www.thefreedictionary.com/hawala

the Central Bank of Kenya in April 2013 introduced rules to outlaw hawala money transfer system." The rules, "seen as part of the regulator's effort to curb money laundering, require operators of cash remittance firms to register with CBK and pay a Sh5 million licensing fee in addition to maintaining a minimum core capital of Sh20 million. The CBK indicated that the regulation was meant to tighten regulation around outflow and inflows in the country and that services like the hawala which are totally unlicensed and unformulated are the ones that the CBK is seeking to control so that the regulator can have information on who is transacting and how much."[81]

4.7.2 Countering Terrorist Finance

In an attempt directed towards dealing with terrorism funding, Kenya became a "member of Eastern and Southern Africa Anti-Money Laundering Group, a Financial Action Task Force (FATF)-style regional body."[82]The Government of Kenya has come out with elaborate action plan to address deficiencies in its countering of the terrorist financing. In 2009, the Government of Kenya enacted the Proceeds of Crime and Anti-Money Laundering Act. It also established the Financial Reporting Center (FRC) in April 2012 and enacted the Prevention of Terrorism Act (POTA) in October 2012.

4.7.3 Regional and International Cooperation

Kenya is a member of the AU, IGAD, COMESA, and the EAC. The Government of Kenya "coordinated with these groups significantly during its military campaign against Al-Shabaab militants in Somalia."[83] Kenyan law enforcement agencies worked closely with the international community, including the US, to increase their counter terrorism capabilities, secure porous land borders, and improve maritime security. Kenya hosted a number of training sessions for law enforcement professionals from neighboring nations to build counter terrorism capacities and increase regional cooperation. Kenya also cooperated with the US and other nations to secure

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[81] G. Ngigi ' CBK rules outlaw 'hawala' money transfer system' (Business Daily Posted Monday, April 29 2013) Available at: http://www.businessdailyafrica.com/CBK+rules+outlaw+hawala+money+transfer+system/-/539552/1761942/-/1daokoz/-/index.html

[82] USDOS - US Department of State: Country Report on Terrorism 2012 - Chapter 2 - Kenya, 30 May 2013. Available at ecoi.net: http://www.ecoi.net/local_link/248598/358924_en.html.

[83]Government of Kenya. (2004). Kenya national counter terrorism strategy, Nairobi.Government of Kenya..(Government of Kenya ,2004)

especially dangerous pathogens and enhance the Government of Kenya's "capability to prevent the sale, theft, diversion, or accidental release of chemical, biological or radiological weapons-related materials, technology, and expertise."[84]

4.7.4 Financial Sanctions and Travel Restrictions

"Programs to prevent terrorists from financing their operations, including technical assistance to build the capacity of allies, are a key component of U.S. counter radicalization strategy. The Treasury Department leads U.S. efforts to detect, track, and prosecute those involved in terrorist financing, coordinating with international partners, including those in East Africa. On September 23, 2001, President George W. Bush signed Executive Order (E.O.) 13224, significantly expanding the scope of U.S. sanctions against terrorists and terrorist organizations. The Treasury Department's Office of Foreign Assets Control (OFAC) has subsequently frozen several hundred million dollars in terrorist-related assets and currently designates over 500 individuals as terrorists or part of terrorist support networks."

"The groups implicated in terrorist activities in East Africa that are subject to U.S. financial sanctions or travel restrictions include the following: a) Al Qaeda—designated as a Foreign Terrorist Organization (FTO) pursuant to Section 219 of the Immigration and Nationality Act, as amended, and as a Specially Designated Global Terrorist pursuant to Section 1(b) of E.O. 13224;[85] b) Al Shabaab—designated as an FTO on February 28, 2008, and as a Specially Designated Global Terrorist; and c) Al Ittihad and the Lord's Resistance Army—listed in the "Terrorist Exclusion List," which includes entities and individuals linked to terrorism. Their associates are prohibited from entry into the United States pursuant to Section 411 of the USA Patriot Act of 2001."

"Also among the entities that the United States has targeted for terrorist financing in East Africa is the Saudi-based Al Haramain Foundation (AHF), an Islamic charity that had branches

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[84] USDOS - US Department of State: Country Report on Terrorism 2012 - Chapter 2 - Kenya, 30 May 2013. Available at ecoi.net: http://www.ecoi.net/local_link/248598/358924_en.html.

[85] E.O. 13224 blocks property and bans transactions with those who commit, threaten to commit, or support terrorism.

throughout the East Africa region in the 1990s, including in Somalia."[86] "AHF's East Africa branches were linked by the Treasury Department to Al Qaeda and Al Ittihad, and its Kenya branch was involved "in the planning of the 1998 embassy bombings."[87] "AHF's Somalia office was linked to Al Barakaat Bank (designated under E.O. 13224 on November 7, 2001), a Somali-based Islamic finance institution with branches around the world that was found to be a major source of material, financial, and logistical support to Bin Laden and terrorist groups. Efforts to cut off sources of terrorist financing have, on occasion, inadvertently fueled anti-American sentiment in East Africa, cutting funding for charitable causes such as health clinics and orphanages."[88]

"In addition to the sanctions imposed against Al Shabaab and several of its identified leaders in E.O. 13224, President Obama declared a national emergency to address the security threat emanating from Somalia in April 2010 with E.O. 13536, blocking the assets of those determined to have engaged in acts that threaten the peace, security, or stability of Somalia. This includes acts that threaten the TFG or AMISOM, obstruct the delivery of humanitarian assistance, or support acts of piracy.[89] Several of these individuals were also targeted for U.N. sanctions in April 2010 under paragraph 8 of U.N. Security Council Resolution 1844 (2008) on Somalia and Eritrea. U.N. sanctions on Al Qaeda and related entities and individuals, outlined in Security Council Resolution 1267 (1999) and subsequent resolutions, target two Somalis, Hassan Al Turki and Hassan Dahir Aweys, along with Harun Fazul, for sanctions. Resolution 1267 lists Al Ittihad as an entity associated with Al Qaeda; Al Shabaab is not currently named in the resolution."[90]

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[86] The Somali AHF branch was designated under E.O. 13224 on March 11, 2002. Other AHF branches in the region were subsequently designated in 2004. AHF is also designated under U.N. Security Council Resolution 1267.

[87] The CTC at West Point, *Al Qaida's (Mis)Adventures in the Horn of Africa*, op. cit., p. 92. The entirety of AHF was designated under E.O. 13224 on June 19, 2008.

[88] Ibid.

[89] "E.O 13536 identified one entity, Al Shabaab, and eleven individuals for sanctions, including top Al Shabaab figures Ahmed Abdi Aw Mohamed (a.k.a. Abu Zubeyr or Godane), Fuad Mohamed Khalaf (a.k.a. Shangole), and Bashir Mohamed Mahamoud; militia leader and alleged Al Shabaab arms supplier Mohamed Sa'id "Atom"; former Al Ittihad leaders Hassan Abdullah Hersi Al Turki, who is reportedly allied with Al Shabaab, and Hassan DahirAweys, now head of Hizbul Islam; as well as top Hizbul Islam figure Yasin Ali Baynah. An Eritrean official and a leading Yemeni arms dealer are also included in the list. Godane, Al Turki, and Aweys had been previously named in E.O. 13224 and were already subject to sanctions. Godane, along with MukhtarRobow and Issa Osman Issa, who is accused of firing at the Israeli airliner in Mombasa in 2002, were added to E.O. 13224 in November 2008 as senior Al Shabaab leaders."

[90] Ibid.

U.S. counterterrorism policy has also sought to isolate and punish foreign governments found to support terrorist groups. The Clinton Administration placed "sanctions on Sudan for its support of terrorism in 1993, and the country remains on the list of State Sponsors of Terrorism, despite a reported improvement in counterterrorism cooperation with the United States."[91] This designation "makes Sudan subject to a ban on arms-related exports and sales, controls over exports of dual-use items, prohibitions on economic assistance, and various financial and other restrictions."[92]

4.7.5 Assistance to Counter Terrorist Financing

The "Treasury Department considers efforts to develop financial sector oversight capabilities within African states necessary for preventing the transnational financing of terrorism. Many African banking systems remain vulnerable to terrorists and other criminals, and African governments often lack resources to track the flow of funds, conduct oversight of remittance systems, or freeze and confiscate terrorist-related assets. The Somali diaspora often uses *hawala*, informal money transfer systems, to remit funds to family members in Somalia. The U.N. Sanctions Committee on Somalia has reported on the use of such remittance networks to support Somali insurgent groups and suggests that increased international monitoring of hawalas has made them a less attractive financing option for such groups. New forms of financing have emerged, including breaking down larger sums into smaller amounts to avoid detection; using couriers; or converting funds into commodities such as rice and sugar that are later reconverted into cash."[93] Reports suggest that "the Somali diaspora in the Nairobi neighborhood of Eastleigh uses an overland courier system to transmit funds to family members, and potentially armed groups. Al Shabaab also raises funds inside Somalia, drawing revenue from ports, checkpoints, and various commercial and criminal enterprises."[94] "Al Shabaab's control of Kismayo port, for

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[91] The sanctions against Sudan are pursuant to section 6(j) of the Export Administration Act, section 40 of the ArmsExport Control Act, and section 620A of the Foreign Assistance Act. For information on Sudanese counterterrorism cooperation, see the State Department's *Country Reports on Terrorism*.

[92] CRS Report RL33574, *Sudan: The Crisis in Darfur and Status of the North-South Peace Agreement*, by Ted Dagne.

[93] U.N. Security Council, *Report of the Monitoring Group on Somalia Pursuant to Security Council Resolution 1811 (2008)*, S/2008/769, December 10, 2008.

[94] For more information, see CRS Report R41004, International Terrorism and Transnational Crime: Security Threats, U.S. Policy, and Considerations for Congress, by John Rollins and Liana Sun Wyler.

example, has reportedly proven lucrative, drawing over $1 million quarterly in port-use charges."[95]

The US has sought to "internationalize regulatory requirements on terrorist finance."[96] The "Treasury Department supports and liaises with regional organizations, including the intergovernmental Financial Action Task Force (FATF), which promotes international policies to Combat money laundering and terrorist financing, and its regional counterpart, the East and Southern African Anti-Money Laundering Group (ESAAMLG). The State Department coordinates U.S. assistance efforts to strengthen the ability of foreign partners to detect, investigate, and combat terrorist financing through its Counter-terrorism Financing (CTF) program and related initiatives."[97] "Such efforts are often conducted by or in collaboration with Treasury's Office of Technical Assistance and the Department of Justice, as well as other federal agencies, and may include support to partner nations for the development of legislation on terrorist financing and other regulatory reforms, as well as training on such topics as cash courier interdiction and oversight of charitable activities. The CTF program has also supported the establishment of financial intelligence units (FIUs) in Djibouti, Eritrea, Ethiopia, Kenya, Tanzania, and Uganda. A U.S. attorney with expertise in terrorist financing serves as a Resident Legal Advisor (RLA) in Nairobi, training prosecutors and providing technical expertise to countries in the region. In Kenya, for example, the RLA assisted in the drafting of anti-money laundering legislation passed in 2009 that established mechanisms for detecting and seizing illicit proceeds, including the creation of a Financial Reporting Center and an Asset Recovery Agency".[98]

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[95]U.N. Security Council, S/2008/769, op. cit.

[96] "The U.N. Security Council originally established sanctions against Al Qaeda and the Taliban in 1999 with Resolution 1267. Subsequent U.N. Security Resolutions imposed further sanctions on terrorist-related entities."

[97] "CTF is funded through the Nonproliferation, Antiterrorism, Demining and Related programs (NADR) account. Programs may also be funded through the International Narcotics Control and Law Enforcement (INCLE) account".

[98] Ibid.

4.8 Summary of the Chapter

Terrorism and its contributing factors, "radicalization, is driven by and impacts on a number of economic, social, cultural and political factors—none more so than those relating to the processes and structures of the economy. To what extent, if any, does the study of terrorism have the analytical tools to highlight and explain Kenya's economic developments such as regionalization, globalization, and economic development? This is a question often ignored by scholars of diplomacy but one which those who study International Relations are constantly confronting. Mainstream studies of diplomacy have traditionally approached international relations using realist and neorealist frameworks"[99] and this has determined both focus and approach, resulting in state-centric analyses of mainly political agendas. Consequently, much of the literature has tended to undervalue economic matters, "failing to reflect on how theories and concepts of diplomacy can explain key economic processes such as imperialism, globalization and development in the war against terror."[100] In the case of Kenya as we have aptly seen from the chapter, the state has benefitted immensely from the diplomatic especially in regard to countering and disrupting terror financing, streamlining economic structures as well as enhancing her economic preparedness in regard to countering radicalization.

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[99] Lee, D., & Hudson, D. The old and new significance of political economy in Diplomacy in *Review of International Studies*,(2004) Vol. 30, No. 3, pp. 343-360.

[100] Donna, L., & Hocking, B.. Economic diplomacy in Robert A. Denemark (ed.) *The International Studies Encyclopedia*, (Wiley Blackwell,2010).Vol. II, pp 1216-1227.

CHAPTER FIVE

POLITICAL IMPACTS OF USING THE DIPLOMATIC APPROACH TO COUNTERING RADICALIZATION IN KENYA

5.1 Introduction

The rise of Terrorism in Africa cannot be overemphasized. Terrorism has caused physical destruction, loss of lives, economic damage and a number of other challenges to social order and polity in the society. Due to diplomatic efforts to countering terrorism in Kenya, "terrorist attacks have increased exponentially from 1980 to 2015. The general impact of terrorism has since cut across social, cultural, economic and political lens of society."[101]The purpose of this chapter is to explore the effect that the Kenyan government policy and its administrative practices have on diplomatic efforts to countering terrorism.

5.2 Political Impacts of Using the Diplomatic Approach to Countering Radicalization in Kenya

5.2.1 Radicalization in Kenya from a Political Viewpoint

According to Downing "the first major terrorist attack occurred in December 1980 when a bomb went off at the Norfolk hotel killing 16 people while injuring hundreds. This was shortly after the Kenyan government allowed an Israeli plane full of Israeli commandos *en route* to raid the Entebbe airport in Uganda to refuel the Jomo Kenyatta International Airport. Thus, when the Palestinian Liberation Organization (PLO) claimed responsibility it is assumed that it was a revenge attack for the Kenyan government's allied support of the West and Israel. The second major terrorist attack occurred on 7th August 1998. Scheduled to coincide with the anniversary of US troop arrival in Saudi Arabia, a truck bomb placed at the US Embassy in Nairobi was detonated resulting in the death of over 200 people and the injury of thousands more. Al-Qaeda claimed responsibility for the attack. 2002 saw the third major terrorist attack mounted on Kenyan soil. In the country's coast two surface-to-air missiles were launched at an Israeli

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[101]Nyangaga, P. The socio-economic and political impact of terrorism: A case study of Kenya, (Thursday 28 January 2016). (Institute of Diplomacy and International Studies | University of Nairobi,2016) Retrieved from http://idis.uonbi.ac.ke/node/74018

passenger plane as it took off from the International Airport in Mombasa. A few miles away a truck bomb was detonated at the Jewish owned Paradise Hotel. Around 15 people were killed and 35 injured during the attack. Al-Qaeda claimed responsibility. In 2003 Kenyan authorities foiled a terrorist attack intended for the US embassy in Nairobi."[102,103,104,105]

More recently, there has been a series of grenade attacks launched against Kenyans. These attacks, "occurring between the years 2011-2013, have been carried out by the Al Shabaab-Al Qaeda linked terrorist group. The largest and most publicized terrorist attack that has occurred since the 1998 terrorist attack took place on 21st September 2013. The impact of the attack cut across the multi-cultural society of Nairobi. Aside from Kenyan victims, French, Chinese, Ghanaian, Dutch, South African, Indian and Canadian nationals were among the foreigners killed." [106,107] Richard Downie argues that "these attacks occurred in retaliation to Kenya's military operation *Linda Nchi* in Somali mounted in October 2011 as an ill-informed response to the kidnapping of several foreign tourists from Kenya, allegedly by Al-Shabaab."[108]

5.2.2 Kenya's Diplomatic Initiatives to Countering radicalization

Following repeated threats to "Kenya and the impact of these threats on the national economy and security, the Government of Kenya initiated both multilateral and bilateral initiatives to build partnerships with affected countries both inside and outside the region."[109] As part of its regional counter terrorism initiatives, the Government of Kenya has participated in numerous discussions

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[102]Downing, W.A. Al-Qaida's (mis)adventures in the Horn of Africa. (Diane Publishing Company | USA.2009).

[103] Davis, J. (ed). Africa and the war on terrorism in *Routledge*(Routledge,2013).*: Taylor & Francis Group Ltd.* Retrieved fromhttps://www.routledge.com/Africa-and-the-War-on-Terrorism/Davis/p/book/9780754670834

[104]Javaid, U., &Noureen, N. An insight into the philosophical dynamics of Al-Qaeda in Journal of Political Studies, Vol. 20, Issue 2, 2013, pp. 201-218. Retrieved from http://pu.edu.pk/images/journal/pols/pdf-files/Alqaeda%20-%20Umbreen%20-Nighat_VOLUME20_2_13.pdf

[105]Javaid, U., &Tauqik, M. Pakistan and the question of recognising Israel: Historical issues and future prospects in *A Research Journal of South Asian Studies*, (2014). Vol. 29, No. 2, (January–July 2014), pp.61-71 Retrieved from http://pu.edu.pk/images/journal/csas/PDF/4.%20Dr.%20Umbreen_29_1.pdf

[106]Gettleman, J., &Kulish, N. Kenya forces said to be securing mall after long standoff in *The New York Times*, 23 September 2013)(New York,2013).. Retrieved from http://www.nytimes.com/2013/09/24/world/africa/kenya-presses-assault-against-militants-in-mall.html

[107]BBC News. Nairobi Westgate attack: Uhuru Kenyatta praises unity in *BBC Africa*,(2013), (22 September 2013). Retrieved from http://www.bbc.com/news/world-africa-24193059

[108]Downie.R. Kenya's military operation in Somalia, (3 November 2011). (Washington, D.C. | Center for Strategic and International Studies, 2011). Retrieved from https://www.csis.org/analysis/kenya%E2%80%99s-military-operation-somalia

[109] J. Davis, Africa and the war on terrorism.(Ashgate Publishing Limited,2007).

under the auspices of regional organizations such as IGAD, the AU, the Commonwealth and the UN. Nevertheless, "the most prominent diplomatic initiative is the bilateral cooperation with the US government on improving Kenya's counter terrorism readiness. For the US, counter terrorism efforts have been described as a "high priority" in the fight against terrorism in the region."[110]

5.2.2.1 Military Training and Counter terrorism Strategy

Bilaterally, the US government has been Kenya's greatest partner. The US has supported Kenya's counter terrorism operations which have been on the rise since 1998. Despite the existence of the high profile cooperation between the two countries, the US continues to view Kenya's efforts in counter terrorism measures as inadequate. According to President Bush administration at the time, "there was little progress made by Kenya on the war on terror. In its annual Patterns of Terrorism report, the US State Department faulted Kenya for disbanding the Joint Terrorism Task Force established in 2004 with US funding to improve cooperative work on counter terrorism among the police and armed forces. According to the report, the Government of Kenya did not complete the National Counter terrorism Strategy, nor did it sensitize the country on the terrorist threat."[111]

The nature of support from the US government has been varied. "It ranges from provision of military hardware to counter terrorism training. For instance, among the highly publicized counter terrorism joint exercise was in June 2003 when the US military's Combined Joint Task Force-Horn of Africa (CJTF-HOA) personnel arrived in Mombasa to conduct joint training with Kenyan military as part of the counter terrorism preparation."[112] A press release from the CJTF-HOA secretariat indicated that "the goal, for what will be an extended period of operations in coastal and international waters between Kenyan and CJTF-HOA forces, is the integration of a variety of advanced technologies into coastal and maritime counter terrorism plans and operations."[113]

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[110]Nation Correspondent. Muslims to have say on proposed law on terror, says DC in *Daily Nation*, (13 October 2006).(Nation Media,2013) Retrieved from http://www.nationmedia.com/dailynation/
[111] J. Davis. Africa and the war on terrorism.(Ashgate Publishing Limited, 2007).
[112] J. Davis. Africa and the war on terrorism. (Ashgate Publishing Limited, 2007).
[113] The total CJTF-HOA contingent numbers more than 1,800, representing all branches of the US armed services, coalition military members, and civilian personnel.

Operationally, CJTF-HOA covers the total airspace, land areas, and coastal waters of Kenya, Somalia, Sudan, Djibouti, Ethiopia, Eritrea, and Yemen. Other joint operations carried out were in June and July 2003 when the Kenya Navy and USS Joint Venture (HSV-XI) undertook joint coastal and interdiction operations. Other training operations were jointly conducted with the USS Jarret (FFG33) and Kenya's Shupavu in January 2004. Kenya's Defence Department and the USS Central Command signed a memorandum providing for joint maritime operations at least two times a year under the US military's CJTF-HOA.157

According to top commanders of the Kenya Navy, it was anticipated that the training operations were to enhance both the operational and tactical capacity of the Navy to protect Kenya's coastline. Ultimately, this was expected to "produce and increase Kenya's counter terrorism capability, deter cross-border movement, and create credible pressure on terrorism activities within Kenyan waters and in Somalia from the south."158 Apart from joint counter terrorism training of military personnel, Kenya is also a major beneficiary of 100 million US Dollars East African Counter terrorism Initiative (EACTI) that was launched by President Bush in 2003.

5.2.2.1 The 2003 East African Counter terrorism Initiative

Kenya is a central partner in the EACTI. The EACTI was announced by former US President George W. Bush in 2003 with a view to strengthening the capacity of East African countries to fight terrorism. Under the program, "Kenya has participated in joint military exercises with neighboring countries in counter terrorism readiness. As part of the EACTI, there has been joint military training in maritime and coastal border security, and purchase of equipment for patrol."[114] Under the initiative, Kenya received funding to improve the NCTC and to fund the joint counter terrorism task force. The joint task force was established to improve interagency and information sharing to better target and disrupt terrorist activities in the country and the region. The task force was later disbanded in 2004. Additionally, "as part of the initiative, Kenya received funding for police training and modernization of its communication equipment. In addition to these more visible programs, with support from the US government, the Government

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[114] P. P. Awitta The commanders respond in *Proceedings*, Washington, DC: United Nations Naval Institute, 2004).Vol. 130, No.3. Washington, DC: United Nations Naval Institute (2004)., pp.53-63.

of Kenya became part of the Terrorist Interdiction Program (TIP)."[115] Through this program, custom officials can identify terrorist suspects entering the country. The data can then be shared among countries for effective monitoring of suspected terrorists. Another important aspect of border controls is the "Export Control and Related Border Security Assistance project that has received substantial funding from the US government. Under this program, the Government of Kenya is provided with funds to improve border controls to prevent transfer of weapons of mass destruction through the country's borders."[116] These and other programs remain some of the most important outcomes of bilateral negotiations between Kenya and the US in the GWOT.

The Influence of Diplomacy on Kenya's countering Radicalization Efforts

Daisy Muibu argues that as "the regional hub of trade, finance and investment,"[117] "Kenya has since independence been attached to the common label of one of Africa's, and more specifically East Africa's more politically stable and economically prosperous nations."[118] However, "with the increasing security threat the Eastern African state continues to face"[119] "maintaining this title has been placed under threat. As a result, the Kenyan government has over the years felt compelled to intensify their national, and by extension regional security efforts."[120] "A factor that has seen the nation's foreign policy lean increasingly more towards counter-terrorism security, and has deepened the US influential role in Kenya's counter-terrorism objectives".[121]

Kenya-US diplomatic efforts to countering terrorism are "characteristic of a long history of cooperation on security matters has existed between Kenya and the US—with diplomatic

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[115] J. Davis,. Africa and the war on terrorism.(Ashgate Publishing Limited, 2007).

[116] J. Davis. Africa and the war on terrorism.(Ashgate Publishing Limited,2007).

[117] Ploch, L. Countering terrorism in East Africa: The U.S. response in *Congressional Research Service Report for Congress*,(2010)., (3 November 2010). Available at www.crs.gov

[118] Hanson, S. Understanding Kenya's politics in *Council on Foreign Relations*,(2008). (25 January 2008).Retrieved from http://www.cfr.org/kenya/understanding-kenyas-politics/p15322

[119] Omeje, K., &Githigaro, J. M. (2012). The challenges of State policing in Kenya in *The Peace and Conflict Review*, Vol. 7, Issue 1, ISSN: 1659-3995. Retrieved from http://www.review.upeace.org/pdf.cfm?articulo=129&ejemplar=24

[120] Ploch, L. Countering terrorism in East Africa: The U.S. response in *Congressional Research Service Report for Congress*,. (2010) (3 November 2010). Available at www.crs.gov

[121] Muibu, D. M. Case study: Counter-terrorism in Kenya's foreign policy: The influential role of the United States in *Current Affairs Society*, (29 January 2014). Nairobi | United States International University,2014)., | Retrieved from http://www.currentaffairssociety.com/290114-daisy-muibu.html

relations beginning in 1964."[122] Nicholas Nibikora argues that "Kenya's close relations to the US have on several occasions seen the country become the target of terrorist attacks. Terrorist groups' perception of Kenya as a "soft target" of American interests abroad serves to increase their hostility toward the US."[123] To advance "it's interests—to prevent the emergence or spread of transnational threats that could be a potent threat to US national security—the US has continued to provide security assistance to Kenya."[124]

5.2.4.1 Political Instability: The Ramification of Diplomacy on Kenya's Counter-Radicalization Objectives

The instability in "Kenya's neighboring nations and the large numbers of refugees that flee into the country;"[125] "the growing threat of terrorist groups with ties to the Al-Qaeda network—like the Al-Shaabab;"[126] "the proliferation of small arms and light weapons;"[127] "and piracy off the coast of the Mombasa coast"[128] are reported as undermining Kenya's security interests and with it the country's national stability.

5.2.4.1.1 Refugees in Kenya's Refugee Camps

Kenya has since re-adjusted her foreign policy as to who is a refugee and therefore who is entitled to protection under international law. "There is evidence of a change in Kenya's foreign policy toward refugees from the Horn of Africa. As a refugee receiving country Kenya is currently on the verge of closing the Dadaab refugee camp having suspending government services offered by the former Department of Refugees Affairs indefinitely in 2013. The change in the county's former role of a safe-haven to refugees flee in various conflicts and natural disasters from its neighboring states is informed by the need to attain national security interest

[122]U.S. Department of State.(2015). U.S. relations with Kenya in *Diplomacy in Action*, (14 August 2014).(U.S. Department of State,2015) Retrieved from http://www.state.gov/r/pa/ei/bgn/2962.htm

[123]Nibikora, N.From genocide to war on terror: Why the U.S. Navy? (Bloomington, Indiana | USA. Author House,2010). Available at www.authorhouse.com

[124]AFRICOM.(2013). About the Command in *United States Africa Command*.AFRICOM.(2013) Available at http://www.africom.mil/about-the-command

[125]Ploch, L. Countering terrorism in East Africa: The U.S. response in *Congressional Research Service Report for Congress*, (3 November 2010). (2010) Available at www.crs.gov

[126]Holehouse, M. Kenya kidnapping: British woman being held by terrorist al-Shabaab,(2011). say Somalia in *The Telegraph*, (16 September 2011). Available at http://www.telegraph.co.uk

[127]Wepundi, M., Nthiga, E., Kabuu, E., Murray, R., & del-Frate, A. AAvailability of small arms and perceptions of security in Kenya: An assessment. Small Arms Survey: Geneva.. (Geneva,2012).

[128]Ploch, L. Countering terrorism in East Africa: The U.S. response in *Congressional Research Service Report for Congress*, (3 November 2010)(2010).. Available at www.crs.gov

and with it political stability. In response the internationally-backed-Mogadishu Government of the greater Republic of Somalia—although recognizing and accepting its mandate to readmit its nationals—has termed Kenya's repatriation of Somalia refugees as involuntary and unacceptable. With the principle of good neighborliness tested on the part of Somalia by Kenya vide refugees; Somalia using the very principle of good neighborliness has tested its relations with Kenya by re-adjusting its foreign policy provision towards Kenya by contesting the Kenya-Somalia border. This has resulted into a dispute currently present before the International Court of Justice over offshore oil and gas exploration platforms in the Indian Ocean."[129,130]

5.2.4.2.2 Secession Movements in Kenya's Coast

The Mombasa Republican Council was born out of the perception of State marginalization and neglect felt by some in Kenya's coastal areas. According to Blanchard Ploch "the political movement calls for secession. However, despite the council's official line of non-violence, the growing anti-government rhetoric among some Muslim youth is reason for concern. This is particularly so in the face of the backlash faced by the government for its rendition of Kenyan citizens in Uganda in 2010 as part of its counter-terrorism activities, and the gunning down of the popular Muslim cleric—whom the US had suspected of raising funds for the Al-Shaabab—whose death his followers label as an extrajudicial killing." Both of Lauren Ploch Blanchard's articles, *U.S.-Kenya Relations: Current Political and Security Issues* and *Countering Terrorism in East Africa: The U.S. Response*, "point in the direction of Kenya's political instability as informed by the country's re-adjusting of her Foreign policy to accommodate that of the US which is seen as targeting the Muslim community of Somalia origin in East Africa."[131] This further is informative of the growing threat of terrorist groups with ties to the Al-Qaeda network.

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[129]Mbaria, J. Kenya and Somalia in bitter dispute over Indian Ocean border in *The East African*, (25 October 2014)(2014).. Retrieved from http://www.theeastafrican.co.ke/news/Kenya-and-Somalia-in-bitter-dispute-over-Indian-Ocean-border/2558-2499234-lqj0pp/index.html

[130]International Court of Justice. Somalia institutes proceedings against Kenya with regard to a dispute concerning maritime delimitation in the Indian Ocean in *Cases: Maritime Delimitation in the Indian Ocean (Somalia v. Kenya)*, (28 August 2014)(2014).. Retrieved from http://www.icj-cij.org/docket/files/161/18360.pdf

[131]Ploch, L.). Countering terrorism in East Africa: The U.S. response in *Congressional Research Service* (2010) *Report for Congress*, (3 November 2010). Available at www.crs.gov

5.2.4.1.2 The Proliferation of Small Arms and Light Weapons within Kenya

The "widespread availability of small arms and light weapons within Kenya, made possible through their illegal trafficking, has and remains a major political and security concern for the nation. The proliferation of these weapons, which include AK47s, hand grenades, M16s, Uzis, Rocket Propelled Missiles (RPGs), and a variety of pistols,"[132] "contribute directly to the increase of armed crimes occurring in both the urban and rural areas of the country, while also accounting for several deaths and injuries during the Post-Election Violence of 2007-08. This has served to inform Kenya's foreign policy towards her neighbors from that of an open-hand policy to that of closed borders. This was inevitable in 2007 when Kenya shut down her borders with Somalia with Kenya's argument being the need to controls and monitor who came into the country. It is claimed that Kenya's move was informed by the US naval forces' need to join the hunt for Islamists militants with suspected Al-Qaeda ties trying to flee Somalia after being defeated by Ethiopian-backed troops."[133]

5.2.4.1.3 Pirate Activities off the Coast of Kenya

Theo Notteboom argues that "Kenya's security oriented foreign policy has seen pirate activities off the coast of Kenya become a major threat to the nation's maritime security, tourism sector, and international shipping revenues."[134] "The threat to Kenyan national interests became all the more real especially given that the country's political goals like eradication of poverty through free primary education and free secondary tuition are not met in the Malindi, Lamu, Kilifi and Mombasa counties. This is because these county's ports are no longer a favorite as international shipping destinations for turning of the Somali coast and the Gulf of Aden into hotspots for terrorism. The result is not only economic but political for the denial of an opportunity to maximize on would-be generate revenue that would in turn help spur the government of the day's political agenda seems deem. Both the national government and these county governments, owing to natural resource endowment, have since translated pirate activities off the coast of Kenya a tragedy to the political life of these governments and the people they are meant to serve.

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[132] Mohamed, K.. How smugglers are flooding Kenya with arms in *The Star,* (8 January 2013)(2013). Retrieved from http://www.the-star.co.ke/news/article-101954/how-smugglers-are-flooding-kenya-arms

[133] Bosire, B. US joins hunt for Islamists as Kenya closes border with Somalia, (3 January 2007)(2007).. Retrieved from the reliefweb http://reliefweb.int/report/somalia/us-joins-hunt-islamists-kenya-closes-border-somalia

[134] Notteboom, T. (ed).. Current issues in shipping, ports and logistics. (University of Antwerpen,2011)Available at www.upa-editions.be

Further still, with the number of maritime piracy attacks around these hotspots rising from 10 in 2006 to 111 in 2008; the threat to Kenyan political and national interests became all the more real making piracy a part of Kenya's security strategy."[135]

5.2.5 Kenya's Counter-Radicalization Strategy
5.2.5.1 Anti-Terrorism Legislation in Kenya

Counter-terrorism efforts in Kenya are heavily influenced by her diplomatic relations with the US. According to Ploch Blanchard "in the sub-Saharan region, Kenya stands as one of the largest recipients of official U.S. security assistance."[136] In addition, "through a double strategy of diplomatic pressure and aid incentives (a "soft" power approach), the US has held an influential role in the development and expansion of Kenya's efforts to address terrorism in the region, with both encouraging and negative effects for the country."[137]

One such effort—as part of the US counter-terrorism strategy after 9/11—"is the introduction of a counter-terrorism legislation in Kenya. The 2002 Suppression of Terrorism Bill is loosely structured upon a template of the US Patriot Act. It suggested that terrorists face an alternative criminal justice system outside the mainstream system. This included isolated detention; interrogation without the presence of an attorney; the relaxation of extradition restrictions; and even the removal of the burden of proof of intent or motive. What is more, under the proposed act what constituted terrorism or a terrorist activity was defined vaguely, leaving it open to almost any act of political dissent. It is for this reason that despite the diplomatic pressure and aid support from America, the Bill failed to pass through parliament as Muslims and civil and human rights groups mobilized against the bill. Their concern was the Bill's suppression of democratic rights and its deviation from the rule of law." [138,139] A united Muslim and human right activist grouping would face defeat coming from 'one of their own'.

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[135]Bueger, C. The decline of Somali piracy: Towards long term solution in *The Research Portal for Maritime Security*, (1 September 2013) (2013). Retrieved from http://piracy-studies.org/the-decline-of-somali-piracy-towards-long-term-solutions/

[136]Ploch, L. Countering terrorism in East Africa: The U.S. response in *Congressional Research Service Report for Congress*, (3 November 2010) (2010).). Available at www.crs.gov

[137]Prestholdt, J).Kenya and counter-terrorism: A time for change in *A Report by REDRESS and REPRIEVE*, (February 2009). Retrieved from http://www.redress.org/downloads/publications/Kenya%20and%20Counter-Terrorism%205%20Feb%2009.pdf

[138] Smith, M. A. (ed).. Securing Africa: Post 9/11 discourses on terrorism in *Routledge:* (*Routledge Taylor & Francis Group*. Burlington, VT: Ashgate Publishing, Ltd.(2010)

The question of anti-terrorism legislation was tabled at parliament again by Internal Security Minister Yusuf Haji in August 2012. T"he Bill included provisions for seizure of the property of suspects, proposed a life sentence for convictions involving causing of fatalities, and a 30 year maximum sentence for acting as an accomplice to terrorist activities. Similar to the U.S. Patriot Act, the Bill also widened the surveillance rights of law enforcement agencies in Kenya. What is more, through the funds collected from imposing fines on terrorist and selling seized terrorist property, the Bill proposed using the revenues to set up a fund through which victims of terrorist activities could be compensated."[140,141] "Despite the opposition of Muslim community and civil society groups, who argued that the Bill was prejudicial against Muslims;"[142] in September 2012 Parliament passed the Prevention of Terrorist Act while in October the President signed the Act into law.

5.2.5.2 Rendition, Extradition and Detention of Kenyan Citizens

In cooperation with the U.S.-led global efforts against terrorism, the Kenyan government, in coordination with the United States and neighboring East African states, has been carrying out renditions and detentions of Kenyan citizen's suspected of terrorist affiliations and/or activities. "The most notable rendition incident involved close to a hundred people, most of who fled from Somalia in to Kenya in early 2007, as well as some Kenyan terrorist suspects. Another incident occurred in February 2007 involving Kenyan national Mohammed Abdulmalik who was detained by the Anti-Terror Police Unit. He allegedly was subjected to harsh interrogation which included beatings for his suspected involvement in setting up a terrorist plot. In 2010, shortly after the Kampala bombing during the World Cup, the Kenyan government assisted in the extradition of several Kenyan suspects to Uganda. Later when the executive director of the Muslim human rights group, Muslim Human Rights Forum, Al Amin Kimathi went to Uganda to investigate what he considered the illegal extradition of Kenyans, he too detained and

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[139]Prestholdt, J. Kenya and counter-terrorism: A time for change in *A Report by REDRESS and REPRIEVE*, (February 2009). Retrieved from http://www.redress.org/downloads/publications/Kenya%20and%20Counter-Terrorism%205%20Feb%2009.pdf

[140]Sabahi Online. *Prevention of terrorism bill presented again in Kenyan parliament*, (31 August 2012). Retrieved from http://sabahionline.com/en_GB/articles/hoa/articles/newsbriefs/2012/08/31/newsbrief-04

[141]Sabahi Online. *Timeline: Attacks in Kenya since offensive against al-Shabaab*, (19 September 2013). Retrieved from http://sabahionline.com/en_GB/issues/timeline_kenya_attacks

[142]Ombati, C. Haji calls on Muslims to back anti-terror Bill, (7 August 2012). Retrieved from http://www.standardmedia.co.ke/?articleID=2000063498&story_title=haji-calls-on-muslims-to-back-anti-terror-bill&pageNo=1

interrogated by American and Kenyan investigators for murder and conspiring to commit acts of terrorism."[143]

The above mentioned incidences have led to a clash between the three arms of government. "While it is Parliament that produced the anti-terrorism Bill, it is the President who ascended it to law. With security as the sole preserve of the Executive, it is the President who ordered the rendition, extradition and detention of Kenyans suspected to be terrorists or to have committed terrorist acts. The close cooperation between Parliament and the Executive failed to lobby the support of the Judiciary which through a 2010 High Court ruling rendered renditions as unconstitutional."[144] These renditions have put forth a political cost onto Kenya leading to failure to secure the support of the Muslim community residing in Kenya. This is because Kenya's diplomatic efforts to countering terrorism—that have resulted in rendition, extradition and detention of Kenyan citizens necessitated by the anti-terrorism legislation that is a counter-terrorism strategy—tend to be prejudicial against certain communities. Former commissioner of Kenya National Commission on Human Rights (KNCHR), Omar Hassan—current Senator for Mombasa County—echoed this view stating that "The [Kenyan] government is looking for what's convenient rather than upholding the rule of law. The public is so fearful of the terrorism threat and is prejudicial towards certain communities it became acceptable for the government to do what public opinion allows. But the law isn't as fashionable."[145]

5.2.6 Diplomatic Efforts to Countering Radicalization availing Different Typologies of Radicalization in Kenya

Diplomacy has introduced terrorism stakeholders in Kenya to various typologies of terrorism. The Wilkenson typology "divides terrorism into three generalized categories: revolutionary terrorism, sub-revolutionary terrorism and repressive terrorism. Revolutionary terrorism is aimed at 'bringing about political revolution'"; Sub-revolutionary terrorism "is employed for political motives other than revolution". While Repressive terrorism is government directed terror aimed

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[143]Prestholdt, J. Kenya and counter-terrorism: A time for change in *A Report by REDRESS and REPRIEVE*, (February 2009). Retrieved from http://www.redress.org/downloads/publications/Kenya%20and%20Counter-Terrorism%205%20Feb%2009.pdf

[144]Kadida, J. Kenya: Court Rules Uganda Renditions Illegal in *Daily Nation,* (30 September 2010). Retrieved from http://allafrica.com/stories/201010010012.html

[145]Open Society Foundations. counterterrorism and human rights abuses in Kenya and Uganda: The world cup bombing and beyond.(New York: Open Society Foundations,2013)..

at "restraining certain groups, individuals, or forms of behaviour deemed to be undesirable. Another typology argues that there exist two types of terrorism exist, namely: state terrorism and civil society terrorism—the former directed against the civil population, while the latter against the state. At yet another level, there is inter-state terrorism and intra-civil society terrorism, where the former characterizes a state divided against it and the latter described what is known in Kenya as communal/inter-ethnic clashes."[146]

5.2.6.1 The Government of Kenya Practicing State Terrorism

While it is clear in the American Constitution that the State cannot terrorize its citizenry on American soils; a similar legal provision is lacking on the part of Kenya—although it is the dame US that encourages Kenya to carry out its counter-terrorism strategies as a proxy in East Africa and the Horn of Africa. The Kenyan State can be said to be carrying out "acts of terrorism against its own citizens". This entails the establishing of "a system of political or economic domination based on the spreading of terror in society. It is characterized by a systematic and massive criminally repressive insidious policy, implemented by the Kenya State through its agencies or even direct attack on the citizens to instill fear or inflict pain or death". The cases of "Sheikh Abubakar Sharif Ahmed alias *Makaburi"[147]* and "Sheikh Aboud Rogo"[148] are examples of Kenya State terrorism in which political actors hide under the umbrella of the State, particularly the Kenya's Judiciary and Kenya's security apparatus, to perpetuate acts of terrorism. Furthermore, the Kenyan security officials have in several occasions been implicated in terrorist activities especially in planting "fake" evidence on suspected Kenyan—some of this done for political and personal gains.

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[146]Odu, S. N., Siomn, I., & James, I. A. Terrorism: A socio-economic and political phenomenon, causes and impacts in Nigeria. (Center for Disaster Risk Management and Development Studies, Ahmadu Bello University Zaria, Nigeria,2015).

[147]Laccino, L. (2014). Kenya al-Shabaab supporter shot dead: Who was Sheikh Makaburi? In *International Business Times*, (3 April 2014). Retrieved from http://www.ibtimes.co.uk/kenyan-al-shabaab-supporter-shot-dead-who-was-sheikh-makaburi-1443297

[148] BBC News. 'Al-Shabab supporter' AboudRogo Mohammed killed in Kenya in *BBC News Africa*, (27 August 2012). Retrieved from http://www.bbc.com/news/world-africa-19390888

5.2.6.2 Kenyans Introduced to National Terrorism, Religious Terrorism, and Revolutionary Terrorism

Diplomatic relations between Kenya and countries that embrace human rights have introduced Kenyans to the exploitation of the freedom to association. Kenya bears witness to groups seeking to form a separate State for their own national group, often by drawing attentions to a fight for national liberation. The cases of the Shifta Wars and Mombasa Republican Council demanding to secede from Kenya are exemplary. The aim of the nationalist terrorism is to establish a separate State or homeland for the certain ethnic, religious or tribal groups. "This sort of terrorism has been popular and among the most successful at winning international sympathy and concessions." Owing to its difficulty to define it as terrorism, its practitioners have found sympathy particularly from democratic States who perceive them to be freedom fighters even though they use violence to draw attention of the world to gain sympathy for their national cause. This has politically impacted Kenya's efforts to diplomatically counter terrorism as the terrorist groups in discussion are unwilling to renounce terrorism and adopt the political means of conflict resolution.

On another level diplomatic relations between Kenya and countries that embrace human rights have further introduced Kenyans to the exploitation of the freedom of worship and the freedom of religion. Certain religious groups in Kenya have been associated with terrorism. They usually seek to use violence to achieve a divine. It is worth noting that religious terrorism comes from many major faiths, as well as from small cults. This type of terrorism is growing rapidly in Kenya. "Religious terrorists seek to use violence to further what they see as divinely commanded purposes, often targeting broad categories of foes in an attempt to bring about sweeping changes".

This has had a reversal political effect on Kenya's efforts to attain peace, love and unity among her homogenous society of over 42 ethnic groups divided among four major religions of Christianity, Islam, Hindu and African Traditional religion. The yet to be achieved religious tolerance has slowly been declining with each passing day among these dynamic groups with the failure to ensure peaceful coexistence becoming a political impact to diplomatic efforts to countering terrorism in Kenya. The interpretation of an individual's constitutional right to practice his/her own religion as far as it does not jeopardize the security of another individual is

wanting. The challenge therefore remains as to whether religious tolerance is exclusive to a specific religion. The Kenyan State's launching attacks on a certain religious group has made things worse as this religious groups' following is well not able to differentiate is an attack on another individual of another religious group—and not the State—is both morally and constitutionally unacceptable even though it is largely due to his/her spiritual choice.

On yet another level diplomatic relations between Kenya and countries that embrace human rights have further introduced Kenyans to revolutionary terrorism as the most common form of terrorism to achieve certain political objectives radically. Practitioners of this type of terrorism seek the complete abolition of a political system and its replacement with new structures. The Kenyan State's preoccupation with countering terrorism with a diplomatic "winner-takes-all" mentality has seen the State fail to address certain important aspects of governance. In order to domestic terrorism in put to a halt, good governance has to be put in place in Kenya. This the process of making decisions and implementing them based on different considerations such as popular participation, respect for the rule of law, observance of human rights, transparency, free access to information, prompt responses to human needs, accommodation of diverse interests, equity, inclusiveness, effective results and accountability. In a situation where such considerations are not put it place—like in Kenya—a political crisis worse than the 2007/8 post-electoral violence might occur thereby leading to bad governance. Whereas good governance allows for the interests of average citizens to be ensured; William Reno argues that governance in Kenya has often been based on very narrow, parochial interests such as tribal, clan, or family loyalties to which collective interests of the general citizenry are subordinated all the more politically affecting the interests of minority and underrepresented communities in Kenya.

5.3 Summary of the Chapter

In managing her international relations, Kenya has conducted negotiations between representatives of States affected by terrorism. This has been thorough the intercession of professional diplomats with regard to issues of peace-making and war with the sole aim been to gain strategic advantage or to find mutually acceptable solutions to a common challenge. However, this has had both positive and negative political impacts on how the country operates

and its bottom line in the war against terror. Among the positive is the increasing alliance with global actors in counter-terrorism in general such as the United States as well as the United Kingdom. However, Kenya's diplomatic approach has also meant that she gets allies who shield her from international criticism leading to state terrorism against those perceived to be terror entrepreneurs as well as terror sympathizers.

CHAPTER SIX
FINDINGS, CONCLUSION AND RECOMMENDATIONS

6.1 Introduction

"The United States has properly identified East Africa and the Horn as the region in Sub-Saharan Africa most threatened by indigenous and international terrorism. The nature of the threat is such that there are three kinds of terrorism in East Africa (Kenya, Uganda, and Tanzania) and the Horn (Sudan, Ethiopia, Eritrea, Djibouti, and Somalia). These are acts perpetrated by organizations based outside the region, those by an organization within the region but aimed at a neighboring country, and those instigated by an internal insurgent group against authority in a single country."[149]

The history of Kenya's relationship with terrorism on a domestic level, the rise of terrorism in Kenya, and the attractive target to terrorist that Kenya is; not only offers some of the counter-terrorism strategies the government of Kenya has undertaken to deal with terrorism but also serves to inform our understanding of the social impact of diplomatic efforts to countering terrorism in Kenya.

6.2 Findings and Conclusion

The most prominent feature of terrorism is the "use of violence, often accompanied by the wanton destruction of property, and maiming and killing of victims. The conceptualization of terrorism is enmeshed in controversy. Perception and misperception are often dictated by the side of the divide on which the interpreter sits. Defining the term, therefore, would depend on whether the definer is a state authority, an onlooker and analyst, victim or terrorist."[150] To the state authority, "terrorism is the premeditated threat or use of violence by sub-national groups or clandestine individuals intended to intimidate and coerce governments, promote political, religious or ideological outcomes, and inculcate fear among the public at large."[151]

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[149]Shinn, D. H. Terrorism in East Africa and the Horn: An overview in *The Journal of Conflict Studies*, Vol. XXIII, No. 2, (Fall 2003). Retrieved from https://journals.lib.unb.ca/index.php/jcs/article/view/218/376#a1

[150]Okumu, W., & Botha, A. (eds). Domestic terrorism in Africa: Defining, addressing and understanding its impact on human security, (5 and 6 November 2007). (Institute for Security Studies (ISS)(2009). Available at www.issafrica.org

[151]Whittaker, D. J. Terrorism: Understanding the global threat.(London: Longman,2002)

It is within this prism of perception that Adeniran"[152] explains "terrorism as a brutish tactic that thrives on the use of violence, generally in an indiscriminate way, to harm, cause distress and inflict fear upon the population. Shaw conceives of terrorism as a criminal act directed against a state and intended to create terror in the minds of particular persons, a group of persons or the general public."[153] According to these views, "terrorism endangers the orderliness and peace of the state. To the onlookers and analysts, terrorism is an antisocial behavior which poses great threats to peaceful daily life. Terrorists, on the other hand, see the use of the word 'terrorism' as a misnomer. Most terrorists believe that their acts are justified, and that they are delivering a political message to the authorities. The end is considered a justification of the means."[154] Terrorists do not see themselves as terrorists, but as nationalists, liberators, freedom fighters, emancipators and revolutionaries.

These contending views show that "there is no consensus or unanimity on the definition of terrorism. The definition of the concept depends on who is defining it, the attitudes of the definers and the prevailing circumstances all these variables alter with time. Diplomacy is the instrument of power that builds political will and strengthens international cooperation."[155] "Diplomatic exchanges promote counter terrorism cooperation with friendly nations that serve each other's mutual interests. International terrorism has no boundaries and requires governments to reach out to their neighbors and allies to forge a multilateral approach in the fight against this threat. Diplomacy supports the other instruments of national power in numerous ways"[156].

6.2.1 Kenya's Diplomatic Battle against Terrorism

Kenya's diplomatic efforts to countering terrorism have been intense for ethnic Somalis in Kenya. "The net effect of these efforts on the Somali community and their well-being as individuals and families has been negatively impacted with many illegal Somali immigrants being deported, the movement of Somali refugees being restricted and many arrests of Somalis

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[152]Adeniran, T. International relations, (Lagos: Macmillan Nigeria Publishers Limited,2007).
[153] Shaw, M. N. International Law, (New York: Cambridge University Press, 1997).
[154]Whittaker, D. JTerrorism: Understanding the global threat. (London: Longman, 2002).
[155]H. H. Adan, Combating transnational terrorism in Kenya in *Master's thesis presented to the facultyof the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.*(2005).
[156] ibid

taking place. These actions were taken by the Kenyan government after several terrorist attacks in the country conducted by Al-Shabaab, a Somali Islamist militant group affiliated with Al-Qaeda since February 2012. The Kenyan government claimed that Somali communities and refugees within the country are serving as a hideout and breeding place for extremism linked to Al-Shabaab."[157]

6.2.2 Kenya's Anti-Terrorism Campaigns and the Somali Community

6.2.2.1 Refugees: Ethnic Somalis of Somalia Origin

Amanda Ekey's investigative study on "the relationship between the presence of refugee populations in a country and the numbers of terrorist attacks that groups based in that country are responsible for reveals that the size of refugee populations has a significant impact on terrorist activity."[158] Extrapolated to the Kenyan, "this particular group of refugees faces adverse and negative effects owing to Kenya's diplomatic efforts to countering terrorism. Demonstrative of the important role of humanitarian aid to refugees in curbing terrorist activity is the lack of efficient resolutions to conflicts that produce refugee populations on terrorism. Having refugees experienced the horrors of terrorism firsthand in their own country—Somalia—ethnic Somali refugees upon seeking asylum in Kenya wage personal wars against poverty and political or social oppression."[159,160,161] The Kenyan government efforts are denying the ethnic Somali refuge population an opportunity to integrate with the Kenyan society.

6.2.2.2 Civilians: Ethnic Somalis of Kenya Origin

The social effects of Kenya's diplomatic counter terrorism are pronounced and far-reaching, influencing many different aspects of the Somali community residing in Kenya. The starting point "for the impact of Kenya's diplomatic counter terrorism efforts on the Somali community

[157]Global Policy Watch. Kenya's battle against terrorism, (14 May 2014). Retrieved from https://globalpublicpolicywatch.org/2014/05/14/kenyas-battle-against-terrorism/

[158]Ekey, A.. The effect of the refugee experience on terrorist activity in *An Investigations of How the Humanitarian Refugee Crisis is Impacting Global Terrorism*.(University Department of Politics | New York NY,2007).

[159]Crisp, J..Mind the gap! Humanitarian assistance, the development process and UNHCR in *International Migration Review*, (2001) Vol. 35, No. 133.

[160]Crisp, J.No solutions in sight: The problem of protracted refugee situations in Africa in *Evaluation and Policy Analysis Unit*, Working Paper No. 75. (UNHCR, Geneva 2003a) Retrieved from http://www.unhcr.org/research/RESEARCH/3e2d66c34.pdf

[161]Crisp, J. Refugees and the global politics of asylum in *Evaluation and Policy Analysis Unit.*UNHCR, Geneva, (2003b).

is the affect that such measures have upon the community's beliefs and attitudes."[162] A sense of victimhood is common to the Somali community in Kenya that is experiencing the projection of diplomatic anti-terrorism strategies by the host government. Both refugees and civilians who happen to be ethnic Somalis are not expected to be victims of Kenya's diplomatic counter terrorism efforts; hence, as a public they feel victimized when they are the target of diplomatic counter-terrorism strategies. The argument then is that the more the Somali population is targeted, the more this sense of victimhood increases. This sense of victimization in turn leads to a de-legitimization of the terrorists and the people they claim to represent. Consequently, the targeted Somali community has become unwilling or unable to consider the Kenyan government's grievances and objectives. No longer is the government of Kenya—largely perceived to be the opposing group—believed to have rational objectives and/or justifiable grievances. Instead, the worst views have become 'common sense,' among the Somali community especially those concerning militant group's propensity towards terrorism.

6.2.2.3 Effects of Kenya's Diplomatic Efforts to Countering Terrorism
6.2.2.3.1 The Rise in Ethnocentrism and Xenophobia

A major social effect of Kenya's diplomatic efforts to countering terrorism is a rise in ethnocentrism and xenophobia. As various groups are increasing their solidarity in the face of Kenya's anti-terrorism campaigns; the need to identify with, and support for, terrorist groups is equally on the rise while similar support for the Kenyan government's efforts is decreasing. Support for the terrorist group assumes an in-group phenomenon whereas support government counter terrorism efforts assume an out-group phenomenon. This was apparent in Kenya's incursion into Somalia the wake of terrorist attacks carried out by Al Shabaab, when ethnic Somali identity became more salient, while xenophobia rose. While Kenyans experienced a renewed sense of solidarity in the face of the wave of Somali terrorism unleashed, Somalia citizens residing in Kenya became the object of intensified suspicion and hostility. Whether they were civilians or refugees, they were increasingly perceived as a security threat.

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[162]Keren, S. Jewish-Israeli attitudes regarding peace in the aftermath of terror attacks: The moderating role of political worldview and context. Paper presented at the annual meeting of the Israeli Sociological Society, Tel-Hai, Israel. (Tel-Hai, Israel,2005).

6.2.2.3.2 Disruption of Functions

Kenya's diplomatic counter terrorist strategies have been designed to instill fear, disrupt social function, and disturb the general well-being of societies through acts of violence especially if perpetrated by the country's security apparatus. An increase in the prevalence of psychiatric disorders is one consequence of Kenya's counter terrorism. Even emotional and behavioral changes that do not reach the level of a diagnosable disorder may contribute significantly to the overall health burden resulting from the country's counter terrorist strategists. Psychiatric disorders have been found to occur in a relatively small percentage of the exposed population, particularly on communities along the Kenya-Somalia border. Grieger Thomas argues that "the course of illness for those in whom such a disorder develops will be variable. Many will experience transient reactions, such as acute stress disorder (ASD) and bereavement. In an even smaller percentage more serious conditions such as posttraumatic stress disorder (PTSD) or depression will develop. In addition to illness, there are changes in health-related behaviors, changes in routine behaviors among members of the community in discussion, and changes in the level of overall stress experienced by those exposed to Kenya's diplomatic efforts to countering terrorism."[163]

6.2.2.3.3 Acute Stress Disorder and Post Traumatic Stress Disorder

"Individual responses to Kenya's anti-terror tactics depend on a number of factors. Genetic makeup, social contexts, past experiences, and future expectations may interact with the characteristics of the traumatic event to produce a psychological response. Severity of exposure, low levels of social support, previous psychiatric illness, history of trauma, and ongoing negative life events may all influence the onset and course of psychiatric illness."[164] Acute stress disorder and post traumatic stress disorder have developed in members of the Somali Kenyan community owing to their exposure to Kenya's diplomatic efforts to countering terrorism some of which are personal threats to life. This has been prevalent among members of the same community experiencing overwhelming fear from the State's diplomatic machinery.

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[163]Grieger, T. A. Psychiatric and societal impacts of terrorism.(2006). Retrieved from http://www.psychiatrictimes.com/disaster-psychiatry/psychiatric-and-societal-impacts-terrorism

[164]Grieger, T. A. Psychiatric and societal impacts of terrorism.(2006). Retrieved from http://www.psychiatrictimes.com/disaster-psychiatry/psychiatric-and-societal-impacts-terrorism

6.2.2.3.4 Fueling the Fires of Islamic Extremism

Anthony Langat and Jacob Kushner argue that "the anti-terror legislation put in place by the government of Kenya—and which empowers the country's security apparatus with powers to overcome terrorism—might in fact be fueling the fires of Islamic extremism."[165] Kenya's diplomatically backed efforts to countering terrorism have since seen acts perpetrated by the country's anti-terror police against the Muslim community "undermine the country's security in an overzealous attempt to protect it, according to human rights activists and advocates for police reform. Human rights activists say extrajudicial police killings and arbitrary arrests of Muslims are a centerpiece of Kenya's counterterrorism strategy. The observers say, police have trampled over many Kenyans' civil rights in the process. Kenyan Muslims face routine harassment by police and other law enforcement officers, according to a wide array of human rights activists and advocates for more oversight of the police. In April 2014, police escalated their profiling by rounding up hundreds or possibly thousands of Somali-looking people in Nairobi and locking them in a stadium for days, allegedly without food and water and without allowing any press, attorneys or human rights groups in.

Some security experts and human rights advocates say Kenya's rogue policing, which seems at times to prioritize extrajudicial killings over the time-consuming discipline of surveillance and investigative work, is making Kenya less safe. Some say that it may even be breeding terrorists a small minority of Muslims who, recruited by radicals among them, may decide that the only way to respond to a violent state is with violence of their own. Notably missing from Kenya's response to terrorist attacks is actual policing. Kenyan security forces have so far failed to investigate recent assassinations of prominent Muslim leaders. Many in the Somali-heavy coastal town suspect the police themselves are responsible. The rights group Haki Africa has documented at least 21 killings of Muslim leaders and radical Muslims, and in many instances the group's prime suspects are police themselves."[166]

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[165] Langat, A., & Kushner, J. Kenya's anti-terror police are inflicting terror of their own in *Conflict & Justice*, (29 July 2015). Retrieved from http://www.pri.org/stories/2015-07-29/kenyas-anti-terror-police-are-inflicting-terror-their-own

[166] ibid

6.2.2.4 The Kenyan State's Counter Terrorism Strategies and Human Rights
6.2.2.4.1 The Role of the State on Human Rights Protection when Countering-Terrorism

It is worth noting that "there has been increase insecurity and strategies to fight terrorism all over the world since the establishment of Resolution 1373 (2001) of the Security Council, much of which has affected the enjoyment of terrorist rights."[167] Kenya has tapped into the resolution's established counter terrorism centre diplomatically to monitor issues of terrorism and receive reports from Sates on measures taken to implement counter-terrorism measures. However, the very essential human rights considerations which Kenya should handle seriously is to make sure that any measure they take to fight terrorism should be in line with its commitment to the law of human rights. Even with Kenya's implementation of her counter terrorism strategies at hand; the protection of human rights against violation is of essence. This calls for the cooperation of the international community through diplomatic means.

Whitaker argues that "it is the obligations of international community in their mandate to put in place measures that uphold respect the rights of every individual and the rule of law as the basic foundation of the counter-terrorism activities through the implementation of the United Nations Global Counter-Terrorism Strategy by the General Assembly in resolution 60/228."[168] "Human rights law establishes a framework in which terrorism can be effectively countered without infringing on fundamental freedoms. The measures and practices adopted to fight terrorism also often give rise to concerns relating to fair trial, torture, unlawful detention and principle of non-discrimination among others."[169]

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[167]Lind, J., & Howell, J. Counter-terrorism and the politics of aid: Civil society responses in Kenya in *Development and Change,*(2010). Vol. 41. No. 2, pp. 335-353.

[168] Whitaker, B. Reluctant partners: The United States and Kenya in the war on terror in *International Studies Association*, Conference (2007). Paper No. 1.
[169] Ibid.

6.2.2.4.2 Specific Human Rights Violation in the Context of Counter-Terrorism

There are several human rights which are violated during counter-terrorism operations, they include, "the right to life, right to liberty and security of the suspects of terrorism, torture and other cruel, Inhuman or degrading treatment or punishment, and right to due process of the law and fair trial. Human rights activists in many parts of the world share a sense of alarm about the prevailing challenges of promoting human rights in the context of heightened global concern about the threat of terrorism. Respect of human rights, democracy and rule of law is an essential antidote to the conditions that gives rise to terrorism (Whitaker, 2007). The abuse of basic rights in the course of efforts to combat terrorism can ultimately be self-defeating."[170]

6.2.2.4.3 Arrest and Detention

It is provided in the Kenyan constitution that "a police officer of or above the rank of inspector of police may direct that a person arrested be detained in police custody for a period not exceeding 36 hours from his arrest, without having access to any person other than a police officer or government medical officer."[171] This constitution "restricts the right of access to legal counsel during the period of detention if the police officer has reasonable grounds to believe that exercise of the right to consult a legal adviser would lead to interference with the evidence conducted with an offence under legislation. This provision restricts the enjoyment of the right to fair trial in terms of denying access to legal counsel. This is a violation of international standards that recognizes the right of detainees' legal counsel after arrest."[172] Under international human rights law, no person may be deprived of his/her liberty except on grounds and accordance with procedures established by the law. The procedures must conform to both domestic and international standards. The International Convention on Civil and Political Rights has explained arbitrary arrest in Article 9 (1) as includes not only that which is against the law but also

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[170] Whitaker, B.. Reluctant partners: The United States and Kenya in the war on terror in *International Studies Association*, Conference(2007) Paper No. 1.

[171] Whitaker, B. Reluctant partners: The United States and Kenya in the war on terror in *International Studies Association*, Conference(2007) Paper No. 1.

[172] Mogire, E., &Mkutu, A., K. Counter-terrorism in Kenya in *Journal of Contemporary African Studies*,(2011) Vol. 29, No. 4, pp. 473-491.

elements of inappropriateness, injustice and lack of accountability. Detention is also arbitrary if it constitutes an abuse of power.

6.2.2.4.3 The Violation of Right to Life

The Kenya constitution 2010 upholds "the right of every person to life and shall not be deprived of life intentionally, except to the extent authorized by the law."[173] This is "the essence of the universal and regional law. "The universal and regional law of human rights is aware of the obligation of states to safeguard the people subject to their level of command. Practically, the measures taken by countries to safeguard people from the terrorism activities have brought great challenges to the right to life."[174] They include, "intended assassinations to some people instead of arresting them and judging them justly."[175] The Human Rights Committee in the UN states "that the deliberate killings should not be used as a penalty and that focus should be offered to the theory of proportionality. State strategies should be outlined clearly in the guiding principles to the forces commanders and any protest about the abuse of power should be scrutinized quickly by an impartial body. In contemplating of a resort to the use excessive force, all plans to arrest a suspected terrorist should fully exhaust."[176] In other cases, "countries have embraced the "shoot-to-kill" mechanism in reaction to suspected terrorists attacks."[177] In the fight against terrorism, "the Kenya Human Rights High Commissioner emphasizes how crucial it is in making sure that the whole enforcement of law in all cadres of forces should do their mandate in accordance to the law. She gave a warning that in the effort to curb terrorism. She has cautioned that, in the fight against terrorism, tremendous attention should be employed by those in power against all kinds of abuse of authority, and that they should introduce a habit of reverence for the law especially by those assigned to apply it."[178]

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[173] Whitaker, B.. Reluctant partners: The United States and Kenya in the war on terror in *International Studies Association*, Conference(2007) Paper No. 1.

[174] Osman, A. Somalia at the center of global war on terrorism: A possible misconception? in*International Studies Association,* Conference (2008). Papers No. 1.

[175] Whitaker, B.. Reluctant partners: The United States and Kenya in the war on terror in *International Studies Association*, Conference(2007) Paper No. 1.

[176]Ignatieff, M. Human rights, the laws of war, and terrorism in *Social Research*,(2002). Vol. 69, No. 4, pp. 1137-1158.

[177]Mogire, E., &Mkutu, A. KCounter-terrorism in Kenya in *Journal of Contemporary African Studies*,. (2011). Vol. 29, No. 4, pp. 473-491.

[178] Whitaker, B. Reluctant partners: The United States and Kenya in the war on terror in *International Studies Association*, Conference(2007). Paper No. 1.

Under Kenyan and international law, "police may use lethal force only when necessary for self-defence or to save a life. Section 4 of the Sixth Schedule of the National Police Service Act of 2011 requires police officers who use lethal fire to report to their immediate superior explaining the circumstances that necessitated the use of force. Section 5 of the same act requires officials to report any use of force that leads to death or serious injury to the Independent Police Oversight Authority for investigation. Police authorities have not complied with these requirements in these cases of extrajudicial killings."[179]

6.2.2.4.4 Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Article 1 of the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment and Punishment. Bonner defines torture as follows:

> "The term 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."[180]

According to Kenya constitution 2010, Article 29, "every person has the right to freedom and security of the persons, which include the right not to be treated or punished in a cruel, inhuman or degrading manner. Prevention against afflictions and other brutal, merciless or humiliating treatment does not given to threats brought forth by terrorism or to the suspected threat posed by a person to the security of a State. Nonetheless, States have frequently taken up policies to curb terrorism whose effects undermine this complete prevention."[181] Gearty argues that "the use of

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[179] ibid

[180] Bonner, D.. Counter-terrorism and European human rights since 9/11: The United Kingdom experience in *European Public Law,* (2013)Vol. 19 , No. 1, pp. 97-128.

[181] Piombo, J., &Lischer, S. American strategies of counter-terrorism in Africa: Successes and failures in -- *International Studies Association*,(2008). Conference Paper No. 1.

afflictions and other malicious, inhuman or demeaning treatment to information unclear from alleged terrorist is not allowed, the same way the use of proof got by persecuting, whether within or out of the country."[182]

In accordance to the Human Rights Committee, "the rights protected in the International Covenant on Civil and Political Rights is applicable to every individual who may be within a certain State and to all the people under its authority."[183] This implies that "a State party must uphold and make sure that all the rights stipulated in the Covenant especially the total prohibition of persecution to anyone within its authority or efficient control, even if not located within its region. Likewise, the International Court of Justice has declared that, while the jurisdiction of countries is territorial, the rights protected in the Covenant extend to the acts carried out by a State in the application of its powers outside its own territory."[184]

6.2.2.4.5 Right to Due Process of the Law and Fair Trial

The human rights protection for all people charged with unlawful offences like terrorism; include "the right to be assumed innocent, the right to a hearing with appropriate assurance 27and within a practical timeframe, by a knowledgeable, autonomous and neutral court."[185] Also, "the right to have a sentence reviewed by a higher tribunal satisfies the same principles. International humanitarian law is concerned to significantly related protections for the try-out of people in the perspective of armed conflicts."[186]

"The right to fair trial is fundamental to the rule of law. It draws its jurisprudential basis from the rule of law, understood as conformity to obligatory universal legal rules that check arbitrary and unaccountable power."[187] "Under the Universal Declaration of Human Rights (UDHR) there is protection against arbitrary arrest, detention or exile under Article 9, while the right to fair trial is

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[182]Gearty, C. Terrorism and human rights in *Government and Opposition,* (2007) Vol. 42, No. 3, pp. 340-362

[183] Whitaker, B. Reluctant partners: The United States and Kenya in the war on terror in *International Studies Association*,(2007) Conference Paper No. 1.

[184]Mogire, E., &Mkutu, A., K. Counter-terrorism in Kenya in *Journal of Contemporary African Studies*,(2011) Vol. 29, No. 4, pp. 473-491.

[185] Whitaker, B.. Reluctant partners: The United States and Kenya in the war on terror in *International Studies Association*,(2007) Conference Paper No. 1.

[186]Mogire, E., &Mkutu, A., K. Counter-terrorism in Kenya in *Journal of Contemporary African Studies*, (2011). Vol. 29, No. 4, pp. 473-491

[187] Osman, A. Somalia at the center of global war on terrorism: A possible misconception? *International Studies Association,*. (2008)Conference Papers No. 1.

recognized under Article 10 (e)," which provides "that everyone is entitled in full equality to a fair and public hearing by an independent tribunal in the determination of his rights and obligations and of any criminal charge against the suspect."[188] "The involvement of security workforce and exceptional courts to try terrorist suspects may also have severe implications on suitable procedural rights, depending on the nature of the court and any limitations placed on individual facing allegations before it."[189] In particular, the conditions are uncommon in which a military court will be the suitable setting to try a person.

6.3 Conclusion

In relation to the effect of terrorism on the enjoyment of all human rights and fundamental freedoms the paper has established that Kenya's diplomatic efforts to countering terrorism have lead to loss of life and property and threatens the dignity and security of human beings. These diplomatic efforts also affect fundamental rights like right to life, right to liberty and right to be free and can lead to arrest of innocent people during pursuit of terrorists. The paper further established that Kenya's anti-terrorism efforts lead to a serious damage to public or private property. This paper has also established that anti-terrorism strategies destabilize affected communities, jeopardize peace and security, endangers or takes innocent lives, threatens social and economic development, threatens the dignity and security of human beings, creates an environment that destroys the freedom from fear of the people, and undermines civil society.

Kenya's "diplomatic counter-terrorism rhetoric claims that radical measures are needed to protect the individual and the nation from the threat of terrorism". However, "the threat to basal security is promulgated not only by terrorist acts but by the Kenyan State through public statements and constant reminders of the dangers posed by terrorists. If the Kenya State is genuinely committed to protecting citizens from the threat of terrorism, then the Kenya State has a clear duty to demonstrate realistically the extent of the threat and how citizens can guard against it. Furthermore, the radical Western counter-terrorism measures adopted in Kenya pose a greater threat to lives, physical well-being, and basal security than terrorism itself."

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[188]Mogire, E., &Mkutu, A., K.. Counter-terrorism in Kenya in *Journal of Contemporary African Studies*, (*Journal of Contemporary African Studies* 2011)Vol. 29, No. 4, pp. 473-491

[189]Mogire, E., &Mkutu, A., K.. Counter-terrorism in Kenya in *Journal of Contemporary African Studies*(*Journal of Contemporary African Studies*,2011), Vol. 29, No. 4, pp. 473-491

"Given that the efficacy of Kenya's diplomatic - measures is far from clear, the threat posed to thousands of innocent civilians and to the very basis of Kenya as a democratic State from increased State power and the use of torture, indefinite detention, and other counter-terrorism practices is more dangerous than the threat posed by terrorism. Terrorism must be fought, just as all crimes must and terrorists must be brought to justice just like other criminals, but one must not let Kenya's diplomatic counter-terrorism rhetoric compel acquiescence to measures that socially pose a greater threat to lives and one's way of life than terrorism itself."

The economic impact of a major act of terrorism is likely to be significant. However, based on the reaction of equity indices to past terror attacks, after an initial drop, the innate resilience of consumers and investors will stabilize markets. The immediate costs of most terrorist attacks are localized, thereby causing a substitution of economic activity away from a vulnerable sector to relatively safe areas. Prices can then reallocate capital and labor quickly. Countering terrorism can cause a reallocation from investment to government spending. The effects of countering terrorism on key economic variables are anticipated to be greatest in small economies confronted with a sustained terrorist campaign. In Kenya, some terrorist-prone sectors-tourism-have displayed substantial losses following terrorist attacks. Plagued with significant terrorist campaigns, Kenya has displayed macroeconomic consequences in terms of losses in GDP per capita.

However," the handling of counter terrorism matters by Kenya diplomatically has in general had both positive and negative effects on the country's economy. The economic influence of terrorism has surfaced in specific sectors that face an enhanced terrorism risk like the tourist industry. The country's counterterrorism strategy has however registered a marked economic improvement since 2002, with the country becoming increasingly able to control terrorist activities through economically informed anti-terrorism legislations, the establishment of a national coordination centre and the training of personnel. This paper thus concludes that although Kenya's diplomatic efforts to countering terrorism have had diverse positive and negative impacts on the country's economy; diplomacy's positive influence outweighs its negative consequences in the context of Kenya's contribution to the global war on terror.

Kenya and Kenyans have been commonly categorized as the innocent, unfortunate bystanders in a war waged by Islamic militants on US interests. Popular wisdom will suggest that poverty, weak borders, corruption, inept police and rising disillusionment among young Islamists have made Kenya and other African nations easy targets and potential havens for global terrorists. It is difficult to refute any of these arguments. It is equally important to look to political and social history to understand why Kenya, not Angola for example, is being used as a base for Islamic extremists. Kenya's history of aligning itself with the US and Israeli interests also explains the frequency of attacks on its soil and the ostensible disregard for Kenyan life."

6.4 Recommendations

Kenya's pro-West stance and geographic location has presented the nation with a number of security concerns ranging from terrorist attacks to spill-over effects of instability in the neighboring countries. These security threats have led the Kenyan government to employ diplomatic efforts to countering terrorism. Key among these has been Kenya's allegiance to diplomacy, especially that of the US. As a result of the pursuit of these developments, Kenya has suffered political impacts resulting in gross human rights violations, such as the illegal rendition, extradition and detention of suspects; violent actions of national armed forces, and; the unfair targeting of Muslim groups. National cohesion of the various ethnic and religious groups residing in Kenyan has become impossible given that the need for Kenya to balance her diplomatic counter-terrorism efforts; cooperation in the global fight against terrorism, and; upholding the human rights of its both its citizens and other nationals.

Kenya's pro-Israeli stance during the Entebbe hostage crisis was perhaps the definitive moment in its foreign policy history. That single decision has had its benefits and costs. Any understanding of terrorist attacks on Kenyan soil must put the events in their correct historical context. This study recommends that Kenya foreign policy strategists—in the pursuit of diplomatic efforts to countering terrorism in Kenya—must calculate the political, economic and security costs of certain policy positions especially given the religious and cultural heterogeneity of the country. The final foreign policy decisions must be in line with the most favorable long-term interests of the country diplomacy notwithstanding.

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Level I refers to international bargaining and Level II refers to domestic level bargaining between interest groups.

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APPENDIX 1: KEY INFORMANT INTERVIEWS AND FOCUS GROUP DISCUSSION GUIDE

SECTION A: DEMOGRAPHIC INFORMATION
1. Name of organization
2. Position in the organization
3. Number of years working in the organization

SECTION B: SOCIAL IMPACT OF THE DIPLOMATIC APPROACH TO COUNTERING TERRORISM
4. What is the impact of the diplomatic approach to countering terrorism on social inclusion?
5. What is the impact of the diplomatic approach to countering terrorism on human rights?
6. What is the impact of the diplomatic approach to countering terrorism on ethnic polarity?

SECTION C: ECONOMIC IMPACT OF THE DIPLOMATIC APPROACH TO COUNTERING TERRORISM

7. What is the impact of the diplomatic approach to countering terrorism on the Kenyan Economy?
8. What is the impact of the diplomatic approach to countering terrorism on economic inclusion?
9. What is the impact of the diplomatic approach to countering terrorism on tourism?
10. What is the impact of the diplomatic approach to countering terrorism on the economy of terror financiers?

SECTION D: POLITICAL IMPACT OF THE DIPLOMATIC APPROACH TO COUNTERING TERRORISM

11. What is the impact of the diplomatic approach to countering terrorism on political inclusion?

12. What is the impact of the diplomatic approach to countering terrorism on regional integration?

13. What is the impact of the diplomatic approach to countering terrorism on regional inter-state cooperation?

14. What is the impact of the diplomatic approach to countering terrorism on international counter terror cooperation?

15. What is the impact of the diplomatic approach to countering terrorism on African counter-terrorism cooperation?