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Kenya's Foreign Policy Behaviour: Response to International Terrorism, 1998-2012

By

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DECLARATION

I Kimeli Hilary Tiony hereby declare that this research project is my original work and has not been presented for a degree in any other University.

Signed: _____   Date _____

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

Signature:_____ Date_____

ABSTRACT

Terrorism and measures to combat it have become the focus of passionate international effort. The study seeks to investigate Kenya's foreign policy behavior in response to international terrorism with reference to the period 1998 to 2012.

This paper seeks to evaluate the response of Kenya's foreign policy towards international terrorism between the periods 1998 to 2012. The study uses both qualitative and quantitative methods of data analysis. The population of the study comprises the officials from the ministry of foreign affairs, and Counter-Terrorism Centre. A purposive sampling technique was used to select a total 17 officers from the two study areas. The study uses data from both primary and secondary data. Primary data was obtained through semi-structured questionnaires with both open and closed ended questions. Secondary sources of data include analysis and review of published books, journals, papers, periodicals, and unpublished works; Government documents including policy documents and Sessional Papers, media sources and the internet.

The study found out that there have been various responses by Kenya through its foreign policy with regards to international terrorism from 1998 to 2012. This involves various enactments and different modes of co-operation with international actors in the fight against the menace. It also found out that the government has to some extent realized some success in the war against terrorism through the use of institutions such as Anti-Terrorism Police Unit (ATPU) and Counter Terrorism Center. Further, the study found out that the main focus of Kenya's foreign policy is economic diplomacy aimed at achieving sustainable economic development. The study recommends that further study be conducted to obtain additional data on how to deal with the ever present acts of international terrorism.

DEDICATION

I dedicate this research project to my dear wife Elizabeth Tiony, my two boys Sosthenes and Adrian Meli for their love, understanding and patience when I could not spend quality time with them because of my studies. May God bless you.

ACKNOWLEDGMENTS

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ACRONYMS

AG	Attorney General
AIAI	Al-Ittihad al-Islamiya
AMISOM	African Union Mission in Somalia
ATPU	Anti-Terrorism Police Unit
AU	Africa Union
CJTF-HOA	Combined Joint Task Force-Horn of Africa
EACTI	East African Counter Terrorism Initiative
FBI	Federal Bureau of Investigations
FDI	Foreign Direct Investment
GoK	Government of Kenya
GSU	General Service Unit
GWOT	Global War on Terrorism
HOA	Horn of Africa
IGAD	Intergovernmental Authority on Development
KDF	Kenya Defence Forces
NGOs	Nongovernmental Organizations
ODA	Overseas Development Assistance
OLF	Oromo Liberation Front
PFLP	Popular Front for the Liberation of Palestine
PLO	Palestine Liberation Organization
TFG	Transitional Federal Government
TIP	Terrorist Interdiction Program
UK	United Kingdom
WMD	Weapons of Mass Destruction
UN	United Nations
US	United States
WTC	World Trade Center

CHAPTER ONE: INTRODUCTION

1.1 Background of the Research Problem

The word terrorism originally appeared in the French revolution of (1789-1799) and can be defined as the use of violence and threats to intimidate or compel by force. It is the deliberate creation and exploitation of fear by use of violence or the threat of violence in the quest for political change.[1] The issue of "terrorism" captured the global imagination in September 11 2001 as a result of dramatic and destructive attack on the World Trade Center (WTC) and Pentagon the core symbols of the world's only remaining superpower, the United States of America.[2] As a matter of fact, when the planes struck their targets in full view of a vast, global, teleconnected audience and created their indelible psychic images of sophisticated savagery, the problem of terrorism was already well-known. The politics of terror, and the overpowering fear that terror produces in its wake, lay at the very foundation of the evolution of social order. And it is the ultimate irony of societal development that modern acts of savagery have attained such high levels of sophistication. In its most simple terms, terror has stood as the stark alternative to civility in social relations from the time of humankind's earliest recorded reflections.[3]

All acts of international terrorism are criminalized because they are non-rational applications of violent or coercive behavior. The linkages between terrorism, state repression, organized crime, and war are too great to be discounted. The use of arbitrary and indiscriminate violence in wartime has become increasingly criminalized since the

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[1] B. Hoffman (1998) Inside *Terrorism, p.43.* New York: Columbia University Press.
[2] M. G. Marshall. (2002) *Global Terrorism: An Overview and Analysis* (p.2). Center for Systematic Peace. Occasional Paper Series # 3.
[3] Ibid

establishment of the Nuremberg trials at the end of the Second World War in 1945. State repression, or "state terror," which finds its most extreme form in totalitarian regimes has become increasingly scrutinized and criminalized by the international community.[4]

The greatest threat of terrorism lies not in its capacity to threaten, and deliver personalized and collective violence but, rather, in its relation to the more institutionalized forms of violence. Terrorist activity is commonly associated, with all forms of warfare. It is a common mechanism in separatist violence, used both by government authorities and separatist agents.[5] Terrorism may not be successful in achieving tangible political goals, but, through its capacity to galvanize public opinion, it may be instrumental in polarizing contending groups and stimulating group members to increase their support for more conventional tactics such as protest or the transformation of protest to open, armed rebellion.[6] These conventional conflict strategies are generally more acceptable alternatives to terrorist activities. Terrorism activities are often a prelude to the transformation of non-violent protest movements to armed rebellion. The transformation of protest to armed conflict provides a tactical niche for acts of terrorism.[7] The emotive content of terrorist motivation makes it compatible with either political and spiritual rationalization or justifications. Terrorist activity can be doubly emotive as the moral and ethical dimensions of terrorist action have to be reconciled in the mind of a terrorist.[8]

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[4] Ibid, p.3

[5] T. R. Gurr (2000) *Peoples versus States: Minorities at Risk in the New Century.* Washington DC: United States Institute of Peace Press.

[6] M. G. Marshall. (2002) *Global Terrorism: An Overview and Analysis* (p.9). Center for Systematic Peace. Occasional Paper Series # 3.

[7] Ibid

[8] A. Bandura. (1990) "Mechanisms of Moral Disengagement," chapter 9 in Walter Reich, ed., *Origins of*

In the recent past, terrorist activities have been present in quite a number of countries globally. Apart from Kenya, other countries such as Somalia, Uganda, Tanzania, the US, Pakistan, United Kingdom and most countries in the Middle East have borne the brunt of terrorist attacks. On April 19, 1995 a building in Oklahoma City was bombed. Shockingly, the bombing was done by an American, Timothy McVeigh.[9] He filled a truck with explosives, parked it in front of the Alfred Murrah Federal Building, and detonated it. The terror attack killed 168 people, 19 whom were children under the age of 6, while it injured more than 680 people and destroyed 324 buildings. The damage caused was roughly 652 million US Dollars. The perpetrator of the attack, Timothy McVeigh was tried and sentenced to death by lethal injection.

On September 11 2001, terrorist masterminds allied to the terror group Al-Qaeda, successfully attacked the US. This attack shocked the superpower and its allies. The terrorists hijacked four passenger planes that were filled with fuel and used them as bombs to destroy the WTC in New York City and the Pentagon in Washington, D.C.[10] Two aero planes struck the WTC, one hit the Pentagon. The fourth plane that was targeted at the US Capitol in Washington, D.C. crashed into a field near Shanksville Pennsylvania, after its passengers tried to overcome the hijackers. In the aftermath of the terrorist attack, nearly 3,000 people died, who included 227 civilians and 19 hijackers aboard the four passenger planes.[11]

Terrorism: Psychologies, Ideologies, Theologies, States of Mind. Washington, DC: Woodrow Wilson Center Press.

[9] http://whatreallyhappened.com/RANCHO/POLITICS/OK/ok.php

[10] National Institute of Standards and Technology (2008, November 28). Final World Trade Center 7 Investigation Report On September 11, 2001.

[11] Ibid

In some occasions, terrorist organizations coordinate attacks on more than one target simultaneously as was the case with the twin terrorist attacks targeting the US embassies in Kenya and Tanzania. These attacks were executed on 7th August, 1998 on the respective US embassies in Nairobi and Dar es Salaam leaving nearly 258 people dead including 12 Americans. More than 5,000 people were injured.[12] Trucks filled with bombs exploded simultaneously at each of the above mentioned East African cities. These attacks brought Osama bin Laden and Ayman al-Zawahiri to American attention for the first time ever.

The state actors in Kenya's foreign policy include the head of state, parliament, ministry of foreign affairs, judiciary and other ministries like the Ministry of finance, defense, trade and commerce now known as East African Affairs, Commerce and Tourism. These ministries are presumed to be empowered to speak and act on issues of foreign relations that concern specific tasks of their ministries. In the formulation and conduct of foreign policy, the head of state is the top diplomat as he/she represents the state in international conferences and summits.[13] The formulation and implementation of foreign policy begins and ends with the head of state. The head of state appoints ambassadors who represent him/her in other states and all these envoys report directly to the head of state making him/her a central figure in foreign policy formulation, conduct and implementation. Kenya's foreign policy is guided and shaped by its own national interest, grouped into three main categories namely; security/political, economic advancement or development

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[12] W.W. Keller (2005) 'Anatomy of a Terrorist Attack: An in-Depth Investigation Into the 1998 Bombings of the U.S. Embassies in Kenya and Tanzania' (p.5). *The Matthew B. Ridgway Center for International Security Studies, University of Pittsburgh.*

[13] O. Obado (2011) 'Institutional actors in Kenya's foreign policy'. *The Diplomatic Post Foreign Policy Review.*

and geo-political factors.[14] Peace and stability are requirements to social and economic development. This study sought to investigate Kenya's foreign policy behaviour in response to international terrorism with reference to the period 1998 to 2012.

1.2 Statement of the Research Problem

Kenya has been a target of international terrorism because of a combination of geographical, regional, historical, political, economic and socio cultural factors. The direct causes of terrorist attacks in Kenya are its close ties with Israel and Western countries, especially the US.[15] Israel and the US have become prime targets of international terrorism because Americans have been singled out in the world to support and encourage Israel's aggressive stance in the Middle East and its obstinate refusal to recognize the rights of the Palestinians[16]. On the other hand, Israel has constantly become a target of international terrorism because of its continued illegal occupation of Palestinian territory consisting of the West Bank, including East Jerusalem; the Gaza Strip, (although this has been disputed by Israel who argue that after the implementation of its disengagement from Gaza in 2005 it no longer occupies the territory) and much of the Golan Heights[17]. Other factors that have predisposed Kenya to terrorist attacks include the country's coastal geographical and strategic location relative to Europe, Asia, and neighbouring African countries. Moreover, the porous borders due to poor policing, politically unstable neighbouring countries like Somalia and South Sudan, a

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[14] Ibid

[15] O. Kefa (2009). Kenya in the Crosshairs of Global Terrorism: Fighting Terrorism at the Periphery. *Kenya Studies Review*: 1, 1, 107-132. (p.111).

[16] Why America is the Target. *Journal of Palestine Studies*, Vol. 15, No. 4 (Summer, 1986), (pp. 187-188). University of California Press on behalf of the Institute for Palestine Studies Article DOI: 10.2307/2536638 Article Stable URL: http://www.jstor.org/stable/2536638.

[17] M.G. Bard (2012) 'Myths & Facts Online: A Guide to the Arab Israeli Conflict' Jewish Virtual Library, A Project of the American-Israeli Cooperative Enterprise.

relatively open and multicultural society, relatively good transport and communications infrastructure, relatively large Muslim population and the political and socioeconomic deprivation of the coastal population relative to the rest of the country are some of the factors that precipitate acts of terrorism in Kenya.[18]

Terrorism in Kenya has put a heavy cost on the country as witnessed by the loss of workers and family members due to terrorist attacks. It has led to a flare-up of tension between Christians and Muslims, undermined the country's economy especially tourism and, led to the erosion of citizens rights and the country's sovereignty[19]. The country has also lost a major source of foreign exchange earnings from its formal sector of the economy. The disruption of tea exports has affected the country's economy. Pakistan and Afghanistan were the world's second and third largest importers of tea from Kenya. The September 11th 2001 terrorist attacks in the US disrupted the social and economic order as it led to subsequent military operations in Afghanistan.[20] Therefore, tea exports from Kenya to these markets have been disrupted, consequently creating a loss of much-needed foreign exchange earnings.

Besides tightening security, Kenya is coping with terrorism threat by developing anti-terrorism legislation and spearheading efforts to resolve the Somali and Sudan political

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[18] O. Kefa (2009). Kenya in the Crosshairs of Global Terrorism: Fighting Terrorism at the Periphery. *Kenya Studies Review*: 1, 1, 107-132. (p.111).
[19] Ibid
[20] H. H. Adan, (2005) Combating Transnational Terrorism in Kenya,' (p.11). Masters *thesis presented to the Faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.*

crises[21] (the Sudan peace process culminated in the independence of South Sudan). In response to terrorist attacks and kidnappings such as the one witnessed by Somali based Al-Shabaab in October 2011, Kenya embarked on the incursion of Somalia in order to exterminate the Al-Shabaab extremists. This demonstrated the political will to use all instruments of its national power, against terrorists and their sponsors.

This security threat therefore seems to be causing a shift in Kenya's security foreign policy attention in this direction. Given the importance of this area of Kenya's policy and its implications for other aspects of foreign relations and the absence of studies in this specific area, this study sought to investigate whether terrorism threats on Kenya have caused a shift in Kenya's foreign policy behaviour.

1.3 The Purpose of the Research

This study is aimed at investigating Kenya's foreign policy response to international terrorism, with reference to the period from 1998 to 2012.

1.4 Objectives of the Research

i. To analyze the changing focus of Kenya's foreign policy in response to global terrorism activities from 1998 to 2012.

ii. To establish the role of international state actors in shaping Kenya's foreign policy in relation to international terrorism from 1998 to 2012.

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[21] O. Kefa (2009). Kenya in the Crosshairs of Global Terrorism: Fighting Terrorism at the Periphery. (p.107). *Kenya Studies Review*: 1, 1, 107-132. (p.107).

iii. To establish the effectiveness of institutional capacity to combat international terrorism.

iv. To find out whether international terrorism is a priority concern of Kenya's foreign policy.

1.5 Justification of the Research Problem

The government's commitment to guarantee the security of its people and the preservation of national integrity and sovereignty within secure borders underlies the desire to advance national interests by guaranteeing a secure political environment.[22] There are, however, factors with which today's policy makers have much less experience and one such is international terrorism and how policy makers should respond to this vice; information which this study sought to unveil. Thus this analysis will be used to draw lessons and make recommendations concerning Kenya's foreign policy responses in view of global terrorism.

Economic development has played a dominant role in shaping our country's foreign policy for a number of years. The need to pursue an open economic policy and the foreign capital and investment flows, inter-alia foreign direct investment (FDI) and official development assistance (ODA), has influenced Kenya's approach to foreign policy. The presence of overlapping ethnic communities in neighbouring countries and the fact that Kenya is a littoral state of the Indian Ocean, and which in turn influences relations with landlocked neighbours are some of the factors that have shaped Kenya's

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[22] http://www.kenyans-abroad.org/httpdocs/kenya_foreign_policy.html

foreign policy.[23] This research sought to assess Kenya's foreign policy behaviour in response to international terrorism and whether its relations with Western countries have had a positive impact in combating international terrorism. The findings will provide the GoK with information that will enhance the country's response to threats of international terrorism.

This research will be useful to other researchers who would wish to study issues related to international terrorism and foreign policies especially in developing countries.

1.6 Literature Review

This chapter gives an exposition of terrorism activities and the legislations that have since been enacted to curb the vice through reviewing some of the available literature**.**

1.6.1 An Overview of Terrorist activities

Terrorism is an international phenomenon that has varying perceptions. For instance, a Palestinian who takes up arms against Israeli occupation of Palestine territory is deemed as a freedom fighter in the Palestinian circles but from the frame of reference of an Israeli, such an individual is a terrorist.[24] The challenges that have been created in the global arena by international terrorism and specifically to democracy are; weak national institutions, insurgency, incompetence, corruption, and last but not the least, death and wanton destruction of property.

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[23]GoK   (2009).   *Kenya   Foreign   Policy.*   Available   at: http://www.kenyamission-un.ch/?About_Kenya:Kenya_Foreign_Policy.
[24] http://www.businessteacher.org.uk/international-relations-essays/international-terrorism-to-democracy.php

According to Bruce Hoffman, terrorism is the systematic use of violence to create a general atmosphere of fear in a population with the objective of achieving a particular political objective.[25] Historically, terrorism activities have been carried out by non-state actors against states in order to compel the later to yield to the demands of the former. This coercion mechanism has been used by terrorist groups such as Al-Qaeda to pursue its ideological objectives in accordance with the 1998 fatwa by encouraging attacks directly against Americans and its allies with the expectation that cumulative graphic casualties would prompt the US and its allies to withdraw their troops from the Middle East, in particular Saudi Arabia,[26] Iraq and Afghanistan.

The change of the loci of violence from national to international is an expansion of the terrorists' network.[27] According to John Aquila the age of terror is driven by an organizational race to build networks. The argument by a number of authors is that this transition is not automatic, but it is enabled by several factors that are embraced by a terrorist group. Some of these factors include popular support, recruitment of foreign fighters, franchised cells, and porous borders.[28]

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[25] B. Hoffman (1998) Inside *Terrorism*, (p.1). New York: Columbia University Press.
[26] G. B. Kambere (2011) 'Countering Al-Shabaab: A Case to Minimize Transnational Terrorist', (p.8). *A thesis presented to Naval Postgraduate School Monterey, California*.
[27] Ibid
[28] Special Report. (2003). Terrorism: Foreigners Marry Kenyans to Cover their Intentions. *Daily Nation on the Web*, 22 August 2003. Available from http://www.nationaudio.com/News/DailyNation/22082003/News/Special%20Report22343.

Quite a number of terrorist acts succeed because of popular support. Theorists argue that terrorist groups succeed in carrying out attacks in foreign countries either with active or passive support from the indigenous population.[29] Active support from the population includes the raising of finances, hiding terrorist operatives, and volunteering to join terrorist groups. On the other hand, examples of passive support include actions such as unwillingness to collaborate with security institutions.[30] In Kenya for instance, Haroun Fazul, the leader of Al-Qaeda cell group in East Africa was able to hide in Lamu and Malindi while planning to execute terrorist attacks. The people were unwilling to provide information to security agencies on Fazul's whereabouts because they believed that Fazul was fighting for their cause.

In a terrorist group, foreign fighters are vital for an attack beyond its normal boundaries.[31] For instance, in the Province of Anbar in the year 2006, foreign fighters were at the core of those who initially controlled the population; they worked as volunteers, undertook martyrdom operations against the US and its allies, and provided financial connections on a monthly basis to the Islamic world. In Iraq, Al-Qaeda used foreign jihadists as contact points through which other terrorists would enter Iraq illegally from Jordan and Syria, using mosques and safe houses along the Euphrates river valley that allowed jihadists to move to Baghdad.[32] In November 2005, Anbar province became a command post from which Zarqawi directed jihadists to bomb US owned hotels in Amman, Jordan. The

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[29] G. B. Kambere (2011) 'Countering Al-Shabaab: A Case to Minimize Transnational Terrorist', (p.8). *A thesis presented to Naval Postgraduate School Monterey, California*.
[30] Ibid, p.9
[31] Central Intelligence Agency. 2004. *The World Fact book*. Kenya.
[32] G. B. Kambere (2011) 'Countering Al-Shabaab: A Case to Minimize Transnational Terrorist', (p.9). *A thesis presented to Naval Postgraduate School Monterey, California*.

decline of both the inflow of foreign fighters and support of the Sunni population were contributing factors as to why Al-Qaeda lost Iraq's Anbar province in 2007.[33]

There are a number of factors that have bred terrorism. The most common factors cited in most writings are repressive governments, religious extremist ideologists, external support, and deplorable socioeconomic conditions among some Muslim and non-Muslim populations.[34] Terrorist organizations require a place offering favorable conditions to operate, intelligence on the environment they will operate in, training and recruitment bases, logistical support, and other infrastructure. These conditions can only be realized by obtaining external support to carry on their acts of terror. Paul Pillar in *Terrorism and US Foreign Policy* identifies some of the external state sponsors of international terrorism, such as the former Taliban regime in Afghanistan, Iran, Sudan, Libya, and North Korea.[35] With the dismantling of the Al-Qaeda structure in Afghanistan and Pakistan, Iraq has become a new hiding and training ground for terrorist groups. This is according to Tom Regan in his article *"CIA Think Tank: Iraq Training Ground for Terrorists''*.[36] Financing is key to international terrorism survival. Pillar asserts that, financial support is the principle part of state sponsorship of terrorism and the most critical part of the assistance that some states have provided to a number of terrorist organizations.[37] Some authors have further identified the emergence of Islamic agencies

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[33] Ibid
[34] UK | Muslim community targets racial tension". BBC News. September 19, 2001.
[35] P. R. Pillar (2001) 'Terrorism and US Foreign Policy.', (p.158). Washington, D.C: Brookings Institution Press.
[36] Ibid
[37] Ibid

funded by wealthy Saudi and other Persian Gulf states, which have supported and sustained terrorism.[38]

Violence can be triggered by perceived lack of political and civil rights for the minorities. At a meeting held in 2003 in Oslo Norway, international experts discussed the root causes of terrorism. According to these experts some of the root causes of terrorism include illegitimate or corrupt governments, inequality of power, lack of democracy, and failure or unwillingness by the state to integrate dissident groups or emerging social classes.[39] Furthermore, the experts pointed out that terrorism occurs in both wealthy and poor countries, and in democracies as well as authoritarian states. Hence, there exists no single root cause or even a common set of causes of terrorism. Nevertheless, a number of preconditions and precipitants have resulted in the emergence of various forms of terrorism.[40]

According to the current Prime Minister of Israel Benjamin Netanyahu, religious extremist ideologies often lead to the spread of terrorism. He attributes the source of terrorism to the Soviet Union during the Cold War era. According to him, the Soviets used terrorism as a weapon during communist struggles in many Western strongholds.[41] Nonetheless, he fails to analyze the growth of international terrorism during the 1980s when the Soviets invaded Afghanistan. The incursion triggered war fought by Muslim volunteers (Mujahideens) as Jihad to counter and reverse Soviet expansion. On his part,

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[38] C. M. Kurt M., and M. A. Flournoy. (2001) *To Prevail, An America Strategy for the Campaign against Terrorism,* pp.255-256. Washington, DC: Center for Africa Strategic Studies.
[39] R. Borum (2007). 'Psychology of Terrorism' (p.7). University of Florida.
[40] Ibid, p.4
[41] N. Benjamin (2001) Fighting *Terrorism: How Democracies can Defeat the International Terrorist Network,* (pp.52-57). New York: Farrar, Straus and Giroux.

Esposito asserts that the invasion of Afghanistan by the Soviets and the subsequent covert operations to dislodge them from the region propelled individuals like the late Osama Bin Laden into international politics concerning Muslims.[42] Some authors like J. Cilliers and S. Kathryn claim that after the Soviet withdrawal from Afghanistan in 1989, the fundamentalism carried by the Mujahideens returning from the Jihad spread rapidly in North Africa and Asia and soon affected Algeria, Egypt, and Sudan.[43] For this reason, it can be concluded that the birth of global terrorism is linked directly to the 1980's wars in Afghanistan against the Soviets, that produced indoctrinated and hardened Jihadists who have since then been spreading their militancy to other regions of the world.

The emergence of technological advancements especially the internet and satellite television, as well as increased travel and employment around the globe, has made the Muslims in Kenya more informed of what is happening around the world.[44] The increased awareness was especially highlighted in the conflict in the Middle East and Iraq and the unresolved Israeli-Palestinian conflict. It is worth noting that many Muslims along the coastal region of Kenya share a common religion, language, and significant aspects of their culture with Muslims in the Middle East. As a result of these shared factors, an element of radicalism has invaded Kenya from the east through Somalia and Kenya's coastal region. This encroachment breeds dissent among some sections of the

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[42] J.L. Esposito, (2002) *Unholy War, Terror in the Name of Islam*, (pp.10-11). New York: Oxford University Press.
[43] C. Jakkie, and K. Sturman. (2002) Africa and Terrorism, Joining the Global Campaign, Monograph 74, July. Pretoria. Institute for Security Studies.
[44] M. Hassouna. (2002) Why Radicals Find Fertile Ground in Moderate Kenya, President Bush met with Kenya President Moi to Discuss Security issues. *The Christian Science Monitor,* 6 December. Available from www.csmointor.com.

Muslim community, which makes them easy targets of recruitment to engage in terrorism activities.[45]

Economic inequalities in the society contribute a great deal to terrorism. In fact, Campbell and Flournoy both acknowledge in their analysis of terrorism in Africa, the roles marginalization and poverty play among the Muslims that invite sectarian and inter-ethnic strife, despair, and anti-Western resentment.[46] They also point out on the emergence of Islamic NGOs, funded by the Saudi government, other Persian Gulf states and individuals, which have addressed and continue to address the social problems of Muslim communities at the same time sowing seeds of discord and anti-Western sentiment and recruiting and providing safe havens from where terrorist organizations operate from.

In supporting this view, Pillar notes that terrorism and terrorist organizations do not arise randomly and they are not distributed evenly around the world.[47] He concurs with the view that socioeconomic deprivation and poor living standards in segments of the society facilitate the breeding ground for terrorists. His argument is that terrorism is a risky and dangerous business and that few people who have a reasonably good life will be inclined to become terrorists. He believes that cutting out the roots of terrorism can be useful although he does acknowledge that if all the root causes were somehow removed, there

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[45]H. H. Adan, (2005) Combating Transnational Terrorism in Kenya, (p.18). Masters *thesis presented to the Faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.*
[46] C. M. Kurt M., and M. A. Flournoy (2001) *To Prevail, An America Strategy for the Campaign against Terrorism, (*pp.255-256). Washington, DC: Center for Africa Strategic Studies.
[47] P.R. Pillar (2001) 'Terrorism and U.S. Foreign Policy' (p.30). Washington, D.C: Brookings Institution Press.

would always remain a core of incorrigibles, such as the late Osama Bin Laden and his followers/disciples.[48]

The common factors such as poverty and widespread unemployment are driving some sections of Kenyan population to be inclined toward joining terrorist groups. Kenyans are especially vulnerable to indoctrination and terrorist recruitment in exchange for financial gain. Therefore, economic inequalities enable terrorist groups to exploit and recruit foot soldiers from the poor segment of the population.[49] In Kenya, terrorists have found readily available internal support from some sections of the population that have enabled them to conduct several successful terrorists' attacks. The continued instability in Somalia has provided a safe haven for Al-Shabaab to operate from. External support, which is the lifeblood of terrorism, provides terrorists money needed for recruitment, training, indoctrination, and execution of terrorism acts. This is an area in which counter terrorism strategies and efforts should be focused to deny terrorists their lifeblood.

1.6.2 Counter terrorism Measures

The issue of counter terrorism is now a fashionable subject matter in current literature with a number of elements of an effective counter terrorism measures cited by various writers as legislation, public diplomacy and information campaigns, use of military force, financial controls and socioeconomic development, and creation of a specialized judicial

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[48] Ibid, pp.30-32

[49] H. H. Adan, (2005) Combating Transnational Terrorism in Kenya, (p.18). Masters *thesis presented to the Faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.*

system for persons suspected of engaging in terrorism acts. Money is key for terrorist organizations and without it; the likelihood that they could sustain international attacks is remote. Nevertheless, unlike narcotics, smuggling or money laundering, the salient characteristic of terrorism is that it is cheap. The first attempt to bring down the WTC is estimated to have cost only 400 US Dollars. The fact that it involved small amounts of money made it difficult to track. For that reason, financial controls are very crucial and of symbolic significance.[50]

However, in contrast to Pillar's opinion, the use of financial controls is not primarily of symbolic significance but is effective when applied rigorously. For instance, it cost between 400, 000 US Dollars and 500,000 US Dollars to execute the 11 September 2001 terrorist attacks in the US with terrorist operatives spending more than 270,000 US Dollars.[51] Nevertheless, in terms of loss of life and property, insurance companies alone lost an estimated 40 billion US Dollars. The pre-11 September annual budget for Al-Qaeda was estimated at 30 million US Dollars, which implies that the terrorist organization had many sources of funding.[52] Had there been an effective financial-control system, the US government would have detected the millions of dollars transacted in banks through the *hawala* systems of money transfers to fund Al-Qaeda operations.

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[50] P. R. Pillar (2001) 'Terrorism and U.S. Foreign Policy' (p.94). Washington, D.C: Brookings Institution Press.
[51] National Commission on Terrorist Attacks upon the United States. (2004). *The 9/11 commission report: Final report of the National Commission on Terrorist Attacks upon the United States*. Washington, DC: National. Commission on Terrorist Attacks upon the United States.
[52] Thomas, Kean H., Lee H. Hamilton, Ben-veniste Richard, Kerrey Bob, Lehman F. John, Fielding F. Fred, Roemer J. Timothy, Gorelick S. Jamie, Gorton Slade, and Thomson R. James. (2004). *The September 11-Commission Final Report of the National Commission on Terrorist Attacks upon the United States Executive Summary.*. Washington DC: United State Congress.

As witnessed in Operation Enduring Freedom[53] in Afghanistan, the use of military action to physically eliminate terrorists proved to be the most effective. During the operation, Al-Qaeda structures were dismantled and many terrorists were killed or captured. Therefore this is one of the tools available for counter terrorism. However, those military actions were at times actually counterproductive. The military strikes served to supplement some of the political and organizational purposes of terrorist leaders; increase publicity for their cause; bolster their sense of importance; and emphasize the terrorists' message that the US is an evil enemy that knows only the language of force.

The use of military action to defeat terrorists according to Netanyahu discourages dictators from undertaking terrorist campaigns against the West or its allies.[54] When the US launched the cruise-missile attacks in Sudan in 1998 immediately after the terror attacks of US embassies in Kenya and Tanzania on the 7th August 1998, the attack signaled to the government in Khartoum that if it continued to sponsor terrorism, the US would not hesitate to attack the country. In his analysis, Netanyahu fails to address the second and third order effects of military, such as hardening the cause of the terrorists and the negative effects of using such strikes on an innocent population to justify a cause. On the other hand, Juergensmeyer supports the hard-on-terrorism approach. He suggests that the use of violence to kill or forcibly control Osama Bin Laden might deter persons from becoming involved in the planning of future terrorist acts[55] (Bin Laden was eventually killed by US Navy SEALs in Abbottabad northeastern Pakistan on May 2,

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[53] http://en.wikipedia.org/wiki/Operation_Enduring_Freedom
[54] N. Benjamin (2001) Fighting *Terrorism: How Democracies can Defeat the International Terrorist Network.* (p.134). New York: Farrar, Straus and Giroux.
[55] H. H. Adan, (2005) Combating Transnational Terrorism in Kenya. (p.20). *Masters thesis presented to the Faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.*

2011).[56] From recent experience, preemptive military strikes as opposed to retaliatory strikes are the best approaches to the global war on terror. This was effectively used in Afghanistan and Operation Iraqi Freedom. Such counter terrorism measures will discourage more states from supporting terrorists groups.

The key aspects of counter terrorism measures are public diplomacy and information campaigns. The root causes and issues that give rise to terrorist groups have been given close examination by Adan in his thesis titled *Combating Transnational Terrorism in Kenya.* He examines as to what motivates individuals to join such groups and the ability of such groups to conduct terrorist attacks. He points out that any sound policy toward a terrorist organization requires an understanding of what is and what is not important to that group, what drives its leaders and members, what stimulates it to attack, and what it would take to give up terrorism.[57] In order to effectively counter terrorists' propaganda, demystify terrorism, and correct the misperception that governments are hostile to Islam; States should place increased emphasis on this area (public diplomacy and information campaigns).

Socioeconomic development is one area where the causes of terrorism can be mitigated. Socioeconomic development, joined with the diplomatic and informational tools of national power in combating terrorism, is critical in order to mitigate the root causes of terrorism. Diplomacy and information campaigns can be used, their objectives being winning the hearts, minds, and souls of the international Muslim community through the

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[56] J. Mark. (2001) *Terror in the Mind of God: The Global Rise of Religious Violence. (*pp.229-231). *California*: University of California Press.
57 Ibid

promotion of the Islamic culture and teaching.[58] This assertion is supported by Campbell and Flournoy in their analysis of terrorism in Africa. They cite marginalization and poverty among Muslims as factors that invite sectarian and inter-ethnic strife, despair, and anti-Western resentment.[59]

Muslim communities in several parts of Africa have embraced Islamic charitable organizations because these organizations provide social amenities such as health centers, schools, relief food and many other amenities. Some of these organizations have been used by terrorist groups as fronts to spread hatred and radicalism thereby furthering their cause. As part of counter terrorism campaign, there is need to put in place mechanisms that will go a long way in addressing socioeconomic disparities so that terrorist groups do not exploit to further their causes. Since many developing countries (most of these countries are found in Africa) do not have adequate resources to address the problem; developed countries need to provide the needed resources. This might drastically reduce the number of Muslims being recruited to join terrorist organizations.

One of the means that can be used effectively to counter terrorism is legislation. Legislation is key to the development of an effective counter terrorism strategy.[60] According to Netanyahu, revising legislation to enable greater surveillance and action

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[58] H. H. Adan, (2005) Combating Transnational Terrorism in Kenya. (p.21). *Masters thesis presented to the Faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.*

[59] C. M. Kurt and M. A. Flournoy. (2001) *To Prevail, An America Strategy for the Campaign against Terrorism.* (pp.255-256). Washington, DC: Center for Africa Strategic Studies.

[60] B. Hoffman and J. Morrison. (2000) *A Strategic Framework for Countering Terrorism.* (pp.12-13). England: Ashgate Publishing Company.

against organizations inciting violence is paramount in the fight against terrorism.[61]

Nevertheless, such legislation needs to consider the concerns of the infringement of civil

liberties such as the right to privacy.

Training of judicial staff involved in administering justice play key roles in counter

terrorism strategies. Terrorists' acts mostly affect an innocent population, directly and

indirectly, which calls for special training for those involved in fighting the crime.

Training should not be limited to judicial staff but should include the law enforcement

agencies. There is need to establish special courts to hear terrorist-related cases usually

heard through the normal courts, where such cases frequently experience routine delays

caused by judicial systems being grossly overburdened.[62] These measures will go a long

way in allowing for effective investigation, prosecution, and conclusion of terrorist-

related cases in a just and efficient manner.

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[61] N. Benjamin (2001) Fighting *Terrorism: How Democracies can Defeat the International Terrorist Network.* (p.142). New York: Farrar, Straus and Giroux.
[62] S. Jeremy, and B. Susan. (2003) 'The French Experience of Counter terrorism.' Washington, DC: The International Institute for Strategic Studies.

1.7 Theoretical Framework

This study was guided by the economics theory of rational choice.

1.7.1 The Economics Theory of Rational Choice

In the discipline of economics, there are many concepts that are relevant to the understanding of terrorism supply and demand costs and benefits. Fully-developed economic or econometric models of terrorism are quite rare, however, and often involve such things as "psychic" costs and benefits.[63] In particular, rational choice theory, has found a place in criminology. This theory advances the argument that people will engage in crime after weighing the costs and benefits of their actions to arrive at a rational choice about motivation after perceiving that the chances of gain outweigh any possible punishment or loss. Criminals must come to believe their actions will be beneficial to themselves, their community, or society and they must come to see that crime pays, or is at least a risk-free way to better their situation.[64]

In the analysis of the causes of international terrorism acts, there is a general observation that terrorists view themselves as the rightful defenders of the faith and legitimate restorer of dignity to the homeland. They justify their actions in their accountability only to God (Allah), for they believe that it is God who has chosen them for this sacred mission in history. They further believe that God not only approves of their action, but that God demands their action. Their cause is sacred, and consists of a combined sense of hope for the future and vengeance for the past.[65]

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[63] Nyatepe-Coo, A. (2004) "Economic implications of terrorism," (pp. 77-89) in Nyatepe-Coo, A. & Zeisler-Vralsted, D. (eds.) *Understanding terrorism*. Upper Saddle River, NJ: Prentice Hall.
[64] http://www.scribd.com/doc/24046941/429-Terrorism
[65] K. Borgeson & R.Valeri (2009). *Terrorism in America*. Sudbury, Mass: Jones and Bartlett.

The most familiar version of this idea in criminology is routine activities theory[66], which suggests that three conditions must be present in order for a crime to occur: suitable targets or victims who put themselves at risk; the absence of capable guardians or police presence; and motivated offenders or a pool of the unemployed and alienated. The participants in revolutionary violence usually predicate their behavior on a rational cost-benefit calculus to pursue the best course of action given the social circumstances.[67]

Rational choice theory, in political science holds that people can be collectively rational, even when making what appears to be irrational decision for them as individuals, after perceiving that their participation is important and their personal contribution to the public good outweighs any concerns they may have for the "free rider" problem.[68] The "free rider" problem is a classic paradox in social science and economics which asks why anybody should do something for the public good when most likely someone else will get credit for it and most everybody else will benefit merely by sitting idly and doing nothing.[69]

Terrorism is not an irrational phenomenon neither is the resort to terrorism an anomaly. The central focus of any inquiry study should be on why some groups find terrorism useful, and in standard control theory fashion, why other groups do not find terrorism useful. Some groups may continue to work with established patterns of rebellious action. Other groups may choose to engage in terrorism as an early choice because they have learned from the experiences of others, usually through the news media, which is

[66] C. Lawrence & M. Felson. (1979). "Social change and crime rate trends: A routine activities approach." *American sociological review* 44: 588-608.
[67] Ibid
[68] M. Edward & Karl-Dieter Opp. (1986)."Rational choice and rebellious collective action" *American political science review* 80: 471-87.
[69]K. Borgeson & R.Valeri (2009). *Terrorism in America*. Sudbury, Mass: Jones and Bartlett.

commonly known as the contagion effect.[70] There may be circumstances in which a terrorist group wants to publicize its cause to the world; a process some scholars refer to as the globalization of civil war.[71]

From an individualist rational point of view, the best choice would be to keep at least some of the hostages alive in order to bargain with the government for leniency.[72] Yet, often a collectivist rational mentality sets in, and the group choice (or groupthink) is to kill all the hostages. Such killings may be a reasonable and calculated response to circumstances. It may involve a collective judgment about the most efficient course of action that has the most lasting impact on observers. And most importantly, the senselessness of it all may be just what the group needs to make their ideological point that they are terrorists, not just ordinary criminals.[73]

Place, size, time and the climate of international opinion are factors that that influence the rational choice of terrorism. In a democratic society, a terrorist plot is less likely to involve senseless violence as the same plot hatched under an authoritarian regime because under the latter, terrorists realize they have nothing to lose with the expected repercussions.[74] Size is important because a small elite group is more likely to resort to terrorism when the population is passive. This means that more senseless acts of violence may occur in a stable society rather than one on the brink of collapse. Time

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[70] Ibid

[71] A. Türer (2012) 'The Impact of Sincerity of Terrorists on Committing Terrorist Activities in Turkey' (p.11)
A dissertation submitted in partial fulfillment of the requirements for the degree of Doctor of Philosophy at Virginia Commonwealth University.

[72] http://www.docstoc.com/docs/13603423/Documentary-Analysis-of-theories-of-Xenophobia-and-Terrorism-and-their-implications-and-consequences-on-world-peace

[73] Ibid

[74] A. Türer (2012) 'The Impact of Sincerity of Terrorists on Committing Terrorist Activities in Turkey' (p.11)
A dissertation submitted in partial fulfillment of the requirements for the degree of Doctor of Philosophy at Virginia Commonwealth University.

constraints are essential because the terrorist group may be competing with other groups or attempting to manage a tit-for-tat strategy with counter terrorism. On the other hand international opinion if low for the host country, may force the terrorists to take action that risks a repressive counterterrorist reaction, in hopes that their suffering will capture public attention.[75]

1.8 Hypothesis of the Research Problem

i. The diplomatic efforts undertaken by Kenya towards the search for lasting peace in Sudan and Somalia, through the IGAD framework, have led to the success of Kenya's foreign policy in response to global terrorism.

ii. International state actors have not played a significant role in Kenya's foreign policy response to international terrorism from 1998 to 2012.

iii. Kenya's Government has not been successful in countering international terrorism through its institutions from 1998-2012.

iv. International terrorism is not the major priority concern of Kenya's foreign policy.

1.9. Methodology of the Research

This section outlines the methods of collecting, organizing and analyzing data. It is divided into research design, data collection and data analysis.

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[75] Ibid

1.9.1 Research Design

The research adopted the survey design which is a study concerned with finding out what, where, and how of a phenomenon. A cross-sectional descriptive survey design (in this type of research study, either the entire population or a subset thereof is selected, and from these individuals, data is collected to help answer research questions of interest) was used in this study and information was collected using questionnaires.

1.9.2 Study population

The population of the study comprised personnel in the ministry of foreign affairs, and security agencies involved in suppression of terrorism. Some of these agencies included the Counter Terrorism Centre (CTC).

1.9.3 Sampling and Sample Selection

Purposive sampling was used in selecting respondents for the survey and was administered using semi-structured questionnaires. The study targeted officials in the ministry of foreign affairs and CTC.

1.9.4 Data Collection

Data was collected from both primary and secondary sources.

Primary Data

The primary data was obtained through semi-structured questionnaires with both open-ended and closed questions. Closed questions were used to gather quantitative data. Closed ended questions were used as they allowed the researcher the control over the type of data and information that was collected. Open-ended questions facilitated the

collection of qualitative data thus allowing the respondents to express their views in writing. This type of data collection allowed for clarification of ambiguous questions through getting feedback from the respondents.

Secondary Data

Secondary sources of data entailed the analysis and review of published books, journals, papers, periodicals, and unpublished works; government documents including policy documents and Sessional Papers, media sources and the internet. The study used secondary data in the form of documented information from libraries and other relevant institutions.

1.9.5 Data Analysis

This study used both qualitative and quantitative methods of data analysis. Quantitative data was analyzed using the Statistical Package for the Social Sciences (SPSS) computer software, while the qualitative data was analyzed by content analysis. SPSS helped in organizing and summarizing the data by using descriptive statistics such as measures of central tendency (mean) and measures of dispersion (standard deviation). Data was represented using charts and frequency tables.

1.10 Scope and Limitations of the Research

This study sought to examine Kenya's foreign policy behaviour in response to international terrorism from 1998 to 2012. The research focused on the GoK's response in terms of foreign policy orientation to international terrorism threats. Due to the sensitivity of the issue at hand, there was difficulty in getting fast hand information both

from government security agencies and ministry of foreign affairs and hence this study relied extensively on information from secondary sources.

1.11 Chapter Outline

Chapter Two: Provides the background to terrorism activities in Kenya and its foreign policy behaviour in response to international terrorism right from 1998 to 2012 in order to handle threats emanating from international terrorism.

Chapter Three: Looks at the impact of Kenya's foreign policy in combating international terrorism.

Chapter Four: Presents a detailed discussion of the research findings in order to answer the research objectives. The chapter evaluates Kenya's foreign policy response to international terrorism and subsequently, the effectiveness of the policy in combating global terrorism.

Chapter Five: Provides the summary, conclusions of the study, gives recommendations and provides suggestions on areas for further study.

CHAPTER TWO

KENYA'S FOREIGN POLICY BEHAVIOUR IN RESPONSE TO

INTERNATIONAL TERRORISM: 1998 TO 2012.

2.1 Introduction

This section provides a brief history of terrorism activities in the global scene and then an analysis of terrorists' activities in Kenya and the country's foreign policy behaviour in response to international terrorism from 1998 to 2012.

2.2 International Terrorism

There is no agreed upon definition of terrorism, but essentially, terrorists are ideologically motivated and use violence against civilians to create panic and fear, in the hope of changing policies or laws.[76] Though there is no agreed upon definition of terrorism, there are many different types; firstly there is civil disorder which can range from protesting legally to illegally lambasting the government. Essentially, destructive forms of terrorism are political, quasi political, and religious.[77] Political terrorists attack in the hope of changing policies, usually in reference to color, creed, or profession. Quasi political terrorism on the other hand is the use of terrorist tactics for personal gain. For instance, taking a hostage is terrorizing someone, but it is not an action designed to enact wide scale change. Lastly, religious terrorism focuses on imposing one's beliefs on others against their wishes.

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[76] FBI — Reports and Publications, *FBI — Homepage*. Web. 14 Dec. 2011. <http://www.fbi.gov/stats-services/publications>.
[77] Terrorism - Terrorist Organizations. *CDI - Center for Defense Information - Security Policy Research Organization*. Web. 14 Dec. 2011. <http://www.cdi.org/terrorism/terrorist-groups.cfm>.

Many terrorists consider a mission successful if hundreds of helpless, innocent women and children lie bloody in the street. A popular terrorist attack is to set off a relatively small bomb, and kill say, 30 people, and detonate a far larger one when police and medics arrive. Commonly, terrorists are generalized as men of Middle East origin, motivated by their fanatic beliefs to harm innocent people. Unfortunately, terrorism is incredibly diverse and located in a number of countries in the world. Generally, terrorists are either politically or religiously motivated. There are international and homegrown terrorists. As the latter suggests, homegrown terrorists organize and act in their native countries.

Terrorist organizations are numerous and wide ranging. For example, according to the Center for Peace and Security, Jamaat al-Fuqra is an Islamic terror organization whose goal is to "purify Islam through violence."[78] They are commanded by God to expand their religion. In other words, this is what these groups of radical Islamic men believe in. Furthermore, violence is the only acceptable way of dealing with differing beliefs, and frighteningly, they are credited with various shootings and fire bombings. Their members have been convicted of criminal violations, including murder and fraud. This group was active largely in the 1980s, but it has given birth to a radical Islamic movement in the US, and other terrorist groups have stepped in to fill the void left by Jamaat al-Fuqra.[79]

Closer home, Al-Shabaab is another radical Islamic group with strongholds in Somalia and some parts of North Eastern Kenya. Various small scale bombings have been traced

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[78] Department of Homeland Security | Counter terrorism. *Department of Homeland Security | Preserving Our Freedoms, Protecting America*. Web. 14 Dec. 2011. <http://www.dhs.gov/files/counter terrorism.shtm>.
[79] Ibid

back to this group. The Al-Tipura Tiger force blows up innocent citizens in India once a year in an effort to fight the government's Pakistani foreign policy. In India and Philippines respectively, the Maoist and Communist Parties train guerrillas to frighten individuals in order to gain votes and support.[80]

The Pilipino Liberation Tigers of Tamil recently gunned down a local organizer who questioned their brutal tactics and radical beliefs.[81] Hamas, an Islamist organization, with an associated military wing, the Izz ad-Din al-Qassam Brigades and based in Palestine, are responsible for hundreds of rocket and mortar attacks on Israel. In recent times, political anarchists have rioted in various places around Europe specifically in Greece, Italy, the UK, and France.[82] Thus, these fanatics are numerous and wide ranging, and due to their deadly nature, they must be met with equal force.

Terrorist attacks have occurred several times in both developing and developed countries. In 2011 alone there have been over 11,500 acts of terror around the world, according the Federal Bureau of Investigations (FBI's) worldwide National Counter terrorism Center (NCTC) data trend.[83] These global terrorism attacks that were located in 72 nations resulted in approximately 50,000 casualties out of which 13,200 succumbed to massive trauma. The exact figures of terrorism acts in the US are unclear since the line between domestic terrorism and political violence is blurred. However, since 1999, there have

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[80] ibid

[81] "Terrorism." *Wikipedia, the Free Encyclopedia*. Web. 14 Dec. 2011.
<http://en.wikipedia.org/wiki/Terrorism>.

[82] "Terrorism." *Wikipedia, the Free Encyclopedia*. Web. 14 Dec. 2011.
<http://en.wikipedia.org/wiki/Terrorism>.

[83] FBI — Reports and Publications, *FBI — Homepage*. Web. 14 Dec. 2011. <http://www.fbi.gov/stats-services/publications>.

been over 50 separate terror attacks on domestic soil according to the Department of Justice.[84] The manner in which terrorist organizations carry out their attacks is diverse, the perpetrators are perverse, and the acts of terror are utterly unforgivable.

The events of September 11, 2001 remain a horror to many in the history of terrorism. On that fateful day, various Al-Qaeda operatives of Pakistani and Saudi origin hijacked three planes and attacked the WTC and Pentagon. These attacks killed 2,918 people in total, including 343 firefighters and paramedics, and 23 New York Police Department officers. It was the greatest loss of life on American soil since Pearl Harbor. This attack proved to majority of Americans that terrorism was very real and needed to be stopped.[85]

According to the FBI NCTC data compilation, there has been a reduction of global terrorism by 12 percent.[86] This reduction is credited to considerable economic success in a number of countries. In spite of this apparent success by counter terrorism organizations in different countries, attacks continue to be prevalent especially in Southeast Asia. Asia is the terrorism capital of the world. The FBI estimates that 75 percent of the world's terrorist attacks and deaths took place in South Asia and the near East.[87]

In the US, FBI Counter terrorism division, the Federal Marshalls, Critical Incident Response Team, Central Intelligence Agency Counter terrorism division, Department of Homeland Security, federal tactical teams are some of the agencies that maintain constant vigil, ready to defend the US citizens against attacks. This has made the US to be termed

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[84] Ibid

[85] Department of Homeland Security | Counter terrorism. *Department of Homeland Security | Preserving Our Freedoms, Protecting America*. Web. 14 Dec. 2011. <http://www.dhs.gov/files/counter terrorism.shtm>.

[86] Ibid

[87] "Research and Statistics." *Counter-Terrorism Training and Resources for Law Enforcement*. Web. 14 Dec. 2011. <http://www.counter terrorismtraining.gov/stat/index.html>.

as the home to the finest counter terrorism forces in the world. Local police special weapons and tactics teams are trained and equipped to handle attacks as well, and there are thousands of professionals who remain on the watch.[88]

2.3 Kenya's Security Situation in Relation to Terrorism Activities

Although not technically part of the HOA, Kenya is deeply affected by events there. Kenya, moreover, remains a potentially prime target for terrorists in its own right. It receives a substantial number of tourists from the West. Additionally, it hosts the headquarters of the United Nations Environment Program and the United Nations Habitat Program, a large number of Western embassies, and several international businesses and multinational corporations.

2.3.1 The Underlying Causes of Terrorism Activities

Kenya boasts of the most stable, effective and democratic government compared to all the countries in the HOA. However, despite all these, the country in most recent years has experienced the most terrorist attacks against Western targets; in addition to being the most useful important operational base for Al-Qaeda and lately, the Somali based Al-Shabaab (an off-shoot of Somalia's Islamic Courts Union (ICU)).

The situation that Kenya finds itself in as far as terrorism is concerned is driven by the convergence of four factors.[89] First, Kenya provides a target-rich environment for

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[88] Department of Homeland Security | Counter terrorism. *Department of Homeland Security | Preserving Our Freedoms, Protecting America*. Web. 14 Dec. 2011. <http://www.dhs.gov/files/counter terrorism.shtm>.
[89] W. A. Downing (2009) 'Al-Qa-ida-s (Mis) Adventures in the Horn of Africa'. DIANE Publishing Company.

terrorists because of its relatively advanced economy and its long-standing ties with the UK, US, and Israel. Second, Kenya maintains a functioning sovereign government, one increasingly subject to public opinion. The former limits the operational freedom of Western intelligence and counter terrorism units, and the latter heightens the cost of being seen to be doing others' bidding in the "War on Terror." Third, Kenya suffers from weak governance in a number of critical areas, including security and the criminal justice system. This discourages those Kenyans who might have relevant information from providing it to the authorities. Fourth, the presence of a disaffected minority Muslim population,[90] especially along the Kenyan coast, provides both Al-Qaeda and Al-Shabaab, operatives an environment in which they can operate with less security pressure than elsewhere in the region[91] and therefore making Kenya an attractive place for both Al-Qaeda and Al-Shabaab to operate.[92]

2.3.2 Terrorism Activities in Kenya

A few years ago, terrorism in Kenya was mostly an alien phenomenon until the country experienced its first terrorist attack in 1980. On New Year's Eve in December 1980, a bomb exploded at the Norfolk Hotel in downtown Nairobi. The hotel owned by a Jewish family was then a popular tourist destination. 20 people died in the blast, which also injured 80 people and partially destroyed the building. The terror attack was organized by the Popular Front for the Liberation of Palestine (PFLP) to avenge Kenya's permission to Israeli soldiers to refuel in Nairobi during the Entebbe hostage crisis. Following the hostage taking of an Air France flight 139 en route to Paris, the terrorists

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[90]Ibid .
[91]Ibid
[92] R. William (2005) 'Al Qa'ida Recruitment Trends in Kenya and Tanzania," *Studies in Conflict and Terrorism*: 1-20

forced the plane to land in Uganda, with President Idi Amin's permission.[93] Afterwards, sources with the Kenyan government revealed that 34 year old Qaddura Mohammed Abdel al-Hamid, a Moroccan citizen and a member of the PFLP was the mastermind of the terrorist attack. He fled to Saudi Arabia shortly after the bombing.[94] However, PFLP denied GoK's statement that the movement was responsible for the attack, and cautioned that "Israel might use such reports as justification for raids against guerilla bases in southern Lebanon and (Israel's) terrorist activities against the Palestinians".[95]

After this terrorist incident, Kenya did not enact any legislation to address terrorism crimes and no organized terrorist related attacks occurred in Kenya in the interim period. However, the next two terrorist attacks redefined the GoK's understanding of the threat of terrorism to its national security. It had to rethink its national security strategy, and place counter terrorism at the center. The terrorist attack on the US embassy in Nairobi's city centre on the 7th of August 1998, the twin attacks of Paradise hotel in Kikambala and the departing Israeli aircraft en route to Tel Aviv in 2002 provided the impetus for this shift.[96]

The 1998 US Embassy Bombing

By far, the single largest attack on American interests before September 11 involved the unfortunate terrorist attacks on the US embassies in Kenya and Tanzania. Members of the terrorist group Al-Qaeda attacked the US embassy in Nairobi with a truck-bomb. The

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[93] J. Davis, (2007) Africa *and the War on Terrorism*, (p.50). Ashgate Publishing Limited.
[94] Associated Press, "Arab Guerillas Deny Accusation by Kenya on Bombing of a Hotel", 9 January 1981. Available on the web: http://query.nytimes.com. Accessed on June 12, 2013.
[95] H. H. Adan, (2005) "Combating Transnational Terrorism in Kenya." (p.33) *Masters Thesis, US Army Command and General Staff College, Fort Leavenworth, Kansas.*
[96] ibid

terror attack on the US embassy killed about 220 people and injured roughly 5,000 people, composed of the embassy staff, passers-by and people in neighboring buildings the most affected being at Ufundi co-operative house and Co-operative house which then housed the Teachers Service Commission.[97] Al-Qaeda at the same time attacked the US embassy in Dar es Salaam, Tanzania killing 11 and injuring another 70. The two embassies were easily accessible and relatively unprotected, making them particularly easy targets. In many respects, these attacks and the subsequent attack on the WTC in the US on September 11 2001 were the opening round of the Global War on Terrorism (GWOT). Following these attacks, the US bombed a Sudanese-based chemical factory, suspected to have links with the then Al-Qaeda mastermind Osama bin Laden. Missiles were also fired into Afghan-Pakistan border where Taliban militia and Osama bin Laden were reported to be operating from. These would be the first shots of what has become to be known as the GWOT.[98]

Immediately after the devastating terror attack on the US embassy, the government made major pronouncements regarding the pursuit of terrorists in the country, and swore to bring the masterminds to justice. The then President of Kenya, Daniel Arap Moi, hinted that the government had clues as to who the attackers were.[99] Intelligence agents from Kenya and the US intensified the search for the terror masterminds and within, a week one of the suspects in the terror plot Mohammed Sadeq Odeh was arrested.[100]

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[97]The bomb-laden vehicle attempted to enter the underground parking area, but security guards prevented it from doing so. Had they not, the number of Embassy casualties would have been far higher, and the "collateral damage" far less.
[98] J. Davis, (2007) *Africa and the War on Terrorism*, (p.50). Ashgate Publishing Limited.
[99] Agence France Presse, "Kenya has Clues to Bombing: Moi" 9 August 1998. Available on the internet at: http://global.factiva.com/ha/default.aspx
[100] BBC, "Bombing Suspect Returns to Nairobi". Available at: http://news.bbc.co.uk/2/hi/Africa/152860.stm

Nonetheless, in spite of the terror attack on the US embassy and the subsequent arrest of the terror suspects, the national mindset was still steeped in denial. The main point of argument within the country was that Kenya is a peace loving nation; one that does not harbor terrorists. During this period, the government only employed its diplomatic arsenal by having a meeting with US Secretary of State Madeline Albright, and cooperating with the US investigative agencies. The GoK did not make any efforts to initiate a broader national counter terrorism strategy that would inform its own war on terror neither did it cooperate with regional countries in crafting a joint program for counter terrorism. The lax approach by the government to come up with a counter terrorism strategy was premised on the assumption that Kenya was merely a victim of, not a source or target of terrorism.[101] This assumption and other factors such as a corrupt law enforcement and immigration system, poor financial reporting mechanisms, inadequate intelligence system, and inadequate legislation to deal with terrorist related offences largely contributed to the continued use of Kenyan territory as an incubator for further terrorist activity in the country, and elsewhere in the region.[102]

The trial carried out in New York against four men linked to the bombing of US embassies in Kenya and Tanzania in 1998 exposed the existence of a terror network that had taken root in Kenya, as a result of weak immigration and security laws.[103] The key leadership of the Al-Qaeda Kenyan cell was composed of primarily citizens of the Gulf States, Somalia, Pakistan, and the Comoros Island who had assimilated into local cultures

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[101] Adan, (2005), (p.39). Also see: Gilbert Khadiagalla,"Kenya: Haven or Helpless Victim of Terrorism," in United States Institute of Peace, *Terrorism in the Horn of Africa*, (p.2) Washington DC: USIP.
[102] J. Davis, (2007) *Africa and the War on Terrorism*. Ashgate Publishing Limited.
[103] Adan, (2005), (p.39). Also see: Gilbert Khadiagalla,"Kenya: Haven or Helpless Victim of Terrorism," in United States Institute of Peace, *Terrorism in the Horn of Africa*, (p.2) Washington DC: USIP.

along the Kenyan coast. They increasingly recruited local Kenyans, particularly from the coastal region. Due to corruption prevalent in the immigration system at the time, foreign residents of the Kenyan Al-Qaeda cell attained citizenship and set up small businesses and Muslim NGOs.

In addition to assimilation, terrorist groups and networks such as Al-Qaeda and Al-Shabaab depend on decentralization and flexibility. For example, when Osama bin Laden's secretary, Wadih El-Hage (who is credited with establishing the Kenya cell in 1994), returned to the US in 1997 after being interrogated by the FBI, the Kenyan cell replaced him with an Egyptian citizen.[104] Following the US embassy bombing, the Egyptian and other key leaders of the Kenyan cell vanished. Working with the FBI and Interpol, the government made efforts to destroy the Al-Qaeda cell, apprehending several suspects in Nairobi and Mombasa. For instance, in July 2001, Nairobi police arrested 8 Yemeni and 13 Somali nationals. Similarly, the police arrested more than 20 people suspected of having links with Al-Qaeda in Lamu in November 2001. Despite these arrests, several key leaders of the 1998 bombing, including two Mombasa based men remained at large.[105]

The 28 November 2002 Terrorist Attacks in Kikambala

On November 28 2002, Al-Qaeda executed Kenya's third major terrorist attack. During the attack, two Strela 2 (SA-7) surface-to-air missiles were fired at, but narrowly missed, an Israeli charter jet taking off from Moi International Airport in Mombasa en route to

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[104] 'Terrorism in the Horn of Africa'.(2004) (p.3) Special Report. United States Institute of Peace. Available at: http://www.usip.org/sites/default/files/resources/sr113.pdf
[105] Ibid

Tel Aviv with over 261 passengers on board.[106] Five minutes later, a truck-bomb was detonated just outside the lobby of the Israeli-owned Paradise Hotel in Kikambala along the beach, north of Mombasa. The hotel was frequented by tourists of Israeli origin and in fact, the explosion took place immediately after approximately 60 tourists had checked into the hotel, all of them from Israel. 15 people were killed and 80 injured in the attack. 12 Kenyans and 3 Israelis 2 of them children died in the attack. Among the victims of the terror attack, 9 of them were dancers who had been employed to welcome guests to the hotel. Clearly, in this case Al-Qaeda's attention shifted from the US to Israel with the perceived vulnerability of both targets a clear incentive for their selection.[107]

Unlike the terrorist attacks on the US embassies in Kenya and Tanzania four years earlier, the twin attacks at the Kenyan coast were not surprising. They occurred two and half months after the first anniversary of the September 11 attacks in New York and Washington, DC. Moreover, shortly before the attacks, there had been warnings of an impending attack on Western targets, prompting countries such as the UK, and Australia to issue travel warnings to their citizens traveling to Kenya.[108]

An important outcome of these attacks was that they confirmed to the GoK that the country indeed provided a safe haven for cells allied to Al-Qaeda. For instance, in May 2003, the government admitted the presence of a terrorist network in the country, releasing credible intelligence regarding impending terrorist attacks on Western targets.

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[106] P. Eichstaedt (2010) 'Pirate *State: Inside Somalia's Terrorism at Sea*', p.124. Chicago Review Press.
[107] W. A. Downing (2009) 'Al-Qa-ida-s (Mis) Adventures in the Horn of Africa' (p.49). DIANE Publishing Company.
[108] Adan, (2005), (p.39). Also see: Gilbert Khadiagalla,"Kenya: Haven or Helpless Victim of Terrorism," in United States Institute of Peace, *Terrorism in the Horn of Africa*, Washington DC: USIP.

Additionally, it renewed its commitment to an effective counter terrorism regime by forming the ATPU and establishing the NCTC in 2003 and 2004 respectively to handle terrorist related crimes. ATPU was headed by a senior commissioner of police and it brought together law enforcement officials trained in counter terrorism operations.

After the terror attack of 2002, there was growing evidence of an indigenous terrorist movement in Kenya. Following the arrest of Yemeni suspects linked to Al-Qaeda in Somalia in March 2003, Kenya's ministry of foreign affairs indeed acknowledged the involvement of Kenyan nationals in 1998 and 2002 terror attacks.[109] The arrests that focused solely on nationals from Yemen, Pakistan, and Somali constituted the first phase. The second phase of the arrests mainly consisted suspects of Kenyan origin (local people linked to businesses). There were uncertain reports of links between the Kenyan cell of Al-Qaeda and the largest radical Islamist group in Somalia, al Ittihad al Islamiya (AIAI), arising from the apparent mobility of some of the key leaders between Kenya and Somalia, AIAI's base.[110] Al-Qaeda has funded AIAI in the past and it is the most powerful radical band in the HOA with a membership of 2,000 personnel. According to reports, Dadaab refugee camp on the Somalia-Kenya border has been identified as a training ground for Islamic extremists, through a Muslim charity, Al Haramain, that established religious schools and social programs. In 1998, Kenya revoked the registration of Muslim NGOs, including al Haramain, because of their links to terrorism.[111]

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[109] Ibid
[110] Ibid
[111] 'Terrorism in the Horn of Africa'.(2004) (p.3) Special Report. United States Institute of Peace. Available at: http://www.usip.org/sites/default/files/resources/sr113.pdf

Terrorist Activities in Kenya from 2003 to 2012

The Paradise hotel attack was followed by a terror plot to attack the temporary US embassy along Mombasa road in June 2003. According to the plot, the attack was to be executed using a truck-bomb and an explosive laden plane which was to be taken from Nairobi's Wilson Airport. In the early 1990s, this same airport acted as the staging base for Al-Qaeda operatives' entry flights to Somalia.[112] Fortunately, the attempted attack on the US embassy was foiled by Kenyan authorities. One of the suspects arrested by Kenya police indicated that individuals involved in the November 2002 attacks on the Paradise Hotel planned this failed attack.

On May 12, 2006, another terrorist incident not associated with Al-Qaeda occurred when three assailants petrol-bombed the Nairobi offices of the Christian radio station Hope FM after gaining entry to the station's premises by killing a private security guard. However, an inner security door prevented the assailants from reaching the upper floor where several staff members were hiding. Little is known about their identity and motives. At the time of the attack, the station's weekly program, "Jesus is the Way," which many believe was explicitly designed to win converts to Christianity from the Islamic faith, was on air.[113] Even though the attack on Hope FM was a little bit insignificant in terms of the impact, it marked Kenya's first entirely domestic case of Muslim-based terrorism.

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[112] M. Rosenberg, (2003) "Al-Qaeda plotted to destroy US Embassy in Kenya in June," *Associated Press,* October 24, 2003; Harmony, AFGP-2002-600104, 3.
[113] According to reports and conversation with the station's staff, text-message cell-phone threats had been received at the station during the program's broadcast.

The period between 2007 and 2010 saw the country witnessing terror attacks of minor scale. It is during this period that Mohammed Abdulmalik Bajabu, a Kenyan citizen was arrested. He was arrested in February 2007 on suspicion of leading a terrorist bomb plot in Mombasa during the World Cross Country Championships that were held in Mombasa in March 2007. Besides that, Abdulmalik was suspected of being involved in the terror attack of Paradise Hotel in Mombasa. After the arrest, the terror suspect was transferred to Guantanamo in the US on 26 March 2007.[114] The move demonstrated a clear shift in GoK policy in cooperating with the US government on the GWOT. The then US Ambassador to Kenya, Michael Ranneberger, confirmed on Kenyan radio that Abdulmalik was "moved to Guantánamo Bay with the full consent of the Kenyan government as part of collaboration between the two governments to fight global terrorism."[115]

The period also saw intensified efforts by Kenyan and US security agencies in tracking the 1998 and 2002 terror mastermind and leader of Al-Qaeda cell in East Africa Fazul Abdullah Mohammed. Fazul escaped arrests on several times before finally being shot dead by Somali police on 7 June 2011 when he and an associate Musa Hussein who was known to Fazul as Abdullahi Dere Musa refused to stop at a checkpoint north-west of Mogadishu.[116]

In mid October 2011, Kenya made an incursion to Somalia which was largely influenced by frequent abductions of Kenyans and tourists by operatives suspected to be from the Somali based Al-Shabaab. They held hostage a number of cargo ships and demanded

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[114] B. Agina (2008) 'How terror suspects were flown out of Kenya' *The Standard* Tuesday, 29th July 2008.
[115] http://www.reprieve.org.uk/cases/mohammedabdulmalik/
[116] Kenyan-Somali Jihadist Killed With Fazul". *Somalia Report*. 13 June 2011.

ransom running into millions of dollars. This money has continuously been used by Al-Shabaab to fund terrorism activities in the region. Prior to the incursion into Somalia, a number of abductions and terror attacks against Kenyan citizens and foreigners were carried out by suspected Al-Shabaab militants. In early September 2011, an English tourist was kidnapped by Somali pirates from a remote Safari lodge near the Somali border. Judith Tebbutt was kidnapped and her husband, David Tebbutt, killed in the attack when he resisted the kidnapping. The Somali pirates took the lady across the border into a remote corner of the lawless country and held her hostage while demanding ransom from the British government.[117]

On 2nd October 2011, the media reported that 10 heavily armed Somali bandits believed to be Al-Shabaab operatives had seized a French woman from her holiday home in Manda Island. They were "10 heavily armed Somali bandits suspected to be Al-Shabaab operatives from Ras Kamboni, across the border in Somalia"[118], the late Professor George Saitoti, then Kenya's internal security minister said in a statement. The men were pursued by Kenya's security forces as they raced in a high-speed boat towards the border. Officers from the Kenya Navy managed to injure several abductors in a shoot-out. The men managed to reach Ras Kamboni and escaped into Somalia. After the abduction, the French embassy in Nairobi urged "extreme caution" for people visiting Lamu and the surrounding areas. Saitoti termed the abduction a "serious violation of Kenya's territorial integrity".[119]

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[117] CNN September 19, 2011' *English Tourist Kidnapped by Somali Pirates'*
[118] http://www.cnn.com/2011/10/02/world/africa/kenya-french-kidnapped/index.html *Official: Gunmen seize French woman in Kenya, take her to Somalia, CNN 2nd October 2011*
[119] Daily Nation, 2nd October 2011

As a result of these and other incidences, countries like the UK, Australia and the US issued travel advisories to their citizens against visiting some parts of the country especially the coast. For instance, in its travel advisory, the Foreign and Commonwealth Office in the UK advised its nationals as follows: "We advise against all but essential travel to coastal areas within 150 km off the Somali border, following two attacks by armed gangs in small boats against beach resorts in the Lamu area on 11 September and 1 October 2011."[120] On its part the US warned its citizens that, "The US Department of State warns US citizens on the risks of travelling to Kenya".[121] It advised its citizens to evaluate their personal security situation in light of continuing heightened threats from terrorism.

The attacks and abductions carried out by Al-Shabaab threatened the country's security and hence its stability. On the other hand, travel advisories threatened the country's economic well being because it directly affected tourism, the mainstay of Kenya's economy in terms of foreign exchange earnings. The deteriorating security in the coast and parts of north eastern province in addition to the travel advisories therefore influenced Kenya's policy on the incursion into Somalia where it dispatched KDF military personnel to work in conjunction with the TFG forces in order to quell the treat of Al-Shabaab to Kenya's security as well as its economic well being. The main actors involved in the incursion into Somalia were the late Professor George Saitoti, who doubled up as then minister in charge of internal security and acting minister for foreign

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[120]*Change to travel advice for Kenya, 01 October 2011*
[121]*Travel Warning U.S. Department of State Bureau of Consular Affairs,* Kenya November 04, 2011

affairs, Yusuf Haji then minister for defence, and General Julius Karangi, Chief of KDF. Prior to the incursion into Somalia, the three were seen on several times addressing press conferences both local and international warning that the constant attacks by Al-Shabaab were not going to be tolerated by the government.

Following the incursion, a number of terrorist attacks were carried out by Al-Shabaab in retaliation to Kenya's incursion into Somalia. The first attack was on a bar known as Mwaura's at downtown Mfangano Street in Nairobi on Monday, 24 October 2011, just immediately after midnight. A grenade was hurled inside the bar killing 1 person and injuring more than 20 people. According to the Police, the weapon used was a Russian-made F1 grenade.[122] On the same day, yet a second blast occurred, when a grenade was tossed out of a moving vehicle into the Machakos bus terminus where 5 people died, 69 people were injured in which 2 of them were admitted at the intensive care unit. Prior to the attacks, the US had issued an alert warning of imminent terror attacks in the country. The warning indicated that Al-Shabaab terror group would carry out retaliatory attacks in response to Kenyan troops' incursion into Somalia in mid-October.[123] A Kenyan Muslim convert Elgiva Bwire Oliacha, was arrested in connection with the two blasts and was subsequently sentenced to life imprisonment after having pleaded guilty to all the charges preferred against him.[124]

Al-Shabaab militants carried out several attacks over the first few months of 2012. January witnessed three terrorist attacks, whereby in one of the attacks, the chairperson of

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[122] Two grenade blasts rattle Nairobi; 1 dead". Associated Press. 25 October 2011.
[123] Deadly grenade blasts rattle Nairobi". Associated Press. 24 October 2011.
[124]Kenyan Sentenced to Life in Prison for Grenade Attacks". *VOA News*. 28 October 2011.

the Community Peace and Security Team in Hagadera camp as well as several police officers were killed. During the month of February, Al-Shabaab claimed responsibility for an attack that resulted in the death of a police officer and a civilian while injuring two other civilians.

On Sunday, 29 April 2012, an attack took place at God's House of Miracles Church at Ngara Estate in Nairobi. The attacker, by the name of Amar, entered the church and left. He later came back and hurled a grenade at worshipers while they had been called by the pastor to the pulpit.[125] The attacker then ran away from the scene. The attack resulted in the death of 1 person and 11 people were injured and were subsequently admitted at Kenyatta National Hospital. The experts said that the grenade used was manufactured in China.[126] On 28 May, 2012 a blast went off inside the Assanand's House on Nairobi's Moi Avenue, injuring 27 people 4 of them critically. Mathew Iteere then Commissioner of Police said that the explosion was as a result of either a grenade or a bomb.[127]

On 24 June, 2012, at around 10 pm when people had gathered to watch the European Championships 2012 football match between England and Italy at around 10 pm, a grenade was hurled at Jericho Beer Garden in Mishomoroni, Kisauni in Mombasa.[128] 1 person was killed on the spot while 2 more died due to injuries while they were receiving treatment at the Coast general hospital. The attack also injured 30 people including a

[125] http://en.wikipedia.org/wiki/2012%E2%80%9313_terrorist_attacks_in_Kenya
[126] Cyrus, Ombati (2012). "Police link Al-Shabaab to Ngara church attack". Standard Group Limited, 29th May 2012.
[127] "Blast rocks Kenyan Capital – Nairobi". Standardmedia.co.ke. 28 May 2012
[128] http://en.wikipedia.org/wiki/2012%E2%80%9313_terrorist_attacks_in_Kenya

suspect who was alleged to be part of the attackers, and a 9-year old boy.[129] This attack happened on the same day the Kenya Navy had taken away two explosive devices that had been found floating in the Indian Ocean. Athman Salim, a 23-year old Kenyan Muslim from Kilifi District was the main suspect of the attack. He claimed that he had visited the pub to listen to some local music, and indicated that he had never worked outside the city of Mombasa. He was released on 9 July after spending 10 days in custody at Nyali police station.[130]

Masked gunmen attacked two churches in Garissa simultaneously on 1 July, 2012. The churches, the Central Catholic Cathedral and Garissa AIC are 3 kilometers apart. The assailants killed 17 people and left 50 injured.[131] The dead included 2 police officers, 4 men, 9 women and 2 children. The Supreme Council of Kenya Muslims (SUPKEM) warned against the misinterpretation of this attack as a religious war against Christians.[132] A joint effort by the Kenya Police, Administration Police, National Security Intelligence Service (NSIS) now the National Intelligence Service (NIS) and the paramilitary General Service Unit (GSU) saw the arrest of 83 suspects in connection with the attack during a massive security swoop carried out thereafter.[133]

In the month of August, 1 person was killed and 6 were injured in Eastleigh near the Kenya Air force headquarters. The attack was carried out on 3rd August and it occurred

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[129] David Ochami and Philip Mwakio (2012) "Three killed, 30 hospitalized in Mombasa blast". *Standard Digital, 25* June 2012.

[130]Philip Muyanga (2012). "Court releases Mishomoroni terror suspect". *nation.co.ke*. 25 June 2012.

[131]Nation Team (2012). "17 dead, 50 injured in twin Garissa church attacks". Nation Media Group, 1 July 2012.

[132] Reporter, Nation (2012). "Garissa attacks not a religious war, say Muslims". *nation.co.ke*. 1 July 2012.

[133] Abdi, Rashid (2012). "Police arrest 83 over Garissa church attacks ". *nation.co.ke*. Nation Media Group. "Kenya Police, Administration Police, National Security Intelligence Service and the paramilitary General Service Unit"

on the eve of a visit by Hillary Clinton, the then US secretary of state.[134] The suicide

bombing was inadvertently carried out by an innocent carrier of a detonated home-made

device.[135] This mode was adopted by the assailants as a new way of executing their plans

by giving unsuspecting citizens armed home-made explosives that they in turn detonate

remotely at a safe distance.[136]

November 18 2012, witnessed a terror attack on a minibus in Eastleigh where 10 people

were killed and 25 seriously injured. The explosion was caused by an improvised

explosive device.[137]   Following the attack, looting and destruction of Somali-owned

homes and shops by angry mobs of young Kenyans ensued. On 7 December, 5 people

were killed and 8 others injured in an explosion near a mosque in Eastleigh area of

Nairobi. Among the wounded was the area member of parliament Abdi Yusuf Hassan.[138]

Hassan was seriously injured and is still recovering from the injuries even at the time of

writing this project.

2.4 Policy Response by the Government to Terrorist Attacks and Threats

The slow government response to terrorist attacks and threats since the 1998 bombing

grew from a denial based on the perception of Kenya as a victim, rather than a source of

international terrorism. This denial was also tied to the inability to acknowledge the wider

context that led to the growth of terrorism: the erosion of governance structures, notably

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[134]"Kenyan capital hit by grenade attack — Africa — Al Jazeera English". *aljazeera.com*. 3 August 2012.
[135]   A.   Aisi   (2012)   'Dooms   year   for   Kenyan   Security,   with   Series   of   Terrorist   Attacks'
http://4thestatewire.co.ke/archives/dooms-year-for-kenyan-security-with-series-of-terrorist-attacks/
[136] ibid
[137] "Another black Sunday after explosion inside city matatu claims seven lives – Politics and policy".
Business daily africa.com. 19 November 2012.
[138] "BBC News – Nairobi's Somali area Eastleigh hit by fatal blast". Bbc.co.uk. 8 December 2012.

weak enforcement and gate keeping institutions.[139] Consequently, the government has always been afraid to alienate Kenya's Muslim minority who often complain of marginalization. There was, however, a marked shift in policy after Muslim protestors embarrassed the Moi regime by marching in support of Al-Qaeda in the wake of September 11 attacks in the US.[140]

The new government of Mwai Kibaki moved to establish mechanisms to meet the growing threat of terrorism activities in Kenya.[141] In February 2003, the government formed the ATPU composed of officers trained in anti-terrorism. At the same time, the cabinet authorized negotiations between the executive and legislative branches on legislation to detect and punish suspected terrorists. In June 2003, Kalonzo Musyoka who was then the minister for foreign affairs called on parliament to expeditiously pass the anti-terrorism bill.[142]

As far as counter terrorism strategies are concerned in Kenya, the diplomatic aspects have grown much faster than the legislative ones. As far back as 2003, an attempt to pass the Suppression of Terrorism Bill 2003 was rejected by Kenyan parliament. Even a revised bill known as Suppression of Terrorism Bill 2006 met equal resistance from law makers and the Muslim community in Kenya. On the judiciary front, seven terror suspects that were arrested in connection with the 2002 bombings in Kikambala were acquitted in

[139] 'Terrorism in the Horn of Africa'. (2004) (p.3) Special Report. United States Institute of Peace. Available at: http://www.usip.org/sites/default/files/resources/sr113.pdf
[140] Ibid
[141] K. Abraham (2005) ' The Challenge of Terrorism to Africa and Perspectives of African States', Paper Presented in Riyadh, Saudi Arabia January, 2005 *Available at: http://www.aksophiabooks.org/challenge_of_terrorism_to_africa.htm.*
[142] A.K. Bangura, & B.D. Tate, (2004) 'Africa's Responses to International Terrorism and the War against It'. Howard University

2005 due to lack of laws that govern terrorism. The closest Kenya came to strengthening the prosecution of terrorist suspects was in the amendment of the Evidence Act that made confession taken before a police officer admissible in a court of law.[143] The amendment of the act led to a number of successful prosecutions of terrorist suspects.

2.4.1 Legislative Initiatives

Suppression of Terrorism Bill 2003

In 2003, the GoK published the Suppression of Terrorism Bill with wide ranging provisions on what amounted to terrorism. The bill defined terrorism, *inter alia*, as "the use of threat or action" where:

a)   the action used or threatened: (i) involves serious violence against a person, (ii) involves serious damage to property (iii) endangers the life of any person other than the person committing the action (iv) creates a serious risk to the health or safety or the public or a section of the public or (v) is designed seriously to interfere with or seriously disrupt an electronic system; (b) the use or threat is designed to influence the government or to intimidate the public or a section of the public; and (c) the use or threat is made for the purpose of advancing a political, religious or ideological cause.[144]

The definitional problem that bedevils the global quest for a precise operationalization of the concept of the term "terrorism" was evident in this definition and in the bill in particular. Like most counter terrorism legislations, the bill was described as being

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[143] J. Davis, (2007) *Africa and the War on Terrorism*, (p.52). Ashgate Publishing Limited.
[144] Government of Kenya (2003) 'Suppression of Terrorism Bill, 2003', *Kenya Gazette Supplement* No. 38 (Bill No.15), Nairobi: Government Press.

riddled with vague and broad parameters that open them to abuse by the state.[145] As a result, it was met by stiff opposition from all quarters including parliament, civil society, and international human rights organizations[146] which subsequently led to the withdrawal of the bill pending further consultations. It was later revised and taken back to parliament for debate.

Suppression of Terrorism Bill 2006

This bill was a revised version of the Suppression of Terrorism Bill, 2003. If it would have been passed by parliament, it would have been known as the Anti-Terrorism Act, 2006. While by far a better version, it was not passed owing to the political implications of the bill. In this bill, terrorism was defined as:

(a)   An act or omission in or outside Kenya which constitutes an offence within the scope of counter terrorism convention; (b) An act or threat in or outside Kenya which, *inter alia,* involves serious bodily harm to a person; involves serious damage to property; endangers a person's life…"[147]

One important addition to the definition is the reference to counter terrorism conventions. Over the years, twelve key international conventions have been developed within the UN to address the threat of terrorism, and the obligations of state parties under those conventions and protocols. Kenya is party to all the conventions. Moreover, the bill distinguished between free speech, acts such as protests, demonstrations, or work

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[145] K. M'Inoti, (2005) "Combating Terrorism in Africa." (p.13). Paper prepared for the Annual Conference of the Association of Law Reform Agencies of Eastern and Southern Africa (ALRAESA), Entebbe, Uganda, 4-8 September 2005.
[146] Amnesty International, "Kenya: Memorandum to the Government of Kenya on the Suppression of Terrorism Bill, 2003." (p.1) Amnesty International, September 2004.
[147] Government of Kenya, "The Anti-Terrorism Bill, 2006" (Draft), p.3.

stoppages, and overt acts of terrorism. An important provision of the draft bill was that it addressed issues of international terrorism. Under the bill, the incitement to commit a terrorist offence does not have to take place in Kenya for it to be an offence under the proposed act. Section 8 (2) of the bill noted that, "It is immaterial whether or not the person incited is in Kenya at the time of the incitement."[148] This part of the bill recognized that Kenya was a critical partner in the GWOT. It also signaled the government's acknowledgement that Kenya was no longer merely a victim of terrorism, but a harbor of terrorists.

Another important provision of this bill that related to GWOT was the provision for mutual assistance and extradition. Under section 33 (1) of that proposed bill, Kenya's AG may have shared information regarding terrorists with a foreign state. Such information included details of movement, travel documents, communication technologies, or terrorist related offences committed. However, under section 34 (1) of the proposed bill, the AG could only have done this with permission of the High Court.[149] If passed, the act would have also allowed Kenya's AG to make similar requests to a foreign state.

Although the proposed bill was somewhat an improved version Suppression of Terrorism Bill 2003 in terms of the protection of rights of the Muslim community, it nevertheless attracted numerous criticisms. Critics of the anti-terrorism bill argued that the war on terror was not Kenya's war, and that any laws that were written specifically as part of a counter terrorism program were written at the behest of the US government. The second

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[148] Ibid., p.4.
[149] Ibid.,p.6.

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argument was that the laws were discriminatory and that they targeted the Muslim community. This was reinforced by the fact that the Kenyan police arrested and detained, sometimes incommunicado, many people from the Muslim community on suspicion of involvement in terrorist activities.[150] The Terrorism Suppression Bill 2006 was not passed as it was rejected at parliamentary committee level. The government made several overtures to the Muslim community assuring them that their community will not be targeted. However, Muslim leaders remained adamant in their opposition to the bill leading to its withdrawal from parliament. This was a setback to the government in its GWOT.

The Prevention of Terrorism Bill 2012

It took six years for the terrorism bill to be re-introduced in parliament. On 28th August 2012, Yusuf Haji, then the defence minister and acting internal security minister tabled the Prevention of Terrorism Bill 2012 in parliament. The bill was passed by parliament and President Mwai Kibaki assented to it on 12th October 2012 and it became the Prevention of Terrorist Act 2012 which gives law enforcement agencies more powers to combat terrorism in the country. Under the Act, persons found engaging in terrorism activities leading to deaths of other persons will be imprisoned for life while activities which do not result to deaths will attract jail terms of up to 30 years. Those convicted of assisting in the commission of terrorism acts and those found in possession of property intended for the commission of the acts are on conviction liable for a term not exceeding

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[150] Ibid. p.23.

20 years.[151] The Act which drew sharp criticism from members of the Muslim community also provides stiff penalties for the offences of membership to terrorist groups, recruitment as well as training.

While the government's work on the legislative aspects of its counter terrorism policy was for a long time undermined by an assertive parliament, a vibrant civil society, and a determined religious community, its work on both bilateral and multilateral initiatives on counter terrorism has been more productive.

2.4.2 Diplomatic Initiatives

Following repeated threats to Kenya and the impact of these threats on the national economy and security, the GoK initiated both multilateral and bilateral initiatives to build partnerships with affected countries both inside and outside the region.[152] As part of its regional counter terrorism initiatives, the GoK has participated in numerous discussions 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.[153]

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[151] W. Ndonga (2012) 'Kibaki assents to Prevention of Terrorism Act'. *Available at http://www.capitalfm.co.ke/news/2012/10/kibaki-assents-to-prevention-of-terrorism-act/*
[152] J. Davis, (2007) Africa *and the War on Terrorism*, (p.54). Ashgate Publishing Limited.
[153] Nation Correspondent, "Muslims to Have Say on Proposed Law on Terror, Says DC, "*Daily Nation*, October 13, 2006. http://www.nationmedia.com/dailynation/nmgcontententry.asp?premiumid=0&category_id=1&newsid=82890.

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 GoK did not complete the National Counter terrorism Strategy, nor did it sensitize the country on the terrorist threat.[154]

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.[155] 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."[156]

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[154] J. Davis, (2007) Africa and the War on Terrorism, (p.55). Ashgate Publishing Limited.
[155] Ibid
[156] 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.

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

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[157] J. Davis, (2007) Africa and the War on Terrorism, (p.55). Ashgate Publishing Limited.
[158] CJTF-HOA, Press Release, June 15, 2003. Available on the web: http://usembassy.state.gov/nairobi/wwwhre114.html.

military exercises with neighbouring 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.[159] 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 GoK became part of the Terrorist Interdiction Program (TIP).[160] 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 GoK is provided with funds to improve border controls to prevent transfer of weapons of mass destruction through the country's borders.[161] These and other programs remain some of the most important outcomes of bilateral negotiations between Kenya and the US in the GWOT.

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[159] P. P. Awitta (2004) "The Commanders Respond," (pp.53-63). Proceedings 130, No.3. Washington, DC: United Nations Naval Institute.
[160] J. Davis, (2007) Africa and the War on Terrorism. (p.56) Ashgate Publishing Limited.
[161] Ibid

2.5 Conclusion

Kenya was thrust into the center of international terrorism in 1998 when the US embassy in Nairobi was bombed. Four years later, a bomb destroyed the Israeli owned Paradise hotel in Kilifi. Although, in both Al-Qaeda terrorist incidents, the primary targets were Americans and Israelis, Kenyans paid the heaviest price in terms of lives lost and number of injuries, not to mention the socioeconomic disruptions occasioned by these events.[162]

This chapter has addressed the steps undertaken by the government through the institution of the judiciary in combating international terrorism. It has also addressed some of the diplomatic initiatives undertaken by Kenya both bilaterally and multilaterally in addressing international terrorism and hence bringing into focus the role of international state actors in shaping Kenya's foreign policy behaviour in response to international terrorism.

Because the factors that have contributed to terrorism in Kenya are unlikely to change in the short-term, the country will continue to be on the terrorist radar screen for a while. Thus, the steps undertaken in enacting the Prevention of Terrorism Act 2012 will go a long way in prosecuting masterminds of terrorism activities. The act will address the institutional weaknesses that the judiciary has suffered for a very long time in as far as prosecuting crimes related to terrorism is concerned.

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[162] O. Kefa (2009). Kenya in the Crosshairs of Global Terrorism: Fighting Terrorism at the Periphery. *Kenya Studies Review*: 1, 1, 107-132.

On its own, the government of Kenya has also initiated policy measures to undermine the terrorist threat. The three most important outcomes in the policy front were the establishments of ATPU in 2003, NCTC in January 2004 and the drafting of National Counter terrorism Strategy in 2004. The ATPU and NCTC have been very instrumental in assisting other law enforcement agencies such as the Police in arresting and disrupting the activities of potential terrorist masterminds. Both units have an important role in the GWOT given that their mandate covers not only counter terrorism but also money laundering, narcotics trafficking, and proliferation of illicit arms.

On the diplomatic initiatives, Kenya should continue to support the Somali peace talks because its success could greatly reduce the country's vulnerability to terrorism. If Somalia was to become politically stable, it would deprive Al-Shabaab and other terrorist organizations of easy weapons sources and convenient safe havens, thereby making it harder for them to operate in Kenya's neighborhood.

CHAPTER THREE

THE IMPACT OF KENYA'S FOREIGN POLICY IN COMBATING

INTERNATIONAL TERRORISM.

3.1 Introduction

Terrorism and terrorist activities are unpredictable and unorthodox, and it is the combination of these two elements that make terrorist actions so devastating.[163] Combating and deterring terrorism are often terms used collectively to describe pre-emptive and retaliatory actions. However, they have distinct differences when examined closely.[164] To combat terrorism means inherently emphasizing a military strike or action taken against groups that have committed terrorist acts against the state, while deterring terrorism refers to the collection of intelligence and actions resulting in the prevention of the terrorist act from occurring.[165] This section thus will evaluate the impact of Kenya's foreign policy in combating international terrorism through an analysis of cases of terrorism acts and counter terrorism measures.

The terror attacks that occurred in the US on September 11, 2001 might prompt one to speedily conclude that previous counter terrorism strategies were not effective. However, merely basing this judgment on one episode is not sufficient. In order to realistically evaluate counter terrorism strategies, one must look for patterns that existed prior to September 2001 and analyze them to gain insights into the effectiveness of the whole

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[163] N. Syed (2010) 'Effectively Diffusing Terrorism: How Successful Have US Policies Been in Combating and Deterring Al-Qaeda Post-9/11? (p.1). *A Thesis submitted to the Faculty of School of Continuing Studies and of The Graduate School of Arts and Sciences,* Georgetown University Washington, D.C.

[165] ibid, p.43

strategy.[166] To begin with, what does Kenya need in its foreign policy for combating terrorism? Put in the simplest terms possible, a foreign policy for combating terrorism must effectively deter acts of terrorism against Kenyan territory. Failing to attain that, the policy must actively defend against terrorist attacks committed by those who cannot be deterred, since foreign policy is a country's policy relating to external actors.[167]

Terrorism is a concept with a multitude of meanings and manifestations and includes state terrorism; a phenomenon widespread in Africa.[168] On 12th December 1963, Kenya attained political independence from the UK. British authorities used the word 'terrorism' to describe the activities of Mau Mau land and freedom fighters. At the time, the colonial administration in Kenya employed the term terrorism in describing the activities of the Mau Mau peasant uprising of 1952 to 1958. The Mau Mau operated in cells and took secret oaths to bind members to their cause. Paradoxically, a revisionist historian, Caroline Elkins, referred to colonial actions against the Mau Mau as terrorism. Still, Mau Mau terror killed more Africans than British settlers. The point is that there is no single satisfactory definition of terrorism. For example, the Mau Mau was organized along cells, forced members to abide by tribal oaths, and then applied psychological killings of non-conformists.[169]

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[166] W. C. Nagel (2002) 'The Law Enforcement Approach to Combating Terrorism: An Analysis of US Policy' (p.3). *Thesis presented at Naval Postgraduate School Monterey, California.*
[167] Ibid
[168] Special Report. (2003). Terrorism: Foreigners Marry Kenyans to Cover their Intentions. *Daily Nation on the Web*, 22 August 2003.
[169] E.E. Otenyo (2004) 'New Terrorism: *Toward an explanation of cases in Kenya'*. Published in African Security Reviews Vol 13 No 3, 2004. Available on http://www.issafrica.org/pubs/ASR/13No3/EOtenyo.

Modern terrorist groups of the Al-Qaeda and Al-Shabaab mould employ similar oath strategies to cement brotherhood yet there are glaring differences too. Most Mau Mau combatants were captured in forests around Mt. Kenya. There is no conclusive evidence that the organization had national appeal, in fact the movement was disassociated from all global ideological currents. Kenyatta's government rewarded loyalists and dishonored Mau Mau heroes. Being a localized protest movement, the Mau Mau posed a lesser threat than the contemporary diffused Al-Qaeda and Al-Shabaab phantom cells that have infiltrated Kenya.[170]

Contemporary or new terrorism is a recent phenomenon in Kenya that came into being in the 1990s. Consensus is emerging on the main characteristics of new terrorism particularly the increase in religious content and motivation. Increased use of martyrdom, co-ordinated attacks, and escalation of terror networks characterize new terrorism. Various researches done indicate that, besides having comprehensible intentions, new terror is significantly more lethal in its methods. New terrorism is also more international in scope and takes advantage of available technological advances, including the extensive usage of cyberspace and cell phones. In addition, modern terrorism is capable of using weapons of mass destruction (WMD), including biological, nuclear, and chemical agents.[171] The increased sophistication of terror masterminds was demonstrated in the terror attacks of September 2001 in the US and Madrid, Spain, in March 2004. Evidently,

[170] J. D. Barkan and J. G. Cooke. (2001) *U.S. Policy Towards Kenya in the Wake of September 11, Can Antiterrorist Imperatives be Reconciled with Enduring U.S.* Foreign Policy Goals? Africa Center for Strategic Studies.
[171] E. E. Otenyo (2004) 'New Terrorism: *Toward an explanation of cases in Kenya'* . Published in African Security Reviews Vol 13 No 3, 2004. Available on: http://www.issafrica.org/pubs/ASR/13No3/EOtenyo

new terrorist organizations no longer explicitly lay credible claim to their criminal actions.[172]

When terrorists sympathetic to the PLO bombed part of the Jewish-owned five-star Norfolk Hotel in Nairobi on December 31 1980, it was a clear indication that indeed Kenya had entered into international terrorism circuit. The terror attack caused massive damage to the hotel besides killing 20 people and injuring 80.[173]

On August 7 1998, US embassy buildings in Kenya and Tanzania were bombed simultaneously, attacks that were directly linked to Osama bin Laden. The attacks resulted in at least 250 deaths. Similarly, on November 28 2002, suicide bomber terrorists calling themselves 'Army of Palestine' attacked, wounded, and killed patrons at another Israeli-owned hotel in Mombasa. Almost simultaneously, the attackers shot at an Arkia Airline taking off from Mombasa International Airport for Tel Aviv Israel. None of the 261 passengers who were in vacation in Kenya were injured. Al-Qaeda was blamed for the attacks.[174]

The key question is this; why has Kenya witnessed the full wrath of international terrorism? So far, the media have been awash with commentaries linking the influential class in Kenya to Western interests. Whereas researchers have not agreed on a unified theoretical framework for understanding the causes of terrorism, there are some

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[172] P. Gabriel (2004) Muslim Leaders Want FBI Thrown Out of Kenya. *The New York Amsterdam News,* 29 January-2 February.

[173] K. Koross (2012) '*Chronology of terrorist attacks in Kenya'* The Star Newspaper, Tuesday, August 7, 2012 article-7279

[174] G.L Khadiagala, (2004) Kenya: Haven or Helpless Victim of Terrorism. In United States Institute of Peace. Special Report 113, Terrorism in the Horn of Africa. United States Institute of Peace.

indicators[175] as to why the country has become a victim of terror attacks. The US, UK and Israel has a number of interests in Kenya. Similarly, the proximity of easy-to-reach targets, especially the US and Israeli nationals living in Kenya, is a possible variable. There are also commentaries that suggest that African hospitality and perhaps more accurately administrative ineptitude, corruption, and porous borders allow terrorism to flourish in Kenya.[176]

Martha Crenshaw, a leading theorist has put forth some frameworks to help in understanding why terrorism occurs in some localities and not in others. She asserts that, a comprehensive explanation must account for the environment in which terrorism occurs and address the question of whether political social and economic conditions make terrorism more likely to occur in some contexts than in others. She further goes on to contend that there are preconditions for terrorism to take place. Nevertheless, she observes accurately that there is absence of significant empirical studies of relevant transnational factors to inform policy on terrorism.[177] Although these explanations by Crenshaw are convincing, they do not go far enough in accounting for contemporary terrorism in Kenya. They fail to explain explicitly as to why terrorist masterminds attacked Kenya both in 1998 and 2002, and not other African countries.[178]

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[175] E. E. Otenyo (2004) 'New Terrorism: *Toward an explanation of cases in Kenya'*. Published in African Security Reviews Vol 13 No 3, 2004. (p.76). Available at: http://www.issafrica.org/pubs/ASR/13No3/EOtenyo
[176] Ibid
[177] R. J. Norman (2000) National Security Preparedness Issues Combating Terrorism: How Five Foreign
  Countries are organized to Combat Terrorism. Article, US GAO, Washington, DC.
[178] Royce, Ed., Chairman. (2004) *Report of the House Committee on International Relations, Subcommittee on Africa holds a hearing on African Terrorism*, 1 April.

The literature provides some answers, even though insufficient studies have been done on Kenya's foreign policy especially on its relationship with Israel and the US and its effectiveness in combating international terrorism. Some of the terrorists are non-state actors, but they may be clandestinely supported by state operatives. Given that many of the states that supported terrorism were undemocratic and lacked legal structures, idiosyncratic variables are hard to verify.[179]

The focus then would be on internal aspects such as the traits, abilities, and intentions of the perpetrators of terrorism and what has been done so far to salvage the situation which could proof as either effective or ineffective.[180] Second, attribution may seek explanations in external forces, including incentives for terrorist actions. Hence the reinforcement of discourses that presents terrorism as a global challenge. Such models do two things. First, they emphasize the legitimization of terrorist acts in messianic or Jihadist terms that provide scholars with opportunities to examine the flow of cultural battles within a given policy.[181] In addition, there is the thrust of economic determinism, which, although outdated, retains its explanatory power. The connection is apparent: new terrorists have seized this opportunity to attack targets that symbolize economic domination.

3.2 Measures to Fight Terrorism Acts

Even though the 1998 US Embassy bombing in Nairobi confirmed the presence of Al-Qaeda terrorist cells in Kenya, there was not much effort by the government to respond to

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[179] E. E. Otenyo (2004) 'New Terrorism: *Toward an explanation of cases in Kenya'*. Published in African Security Reviews Vol 13 No 3, 2004. (p.77). Available on: http://www.issafrica.org/pubs/ASR/13No3/EOtenyo
[180] Ibid
[181] Ibid

the threat. The ease with which Al-Qaeda members operated in the country highlighted the weaknesses in government's foreign policy in employment of instruments of power to effectively combat international terrorism.[182]

On 28 November 2002, suicide bombers detonated a truckload of explosives at Paradise hotel in Kikambala killing 19 people, 12 Kenyans and 4 Israelis and 3 suicide bombers. The attack injured more than 80 people.[183] Prior to the attack, a group of tourists mainly of Israeli origin had just checked into the hotel. Many of the dead were Kenyan dancers hired to entertain tourists. This bombing incident was coordinated with a simultaneous surface-to-air missile attack on Arkia Israeli airliner, carrying about 261 passengers, and taking off from the Mombasa airport. The two missiles missed the airliner. The attack was linked to the Al-Qaeda terrorist organization.[184]

In lining the terrorist attacks at the hotel and against the Israeli airliner directly to Al-Qaeda, it was established that terrorists linked to Osama bin Laden's Al-Qaeda network were actively involved in terrorist missions in Kenya and continued to operate as they did before the US embassy bombing in 1998. Further investigations revealed that only one Al-Qaeda terrorist cell was active in Kenya the one led by Odeh's accomplice, Wadih El-Hage.[185]

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[182] H. H. Adan, (2005) Combating Transnational Terrorism in Kenya, (p.36). Masters *thesis presented to the Faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.*
[183] B. Hoffman and J. Morrison. *A Strategic Framework for Countering Terrorism.* England: Ashgate Publishing Company.
[184] M. Molly, (2002) "Dream Vacation, Shattered by Death: Family Finds Violence They Had Hoped to Escape." *The Washington Post,* November 29, 2002.
[185] Headquarters, Department of the Army. (2001). FM 3-0, *Operations.* Washington, DC: Headquarters, Department of the Army, June 2001.

After the 1998 US embassy bombing, most of the terrorists involved evaded arrests. Some slipped out of the country to Somalia and Afghanistan to allow the dust to settle; others blended into the community.[186] The leader of the Al-Qaeda terrorist cell in Kenya, the late Fazul Abdullah Mohamed, a Comorian national and who had been involved in the 1998 US Embassy bombing, sneaked back into Kenya sometime between 2001 and 2002 from Afghanistan. He set up base in Lamu where he continued to plot attacks against Western interests. He entrenched himself in the community by marrying a Kenyan woman.[187] While in the country, he kept contact with his Kenyan accomplices in selecting targets. The Al-Qaeda terrorist cell consisted of nine active Kenyans among other foreigners. Three Kenyans were directly involved in the Mombasa attacks. The hotel was selected because it was owned by an Israeli and frequented by Israeli nationals. Furthermore, selection was further made possible by the routine Israeli tourists' flights to Mombasa. Therefore, planning attacks for such a soft target assured the terrorists minimum risks, since only basic surveillance was needed to coordinate the attack.[188]

Poor security checks at the airport at the time and the country's porous borders, made the country to become a soft target for terrorists who found it increasingly difficult to attack Western countries because of their strict counter terrorism measures. Australia and UK had issued travel advisories for their citizens not to visit Kenya, especially Mombasa, because of imminent terrorist attacks. The travel advisories were issued just a few days

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[186] H. A. Rex. (1990) *The Sociology and Psychology of Terrorism: Who becomes Terrorist and Why*?
Report Prepared under Interagency Agreement by the Federal Research Division, Library of Congress.
Washington, DC.
[187]Ibid
[188] H. H. Adan, (2005) Combating Transnational Terrorism in Kenya, (p.46). Masters *thesis presented to the Faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.*

before the attack on Kikambala hotel and the Israeli airliner taking off at Moi International Airport. These countries had received intelligence that an active Al-Qaeda terrorist cell in the country was plotting to attack Western interests. Osama bin-Laden (now deceased) also had warned of an attack in his broadcast on Qatar television news in Al Jazeera.[189]

In the aftermath of these attacks, the GoK came to appreciate the gravity of the issue at hand. It realized that burying its head in the sand and wishing the problem away would not help. Therefore, it confronted the problem by publicly declaring that that international terrorism had indeed taken root in Kenya.[190] To counter the threats brought about by international terrorism, the GoK embarked on comprehensive counter terrorism efforts through its foreign policy strategy and employed diplomacy, intelligence & law enforcement agencies, military, information campaign, and financial controls to respond to the threats.[191]

3.2.1 The Use of Diplomacy

In order to combat the threat brought about by international terrorism, the GoK through its foreign policy employed the use of diplomacy. Diplomacy helps to build political will and strengthen international cooperation. The exchanges on the diplomatic front assist in the promotion of counter terrorism cooperation with friendly nations that serve each

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[189] J. Greenstock (2002) *Report of the Republic of Kenya Submitted to the Security Council Committee Established Pursuant to Resolution 13739 (2001).* Available at: www.un.org/Docs/sc/committees/1373/k.htm.
[190] Headquarters, Department of the Army. (2001). FM 3-0, *Operations.* Washington, DC: Headquarters, Department of the Army, June 2001.
[191] H. H. Adan, (2005) Combating Transnational Terrorism in Kenya, (p.47). Masters *thesis presented to the Faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.*

other's mutual interests. The fact that international terrorism has no boundaries makes it prudent for governments to reach out to their neighbours and allies to forge a multilateral approach in the fight against the threat.[192] Diplomacy supports the other instruments of national power in numerous ways. For example, extradition treaties help in the application of criminal law by facilitating the transfer of fugitive terrorist suspects. Intelligence sharing among nations potentially discourages terrorists from operating in those countries and facilitates the monitoring of groups operating in the region. After the 1998 US embassy bombing, the GoK fully cooperated with the US government in intelligence sharing and in giving US investigators access to investigate the incident.[193] The government also helped apprehend and hand over the suspects to US investigators to stand trial in the US. For example in 2007, Abdulmalik Mohammed Bajabu a Kenyan citizen and a protégé of Harun Fazul was handed over to the US authorities. Abdulmalik confessed, under interrogation, to having played a role in the 2002 bombing of the Paradise Hotel in Kikambala.[194]

Apart from the US, the GoK approached the Israeli government to obtain its assistance in rescue operations. For example, after the 2002 terrorist attack in Kikambala, in a bid to enhance its diplomatic front, the GoK invited the Israeli government to help in the investigation of the incident.[195] The US and Israeli security teams were dispatched by

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[192] J. Davis, (2007) Africa *and the War on Terrorism*, (p.50). Ashgate Publishing Limited
[193] Fisher-Thompson Jim. (2004) *Former U.S. envoy to Ethiopia Speaks to Air Force Special Operations Class,* Washington File Staff Writer, 7 September. Article Available from htt://usinfo.state.gov/is/Archive/2004/Dec/03-890080.html.
[194] "Kenya gets US anti-terror funds". BBC News. 2007-05-04. Retrieved 2008-07-19. "US officials say Mr Mohammed had confessed to having taken part in the 2002 attack on an Israeli-owned hotel near Mombasa." Daily Mirror, UK
[195] H. H. Adan, (2005) Combating Transnational Terrorism in Kenya, (p.47). Masters *thesis presented to the Faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.*

their respective governments to team up with Kenyan counter terrorism experts to help track those responsible for the Paradise hotel suicide bombing and an attempted missile strike on an Israeli charter jet. [196]

In the EA region, Kenya through its foreign policy took centre stage internationally because of what was perceived as the terrorists' change in operations to focus on soft targets in countries where the phenomenon of terrorism had not yet been experienced. The GoK allowed the US to use Kenya for logistical support as it investigated terrorist incidents, which resulted from the perceived notion that Kenya was a victim of terrorism because of US interests in the country, and that the US had to play a major role in investigating the attacks. However, the GoK did not apply much effort to incorporating the countries in the HOA region in a unified regional counter terrorism strategy because of the belief that Kenya was a victim rather than a source of international terrorism.[197]

The continued denial by Kenya was tied to its failure to acknowledge the wider circumstances that led to the growth of terrorism; the erosion of the structure of governance, particularly weak intelligence capabilities and law enforcement. Moreover, the GoK was afraid to alienate Kenya's Muslims who frequently complained of perceived marginalization. It was feared this group would bear the brunt of any counter terrorism efforts, since most of the terrorist suspects were from the Muslim community.[198]

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[196] Staff and Agencies. 'US and Israel join Kenya attacks inquiry' The Guardian.com, Friday 29 November 2002 13.06 GMT.
[197] Government of Kenya. (2004) *Kenya National Counter Terrorism Strategy*, Nairobi. Government of Kenya.
[198] H. H. Adan, (2005) Combating Transnational Terrorism in Kenya, (p.38). Masters *thesis presented to the Faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.*

The GoK was operating in a shaky position from the fears that there could be political risks if it engaged in a full scale counter terrorism campaign. Several groups, some of which already felt marginalized and aggrieved by the regimes of President Kenyatta and Moi, were hesitant to accept open ended military and law enforcement cooperation with the US. They candidly urged the government to deny the use of Kenyan bases by the US government forces. In the coastal region of the country, where the population is largely dominated by people professing the Muslim faith, protests against the US FBI agents sent to hunt down suspected terrorists were witnessed. It got worse in early 2004, when leaders of the Muslim community implored the GoK to expel FBI agents from the country to allow Kenya conduct its own investigations of terrorist activities in the country.[199]

There was a feeling that full cooperation with the US in the counter terrorism campaign might lead to the country being targeted again. The diplomatic cooperation with the US and other Western nations in counter terrorism operations still exist despite the hostility by a section of the population. On its own, Kenya does not have the capacity to effectively handle international terrorism. The cooperation between Kenya and the US in matters to do with terrorism is driven by Kenya's national security and economic interests. The absence of security seriously undermines Kenya's economic interests which is a key pillar of Kenya's foreign policy.

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[199] Government of Kenya. (2004) *Kenya National Counter Terrorism Strategy*, Nairobi. Government of Kenya.

When analyzed critically, the Muslims' concerns might be legitimate since they have borne the brunt of anti-terrorism measures. On the other hand, Muslim leaders have been using counter terrorism measures as a veil. The real issue is that the communities depended on Islamic organizations for social welfare (medical, food relief, Islamic education and socioeconomic support to marginalized communities), which the GoK is either incapable of or unwilling to give.[200] After the terrorist incidents, focus shifted on a number of Muslim NGOs which were being funded by wealthy individuals and Arab countries from the Middle East. Some NGOs notably Al-Haramain, was deregistered by the government, while others were forced to close after sponsoring nations stopped funding them when the US launched the global war on terror.[201] Many people, including teachers and some Muslim clerics who worked for these organizations, were left without any other support, and the government did not come in to fill the gap. The absence of support from the government contributed dissent.[202]

In the HOA, there is overwhelming evidence that terrorists have been operating in the region. Since international terrorism has no borders, the threat has pushed the government to enlist the support of other countries in the HOA through the EACTI (established after the 11 September 2001), which coordinates counter terrorism capabilities in the Eastern Africa region. The initiative which is geared at improving police and judicial

[200] Nation Reporter.2003. How Terror Police Beat Osama Gang. *Daily Nation on the Web*, 22 August. Available at: http://www.nationaudio.com/News/DailyNation/22082003/ News/News107.html.
[201] H. H. Adan, (2005) 'Combating Transnational Terrorism in Kenya,' (p.39). Masters *thesis presented to the Faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.*
[202] O. Willis. (2005) Police Arrest Suspected Terrorist. *The East Africa Standard*, Nairobi, 18 January. Available from: http://search.yahoo.com/search?p= www.east+africa+standard&fr=ieas-dns.

counterterrorist capabilities in the region caters for the following countries, Kenya, Uganda, Tanzania, Djibouti, Eritrea, and Ethiopia.[203]

The cooperation by countries in the HOA has realized intelligence sharing between these countries. This has enabled the law enforcement agencies to combat the threat of international terrorism. In order to boost its counter terrorism efforts on the diplomatic front, Kenya has ratified twelve international UN counter terrorism conventions and protocols, which shows that the government is taking international terrorism threat seriously and does not intend to be left behind.[204] Kenya also joined the US in the GWOT, playing a pivotal role in the HOA region by allowing the US to use Kenya as a launching pad for counter terrorism efforts in the region.[205] By being a member of the willing nations, the country has benefited from intelligence sharing.

Kenya has been actively involved in both Somalia and Sudan Peace Processes, which are within the IGAD framework, in order to achieve stability and functioning institutions in these countries. It is worthy to note that the peace efforts have already borne fruits with the independence of South Sudan hence bringing some stability in that region. Stability in these countries will reduce their use as potential safe havens and recruiting grounds for terrorists. However, the longstanding mistrust among the countries in the region could easily hinder intelligence sharing. Kenya has been accused by the Ethiopian government

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[203] H. A. Rex. (1990) *The Sociology and Psychology of Terrorism: Who becomes Terrorist and Why*? Report Prepared under Interagency Agreement by the Federal Research Division, Library of Congress. Washington, DC.
[204] H. H. Adan, (2005) 'Combating Transnational Terrorism in Kenya,' (p.48). Masters *thesis presented to the Faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas*
[205]Central Intelligence Agency. (2004). *The World Factbook*. Kenya. Book on-line. Available from www.cia.gov/cia/publications/factbook/geos/ke.html#Geo.

for allegedly supporting the rebel group Oromo Liberation Front (OLF). This has resulted in constant border skirmishes and international border violations by Ethiopian security forces into Kenya.[206]

Another source of complaints and mistrust among the countries in the HOA is US assistance in counter terrorism initiatives. For example, Uganda claims it is being short changed in financial assistance and yet it has dealt successfully with the international terrorist threat on its own. However, Uganda's priority is dealing with local terrorists groups, such as the Lord's Resistance Army and the Allied Democratic Front, while US financial assistance focuses on international terrorist networks, such as Al-Qaeda and Al-Shabaab.[207]

Despite Eritrea offering the US access to its port facilities at Asmara and thereby joining the coalition of the willing against Iraq, it finds itself frozen out of counter terrorism assistance because of human rights issues.[208] In the desire to gain financial favours from the US, most countries joined the coalition of the willing nations at the time against Iraq. The continued threat posed by international terrorism calls for countries in the region to cultivate good will and mutual trust in order to have a common goal of fighting the threat. Their cooperation would facilitate intelligence sharing and joint security operations to combat the threat.

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[206] G. Asghedet. (2002). The Terrorist Attacks on New York and Washington, How Kenya Reacted and has been Affected, October. Available from: www.boell.de/downloads/September/Kenya.pdf.

[207] B. Tore. (2003). *Finding for an International Expert Meeting in Oslo on Terrorism*. Conference, Norwegian Institute of International Affairs 9-11 June. Norway.

[208] G.W. George (2002) 'Jihad, War, and Terrorism.' Combat Studies Institute: US Army Command and General Staff College, Fort Leavenworth, Kansas. Article available from https://www.leavenworth.army.mil/csi/research/writing/JihadGawrych.

3.2.2 The Use of Military

The GoK did not effectively use the military as an instrument of power in order to combat international terrorism after the 1998 terrorist attack. This is partly because of the notion that terrorist activities were minimal at the time, that the initial incident was more of a criminal act than a terrorist act, and that it was an isolated incident.[209] On the contrary, the porous borders on both land and the Kenyan coast were being used by terrorists to enter the country. However, this fact had not been appreciated by the government as a serious issue. Traditionally, the role of maintaining law and order was vested in the Kenya Police. The military at the time of 1998 terrorist attack had no training on combating international terrorism. This might have caused the government not to employ the military for counter terrorism efforts in 1998. Nevertheless, the military increased surveillance along the Kenya-Somalia border.[210] Military intelligence also joined other intelligence communities in the country to assess the threat.

The decision in October 2011 to deploy thousands of KDF troops in Somalia's Jubba Valley to wage war on Al-Shabaab has been considered as the biggest security gamble.[211] The decision taken by Kenya was guided by Article 51 of the UN Charter; the Right of Self-Defense. Article 51 states that 'Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary

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[209] H. H. Adan, (2005) 'Combating Transnational Terrorism in Kenya,' (p.58). Masters *thesis presented to the Faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.*
[210] Mombasa Attack Trial Starts. (2004) News 24. Com web page, 2 February. Available from: www.news24.com/News24/Africa/News/0,2-11-1447-147770800.html.
[211] The Kenyan Military Intervention in Somalia (2012). Africa Report N°184 15 Feb 2012 Available on: http://www.crisisgroup.org/en/regions/africa/horn-of-africa/kenya/184-the-kenyan-military-intervention-in-somalia.aspx

to maintain international peace and security'.[212] This clearly shows that Kenya's foreign policy and implementation is guided by its adherence to international law.

Since independence, Kenya has taken a radical departure for a country that has never sent its soldiers abroad to fight. The lack of stability in Somalia has made it a safe haven for terrorist groups to operate their networks both regionally and internationally. Al-Shabaab are blamed by the Ethiopian, TFG and the African Union Mission in Somalia (AMISOM) forces for the deterioration of security, the spillover of conflict to neighbouring countries, including Kenya, and the grave humanitarian situation which persists in large parts of Somalia.[213] Kenya, however, had emerged as a target for terrorist attacks well before the emergence of Al-Shabaab. The 7th August 1998 bombing of the US embassy in Kenya, played a major role in raising the government's and citizens' awareness on the issue of terrorism as a clear threat to the country's security. Since then, Kenya has been making renewed strides to curtail terrorism and its networks in the country, including the recent enactment of Prevention of Terrorism Act 2012. It is against this backdrop that Kenya was convinced that the spread of Al-Shabaab militias into Kenya necessitated a strong response, due to fears of repeat major terrorist attacks like the Al-Qaeda-claimed bombing of 1998. Reportedly, Kenya, with international support, had planned to move into the Somalia conflict years prior to October 2011.[214] With the planned military

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[212] U.N. Charter article. 51, paragraph 1.
[213] L. Miyandazi (2012) '*Kenya's military intervention in Somalia: An intricate process'* (p.3) Policy & Practice Brief Issue no.19 November 2012.
[214]Ibid

intervention in Somalia, the GoK wanted to create a buffer zone in Southern Somalia, which is close to the border with Kenya.[215]

Kenya was forced to intervene militarily in Somalia earlier than expected because of a number of cross border kidnapping attacks carried out by attackers suspected to be Al-Shabaab targeting mainly tourists from Western countries on the Kenyan coast and aid workers from the refugee camp in Dadaab. Tourism is a key industry, and Kenya, particularly Nairobi, is host to a large UN presence, including many international and local NGOs involved in humanitarian relief and other activities.[216] When several Europeans were seized in the Lamu area in September and October 2011, the tourism industry was hit hard. The last straw appeared to be when two Spanish aid workers with Médecins Sans Frontières (MSF) were kidnapped in Dadaab refugee camp, near the Kenya-Somalia border, on 13th October 2011 (the third incident in less than a month). [217] Several days later, Kenyan troops moved into Somalia.

Even though Al-Shabaab has been weakened as a result of the incursion by Kenyan troops into Somalia, it remains a formidable adversary that understands local dynamics better than its foreign foes and can maximize its asymmetric advantage.[218] One tactical change has already become clear. Rather than fight in the open, it has melted into the

[215] Ibid
[216] Crisis Group interviews, diplomats, KDF officers, Nairobi, October-November 2011.
[217] Yusuf Ghazzali, "Kenya: Don't use Linda Nchi Operation to demonise Somalis", The Star (Nairobi), 26 October 2011
[218] http://www.scribd.com/doc/94580043/The-Kenyan-Military-Intervention-in-Somalia

background, allowing Kenyan mechanized infantry to move deeper into its heartland. Its fighters blend into the civilian population and distribute weapons.[219]

To protect its borders as a result of the increased terrorist threat after the 2002 terrorist attacks, the government increased security along the Kenya-Somalia border, which precipitated the sealing of all the borders. In a bilateral approach to combating international terrorism, the Kenyan and French navies collaborated in the Indian Ocean by patrolling to keep terrorists away.[220] The patrols are geared at tightening border controls and thus prevent the entry to Kenya of terrorists linked to Al-Shabaab and Al-Qaeda through the porous Kenyan coastline. A major drawback to this initiative is the lack of a stable government in Somalia which makes it difficult to coordinate and monitor border security.

3.2.3 Information campaign

Information campaign is critical to foreign policy for any counter terrorism strategy to succeed. When properly employed, information campaign can be used to counter perceived marginalization among some communities by enlightening the citizens about the government's plans to address the problem. In the aftermath of the terror attack against the US embassy in 1998, the GoK was in a state of denial and did not conduct a full-fledged information campaign to educate the public on the need to cooperate and

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[219] K.J. Kelley and P. Redfern (2013) 'Kenya faces harsh realities, complicated scenario in its incursion into Somalia' Available at http://www.theeastafrican.co.ke/news/-/255/1334704/-/view/printVersion/-/122782y/-/index.html.
[220] G. W. George, (2002) 'Jihad, War, and Terrorism.' Combat Studies Institute: US Army Command and General Staff College. Article Available from https://www.leavenworth.army.mil/csi/research/writing/JihadGawrych.

expose terrorists within their midst.[221] Terrorists are part and parcel of the community and therefore do not operate in a vacuum. If employed adequately at the time, the campaign could have helped in molding the public's attitude and hence expose foreigners. In rural areas, especially in coastal and north eastern regions where many communities have no access to print or electronic media and where terrorists, disguising themselves as Islamic preachers, businessmen, and teachers, can blend easily into the community, an effective information campaign would have helped expose them. The lack of resources and the perception that the country was a victim, rather than a source of terrorism, can also be attributed to the failure to launch an effective information campaign.[222]

Since the occurrence of terrorist attacks in Kikambala and Mombasa in November 2002, the GoK has been more outspoken on the domestic nature of Kenya's terrorist threat although it had earlier downplayed the threat. In 2003, the then minister of internal security Christopher Murungaru acknowledged publicly the presence of terrorists in the country. After the public acknowledgement by the GoK, it immediately started a limited information campaign through the Provincial Administration and the Ministry of Education to enlist the support of the population in the fight against terrorism.[223]

[221] H. H. Adan, (2005) 'Combating Transnational Terrorism in Kenya,' (p.40). Masters *thesis presented to the Faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.*
[222] M. Hassouna. (2002). 'Why Radicals Find Fertile Ground in Moderate Kenya, President Bush met with Kenya President Moi to Discuss Security issues.' *The Christian Science Monitor,* 6 December. Available from: www.csmointor.com.
[223] J. Cilliers, and K. Sturman. (2002) *Africa and Terrorism, Joining the Global Campaign, Monograph 74, July. Pretoria. Institute for Security Studies. Article on web page.* Available online from www.iss.co.za/ PUBS/MONOGRAPHS/NO74 /Chap1.html.

The information campaign is aimed at demystifying terrorism and correcting the misconception that the war on terrorism is a war against Muslims. The Muslims believe that counter terrorism measures are being forced onto the GoK by the US. This shows that on its own, Kenya does not have the capacity and the resources required to deal effectively with international terrorism and as such has to rely on countries such as the UK, US and Israel. As earlier stated, a well-coordinated information campaign would have corrected this mistrust and, thus, the public could have played a greater role in counter terrorism measures by exposing local and foreign terrorists in their midst.[224]

3.2.4 Intelligence Services and Law Enforcement Agencies

The key to winning the battle against terrorism is winning the intelligence battle.[225] Intelligence enables early detection of terrorists in time for law enforcement officers or the military to act. Therefore in this regard intelligence services and law enforcement agencies are important in order for counter terrorism strategies to succeed. Intelligence must be supported by effective law enforcement in conducting apprehensions and disruptions of terrorist cells. Before the 1998 terrorist attack on the US embassy in Nairobi, there was failure on the part of intelligence and law enforcement agencies to detect domestic and foreign terrorists freely operating within the country.[226] The ease with which these terrorists were entering and leaving the country before the attacks raised questions about the ability and efficiency of intelligence activities and law enforcement at the time. Had there been an effective intelligence and law enforcement mechanisms,

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[224] Central Intelligence Agency. (2004). *The World Factbook*. Kenya. Book on-line. Available from: www.cia.gov/cia/publications/factbook/geos/ke.html#Geo.

[225] S. Muiruri, (2004. Counter terrorism Center Established in Kenya, *CNSNews*, Nairobi, 29 January. Available from: CNSNews.com.

[226] H. H. Adan, (2005) 'Combating Transnational Terrorism in Kenya,' (p.41). Masters *thesis presented to the Faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.*

terrorists who were assembling the bomb in the truck in River Road would have been detected and their actions nipped in the bud.[227]

It is important to note that whereas it is easy to blame the police and intelligence agencies (NSIS at the time) for failing to dismantle Al-Qaeda cells in the initial stages and therefore avert the terrorist attack, other agencies contributed to the failures. Most of the terrorist suspects were foreigners with most of them having fake documents, such as Kenyan national identity cards and passports. Part of the blame therefore goes to the Immigration Department for issuing such documents unprocedurally to foreigners.[228]

Because of institutional corruption during president Moi's regime, a person could easily obtain Kenyan birth certificate, passport, national identity card, or other documents through Kenya's black market. International terrorists exploited such loopholes to enter the country disguised as immigrants, tourists, or businessmen. In mid 1990s and early 2000s, the Immigration Department was riddled with so much corruption. Because of this, many Pakistanis and other illegal immigrants entered the country with some of them engaging in microeconomic activities.[229]

There was also a general lack of security awareness at the country's various entry points. This was apparently witnessed when Mohammed Saddiq, a terrorist linked to the 1998

[227] L. L. Wee. (2004). *War against Global Terrorism: Winning the Hearts, Minds, and Souls of the Muslim World.* Washington, DC: National Defense University Press.
[228] L. Marc. (2004). 'Threat of Terrorism Hurts Kenya Tourism.' *The New York Times,* January. Available on-line from: http://proquest.umi/pqdweb.
[229] C. M. Kurt, and M. A. Flournoy, (2001). *To Prevail, An America Strategy for the Campaign against Terrorism.* Washington, DC: Center for Africa Strategic Studies.

US embassy bombing left Nairobi via the Jomo Kenyatta International Airport on 6th August 1998 using a fake passport only to be arrested at Karachi airport in Pakistan. This exposed the inefficiencies that existed at the Immigration Department. On the other hand, corruption was so endemic within the Kenya police force in the 1990s. Therefore, failure of effective law enforcement also contributed to the problem. The police force was so ill-equipped to the extent that it could not respond to emergencies because of the basic lack of transportation and communication equipment.[230]

Despite the shortcomings noted, a few days after the 1998 terrorist attack, the police arrested several terrorist suspects. With the assistance of foreign security agencies and specifically the FBI, Kenyan security agencies continued in its efforts to track the terrorists and their sympathizers in the country. In November 2001, more than 20 people suspected of having links with Al-Qaeda were arrested in Lamu.[231] Even though intelligence and law enforcement agencies continued to track terrorist suspects and their sympathizers in the country, it was evident that there was a missing link. Apparently, it appeared that either an effective approach was not applied or initial successes were the result of external pressure.[232] The lack of effective intelligence and law enforcement contributed to the failure to deter the 2002 terrorist attacks and the subsequent terrorist attacks that have occurred in the country to date.

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[230] H. H. Adan, (2005) 'Combating Transnational Terrorism in Kenya,' (p.42). Masters *thesis presented to the Faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.*
[231] Khadiagala, Gilbert. (2004). Kenya: Haven or Helpless Victim of Terrorism. (p.3) In United States Institute of Peace. Special Report 113, Terrorism in the Horn of Africa. United States Institute of Peace web page. Article online. Available from www.usip.org/pubs/specialreports/sr113.
[232] B. Tore, (2003). Finding for an International Expert Meeting in Oslo on Terrorism. Conference, Norwegian Institute of International Affairs 9-11 June. Norway

3.2.5 Legislation

Even though terrorists had started to establish roots in the country, the GoK was not in a hurry to implement appropriate domestic legislation on terrorism related issues. The Suppression of Terrorism Bill 2003 was met with stiff opposition from individuals, human rights organizations, Muslim organizations, and some parliamentarians especially from the Islamic faith who feared it would infringe on basic human rights and target specific communities, especially the Muslim community.[233] To address this suspicion, the government drafted a bill in 2012 to incorporate concerns from civic leaders and human rights organizations. The bill was passed and became an Act in October 2012. Before the enactment of the Act, the government was able to prosecute those arrested for engaging in terrorist activities using the general criminal law which was inadequate as far as the prosecution of masterminds of terrorist acts was concerned.

3.2.6 Financial Controls

Money has often been described as key to international terrorism, thus tracking 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.[234] 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.

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[233] Joint Chiefs of Staff. (2000). Joint Publication 3-07-1-1, *Department of Defense Combating Terrorism Program.* Washington, DC: US Government Printing Office.

[234] Khadiagala, Gilbert. (2004). Kenya: Haven or Helpless Victim of Terrorism. (p.4) In United States Institute of Peace. Special Report 113, Terrorism in the Horn of Africa. United States Institute of Peace web page. Article online. Available from www.usip.org/pubs/specialreports/sr113.

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.[235]

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[236] 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, 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

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[235] 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-integrity-is-critical-for-the-private-sector-measures-to-combat-money-laundering-and-terrorism-financing-not-fully-implemented
[236] http://www.thefreedictionary.com/hawala

in the country and that services like the hawala which are totally unlicensed and unformalised are the ones that the CBK is seeking to control so that the regulator can have information on who is transacting and how much.[237]

3.3 Summary

The GoK employed the instruments of power to enhance its counter terrorism measures after the 1998 US Embassy bombing though it was still in denial that it was merely a victim rather than a source of international terrorism. This line of thinking was to however change after the 2002 terrorist attacks. The government has been able to accept the reality that Kenya is not merely a victim of international terrorism but also a source of terrorism and has put together a raft of measures across the board to effectively combat international terrorism threat in the country. The analysis of Kenya's counter terrorism measures shows there is need to improve and allocate more resources to alleviate the threat. Areas that the GoK should focus on include equipping and constantly training the law enforcement agencies, addressing the perceived socioeconomic marginalization, religious extremism, and dismantling both the Al-Shabaab and Al-Qaeda cells in the country. These factors can be addressed by the effective employment of law-enforcement and intelligence activities, socioeconomic development to address inequalities, continued improvement of legislation on terrorism, information campaigns, and financial controls.

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[237] G. Ngigi (2013) ' 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

3.4 Conclusion

The GoK has been able to employ an all-around approach in its counter terrorism efforts through its foreign policy strategy by employing diplomacy, military, intelligence and law enforcement agencies. In diplomacy, the country has been able to share intelligence with friendly agencies and in the process thwarting a number of planned terrorist attacks. Regionally, the government also has been able to share intelligence with its neighbours especially through the NCTC.

When Kenya made an incursion into Somalia in October 2011, it was a clear statement that the country was taking seriously the threats posed by Al-Shabaab terror group against the country's security. This to a larger extent has reduced attacks against Kenyans and tourists along the Kenyan coast.

Until April 2013, a major impediment to the fight against international terrorism was failure by the GoK to regulate the hawala system of money transfer. Although the CBK has introduced rules to regulate the hawala system of money transfer, more needs to be done in terms of enacting the appropriate laws to govern the same. The enactment of appropriate laws in this regard is a key anti-terrorism strategy that will starve terrorists of the resources they need to operate. The CBK needs to ensure that it closely monitors the operations of various money transfers systems operating in the country because regular checks of their operations would deter them from being used to remit terrorist finances.

CHAPTER FOUR

DATA PRESENTATION AND ANALYSIS

4.1 Introduction

This chapter presents the analysis of data from both secondary and primary sources. The study targeted senior officials in the ministry of foreign affairs. Out of the 34 targeted respondents, a total of 17 respondents participated in the study. Given the sensitivity of the issue under investigation, not all the respondents targeted were able to respond to questionnaires. Most respondents did not want to reveal their names while a few gave only one name. Nobody was interviewed as responses were sought through questionnaires.

4.1.1 Demographic Profile of the Respondents

A total of 17 respondents participated in the study with the majority being male as shown in chart 4.1.1 below:
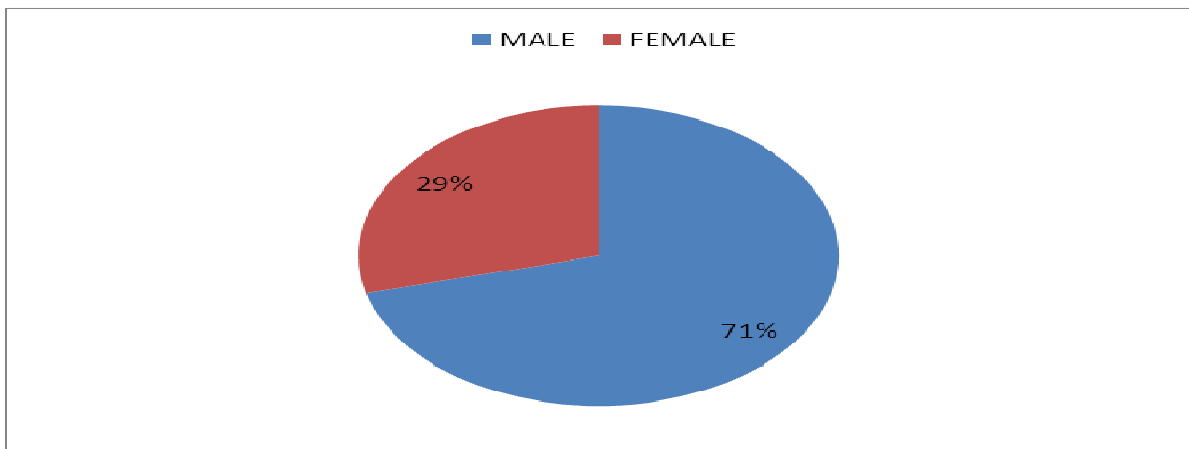
Chart 4.1.1 (a) Source; research data

Most respondents were of the ages between 51-60 years. Chart 4.1.(b) represents the ages in years of the respondents who participated in the study.
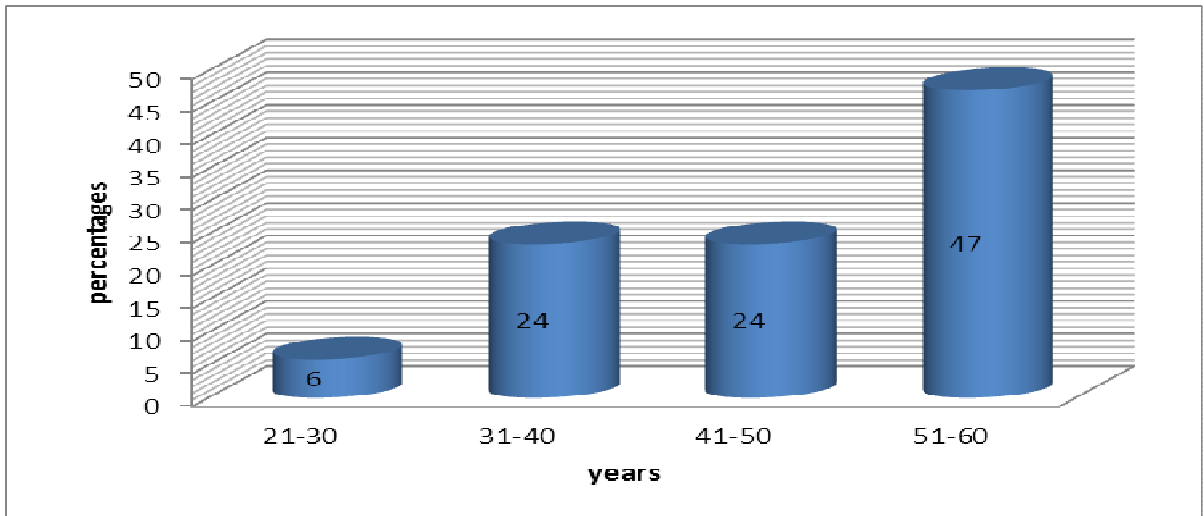
Chart 4.1.2 (b), Source; research data

The respondents were also asked to state how long they had served in their respective

departments and their responses were as shown in Chart 4.1.1(c) below,
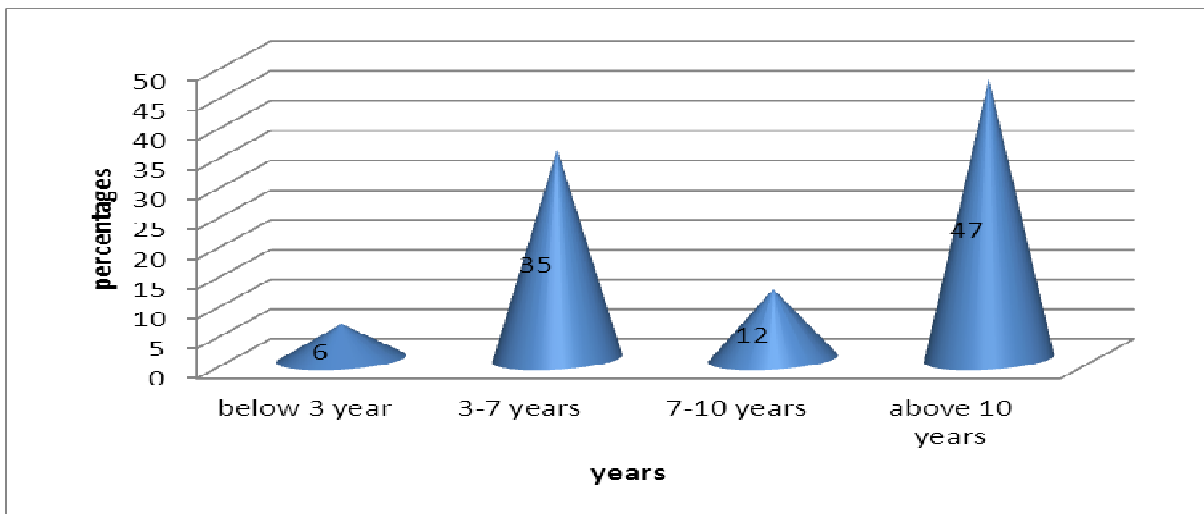
Chart 4.1.3 (c), Source; research data

4.2 Kenya's Foreign Policy Behaviour in Response to International Terrorism: 1998 to 2012.

Kenya's foreign policy, also referred to as the international relations policy, is a set of goals outlining how the country will interact with other countries economically, politically, socially and militarily, and to a lesser extent, how it will interact with non-state actors. Foreign policy is primarily concerned with the boundaries between the external environment outside the nation state and the internal or domestic environment, with its variety of sub-national sources of influence[238]. Foreign policies are designed to help protect a country's national interests, national security, ideological goals, and economic prosperity. This can occur as a result of peaceful cooperation with other nations, or through exploitation. In general terms there are three determinants of foreign policies in any given state. These include its power, objectives and leadership.[239] These have both domestic and international influence. In domestic politics, power is based on numbers, wealth, and organizational skills. A small group which is well organized may exercise considerable influence even without large sums of money. Power depends on both geopolitical and idiosyncratic factors within the realm of international politics.[240]

Different states in the world differ in their powers. The US is the world's super power; hence has greatest influence in its foreign policies. There are also micro-states and various territories that are not self-governing or not independent such as colonies. The power of a state depends on the following: Location (coastal or landlocked); size (large or small territory); population; Natural Resources (oil, iron ore, forests); Technology;

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[238] A.M. Wanjohi, (2011). *State's Foreign Policy: Determinants and Constraints.* KENPRO Online Papers Portal. Available online at www.kenpro.org/papers
[239] Ibid
[240] H. Damerow (2007) 'International Politics, GOV 207 Foreign Policy'. Union County College Cranford, NJ 07016**.** Available at: http://faculty.ucc.edu/egh-damerow/foreign_policy.htm.

Type of Government (dictatorship or democracy); type of Economy (market or centrally planned); Size and Equipment of Military (nuclear or conventional) and belief systems of Country.[241] The objectives of any state give direction to its foreign policies. Such objectives may vary greatly but all states seek to preserve themselves, maintain their independence, and security. For instance, economic development has played a dominant role in shaping Kenya's foreign policy. The need to pursue an open economic policy and the demand for foreign capital and investment flows and inter-trade activities has influenced Kenya's approach to foreign policy.[242]

The institutional actors in Kenya's foreign policy include the head of state who is the president, parliament, and ministry of foreign affairs, judiciary and other ministries like the ministry of finance now referred to as the national treasury, defense, trade and commerce now referred to as East African Affairs, Commerce and Tourism. These ministries are presumed to be empowered to speak and act on issues of foreign relations that concern specific tasks of their ministries.[243] The head of state represents the country in international conferences and summits. This makes him/her the top diplomat because he leads the way in the formulation and conduct of foreign policy. He is mandated by the constitution to appoint ambassadors and high commissioners who represent him/her in other states. Thus all these envoys report directly to the head of state making him a central figure in the foreign policy formulation, conduct and implementation.

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[241] A.M. Wanjohi, (2011). *State's Foreign Policy: Determinants and Constraints.* KENPRO Online Papers Portal. Available online at www.kenpro.org/papers.
[242] Ibid
[243] O. Ombado (2011) 'Institutional actors in Kenya's foreign policy' The Diplomatic Post, Foreign Policy Review, Sunday, 10 April 2011.

Parliament plays a major role in foreign policy issues. For instance, foreign policy decisions such as ratification of important treaties are sanctioned by parliament, which is the representative of the people.[244] In making the policies, parliamentarians must ensure that they take on board the wishes of the electorate so that the policies they come up with do enjoy public support. Any leader who fails to satisfy the wishes of domestic constituents' risks being evicted from his/her position.[245] The effectiveness of the public policy, the only thing that differentiates them is territory. This means that parliament formulates policies and establishes committees/structures. This includes foreign relations committee that oversees the implementation of foreign policy.[246]

The judiciary also plays a key role in the formulation and the implementation of foreign policy. Judiciary has a primary commitment to the resolution of a specific dispute.[247] It interprets inter-state agreements as well as legislations dealing with foreign relations. This helps the policy makers to understand the implications of a course of action about to be taken hence leading to the making of informed decisions. A legal decision by the judiciary is binding and the judiciary acts as advisory body for both the executive and parliament in the foreign policy decision making process.

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[244] O. Ombado (2011) 'Institutional actors in Kenya's foreign policy' The Diplomatic Post, Foreign Policy Review, Sunday, 10 April 2011.
[245] R. D. Putnam 'Diplomacy and Domestic Politics: The Logic of Two-Level Games' *International Organization* , Vol. 42, No. 3 (Summer, 1988), (p. 434) Published by: The MIT Press Article Stable URL: http://www.jstor.org/stable/2706785.
[246] O. Ombado (2011) 'Institutional actors in Kenya's foreign policy' The Diplomatic Post, Foreign Policy Review, Sunday, 10 April 2011.
[247] Falk, Richard A. (1964) "The Role of Domestic Courts in the International Legal Order, (p.432)" *Indiana Law Journal*: Vol. 39: Iss. 3, Article 2. Available at: http://www.repository.law.indiana.edu/ilj/vol39/iss3/2.

The cabinet secretary for foreign affairs acts as a spokesperson of the state on matters pertaining to external relations in this case; he/she handles foreign relations making him/her an important actor in foreign policy. His/her ministry is mandated with the responsibility of dealing with matters related to actions of state and non-state actors in the international system. The ministry co-ordinates the work of ambassadors and heads of missions, it also obtains information which is used in foreign policy decision making. It is the ministry of foreign affairs that is in charge of diplomatic missions in foreign countries and this makes it an important actor in Kenya's foreign policy.[248]

Other government departments also play a great role in foreign policy. These include the ministry of national treasury, East African affairs, commerce and tourism, and the ministry of defense. The national treasury is concerned with issues such as foreign aid and exchange rates. The ministry of commerce deals with issues such as imports and exports and matters to do with international trade. The ministry of defense acts in matters pertaining to safeguarding the country from external aggression.

Kenya's foreign policy rests upon four interlinked pillars, namely; Economic Diplomacy, Peace Diplomacy, Environmental Diplomacy and Diaspora Diplomacy.[249] Out of the 17 respondents, 80% indicated that as a result of the growing outcry resulting from acts of international terrorism, the government has initiated and subsequently enacted a number of bills and legislations all aimed at dealing with the menace of international terrorism

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[248] O. Ombado (2011) 'Institutional actors in Kenya's foreign policy' The Diplomatic Post, Foreign Policy Review, Sunday, 10 April 2011.
[249] http://www.proudlyafrican.info/Proudly-African/Proudly-African-Territories/Kenya/Ministries-Authorities/The-Ministry-of-Foreign-Affairs.aspx#

which has found a soft place in Kenya. Some elements of an effective counter terrorism strategy cited by these respondents that have been put forward by the GoK as part of its foreign policy on combating terrorism, are public diplomacy and information campaigns; legislation; financial controls, and use of military force citing the incursion to Somalia by KDF.

When terrorists linked to the Al-Qaeda network attacked Nairobi's US embassy in 1998, there was a clear indication that terrorists groups were indeed active in Kenya. Not much was done by the GoK to counter this threat thus giving members of Al-Qaeda an easy time to operate in the country at the time. This served to highlight the weaknesses in the GoK's employment of instruments of power to effectively combat international terrorism. The traditional and non-traditional instruments of power: diplomacy, information, military, and economics along with law-enforcement, legislation, and financial controls are used to analyze the GoK's response to international terrorism threat.

4.2.1 Employment of the Instruments of Power (Diplomacy)

Diplomacy is the instrument of power that builds political will and strengthens international cooperation.[250] 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 neighbours and allies to forge a multilateral approach in the fight against this threat. Diplomacy supports the other instruments of national power in numerous ways. For example,

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[250] H. H. Adan, (2005) 'Combating Transnational Terrorism in Kenya,' (p.37). *Masters thesis presented to the Faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.*

extradition treaties help in the application of criminal law by facilitating the transfer of fugitive terrorist suspects. Intelligence sharing among nations potentially discourages terrorists from operating in those countries and facilitates the monitoring of groups operating in the region. [251]

After the 1998 US embassy bombing, the government fully cooperated (and continues to do so) with the US government and other friendly countries in intelligence sharing. It has given investigators from these friendly countries and especially the US to investigate terrorism incidents. The government also helped apprehend and hand over the suspects to US investigators to stand trial in the US. Apart from the US, the government approached the Israeli government to obtain its assistance in rescue operations. This was followed by the dispatch of rescue teams and intelligence agencies to help track those responsible for the attacks.

In the EA region, Kenya took the center stage internationally because of what was perceived as the terrorists' change in operations to focus on soft targets in countries where the phenomenon of terrorism had not yet been experienced. The GoK allowed the US to use Kenya for logistical support as it investigated terrorism incidents, which resulted from the perceived notion that Kenya was a victim of terrorism because of US interests in the country, and that the US had to play a major role in investigating the attacks. However, Kenya did not apply much effort to incorporating the countries in the HOA region in a unified regional counter terrorism strategy because of the belief that Kenya was a victim rather than a source of international terrorism. This denial was tied to

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[251] Ibid

the inability to acknowledge the wider context that led to the growth of terrorism, that is; erosion of the structure of governance, notably weak intelligence capabilities and law enforcement.[252] Furthermore, the government was afraid to alienate Kenya's Muslim population who often complained of perceived marginalization. It was feared this group would bear the brunt of any counter terrorism efforts, since most of the terrorist suspects were from the Muslim community.

Most remarkable according to a respondent from the ministry of foreign affairs was in the year 2012; the officer stated in his response that despite the Somali refugee issues, preparation for 2013 national elections, the threat of Al-Shabaab, and ethnic, political, and economic tensions, the Kenyan government demonstrated persistent political will to secure its borders, apprehend terrorists, and cooperate in regional and international counter terrorism efforts. The law enforcement agencies disrupted several high profile terrorist attacks that had been planned. Despite the disruptions, small-scale terrorist attacks were witnessed especially in Nairobi, Mombasa and North Eastern province. On the other hand, Kenyan military forces in Somalia were able to capture the key port city of Kismayo, Al-Shabaab's last major stronghold and its economic lifeline.

According to a ministry of foreign affairs officer,

"The development of counter terrorism strategies has been a key priority for the government. The key factors contributing to this prioritisation include Kenya's general international counter terrorism obligations pursuant to the relevant UN Security Council

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[252] G.L.Khadiagala, (2004). Kenya: Haven or Helpless Victim of Terrorism. In United States Institute of Peace. Special Report 113, Terrorism in the Horn of Africa. United States Institute of Peace. Available at: www.usip.org/pubs/specialreports/sr113.html.

Resolutions; its geographical proximity to Somalia, previous terrorist attacks on US and Israeli interests in Kenya; and the identification of Kenya as a key strategic partner in the implementation of the US-led 'war on terror'. In this respect, Kenya has established a number of agencies and institutions to counter terrorism"

4.2.2 Measures and Enactments to Deal With International Terrorism by the GoK.

Legislation, Law Enforcement, and Border Security

A response from the ministry of foreign affairs officer indicated that the Prevention of Terrorism Act 2012, passed by Parliament in September 2012 and signed into law in October the same year, was one of the government's biggest achievements on the legislation front as far as combating international terrorism is concerned. Other legislations include; the 2009 Proceeds of Crime and Anti-Money Laundering Act and the 2010 Prevention of Organized Crime Act. This is an indication that Kenyan prosecutors have a robust suite of tools for bringing individuals and organizations to justice, tools which will also greatly facilitate international cooperation and mutual legal assistance in terrorism cases. Prior to the passage of the new law, Kenyan authorities began prosecution of two high-profile terrorist cases against Iranian citizens and alleged Islamic Revolutionary Guard Corps-Qods Forces persons Ahmad Mohammed and Sayed

Mousavi[253] on explosives charges, and against British citizen Jermaine Grant on charges of plotting to kill Western tourists on behalf of Al-Qaeda.

On the international scene, Kenya has since become an active law enforcement partner and participated in the Department of State's Anti-terrorism Assistance (ATA) program.[254] The program is focused on tightening border security, enhancing investigative capacity, promoting respect for human rights, and building critical incident response capacity through training; mentoring, advising and equipping Kenyan counter terrorism-focused law-enforcement agencies. Kenya also continued its partnership with the US on expanding Personal Identification Secure Comparison and Evaluation System (PISCES), border controls to additional ports of entry.[255]

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.[256] The GoK has come out with elaborate action plan to address deficiencies in its countering of the terrorist financing. In 2009, the GoK

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[253] 'Iranians jailed for life in Kenya over terror charges 'http://www.bbc.co.uk/news/world-africa-22425366
6 May 2013 Last updated at 13:58 GMT.

[254] Government of Kenya. (2004). *Kenya National Counter Terrorism Strategy*, Nairobi. Government of Kenya.
[255] 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.
[256] Ibid

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.

Regional and International Cooperation

Kenya is a member of the AU, IGAD, COMESA, and the EAC. The GoK coordinated with these groups significantly during its military campaign against Al-Shabaab militants in Somalia.[257] 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 especially dangerous pathogens and enhance the GoK's capability to prevent the sale, theft, diversion, or accidental release of chemical, biological or radiological weapons-related materials, technology, and expertise.[258]

4.2.3 Diplomatic Peace Negotiations in Sudan and Somalia Through the IGAD Framework and the Fight Against International Terrorism.

Constant occurrence of conflicts in the HOA has made the establishment of peace and security mechanisms more urgent and more difficult than in other regions of Africa.[259]

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[257] Government of Kenya. (2004). *Kenya National Counter Terrorism Strategy*, Nairobi. Government of Kenya.
[258] 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.

[259] P. Woodward, (2003). *Horn of Africa: Politics and International Relations*, London: I. B. Tauris.

The use of force to achieve political goals has been the regional norm and democratic accountability was largely absent. Many of the conflicts in the HOA challenge the basis of statehood. This applies to the dynamics of Ethiopia and Eritrea, North and South Sudan, and Somalia and Somaliland. The possibilities of new states emerging from conflict meant that essentially domestic conflicts had foreign policy implications.[260]

IGAD's Role in Reconciliation and Peacemaking in Sudan and Somalia

The 1996 IGAD agreement included among its principles the peaceful settlement of conflicts and disputes, the maintenance of regional peace, stability and security, and the protection of human and peoples' rights.[261] The organization later on came with another objective which is geared at promoting peace and stability in the region and creating mechanisms within the region for the prevention, management and resolution of inter and intra-State conflicts through dialogue' (article 7g). Countries who are members of IGAD are required to take effective collective measures to eliminate threats to regional cooperation, peace and stability; establish an effective mechanism of consultation and cooperation for the pacific settlement of differences and disputes; and deal with disputes between member states within this regional mechanism before referring them to other regional or international organizations (article 18a).[262]

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[260] S. Heally (2011) 'Seeking peace and security in the Horn of Africa: the contribution of the Inter-Governmental Authority on Development' (p.107) *International Affairs* 87: 1, 2011. The Royal Institute of International Affairs.
[261] S. Healy (2009) 'Peacemaking in the midst of war: An Assessment of IGAD's Contribution to Regional Security; (p.5) Working Paper no. 59 *Regional and Global Axes of Conflict.* Royal Institute of International Affairs.
[262] Ibid

The Effectiveness of IGAD's Contribution to Peace and Security in the Region with Regard to International Terrorism.

The signing of the Somali and Sudan peace agreements in 2004 and early 2005 respectively created an impression that IGAD was proving unusually proficient at performing its new conflict-resolution role.[263] Two IGAD settlements within three months appeared a remarkable accomplishment, taking into consideration that both addressed long and complex conflicts that had defied previous attempts to secure peaceful settlement.

The IGAD peace initiatives in Sudan and Somalia were political initiatives conceived and largely executed by one or more member states.[264] Those countries that were in the lead as mediators were also interested parties. IGAD's secretariat had neither the capacity nor the authority to lead and manage the peace processes. In fact when the Sudan peace process commenced in 1993, the organization had no track record on peace and security issues and had yet to develop its conflict resolution mechanism.[265]

The GoK through its foreign policy has been instrumental in the search for peace in the HOA through the IGAD framework. Once underway, the peace talks required an organizational and logistical effort that was beyond the capacity of IGAD's modest secretariat in Djibouti. A respondent from the ministry of foreign affairs mentioned that the Sudan and Somalia peace processes both relied heavily on Kenya's diplomatic

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[263] D. J. Francis (2006) 'Uniting Africa: Building Regional Security Systems', Aldershot: Ashgate.
[264] S. Healy (2009) 'Peacemaking in the midst of war: An Assessment of IGAD's Contribution to Regional Security; (p.11) Working Paper no. 59 *Regional and Global Axes of Conflict.* Royal Institute of International Affairs.
[265] Ibid

capacity. Kenya provided the chief negotiator in each case, where by retired Lieutenant General Lazarus Sumbeiywo was a mediator in the Sudan peace process and Ambassador Bethwel Kiplagat for the Somali peace process.

Another respondent from the ministry reiterated that the importance of Kenya to the success of the peace processes was not confined to its provision of diplomatic and organizational capacity. He stated that the country's ability to maintain political neutrality was quite vital. "Without Kenya's neutrality after 1995, IGAD's Sudan peace process might not have survived. Kenya went on to play a key role in securing government agreement on the Declaration of Principles when Khartoum was under maximum pressure. Similarly, Kenya provided a neutral venue in 2002 for the different Somali parties backed by Ethiopia and Djibouti".

Another respondent from the ministry of foreign affairs responded that through the peace talks, the Comprehensive Peace Agreement (CPA) was signed by the government in Khartoum and the Sudan People's Liberation Movement/Army (SPLM/A). The signing of the CPA ended Africa's longest-running civil war. The respondent added that many of the provisions of the CPA have been implemented. The CPA is one of the most detailed peace agreements signed in the recent past. It provided for a government of national unity (GNU) where both the north and the south agreed on how to be part of the government by sharing ministerial seats. They also agreed on how to deal with Abyei that is rich in oil, wealth sharing, population census, elections and the referendum to

determine the fate of the South. The CPA culminated in the independence of South Sudan on 9th July 2011.

The respondent indicated that as a result of the Sudan peace process spearheaded by Kenya through the IGAD framework, Sudan and South Sudan are now enjoying relative political stability despite some disagreements between the two countries over oil resources and border disputes. This stability has deprived Al-Qaeda, Al-Shabaab and other terrorist groups of easy access to weapons and convenient safe havens, thereby making it harder for them to operate in Kenya's neighborhood.

On peace talks in Somalia, a respondent from the ministry of foreign affairs indicated that Kenya has been on the forefront in the region in bringing about national reconciliation to establish peace and stability in Somalia. The peace process in Kenya realized the signing of a peace accord between the warlords and the formation of a transitional federal government in Somalia. The move by Kenya in bringing peace and reconciliation has yielded fruits in the fight against international terrorism. "The transitional government, in co-operation with neighbouring countries and with support from the international community, will commence a military campaign to restore peace and order in Somalia,"[266] Somali Prime Minister Abdiweli Mohamed Ali said in a statement. "This will target extremist groups such as the Al-Shabaab movement, which is affiliated with the global terrorist network led by Al-Qaeda in Somalia."[267]

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[266] Hirraan Online 'African Union approves new strategy to fight Al-Shabaab' Sunday, June 23, 2013 web: http://www.hiiraan.com/news4/2013/Jun/29972/african_union_approves_new_strategy_to_fight_al_shabaab.aspx
[267] ibid

In the thirteen years since IGAD added peace and security to its mandate there has been no appreciable reduction in the level of conflict in the HOA.[268] The region still lacks the most rudimentary regional security framework. IGAD member states continue to flout the old fashioned inter-state rules of respect for territorial sovereignty and non-interference in each other's affairs, 'victims of their neighbour's insecurities, or conversely, as threats to the neighbours'.[269] As yet, there are few signs of their moving towards collective security arrangements or genuinely endorsing institutional processes of regional consultation or decision making. All this could point to the conclusion that IGAD is paralyzed by conflict among its member states and unlikely to succeed in advancing regional conflict resolution.

Counter Terrorism, Prevention and Control Through the IGAD Framework

The IGAD Capacity Building Program against Terrorism has been operational since the year 2006 focusing on national capacities and undertaking studies on regional security issues for further regional approach on wider issues.[270] As part of the effort to enhance national capacities, the program has supported member states to formulate legislations on terrorism; trainings have been provided to relevant institutions aimed at enhancing judicial capacities and inter-departmental coordination. In addition, reviews of various laws of member states with regard to organized crimes, money laundering, corruption and similar issues have been carried out in some countries and processes are undergoing in

[268] G.L. Khadiagala, (2007). *Meddlers or Mediators? African intervention in civil conflict in Eastern Africa*, Leiden, Netherlands: Brill.
[269] G.L. Khadiagala, (2008). *Eastern Africa: Security and the Legacy of Fragility*. New York: International Peace Institute.
[270] Intergovernmental Authority on Development (IGAD). (2007). 'Lessons learnt from the Sudan and Somalia Peace Processes

the remaining countries.[271] Consequently, the next plan is to design a strategy by which all activities carried out under this program could be utilized as stepping stones to work on regional security issues in a comprehensive manner. A new plan on the IGAD Security Sector Program (ISSP) has been worked out following phasing out of ICPAT program in December 2010.[272] This security sector program focuses on; terrorism, maritime security, illicit arms control, money laundering, human trafficking and other cross-border organized crimes.

A respondent from the Ministry noted that although these conventions have the potential to greatly enhance the efficiency of cross-border investigations and legal proceedings, there have been three main obstacles to the success in the fight against international terrorism that must be overcome before the sub-region can reap the benefits of these instruments: the difficulty for most member states to ratify these conventions and implement them in national law; the lack of an institutionalized network of law enforcement and judicial officials with the expertise and capacity to co-operate across borders and bring these laws to life; and the lack of mutual trust and reciprocity between member states to confidently constitute and empower such a network.

4.2.4 Key State Actors in the Fight Against International Terrorism

Key amongst the state actors are the NIS, the NCTC, the department of immigration and the National Police Service through ATPU. For instance, there are various roles that the police department covers in regards to anti-terrorism. One of these is the role of

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[271] Interpeace. 2009. *The Search for Peace: A History of Mediation in Somalia since 1988*. Nairobi: Interpeace.
[272] Ibid

community policing. Community policing strategy was launched in Kenya on 27th April 2004 at Ruai Police Station by then president Mwai Kibaki. It was aimed at improving security of life and property as well as promoting sustainable development in the country. Through this initiative, police officers have developed closer working relationships with the communities they are working with. However, the implementation of community policing has been faced with various challenges; first, there is poor public image of the police force. Secondly, there is poor customer service within the police force. This discourages members of the public from reporting crime. In some areas in the country, crime is a way of life for some people especially cattle rustling. Such communities are not likely to cooperate with the police. Thirdly, there is not much civic education on the principles and practice of community policing. The government has not done much in providing resources to be used for civic education. Lastly, citizens have raised concerns that rogue policemen have mismanaged confidential information on crime given to them by members of the public.

Immigration department is constituted with the following core objectives; control of entry and exit of persons; issuance of travel of documents to Kenyans; regulation of the residency and employment of non-Kenyans; provision of consular services in Kenya missions abroad and maintenance, safe custody and retrieval of records in respect of the departments' functions.[273]

4.2.5 Regional Efforts to Combat International Terrorism

The GoK's efforts to fight international terrorism alone cannot yield substantial results

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[273] http://www.immigration.go.ke/index.php?option=com_content&view=article&id=70&Itemid=103

without the co-operation of countries in the region. The existence of long, porous borders that international terrorists can and have exploited has forced Kenya to forge a multilateral approach in the fight against terrorism.[274] The GoK has fully engaged in diplomacy with countries in the region and is a key player in EACTI. For broad intelligence sharing in the fight against terrorism, Kenya hosted an Africa regional counter terrorism conference in August 2004 to discuss regional cooperation in fighting the threat. This cooperation would, in the long run, help enforce border control and intelligence sharing.[275]

Somalia's instability has also created problems for enforcing border controls. Somalia's lack of a central government for the last 20 years and its proximity to the Arabian Peninsula makes it a potential location for international terrorists seeking transit or a launching point from which to conduct operations in different places.[276] The continued lawlessness in Somalia is conducive to the unhindered movement of terrorists and deadly arsenals through the long, unpatrolled coastline and porous borders. However, with the incursion of Kenya into Somalia, the Al-Shabaab terror groups' grip of Somalia has been severely weakened.

A respondent from the ministry of foreign affairs indicated that in an effort to address the problem, Kenya has been on the forefront in the region in bringing about national reconciliation to establish peace and stability in Somalia. The peace process in Kenya

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[274] Central Intelligence Agency. (2004). *The World Fact book.* Kenya.
[275] Ibid
[276] US Department of State (2003) 'Africa Overview: Patterns of Global Terrorism' Office of the Coordinator for Counter terrorism. Available at: http://www.state.gov/j/ct/rls/crt/2002/html/19981.htm

realized the signing of a peace accord between the warlords and the formation of a transitional federal government in Somalia which at the time because of insecurity did not relocate to Somalia. However, with time, the government was able to relocate and operate from Mogadishu and there is relative stability in Somalia despite occasional terrorists' attacks from members of Al-Shabaab.

There is need for the Africa Union and countries of the West to support the new Somali government and assist it in the disarmament of militias and pacifying the country. With the establishment of a relatively stable government in Somalia, Kenya and its allies would have an additional partner to fight international terrorism in the region and to mitigate the use of the porous borders between Kenya and Somalia by Al-Qaeda and Al-Shabaab elements to enter into the country.

4.2.6 International State Actors and Kenya's Foreign Policy Behavoiur in Regards to International Terrorism.

International terrorism affects global peace and security and hence stability. Consequently, no state can single-handedly combat the threat. In order to combat the threat, enormous resources and global intelligence are the ingredients that are required which are beyond the reach of many developing countries.

A response from the ministry of foreign affairs officer revealed that the US has been the chief actor in Kenya's fight against international terrorism. For many decades, security cooperation has been an important aspect of Kenya-US relations, despite political disagreements between the US and the regime of former President Daniel Arap Moi

because of corruption and human rights abuses. The relations with the government of the popularly elected leader, the immediate President of Kenya, Mwai Kibaki, were warmer and promised deeper security cooperation, which led to the US spending over 3.1 million US Dollars on anti-terrorism assistance, including training Kenyan security personnel in the US.[277]

Another respondent from the ministry of foreign affairs indicated that as a result of the support from the US government, the GoK acquired terrorist interdiction programs hardware and software packages. Terrorist interdiction programs hardware and software packages are intended to significantly reduce terrorists' freedom of movement among countries by the use of a state-of-the-art computer network that enables immigration and border control officials to quickly identify suspicious persons on terrorist watch lists who might be attempting to enter or leave the country.[278] Moreover, the officer added that; "there is also increased terrorist-related intelligence sharing, which has enabled the government to apprehend and disrupt the activities of terrorist suspects. The response of the international community, especially in providing the enormous resource and intelligence sharing has thus helped Kenya fight international terrorism to a greater extent."

The existing US and Western countries policies are geared to meet the challenges of a soft target, as Kenya is perceived to be. However, Kenya is a source of international

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[277] G.L. Khadiagala, (2004). Kenya: Haven or Helpless Victim of Terrorism (p.4) In United States Institute of Peace. Special Report 113, Terrorism in the Horn of Africa. United States Institute of Peace.
[278] Royce, Ed., Chairman. 2004. Report of the House Committee on International Relations, Subcommittee on Africa holds a hearing on African Terrorism, 1 April. Article on-line. Available from https://web.lexisnexis.com/congcomp/document? _m=00f3d 637eb41800a4835f34f8690f32f2.

terrorism as well as a soft target.[279] The components of US counter terrorism programs to Kenya are good, but the focus is primarily short and medium term, such as apprehending terrorists, providing training, and building a counter terrorism infrastructure to deny terrorists opportunities to exploit institutional weaknesses. What is missing is a long-term program to reduce poverty and the socioeconomic imbalance that terrorists exploit. Dealing with the source of terrorism entails institutional changes that go far beyond protection.[280] To effectively address factors that promote international terrorism in Kenya, massive resources are required to initiate socioeconomic development. Additionally, the US and other allies must help Kenya build a rapid-response capacity, which would entail enormous investments in training and equipment for Kenya's security forces to help combat international terrorism effectively.

While the US has been greatly involved in efforts to resolve regional disputes, it needs to focus more on the war of ideas in trying to win the hearts and minds of the Muslim world. It should also help developing countries in free-trade incentives, such as the African Growth and Opportunity Act (AGOA), to provide access to US markets for agricultural and industrial goods. This initiative would help poor countries foster sustainable economies, which would reduce socioeconomic problems and, thus, mitigate one of the root causes of terrorism (poverty).[281]

[279] G. Asghedet. (2002). The Terrorist Attacks on New York and Washington, How Kenya Reacted and has been Affected.
[280] Ibid
[281] H. H. Adan, (2005) Combating Transnational Terrorism in Kenya,' (p.63). Masters *thesis presented to the Faculty of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.*

4.3. Effectiveness of Institutional Capacity in Combating International Terrorism.

In a bid to respond to multiple terrorist acts, Kenyan authorities have expanded their efforts to stop violent extremists, though such efforts have led to a variety of human rights abuses while aggravating historical frictions between the GoK and minority Muslim communities.

Security training and assistance have empowered domestic anti-terrorism forces to address the problem of violent extremism more aggressively, but Kenyan authorities regularly act on minimal evidence and violate domestic and international law.[282] Thus, the GoK's anti-terrorism initiatives have compounded an already deep sense of alienation among those most severely affected by the new measures: Kenyan Muslims, particularly those of Arab and Somali ancestry.

Since the 1998 embassy bombings, Kenya's law enforcement agencies have apprehended a number of terrorists including one of the American embassy bombers and thwarted a number of attacks.[283] As an attempted bus bombing in December 2010 suggests, terrorism continues to pose a threat in Kenya today. However, US security related assistance and pressure on the Kenyan government to identify and convict terrorists have produced a series of unintended effects.[284] For example, the GoK has pursued the domestic war on terrorism by means that are often heavy handed and ineffective. Instead

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[282] J. Prestholdt (2011). Kenya, the United States, and Counter terrorism. *Africa Today* 57(4), 2-27. Indiana University Press. Retrieved August 29, 2013, from Project MUSE database.
[283] J. Greenstock (2002). Report of the Republic of Kenya Submitted to the Security Committee Established Pursuant to Resolution 13739 (2001).Article on-line. Available from www.un.org/Docs/sc/committees/1373/k.htm.
[284] J. Prestholdt (2011). Kenya, the United States, and Counter terrorism. *Africa Today* 57(4), 2-27. Indiana University Press. Retrieved August 29, 2013, from Project MUSE database.

of addressing the ease with which terrorists enter Kenya or the shortcomings of its intelligence apparatus, authorities have in most cases articulated the problem of terrorism narrowly, as one nurtured by Kenya's Muslim minority. In fact, thousands of Kenyan Muslims have been harassed and illegally detained. Kenyan authorities' disregard for domestic and international law is not a new development, but recent counter terrorism efforts are unique in that Kenyan forces receive training and direct funding from the US to support these operations.[285] To further its efforts to combat terrorism activities, the government has employed the instruments of power to fight the international terrorism threat by addressing the relevant factors that cause terrorism in the country.

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[285] Ibid

4.3.1 Institutions that have been involved in the fight against international terrorism in Kenya.

ATPU

The Government of Kenya established the Anti-Terrorism Police Unit (ATPU) as a special division of the Kenya Police in February 2003 to carry out specific investigations and arrests related to terrorism, conduct specialist operation

To supplement the efforts of ATPU in the fight against terrorism, the Government recently opened Kenya Police Operations Centre, whose mission is to co-ordinate and carry out anti-terrorism operations with the country's various national security agencies. The centre is expected to make Kenya and the region safer in the face of extremist threats. The new centre in Nairobi replaces the 10-year-old National Counter-Terrorism Centre, and is a step-up from its predecessor, said Boniface Mwaniki, head of the Kenyan Anti-Terrorism Police Unit (ATPU).

A bigger building houses the new centre, which has ample holding cells, interrogation rooms, and the latest technology for conducting surveillance operations and investigations. The centre has new computers, state-of-the-art communications systems, and explosives detectors and detonators.

"As you know, you cannot expect different results by doing the same things time and again," Mwaniki told Sabahi. "The militants have changed tactics on how they launch their attacks and are becoming more sophisticated. Therefore, with this centre we are placing ourselves ahead of the game to thwart their plans well in advance."

Before the centre officially opened, the government used the facility to monitor suspicious activity during the presidential election campaigns and to help police officers in the field receive and process intelligence reports on potential hotspots for violence, he said. "We were able to deploy police in advance to maintain law and order, which contributed to a peaceful election," Mwaniki said.

The centre will make it easier for security agencies to share information and co-ordinate their efforts from a single command, said Oriri Onyango, head of the National Crime Research Centre at the office of Kenya's Director of Public Prosecutions. Even after 2003, when the National Counter-Terrorism Centre came about, it was hard to get data on terrorist activities, Onyango said. Now, the new centre will help law enforcement agencies record, tabulate, and share intelligence and evidence in related cases under investigation.

"Preservation of material evidence as well as preparation of the evidence to be used in prosecuting terror suspects has been a challenge, but now the centre will be dedicated strictly for dealing with terror-related crimes," he said, adding that the government intends to use the facility to train officers in counter-terrorism.

The centre should also minimize errors in policing, which have been blamed for tactical failures in the war against terror, said Simiyu Werunga, a retired army captain and Nairobi-based security consultant.

"Police have [relied on] guesswork as far as the fight on terror is concerned," he said. "They have always reacted after a blast has occurred, but with such a facility they will

now become more proactive, which will help deter further attacks in Kenya." Werunga, who also directs the African Centre for Security and Strategic Studies, said the ATPU should continue to train its officers so they can keep up with changing trends in terrorism.

The National Counter Terrorism Centre (NCTC)

The NCTC was established in January 2004 with the mandate of developing and coordinating counter terrorism strategies in the HOA region.

The study sought to investigate the role NCTC has since played in the fight against international terrorism from 1998 to 2012 in Kenya.

NCTC has promoted intelligence sharing which has assisted a great deal in combating terrorism in Kenya and the HOA region. The center has ensured timely dissemination of intelligence to tactical departments charged with combating terrorism. NCTC has been able to guide the operations on counter terrorism using threat analysis by working closely with regional and international security organizations to develop a sustainable counter-terrorism strategy which has helped in the formulation of a national counter terrorism strategy that encompasses all national security agencies.

In an effort to ascertain the achievements of NCTC in combating terrorism activities in Kenya from 1998 to 2012, the research came up with these findings;

Since the establishment of the centre in 2004, the center has made it easier for security agencies such as the police, the military and the intelligence agencies to share

information and co-ordinate their efforts from a single command. The center has enabled the law enforcement agencies to record, tabulate, and share intelligence and evidence in related cases under investigation. Moreover, the centre has coordinated the efforts of security agencies within and outside Kenya in order to combat international terrorism.

NCTC has successfully investigated activities related to terrorism and closely related criminal activities such as cross-border arms smuggling. The information was passed to other law enforcement agencies for timely action to prevent terrorism attacks from occurring.

The respondents opinion on the extent to which they perceived institutional success in dealing with international terrorism are as shown in chart 4.4.1 below;

institutional success

Chart 4.3.1 Source; research data.

"…the government of Kenya has continued to demonstrate political will in order to secure its borders, apprehend terror suspects, and cooperate in regional and international counter-terrorism efforts. This is despite of the problem of Somali refugees, the threat of Al-Shabaab, ethnic, political, and economic tensions. Kenya has shown a level of success in disrupting "several large-scale terrorist plots."

4.4 Priority Concern of Kenya's Foreign Policy

The respondents were asked to indicate whether international terrorism was a major concern of the Kenyan government's foreign policy and their responses were as shown in chart 4.5 (a) below; (see next page)

116

Focus of foreign policy

yes
21%

no
79%
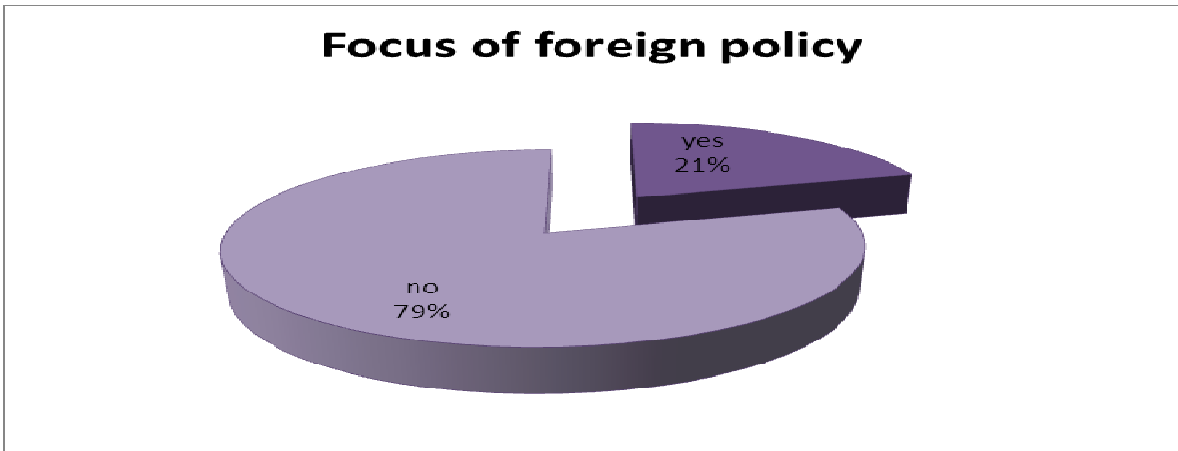
Chart 4.4 (a) Source; research data

The respondents also indicated what they perceived as the primary focus of Kenya's foreign policy as shown in chart 4.5 (b) below;

	trade and economics	boundaries	terrorism
Series2	21	1	12
Series1			
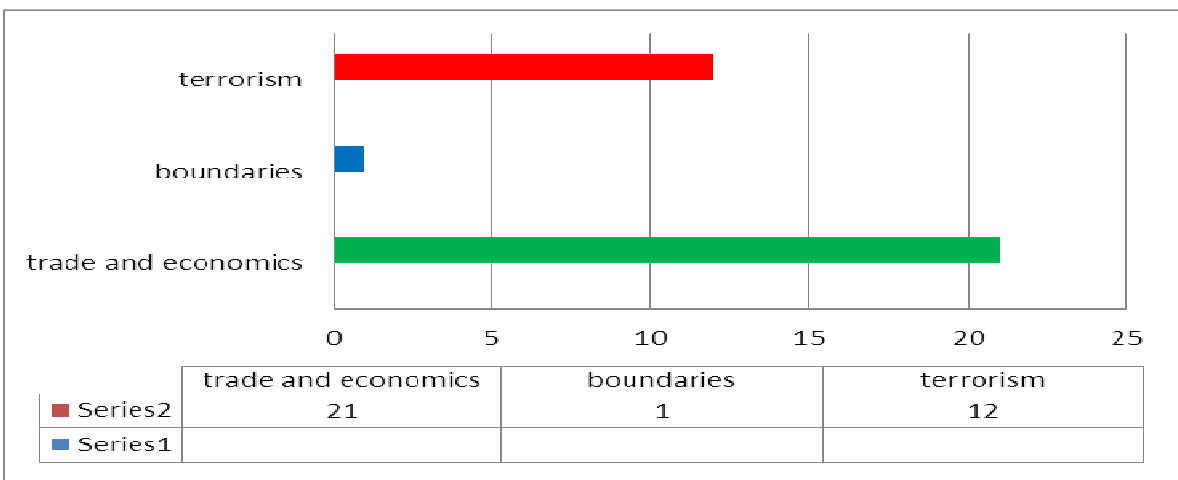
Chart 4.4 (b) Source; research data

The general views of respondents from the ministry of foreign affairs were that;

Most countries across the globe now place emphasis on building economic and trade partnerships among countries. Kenya has entered into a number of regional cooperation and integration arrangements such as COMESA and EAC. Additionally, Kenya is

involved in other international initiatives intended to enhance trade and economic relations.

The government has put in place efforts to tap the immense potential of Kenyans in the Diaspora. In this regard, according to the ministry of foreign affairs, a Diaspora and International Jobs Office which is under the foreign affairs ministry is now operational. Its mandate is to promote and coordinate the role of Kenyans in the Diaspora in national development and also promoting Kenya as a preferred destination for tourism, international conferences, and center for multilateral diplomacy.

The research found out that;

On the first objective, which was to analyze the changing focus of Kenya's foreign policy in response to international terrorism in the period under study, the research identified that Kenya's foreign policy behaviour has been aiming at the development of counter terrorism strategies. This is as a result of the growing threat from international terrorism.

The second objective of the study was to establish the role of state actors in shaping Kenya's foreign policy in relation to international terrorism. The findings show that international state actors have indeed shaped Kenya's foreign policy behaviour in response to international terrorism during the period under study. Kenya's foreign policy behaviour is geared towards international cooperation in order to combat the threat of international terrorism. US for example were instrumental in the establishment of NCTC in 2004. On its own, Kenya does not yet have the required capacity to effectively deal with international terrorism.

The third objective of the research was to establish the effectiveness of institutional capacity to combat international terrorism. The research found out that institutions such as NIS, NCTC, ATPU and the judiciary have not been effective enough to combat terrorism in Kenya. The security agencies have been relying on friendly security agencies from the US, UK and Israel in order to combat international terrorism. Some of the issues that contribute to their ineffectiveness are lack of technical capacity as well as resources required to combat terrorism. The judiciary on the other hand was for a long time handicapped in prosecuting terrorism crimes as there were no adequate laws to prosecute persons accused of engaging with terrorism activities. However, the enactment of Prevention of Terrorism Act 2012 is expected to address this challenge.

The fourth and last objective of the research was to find out whether international terrorism is a priority concern of Kenya's foreign policy. The research findings were that indeed terrorism is not the primary focus of Kenya's foreign policy and that trade and the establishment of commercial links with other countries is the primary concern of Kenya's foreign policy. However, the government is taking seriously the threat posed by international terrorism because it directly affects Kenya's economic well being which is the key issue in Kenya's foreign policy.

In carrying the research four hypotheses were put forward i.e. that;

i. The diplomatic efforts undertaken by Kenya towards the search for lasting peace in Sudan and Somalia, through the IGAD framework, have

led to the success of Kenya's foreign policy in response to global terrorism.

ii. International state actors have not played a significant role in Kenya's foreign policy response to international terrorism from 1998 to 2012.

iii. Kenya's Government has not been successful in countering international terrorism through its institutions from 1998-2012.

iv. International terrorism is not the major priority concern of Kenya's foreign policy.

On the first hypothesis, the study confirmed that indeed the diplomatic efforts undertaken towards finding a lasting peace in Sudan and Somalia through the IGAD framework have defined Kenya's foreign policy behaviour in response to global terrorism during the period under study. The relative peace enjoyed between South Sudan and Sudan has greatly reduced Kenya's vulnerability to international terrorism acts. It has deprived terrorist organizations such as Al-Shabaab a source of cheap weapons and convenient safe haven, thereby making it harder for them to operate in Kenya's neighborhood.

Coming to the second hypothesis, the study revealed that international state actors have influenced Kenya's foreign policy behaviour in responding to international terrorism in the period under study. The main actor here is the US. Moreover Kenya has been co-operating with the regional partners in the war against international terrorism. Therefore, this disapproves the hypothesis that international state actors have not played a significant role in Kenya's foreign policy response to international terrorism from 1998 to 2012.

On the third hypothesis, the study did not fully confirm whether the GoK has not been successful in countering international terrorism through its institutions from 1998-2012. Institutions such as NCTC and ATPU through the cooperation of friendly security agencies have to some extend succeeded in combating international terrorism especially from 2004 onwards after NCTC and ATPU were established.

On the fourth and last hypothesis, the study confirmed that indeed it's true that international terrorism is not the major priority concern of Kenya's foreign policy. The study found out that trade and the establishment of trade links with other nations regionally and internationally has been the primary focus of Kenya's foreign policy.

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CHAPTER FIVE

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Summary

Kenya has experienced increased terrorist attacks since 1998 to date. To address the threat of international terrorism in Kenya, the GoK from 1998 to date has embarked on a systematic counter terrorism program. Using the hypothesis that; The diplomatic efforts undertaken by Kenya towards the search for lasting peace in Sudan and Somalia, through the IGAD framework, have led to the success of Kenya's foreign policy in response to global terrorism; that international terrorism is not the major priority concern of Kenya's foreign policy; that Kenya's foreign policy has not been successful in countering international terrorism through its institutions from 1998-2012 and that International state actors have not played a significant role in Kenya's foreign policy response to international terrorism from 1998 to 2012. This thesis attempted to investigate Kenya's foreign policy behaviour in response to international terrorism with reference to the period from 1998 to 2012.

The GoK's efforts to combat international terrorism are becoming more effective in reducing terrorism threat in the country. A detailed discussion of the research objectives reveal Kenya's foreign policy behaviour in relation to global terrorism activities from 1998 to 2012, the role of international state actors in shaping Kenya's foreign policy in relation to international terrorism from 1998 to 2012, the effectiveness of institutional capacity to combat international terrorism and the priority concern of Kenya's foreign

policy to draw conclusions, and to make further recommendations on research as well as the possible policy considerations.

5.2 Conclusions

The research identified that Kenya's foreign policy behaviour has been aiming at the development of strong counter terrorism strategies. This is as a result of the growing threat from international terrorism. The research established that the response is specifically as a result of the growing incidences of international terrorism witnessed in the period of study.

The study found out that despite the successful mediations in Sudan and Somalia, IGAD is still far from providing an institutional basis for regional security in the HOA. There is still a tendency by regional actors to resort to the use of force. As witnessed during the Sudan and Somali peace processes, IGAD member states demonstrated their willingness to engage in war and at the same time organizing for peace. When the Sudan peace process was started by IGAD, military action by Ethiopia, Eritrea and Uganda provided some level of pressure that influenced the government of Sudan to negotiate seriously with the South.

The study noted that international terrorism has increasingly threatened security in the sub-region of IGAD because member states have not fully implemented the IGAD framework. Because of its international nature, no individual IGAD member state can single-handedly deal effectively with terrorism threats hence the member states need full cooperation and mutual trust in the fight against international terrorism. The IGAD

Security Strategy adopted in December 2010 makes it clear that effective cooperation will be crucial in winning the war on international terrorism.

The study also revealed that there have been international state actors in Kenya's foreign policy behaviour in order to handle the threat of international terrorism. The main actor here is the US. Moreover Kenya has been co-operating with the regional partners in the war against international terrorism.

Kenya has used legislation, law enforcement, border security; countering terrorist finance mechanisms as well as regional and international cooperation in dealing with international terrorism. Kenya faces a number of challenges in her foreign policy and this has resulted in attempts to balance her relations both within the continent and overseas. Kenya occupies a strategic position with regard to the fight against international terrorism in the HOA. This implies that Kenya has to take a centre stage in the fight against international terrorism in the region. This has been achieved through the discussed measures and with assistance from other countries like the US with the agenda of combating international terrorism across the globe.

Analysis of the effectiveness of institutions concerned with Kenya's foreign policy revealed that concerted efforts have been made in realizing the overall objectives of these institutions in combating international terrorism, and that towards the wake of the year 2012, a greater achievement had been made and Kenya was commended to have effectively dealt with international terrorism by using its institutions effectively.

In responding to international terrorism therefore, Kenya's foreign policy has not just experienced changing focus but has also been adjusted by introduction of legislations, has been subjected to international criticism in the hope that the country realigns itself with international standards of combating global terrorism. Major institutions like the NIS, the NCTC and the National police have come out strongly in trying to deal with international terrorism. Kenya's foreign policy has also seen the closure of borders with unfriendly nations in the fight against illegal migration of possible terrorists.

The analysis revealed that indeed international terrorism is not the primary focus of Kenya's foreign policy and that trade and the establishment of commercial links with other countries has been the primary focus of Kenya's foreign policy.

5.3 Recommendations

The study makes the following recommendations to the government in enhancing the war against international terrorism;

The government should enhance the capacity of the law enforcement agencies in terms of regular training and equipping them with the latest technology in order for the law enforcers to effectively handle international terrorism. The government should introduce legislation on the hawala system of money transfer. Terrorist funders can use this system to transfer huge amounts of money in order to fund international terrorism. This is because the hawala system of money transfer involves the transfer of money without any

records of parties involved in the transactions being captured. It is not enough for CBK to introduce rules that regulate hawala system of money transfer. The government should enact laws that require operators of hawala to avail to the law enforcement agencies a database of all their clients transacting using this service. However, this database should only be provided on need basis.

The government should consider creating a terrorist identification database to assist in terrorist watch listing and list dissemination. This will assist in tracking the movement of terror suspects. In addition to this, the GoK needs to create a structure that ensures information on terrorism is shared across both state and private security agencies. This will ensure that the fight against terrorism is a concerted effort and should not be left only to state agencies.

The government in conjunction with friendly services within the region and internationally need to establish a Terrorist Counter Intelligence Joint Taskforce that will incorporate local law-enforcement agencies and the community in order to assist in the covert screening of suspected terrorist operatives. The government should implement tight controls in the country's entry points. For a long time, terrorists have exploited the lack of security awareness at our country's border points. The government and the international community (friendly services) should invest more in the means and tools of intelligence gathering to ensure that both NIS and NCTC are adequately equipped to guarantee Kenya's national security. Officers from NCTC and ATPU who are involved in counter terrorism operations should continue to receive regular training so that they can keep up with the changing trends in international terrorism.

There is need for the government to sensitize members of the public to cooperate with the government in reporting suspected terror suspects who live among them. Non-cooperation by members of the public has been a major drawback in the fight against terrorism. The government through the department of immigration and the police need to tighten our porous borders especially our border with conflict-ridden Somalia. Terrorists have gained access to Kenya through our border with Somalia.

Kenya should also continue to support the Somali peace process and assist in the establishment of a stable Somali government because success in these endeavors could greatly reduce the country's vulnerability to terrorism. If Somalia was to become politically stable, it would deprive Al-Shabaab and other terrorist organizations sources from which they can access deadly weapons and convenient safe havens, therefore making it harder for them to operate in proximity of Kenya's borders.

5.4 Areas for Further Research

International terrorism is a global issue and the means to combat it are rather complex. This thesis investigated Kenya's foreign policy behaviour in response to international terrorism: 1998-2012. This thesis recommends further research into understanding how a balance between trade and commerce and anti-terrorism measures could be arrived at so as to ensure a win-win situation. There is a need to investigate further and ascertain if international terrorism activities in Kenya are as a result of international relations or Kenya itself is a source of international terrorism.

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APPENDIX

APPENDIX I: DATA COLLECTION INSTRUMENT

I am Kimeli Hilary Tiony, a student at the University of Nairobi's Institute of Diplomacy and International Studies (IDIS), currently doing a project titled *"Kenya's Foreign Policy Behavior: Response to International Terrorism Between 1998 and 2012"*. I would kindly appreciate if you would please complete this questionnaire to assist me in analyzing the study area.

PART A: GENERAL INFORMATION

1. Please indicate your Gender.   Male   [   ]   Female [   ]

2. Please tick the age bracket in which you fall.

21-30 years   ( )   31-40 years   ( )   41-50 years   ( )

51-60 years   ( )   Above 60 years   ( )

3. Position in the organization _____

4. How long have you worked with the organization?

Below 3 years   ( )   3-7 years   ( )

7-10 years   ( )   Above 10 years   ( )

PART B QUESTIONNAIRE FOR MINISTRY OF FOREIGN AFFAIRS

5. In your knowledge, has there been a response by the Kenya's foreign policy to the threat   and   terrorism   activities   since   1998   to 2012?..

6. If the answer to the above is yes, then can you please list the various enactments that have taken place since 1998 to 2012 in relation to terrorism activities?...

....

7. Can you please name if any, the international state actors who have played a role in Kenya's foreign policy response to international terrorism activities from 1998 to 2012………………………………………………………………………………………

….………………………………………………………………………………………

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……………...

8. What role have the named international state actors above played in the Kenya's foreign policy response to international terrorism activities from 1998 to 2012?

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…………………………………………………………………………………………

9. In your knowledge, is international terrorism the priority concern of Kenya's foreign policy?

Yes   ( )   No   ( )

....

....

....

10. If the answer is no, then what are the major concerns of Kenya's foreign policy?...

....

....

11. What has been the success of the IGAD framework in restoring peace and security in the region? What role has Kenyan government played in these peace talks?

12. In your view, has the involvement of the Kenyan government in diplomatic peace negotiations in Sudan and Somalia through the IGAD framework helped in handling international terrorism in the region?

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....

PART C: QUESTIONNAIRE FOR COUNTER TERRORISM CENTRE (CTC)

13. In your knowledge, when was the NCTC established……..........

…………………………………………………………………………………………

14. What role has NCTC played in the fight against international terrorism from 1998 to 2012 in Kenya?

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15. In your opinion, what are some of the achievements of NCTC in combating terrorism activities in Kenya from 1998 to 2012?

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Thank you very much for taking time to fill out this questionnaire. I want to reassure you again that the responses you have provided will be kept in strictest confidence and will not be personally attributed to you.

Thank you in advance for your response.