

---

**Electronic Theses and Dissertations**

---

2021

# An Analysis of the role of the police service in counterterrorism operations in Kenya.

---

Waringa, James Njoroge  
*School of Humanities and Social Sciences*  
*Strathmore University*

**Recommended Citation**

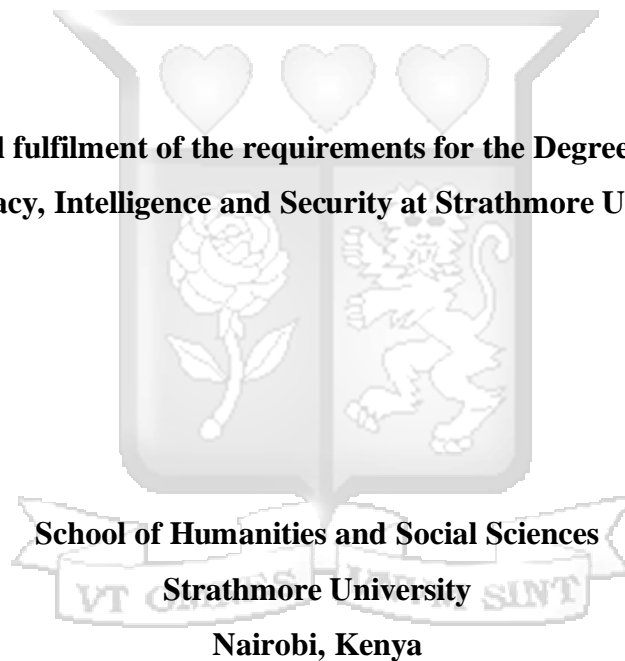
Waringa, J. N. (2021). *An Analysis of the role of the police service in counterterrorism operations in Kenya*  
[Thesis, Strathmore University]. <http://hdl.handle.net/11071/12719>

Follow this and additional works at: <http://hdl.handle.net/11071/12719>

**An Analysis of the Role of the Police Service in Counterterrorism Operations in Kenya**

**James Njoroge Waringa**

**Submitted in partial fulfilment of the requirements for the Degree of Master of Arts in  
Diplomacy, Intelligence and Security at Strathmore University**



**December, 2021**

This dissertation is available for Library use on the understanding that it is copyright material and that no quotation from the dissertation may be published without proper acknowledgement.

## **Declaration**

I declare that this work has not been previously submitted and approved for the award of a degree by this or any other University. To the best of my knowledge and belief, the dissertation contains no material previously published or written by another person except where due reference is made in the dissertation itself.

© No part of this dissertation may be reproduced without the permission of the author and Strathmore University.

James N. Waringa



11<sup>th</sup> October, 2021

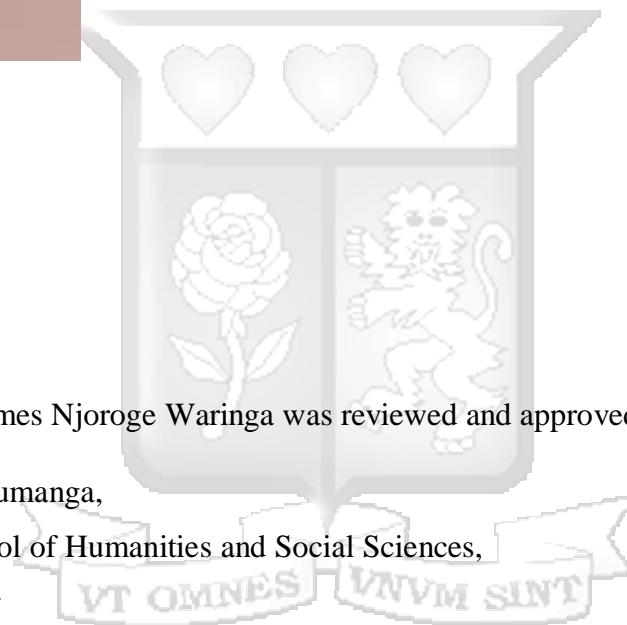
## **Approval**

The dissertation of James Njoroge Waringa was reviewed and approved by the following:

Prof. Musambayi Katumanga,  
Senior Lecturer, School of Humanities and Social Sciences,  
Strathmore University

Dr. Magdalene Dimba,  
Dean, School of Humanities and Social Sciences,  
Strathmore University

Dr. Bernard Shibwabwo,  
Director of Graduate Studies,  
Strathmore University



## TABLE OF CONTENTS

|   |                                     |
|---|-------------------------------------|
| DECLARATION.....  | ii                                  |
| APPROVAL.....   | <b>Error! Bookmark not defined.</b> |
| TABLE OF CONTENTS.....                                      | iii                                 |
| LIST OF TABLES.....   | v                                   |
| LIST OF ABBREVIATIONS.....                                  | vi                                  |
| ACKNOWLEDGMENTS.....  | viii                                |
| DEDICATION.....   | ix                                  |
| ABSTRACT.....   | x                                   |
| CHAPTER ONE.....  | 1                                   |
| INTRODUCTION TO THE STUDY.....                              | 1                                   |
| 1.0 Introduction.....                                       | 1                                   |
| 1.1 Background to The Study.....                            | 3                                   |
| 1.2 Statement of the Research Problem.....                  | 5                                   |
| 1.3 Research Questions.....                                 | 7                                   |
| 1.4 Research Objectives.....                                | 7                                   |
| 1.4.1 Hypothesis of the Study.....                          | 7                                   |
| 1.5 Scope of the Study.....                                 | 7                                   |
| 1.6 Literature Review.....                                  | 8                                   |
| 1.7 Theoretical Framework.....                              | 22                                  |
| 1.8(a) Academic Justification.....                          | 23                                  |
| 1.8(b) Policy Justification.....                            | 25                                  |
| 1.9(a) The Research Design.....                             | 26                                  |
| 1.9(b) Population and Sampling.....                         | 27                                  |
| 1.9(c) Data Collection Methods.....                         | 27                                  |
| 1.9(d) Data Analysis Procedures.....                        | 28                                  |
| 1.9(e) Research Quality.....                                | 28                                  |
| 1.9(f) Ethical Considerations.....                          | 29                                  |
| 1.9(g) Chapter Outline.....                                 | 30                                  |
| CHAPTER 2.....  | 32                                  |
| HISTORICAL OVERVIEW OF THE POLICE AND COUNTERTERRORISM..... | 32                                  |
| IN KENYA.....   | 32                                  |
| 2.0 Introduction.....                                       | 32                                  |
| 2.1 Policing Methods During the Kenyatta Era.....           | 36                                  |

|  |  |     |
|--|--|-----|
| 2.2  | Policing Strategies and the Intelligence Sytem Under The Moi Regime .....          | 39  |
| 2.3  | Policing Methods and the Intelligence System during the Kibaki Administration..... | 46  |
| CHAPTER THREE .....  |  | 54  |
| OF POLICE CONSTRAINTS AND THE COUNTINUITY OF TERROR ATTACKS IN KENYA |  |     |
| 3.0  | Introduction.....  | 54  |
| 3.1  | Intra-Service Imperatives and Terror Attacks .....                                 | 55  |
| 3.2  | External Factors Influencing Terror Attacks.....                                   | 58  |
| 3.3  | Global Factors Constraining the Containment of Terror .....                        | 66  |
| CHAPTER FOUR .....   |  | 69  |
| INTELLIGENCE SHARING AND COORDINATION ISSUES IN COUNTERTERRORISM     |  |     |
| OPERATIONS IN KENYA.....   |  | 69  |
| CHAPTER FIVE .....   |  | 81  |
| RECAPITULATION, CONCLUSIONS AND RECOMMENDATIONS .....                |  | 81  |
| 5.0  | Introduction.....  | 81  |
| 5.1(a)   | Factors Relevant Continued Terror Attacks in Kenya.....                            | 81  |
| 5.1(b)   | Factors Constraining Coordination and Intelligence-sharing .....                   | 83  |
| 5.2  | Conclusion .....   | 85  |
| 5.3  | Recommendations .....  | 85  |
| REFERENCES .....   |  | 89  |
| APPENDICES .....   |  | 98  |
| Appendix A: Letter of Introduction.....                              |  | 98  |
| Appendix B: Research Instrument .....                                |  | 99  |
| Appendix C: Consent Form .....                                       |  | 103 |
| Appendix D: NACOSTI Research Licence .....                           |  | 105 |
| Appendix E: Ethical Clearance .....                                  |  | 106 |
| Appendix F: Originality Report .....                                 |  | 107 |

## LIST OF TABLES

Table 4.1 1 Responses from the Participants.....**Error! Bookmark not defined.**  
Table 4.1 2 Questionnaire Responses .....**Error! Bookmark not defined.**



## LIST OF ABBREVIATIONS

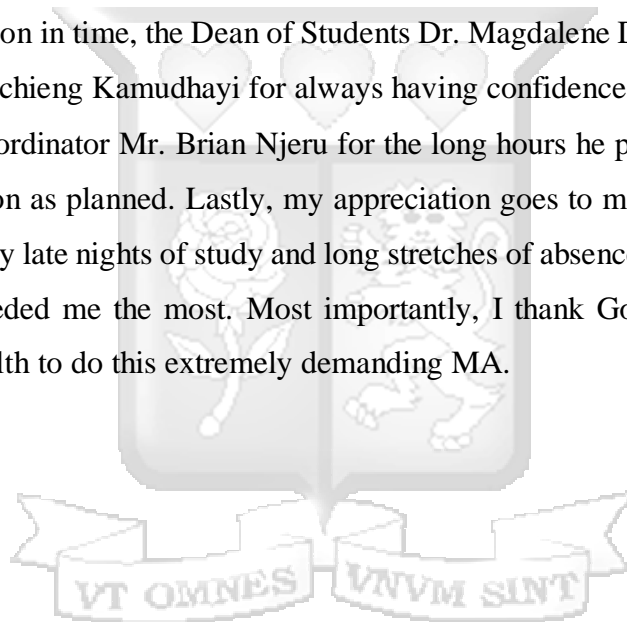
|        |   |  |
|--------|---|--|
| AIAI   | - | Al-Ittihad-Al-Islami                   |
| AMISOM | - | African Union Mission in Somalia       |
| APF    | - | Administration Police Force            |
| ATPU   | - | Anti-Terrorism Police Unit             |
| AU     | - | African Union                          |
| CIA    | - | Central Intelligence Agency            |
| CID    | - | Criminal Investigation Department      |
| C-T    | - | Counter Terrorism                      |
| DCI    | - | Directorate of Criminal Investigations |
| DMI    | - | Directorate of Military Intelligence   |
| EU     | - | European Union                         |
| GSU    | - | General Service Unit                   |
| GWOT   | - | Global War on Terror                   |
| IBEAL  | - | Imperial British East African Limited  |
| IG     | - | Inspector General                      |
| ILP    | - | Intelligence-Led Policing              |
| KDF    | - | Kenya Defence Forces                   |
| KNHRC  | - | Kenya National Human Rights Commission |
| KPS    | - | Kenya Police Service                   |
| NCRC   | - | National Crime Research Centre         |
| NCTC   | - | National Counterterrorism Centre       |
| NGO    | - | Non-Governmental Organisation          |
| NIS    | - | National Intelligence Service          |

|           |   |  |
|-----------|---|--|
| NPS       | - | National Police Service                    |
| NSIS      | - | National Security Intelligence Service     |
| OAU       | - | Organisation of African Unity              |
| PFLP      | - | Popular Liberation Front of Palestine      |
| RBPU      | - | Rural Border Patrol Unit                   |
| RDU       | - | Rapid Deployment Unit                      |
| RRT       | - | Rapid Response Team                        |
| SB        | - | Special Branch                             |
| UN        | - | United Nations                             |
| USA       | - | United States of America                   |
| DMI       | - | Directorate of Military Intelligence       |
| ISIS/ISIL | - | Islamic State of Iraq and Levant/Syria     |
| FARC      | - | Forcas Armadas Revolucionarias da Colombia |
| LRA       | - | Lord's Resistance Army                     |
| LT        | - | Lashkar-e-Tayyiba                          |
| TTP       | - | Tehrik-i-Taliban Pakista                   |



## ACKNOWLEDGMENTS

I wish to thank the following great people for making this pursuit a success: - First, my sincere gratitude goes to the Director General of the National Intelligence Service for the full sponsorship offered to me to study this exceptional MA. Also, I want to thank the Inspector General of the National Police Service for granting me a full-pay study leave in order for me to do the MA with minimal interruption. Thirdly, I want to acknowledge the Deputy Inspector General of the Kenya Police Service for nominating me for the course from among many others who were equally qualified. Fourth, I want to recognize the contribution of the entire Strathmore University fraternity in giving me a conducive environment to complete the course. A special mention goes to my supervisor Professor Musambayi Katumanga for guiding me well to write my dissertation, Professor Makumi Mwagiru for always keeping me on toes to complete the dissertation in time, the Dean of Students Dr. Magdalene Dimba for her words of encouragement, Dr. Ochieng Kamudhayi for always having confidence in me and, last but not least, the Program Coordinator Mr. Brian Njeru for the long hours he put in towards ensuring that everything went on as planned. Lastly, my appreciation goes to my family members and friends for enduring my late nights of study and long stretches of absence from their lives when they felt that they needed me the most. Most importantly, I thank God for granting me the strength and good health to do this extremely demanding MA.



## DEDICATION

To my Role Model Mr. Japhet Koome, EBS, HSC, 'ndc' (K)



## ABSTRACT

This study explored the role of the Kenya Police Service in counterterrorism operations, specifically examining and analyzing the factors underlying the continued terrorism attacks in Kenya despite various counterterrorism measures by the government. It equally examined and analyzed the effects of intra and inter-institutional coordination and intelligence sharing constraints on police counterterrorism operations in Kenya. Using quasi-experimental research designs, the study examined the place of strategic intelligence and coordination issues in respect of counterterrorism operations by the Kenya Police. Kenya continues to suffer terrorist attacks associated with the Al Qaeda and its affiliate networks in the region, particularly the Al Shabab group, which is mainly domiciled in Somalia. These attacks have left hundreds of people dead and scores injured, especially following Kenya's military intervention in Somalia beginning in October 2011. Operationalizing the variant of Contingency Theory, the study argues that the continuity of terror attacks is a function of Al Shabab's ability to protect and deny internal security agencies access to their operational intelligence. It equally argues that the inability of the police to counter terror attacks is a function of absence of enhanced intra and interinstitutional coordination and cooperation in intelligence sharing. This study finds that there is a lapse of coordination and cooperation in information sharing within and among the state's national security agencies. Consequently, this study gives recommendations for a pragmatic counterterrorism strategy for the National Police Service in Kenya.



## CHAPTER ONE

### INTRODUCTION TO THE STUDY

#### 1.0 Introduction

Since the beginning of the new millennium, one topic that has changed the global discourse is terrorism. Over the past decades, terrorists have claimed an estimated 21,000 lives worldwide per year. This has increased over the last decade as in 2010, the global death toll was estimated at about 8,000, and in 2014, the figure increased to 44,000. Notably, in 2017, terrorism was responsible for 0.05% of deaths worldwide. Terrorists began by attacking a small group of people-to targeting countries worldwide. Espousing extreme ideologies and radical beliefs worldwide, terrorism is not a new phenomenon. They use violence to coerce and intimidate unarmed civilians into inflicting fear to achieve political goals. In their pursuit, therefore, terrorists commit atrocious crimes on both global and local scale. This chapter anchors the core elements of the study. These include the background of the study, statement of the research problem, research questions, research objectives, the hypothesis of the study, the scope of the study, the literature review section, theoretical framework, the justification of the study, research design, population and sampling, data collection methods, data analysis procedures, research quality, and the chapter outline.

The chapter provides an introduction and the background to the study which puts everything in context regarding what the study is about while also highlighting the specific research questions that the study aims to answer. The police have across the world been at the forefront of confronting domestic threats to law and order. The 21st century presents the police services of world nations with the challenge of transnational terrorism. The reality of this threat is that conventional policing methods can no longer hold. States are increasing their intelligence and integration into law enforcement operations in response to the current terrorist environment. In terms of acquiring intelligence, law enforcement agencies are the ones involved in their obtainance. As such, police departments have had to work closely with other players, redirect police resources and the national security agencies towards gathering intelligence to inform counterterrorism measures.<sup>1</sup> However, the collaboration between national security intelligence services, and law enforcement agencies in terrorist cases has also been hindered by long-standing structural considerations. Besides, there is a gap with respect

---

<sup>1</sup> Foley, Frank. "The expansion of intelligence agency mandates British counterterrorism in comparative perspective." *Review of International Studies* vol 5 no.4. (Cambridge University Press,2009) p.984 JSTOR, <[www.jstor.org/stable/40588098](http://www.jstor.org/stable/40588098)> [Mar 2. 2020]

to mechanizing effectiveness for the transfer of important intelligence to the law enforcement agencies. Such measures are required where the intelligence at hand is not portrayed as a direct threat to the state's national security. These problems are intensified by a limited understanding of the intelligence services by many quarters, more so the intelligence community's relevance to counterterrorism.

To counterterrorism, intelligence is crucial. Intelligence information can be used in various ways. For instance, it can be used to implement a reliable defense strategy against terrorism or in the process of diminishing its tactical effects.<sup>2</sup> Intelligence consists of any process that produces knowledge that might be used in decision-making and which might influence competitors' knowledge and decision. It also involves considering the efforts of competitors, real or imagined, to affect the state's knowledge or decision. The essence of intelligence capacity is the ability to affect or lubricate the choices of decision-makers. This is done by delivering leverage, that is, better knowledge than what others have. Winning knowledge ties up intelligence with decision-making.<sup>3</sup>

The rationale is that superior decision-making is achieved by loftier analysis, collection of information, and disabling intelligence flowing to competitors. Perceived this way, intelligence then becomes a useful tool of state power. It goes beyond being a product for use by decision-makers and becomes a force multiplier. It is seen as an aid to focus and enhance state power. It optimizes the options available for a decision-maker hence enhances decision-making. Not all intelligence can be used for strategic reasons. On the contrary, it is the intelligence cycle that informs the security agencies whether or not the intelligence can be used for strategic reasons. The intelligence cycle can be described as the general intelligence process in law enforcement. The cycle involves planning, collection of intelligence, processing exploitation, analysis, and dissemination. It is worth noting that without analysis, the intelligence gathered is not of much use. This is because the analysis is the process that allows the security agencies to contextualize the situation, characterize the known observables, and applying the appropriate statements of probability to anticipate known futures.

The use of intelligence in law enforcement is embedded in the concept of Intelligence-Led Policing. ILP is the analysis application of criminal intelligence as an objective tool in the process of decision-making. The analysis facilitates both crime prevention and reduction

---

<sup>2</sup> Karmon, Ely. "The role of intelligence in counterterrorism." *The Korean Journal of Defense Analysis* 14, no. 1 (2002), p.120. Available at < doi.org/10.1080/10163270209464016 >

<sup>3</sup> Kovacs, Amos. "Using intelligence." *Journal of Intelligence and National Security* 12, no. 4. Taylor and Francis 1997, p.145. Doi.: 10.1080/02684529708432452

through strategies' policy effectiveness obtained from an evidential point as a result of the external partnership.<sup>4</sup> This concept offers a fundamental shift in policing towards crime control through laying a clear strategic and target-oriented future plan. Nonetheless, the plan is built around the management and analysis of problems and risks instead of the dependence on the reactive responses gathered from crimes committed at individual levels.<sup>5</sup> According to Mabia et al., ILP provides a context for conducting policing as

“a business model and an information-organizing process that allows police agencies to better understand their crime problems and take stock of the resources available to be able to decide on an enforcement tactic or prevention strategy best designed to control crime.”<sup>6</sup>

On the other hand, strategic intelligence provides for the reviewing of the mutable threat picture in regards to law management enforcement. Furthermore, it played an essential role in developing plans and allocate resources to meet emerging threats demands.<sup>7</sup>

### **1.1 Background to The Study**

At independence, the Kenyan government was confronted by some major national security challenges. Notable of these was the Somali nation irredentism attempts which subsequently laid the foundation for future national security challenges. In the process, Kenya has had to weather many security challenges regarding the defence of its sovereignty, territorial integrity, its national interests, and security of the people and their property. The turning point however was the 1998 American embassy bombings in East Africa that ushered in the era of transnational terrorism in the region. Given the political and historical developments associated with terrorist episodes, the Horn of Africa region together with the Middle East and Pakistan have emerged as theatres for the global war on terror notably fuelled by weak and fragile states of Somalia, Yemen and Afghanistan. In particular, Kenya's long porous border with Somalia has become a major source of insecurity. The global events of September 11, 2001 (9/11) in New York, America led to what has become to be known as the “global war on terror.”

---

<sup>4</sup> Ratcliffe, Jerry H. *Intelligence-led policing*. Routledge, 2016, p.2.

<sup>5</sup> Maguire, Mike. "Policing by risks and targets: Some dimensions and implications of intelligence-led crime control." *Policing and Society: (An International Journal)* 9, no. 4. Taylor and Francis, 2000), p. 315.

<sup>6</sup> Mabia JH, Iteyo C, Were E. Effectiveness of Intelligence-Led Policing in the Management of Domestic Crimes in Kenya, A Case of Kakamega County. (*Global Journal of Nursing and Forensic Studies*, 2016). doi: 10.4172/2572-0899.1000111

<sup>7</sup> Carter DL, "Law enforcement intelligence: A guide for state, local, and tribal law enforcement agencies (2nd edn.).*Michigan State University*, 2009. p. 9

This period marked a low point for intelligence services across the world. As noted by among others the 9/11 Commission, the intelligence community and law enforcement agencies had left significant gaps that contributed to the events leading up to the New York terrorist attacks. An examination of various terrorist attacks around the world concluded that the available intelligence proved limited hence not actionable by law enforcement agencies. Most poignantly, there was noted a lack of coordination as to ensure the information collected was adequately shared with law enforcement authorities. Another challenge was also the lack of law enforcement capacity to act on the available intelligence. Furthermore the “Global War on Terror” waged immediately thereafter failed to find answers to all the challenges posed by the new terrorist actors. Rather than a strategic approach, there was overreliance on military approaches and vastly overemphasized tactics.

Against this backdrop, the UN Global Counter-Terrorism Strategy, was unanimously adopted in September 2006 by the UN General Assembly in the form of a resolution. The strategy is a unique instrument to enhance national, regional and international efforts to counter terrorism. Its adoption marked the first time that all member states of the United Nations had agreed to a common strategic and operational framework to fight terrorism. The strategy comprise of four pillars, namely: Addressing the environments tha promotes the spread of terrorism, terrorism combat and preventive measures, methods to strengthen States capacity through both combating and preventing terrorism thus strengthening the role of the united nations system in that regard and approaches to ensure respect for all the rights of human as an ultimate basis towards fighting terrorism according to the law.<sup>8</sup>

In the African context, attempts to deter and counter extremism began in 1992 when the OAU adopted a Resolution that focused on Strengthening, Coordination, and cooperation among African States in the Battle against Extremism and Terrorism at its 28th Ordinary Session that was held in Dakar. In September 2002, the African Union successor to the OAU implemented the AU plan of action necessary for countering and preventing terrorism. The African Centre for the Study and Research on Terrorism afterwards was founded in 2004. Its main purpose was to serve not only as a framework for centralizing, studies, analyses, and knowledge on terrorism and terrorist groups but also in building capacity counter-terrorism.

On its part, Kenya has responded by prioritizing and intensifying counterterrorism efforts in the country. The struggles have focused mainly on enacting legislation, enforcement of the law, tightening security at the boarders, and refuting the financing of terrorism. However,

---

<sup>8</sup> United Nations General Assembly .*UNGCTS Resolution 60/288*. (United Nations, New York, 2006). p.3.

other factors such as the countering of violent activism, regional, and international cooperation joins the list of the struggles against terrorism. Kenya has not only just strengthened the existing legislations in regards to counterterrorism but they have also enacted new ones such as the; Prevention of Organized Crime Act of 2010, proceeds of Crime and Anti-Money Laundering Act of 2011, the Prevention of Terrorism Act of 2012 and the Security Laws (Amendment) Act of 2014. All the enactments plays an important role in the reinforcement of the legal framework under which terrorist acts are prosecuted.

For the purpose of certainty of combating and preventing terrorism, the acts helps in consolidating the country's legislative framework. In the area of countering the financing of terrorism, Kenya is a key member of the Southern and Eastern anti-money laundering group that is responsible for countering the finances of terrorism. Accordingly, a series of counterterrorism measures have been implemented through their provision and implementation in both the security-related law of the country and security agencies . They include the deployment of the use of force as they are considered to be state driven. Besides the general tendency to use force, there is the Directorate of Criminal Investigations, a wing of the Police Service that is charged with collecting and acting on all criminal intelligence information. In the context of counterterrorism the Anti-Terrorism Police Unit is under the Directorate of Criminal Investigations. The DCI through working with the law enforcement agencies is charged with policing terrorism.

## **1.2 Statement of the Research Problem**

The first major terrorist attack in Kenya occurred on 7<sup>th</sup> August 1998 leaving 213 people dead and more than 4000 people injured.<sup>9</sup> A broad investigation of this attack pointed to crisis in planning and coordination among intelligence communities and Security Institutions at the regional and global levels. At the internal level, security and political actors lay blame on Kenya's relations with the West.<sup>10</sup> This was closely followed by the November 2002 Mombasa attacks against an Israeli-owned hotel and a plane belonging to Arkia Airlines. This attack reinforced the theory that Kenya's close relations with Israel made it a target of terrorist attacks with little critique of the internal planning and coordination structures among the security agencies of the state. The intensity of subsequent attacks, despite Kenya's military intervention

---

<sup>9</sup> Njenga, Frank, and Caroline Nyamai. "The experience of the Nairobi US Embassy bombing." *Disasters and Mental Health*.(Wiley Publishers, 2004), p 155.

<sup>10</sup> GoK. *Defence White Paper* .(Government Printer, Nairobi, 2017) p .11

in Somalia in October 2011, engendered the intensity of subsequent terror attacks. For instance, attacks on Westgate Mall in Nairobi on 13<sup>th</sup> September 2013 and Mpeketoni in Lamu between 15<sup>th</sup> and 17<sup>th</sup> June 2014 that resulted in the death of 127 people in total saw a shift in security discourse. This increasingly pointed to crisis in planning and coordination among the national security agencies.

The Government's response was through the Security Law Amendment Act 2014 which established in law the National Counter Terrorism Centre (NCTC), a multi-agency instrument primarily of security agencies built to strengthen coordination in counterterrorism. The government further made drastic changes in the internal security sector, key of which was the December 2014 appointment of a senior intelligence officer to the position of Inspector General of Police (IG). Appointment of subsequent IG in March 2019 from the intelligence background affirmed an apparent emphasis on strategic intelligence. This move was clearly aimed at injecting this component into the law enforcement arena in Kenya, especially in regard to terrorism and related threats to the country's internal security. The office of the IG has over the last five years fervently championed the idea of police reforms for service delivery. Among the reforms is the recruitment of more police officers to meet the United Nations recommended police to civilian ratio of 1:450.

However, despite all these measures by the government, Al Shabab activities continued. The Attacks on Garissa University on 2<sup>nd</sup> April 2015 and the Nairobi Dusit D2 complex on 15<sup>th</sup> January 2019 are notable given the involvement of Kenyan citizens as members of Al Shabab cell groups. It is this ability of Al-Shabaab to not only sustain recruitment and execute operations in Kenya despite continued reforms in coordination and cooperation in matters intelligence that is the concern of this study. Kenya as a country has continued to face terrorist attacks despite investing heavily in the fight against terrorism. This should not be happening or at least the magnitude with which it is happening should have reduced exponentially. Since the police play an active role in countering terrorism, it is particularly crucial that the probable gap that seems to exist between the law enforcement agencies and the intelligence agencies be investigated in order to address the current disconnect. It therefore calls for a serious discourse as to the role of the Kenya Police Service in counterterrorism operations, especially in regard to gathering of information, sharing of intelligence, planning of operations and the strategies adopted to counter the recurrent threat. In seeking to explore the reasons as to why the police in Kenya seem to always be caught unawares by terrorism incidents, this study aims to promote best practices in intelligence sharing and coordination within and among the various security agencies in Kenya.

### 1.3 Research Questions

The main concern of this research study was as to whether strategic intelligence supports law enforcement decision-makers to become more effective in the prevention, detection, disruption and investigation of terrorism and international organized crimes. This was determined by examining the following questions; -

1. Why has Kenya continued to suffer more attacks despite various counterterrorism measures by the government?
2. How does the crisis of intra and interinstitutional coordination and Intelligence sharing constraint Police counterterrorism operations?
3. How can these constraints be resolved?

### 1.4 Research Objectives

Broadly stated, this study analyzed the role of the Police Service in counterterrorism operations in Kenya. To this effect, this study pursued the following objectives; -

- a) To examine and analyze factors underlying the continued terrorism attacks in Kenya despite various counterterrorism measures by the government
- b) To examine and analyze effects of intra and inter-institutional coordination and intelligence sharing constraints on police counterterrorism operations in Kenya
- c) To proffer research-based responses towards enhancing police counterterrorism operations in Kenya.

#### 1.4.1 Hypothesis of the Study

The working hypotheses of the study were; -

1. That the continuity of terror attacks is a function of Al-Shabaab's ability to protect and deny internal security agencies access to their operational intelligence
2. That the inability of the police to counter terror attacks is a function of absence of enhanced intra and interinstitutional coordination and cooperation in intelligence sharing

### 1.5 Scope of the Study

The study was carried out in Kenya. It targeted sampled officers of the national security agencies in the country, particularly police officers performing counterterrorism duties. This scope of study was informed by the fact that it was not practically possible to conduct the said research on all of the officers countrywide due to the numbers involved, time constraints and

limitation of funds. At the same time, this study seeks to anchor itself in the precolonial era and through the different presidential regimes up to the period between 2009 and 2019. This ten year period is of particular interest as it saw a new constitutional dispensation which included a lot of changes in the National Police Service.

In spatial terms, this study is state centric. This is because the incidences of terrorist attacks as well as counterterrorism operations are here contextualized for the whole country in as much as they affect different regions in the country due to particular reasons. Since the intelligence practice is usually cloaked with secrecy, some respondents were apprehensive to disclose sensitive matters related to their work. A lot of intelligence briefs were also found to be usually classified as secret. The study however minimized the effects of these limitations by reassuring the respondents of confidentiality in the study. The study also greatly endeavored to use knowledgeable respondents in order to get reliable responses.

## **1.6 Literature Review**

The political and historical developments associated with terrorist episodes in the Horn of Africa region together with the Middle East and Pakistan have emerged as theatres to the global war on terror, notably fuelled by weak and fragile states of Somalia, Yemen and Afghanistan. In Kenya, the long and porous border with Somalia has become a major source of insecurity. Globally, the events of September 11 in New York, America led to what has become to be popularly known as the ‘Global War on Terror’. This period marked a low point for intelligence services across the world. As noted by among others the 9/11 Commission, the intelligence community and law enforcement agencies had left significant gaps that contributed to the events leading up to the New York terrorist attacks.<sup>11</sup> Espousing extreme ideologies and radical beliefs worldwide, terrorism is not a new phenomenon. Terrorists use violence to coerce and intimidate unarmed civilians with the aim of creating fear in order to achieve political goals. In their pursuit, therefore, terrorists commit atrocious crimes of both global and local scale. Terrorist roots can be traced back to the 1<sup>st</sup> Century AD’s Sicarii Zealot.

There have been disputes as to whether or not the first attack that occurred at this time was a terror attack. However the events continue to be so labelled as they involved a group of people that assassinated the Roman rule collaborator in the Province of Judea. To some this was not a terrorist attack while to others it was. The term terror was first used during the French Revolution where the Jacobins adopted extreme violence such as mass killings to rule over, to

---

<sup>11</sup> Ibid

command obedience and to intimidate enemies in the revolutionary state that they ruled. In the 19<sup>th</sup> Century, the most prominent ideology that was directly linked to terrorism is anarchy. Here anarchist groups were at the core of certain horrific events and killings including assassination of dissenting voices. In the 20 Century, as anarchists, nationalists, and fascists engaged in various independence struggles, terrorism aspects continued to be felt in these events.

The Fenian Brotherhood was one of the groups that were first recognized to have adopted terrorist techniques in Ireland. The brotherhood was founded in 1858 as a Catholic group, militant nationalist and a revolutionary platform. This was after the long British Rule in Ireland and the influence of the Great Famine of the 1840s that motivated people to fight for an independent Ireland. As a result, the group began carrying out regular violent attacks to intimidate and scare away Britons. Later on in 1867, leaders of the Fenian Brotherhood were arrested and convicted for establishing an extremist group. As the leaders were being transported to an incarceration facility, the prison van was intercepted by the group's fanatics in a rescue mission that left a police sergeant shot dead.

This was followed by another bolder attempted rescue mission in Clerkenwell prison where another Irish radical was believed to be held in custody. The prison was bombed leaving 12 people dead and several injured, angering the British government. Although the Republican brotherhood pretended to have condemned the bombing incident terming it a "deplorable and dreadful" event, the group continued to carry out repeated bombings in Britain between the period 1881-1885. The dynamite Fenian campaign against the British rule marked the beginning of modern day terrorism. Instead of employing the initial forms that targeted political assassinations, the group now adopted modern terror campaigns that included the use of explosives to instil fear to the British government with the aim of achieving political gains.

In Russia, another form of terrorism popularly known as "Propaganda of Deed" was adopted to promote provocative public acts and political violence that inspired revolution or mass rebellion against political enemies. By early 1880s, the slogan 'propaganda by deed' was used to refer to tyrannicides, regicides, and bombings in Asia and Europe. Narodnaya Volya was a revolutionary group founded in Russia in 1878 and developed ideas of targeted killing of leaders who were deemed oppressive. It was one of the first groups to apply developing technologies such as the use of dynamite in its attacks. The effectiveness and efficiency of these techniques became the hallmark of successive use of violence by terrorists across the world. This extremist group killed all prominent oppressive political figures using bombs and guns. This acts spread fast across Europe and other parts of the world.

The United States of America has been prone to terrorist attacks but the most prominent one is the 9/11 attack. On this fateful day, 19 militant Islamic extremists from the Al Qaeda group led by Osama Bin Laden carried out targeted suicide attacks by hijacking four airplanes. The hijackers were mainly Saudi Arabian Islamic terrorists and a few from other nations across the world. Notably, two planes were crashed into the Twin Towers of the World Trade Center. Besides, just outside Washington D.C., the Pentagon was hit by the third plane. The last plane went down in Shanksville field in Pennsylvania. During the 9/11 attacks, approximately 3000 people lost their lives and more than 10,000 were injured.<sup>12</sup> Consequently, the attack triggered strategic initiatives of major U.S. policies towards combatting terrorism. Also, this attack greatly defined the legacy of President George W. Bush, jnr.

It was reported that these attacks were financed by Osama bin Laden, a fugitive leader of the Al Qaeda group. It was observed that their action was a direct retaliation against America's support of Israel, its continued military presence in the Middle East and the U.S involvement in the Persian Gulf War. Notably some of the attackers had lived in the U.S. for more than a year before the attack to a point of being cleared to take flying lessons in American aviation schools. Just before the 9/11 attack, others slipped into the country to "muscle up" the operation. The group apparently smuggled knives and box-cutters easily through the security checks at the airport and boarded the four California bound planes early in the morning. These planes were a brilliant target as they would be fuelled to full tank due to the transcontinental journey that they were intended to make. Soon after the take-offs, the militants transformed these ordinary passenger jets into guided battle missiles.

The rising fears of terror attacks following 9/11 changed the way America and the world perceived terrorism. Immediately after the September 11 attacks, President Bush declared that the activities that transpired that day would not waiver America's fight against terrorism. In 2002, the Bush administration enacted the Homeland Security Act which established the Department of Homeland Security. The President then signed the Act into law in November 2002. This Department was mandated to prevent all forms of aggression including terror attacks, secure immigration procedures, offer disaster reliefs and prevention, as well as provide custom and border security. Two days later, the U.S. government formed the National Commission on Terror Attacks which was tasked with analyzing the events that transpired prior to and during the 9/11 attack. It was concluded that Khalid Sheikh Mohammed who led the Al

---

<sup>12</sup> Njenga, Frank, and Caroline Nyamai. "The experience of the Nairobi US Embassy bombing." *Disasters and Mental Health*. (Wiley Publishers, 2004), p 155.

Qaeda operations from 1999 – 2001 was the mastermind and architect of this attack. The Pakistan Inter-Service Intelligence and the Central Intelligence Agency (CIA) then captured and interrogated him in 2003 before he was imprisoned the same year. Since this fatal attack on the American soil, countries across the globe began a coordinated operation to counter, prevent and combat terrorism. Hence countries have been united in their fight against a common enemy, terrorists. America has continually strived to enlist the support of international community in its quest to pursue terrorist threats within its borders and internationally, and going it all alone whenever the support is not forthcoming.

Over decades, various terrorist organizations continue to cause mayhem enough to gain international attention. Markedly, these groups undergo metamorphosis over the years by changing their identities in order to evade or reduce all forms of pursuit from states. Currently the most dangerous terrorist groups across the globe include the Islamic State of Iraq and Levant/Syria (ISIL/ISIS), AL Qaeda, Taliban, Boko Haram, Hezbollah, Al-Shabaab, Lashkar-e-Tayyiba (LT), Tehrik-i-Taliban Pakistan (TTP), Forças Armadas Revolucionárias da Colômbia (FARC), and the Lord's Resistance Army (LRA) among others.<sup>13</sup> LRA operates in Uganda, Democratic Republic of Congo, South Sudan and the Central Africa Republic. Although the initial objective of this group was to unite Ugandans, it quickly transformed to a violent extremist organization. This group reportedly has committed many offenses including murders, mutilations, sexual slavery and recruitment of child soldiers. For three years alone between 2008 - 2011, the group killed approximately 2,300 people and hundreds of thousands displaced throughout Central Africa. FARC on the other hand was formed during the conflict between Colombian conservatives and the liberals. To push for the Communist agenda, this organization adopted the guerrilla warfare tactics to promote its Marxist-Leninist motives. It claimed to fight and defend poor farmers from privatization of the country's natural resources. Nonetheless, FARC funds its activities from illegal mining, extortion, trafficking and kidnapping. In addition, this revolutionary group is responsible for hundreds of bombings and killings in Colombia. Since the 1960s, the Latin and North American governments recognize FARC as a terrorist group. In 1962, the USA government helped the Colombian government to mobilize its citizens to work with local armies towards countering threats that had been posed by FARC.<sup>14</sup> Another notorious terrorist group is the Al-Shabaab. It was founded in 2006 with the aim of eliminating foreign military forces in Somalia. This militant group operates in

---

<sup>13</sup> Ibid

<sup>14</sup> Ibid

East Africa and the Horn of Africa whereby it has repeatedly carried out deadly attacks. Al-Shabaab funds its activities from illegal trade, demanding ransoms, piracy and other crimes. The Hezbollah, another terrorist group, was established in 1982 by clerics who were opposed to the occupation of Lebanon by the Israelites. The clerics intended to drive out Western presence that had occupied the region. In 1982, the group bombed the U.S embassy in Lebanon. Closer home is the Boko Haram, a notorious West Africa based terrorist group affiliated to the ISIL/ISIS which have close links with the Al-Qaeda. The term *boko haram* loosely translated means ‘Western education is a sin.’ Mohammed Yusuf the founder of the group has despised Western education to the extent of discrediting some universally accepted concepts such as that the earth is spherical terming it a foreign concept. The group was formed in Nigeria in 2009 with the aim of ‘eradicating foreign culture’ throughout the country by imposing the strict Sharia Law. Three years later, the group attracted international attention through the kidnapping of over two hundred schoolgirls from the remote village of Chibok in North – East Nigeria. Also, the group bombed the UN headquarters in Abuja, Nigeria. From its formation to 2014 alone, the group had claimed an estimated 5,000 souls through brutal attacks.

Another terrorist group is the Taliban. It was formed in 1994 by one Mullah Mohammed Omar. It is considered one of the most aggressive terrorist groups in the world. In fact, at some point, the Taliban was in charge of the entire Afghanistan as a country. From 1996 - 2001, this terrorist group enforced the strict Sharia laws in the country until the U.S army invaded Afghanistan. The group makes money by peddling drugs and through human trafficking. It is known to commit murders in the name of *Jihad*, ‘Holy War’. It also commits heinous crimes including ethnic cleansing. It is associated with the killing of over 130 high school students and their teachers in Northern Pakistan in the year 2014. The group is affiliated to the AL-Qaeda. The Al-Qaeda is a dominant group that has lasted for over twenty years since its formation in 1998 by the legendary Osama Bin Laden. Its main aim was to unite all Muslims through *Jihad* and the strict interpretation of *Sharia* laws. When Osama was killed by President Obama’s administration in 2011, Ayman Al-Zawahiri took over the mantle as the leader of Al-Qaeda. A notable student of Al-Qaeda is Abu Bakr al-Baghdadi the founder of the ISIS/ISIL which has grown to be one of the largest terrorist groups in the world currently. It has over eighty thousand militants and is still recruiting more. It operates largely in the Middle East including the Palestine, Syria, and Iraq. Moreover, it has affiliate groups in Libya, Nigeria, and Southeast Asia. ISIS, an extreme Jihadist terrorist group claims to control Muslims internationally including having authority over religious, political and military groups.

In Kenya, since the military intervention in Somalia in 2011, there has been a heightened terrorist threat from the Al-Shabaab. The group is opposed to the Somali government which has much support from the Kenya government. The attacks include kidnappings of both Kenyan citizens and foreign nationals in the country as hostages. Al Shabaab has severally marshalled up attacks at any time and place. The attacks have been indiscriminately carried out in places frequented especially by foreigners, such as shopping malls and entertainment joints, airports and embassies, the coastal beaches and similar tourist attraction areas, among others. In its bid to drive out the Kenya's Defence Forces (KDF) from Somali, Al Shabab has continually issued unending threats against Kenya's military intervention in Somalia. The threats have seen the Kenyan government counter impending reprisals from Al-Shabaab by increasing security forces in potential target areas. Examples of the group's recent attacks in Kenya include the 2013 Westgate Mall attack that claimed over 60 lives in Nairobi. Another one is the 2014, June and July attack in Tana River and Lamu counties that left 85 people dead. The other one, is the 2015 Garissa University attack, in Garissa county, which claimed at least the lives of 148 students, and most recent was the 15<sup>th</sup> January 2019 attack of the 14 Riverside Hotel and commercial complex, Nairobi that caused many injuries and deaths including of several foreign nationals.<sup>15</sup> There have also been isolated attacks along the Kenya north-eastern and coastal borders in areas such as Garissa, Mandera, and Lamu whereby Al-Shabaab has claimed responsibility. The attacks have been indiscriminate of both civilians and uniformed forces. In return, the Kenyan government has increased its forces in all the affected areas, such as the Boni Forest whereby the government has set up camp and required citizens to keep off 60 km of the Kenya-Somalia border. Even though these and other measures have to some extent disrupted several planned attacks and led to a few arrests, the threat persists apparently due to issues pertaining to gathering of information, intelligence sharing, and coordination among the Kenya security agencies.

Sun Tzu, in *The Art of War*, observed that "the reason the enlightened prince and the wise general conquer the enemy wherever they move and their achievements surpass those of ordinary men is foreknowledge".<sup>16</sup> This has generally been comprehended to imply that intelligence gathering about the movements and intentions of the enemy is central to effective military strategy. In the contemporary world, an adversary is taken to mean any threat to national security, from military threats to terrorism and organized crimes. The large majority

---

<sup>15</sup> GoK. *Defence White Paper*. (Government Printer, Nairobi, 2017) p .11

<sup>16</sup> Griffith, Samuel B. *Sun Tzu: The Art of War*.( Clarendon Press, 1965), p. 144.

of counterterrorism work depends on action in the realms of intelligence and law enforcement.<sup>17</sup> Considering the performance of daily duties by the law enforcement agencies, intelligence support plays the most valuable tool at their disposal. It is especially relevant in counterterrorism investigations and operations.<sup>18</sup>

As seen by most of the researchers, interpreters, and analysts, survival and supremacy of terrorist organization depends on the level of secrecy and anonymity among the members. The high level of privacy provides them with a better path to carry out their religious and politically or otherwise driven agendas. Furthermore, the high level of confidentiality and secrecy makes them impenetrable and hard to be broken by the law enforcement. This is because intelligence collection and exploitation is key in stripping away this critical layer of defence thus making them more vulnerable to investigation, infiltration, and arrest.<sup>19</sup> The intelligence function in history was often seen as fundamentally central to statecraft.<sup>20</sup> The Elizabethan England had a strong sense of the importance of “intelligencers” to its activities.<sup>21</sup> Structured intelligence capabilities in Europe arose with the modern nation-state after the Renaissance, and in the context of military intelligence, counterespionage and counter sabotage were inextricably linked to national security. National security issues have also implied distinguishing and counteracting internal political challenges within nations.

In Britain, the nineteenth-century assembly of Irish revolt against colonial rule prompted the establishment of the first Special Branch unit within the Metropolitan Police in 1883 (originally called the Special Irish Branch). The role of the unit was to gather intelligence on the actions of the Irish Republican Brotherhood within the UK in disruptive and ‘terrorism’ activities. Similar problems of nationalist, anarchist revolt against the Tsarist regime in Russia through the second half of the nineteenth century led to the creation of a state police force, the Okhrana (established 1881). The unit worked both inside Russia and abroad, gathering knowledge and doing covert operations against apparent adversaries of the state. In similar fashion, Kenya’s colonial and post-independence governments had the Special Branch which

---

<sup>17</sup> Benjamin, Daniel. *Strategic counterterrorism*. (Brookings Institution, 2008). p.10.

<sup>18</sup> Foley, Frank. "The expansion of intelligence agency mandates: British counter-terrorism in comparative perspective." *Review of International Studies* vol 5 no.4. (Cambridge University Press ,2009) p.984 JSTOR, <[www.jstor.org/stable/40588098](http://www.jstor.org/stable/40588098)> [Mar 2. 2020]

<sup>19</sup> Hughbank, Richard J. and Githens, Don. “Intelligence and Its Role in Protecting Against Terrorism.” *Journal of Strategic Security* 3, no. 1 (2010): 31-38.

<sup>20</sup> J. Keegan, *The Mask of Command* (London: Penguin, 1987) p 325.

<sup>21</sup> H. Herman, *Intelligence Power in Peace and War* (Cambridge: Cambridge University Press, 2008) p 9.

was designed to serve the government of the day both in intelligence and law enforcement functions.<sup>22</sup>

These developments, aptly demonstrate early examples of state security and intelligence overlapping with strategic national security issues long before the notion of globalisation. The globalization of the world economy then brought with it new dynamics and leverages, which have developed into a much larger pool of security threats. The complexity of the security threats has changed dramatically since the end of the Cold War. Secondly, rapid economic and technological developments have characterized the new era. The world has witnessed an upsurge in communications technology advances which is now driving economic growth and increased social mobility across boundaries and across different nationalities.

These circumstances certainly offered numerous advantages but also brought with them new security challenges. Foremost, while the world has seen increased economic interdependence and open borders, this has created new challenges in the context of illicit trade and criminal activity including international terrorism. Such new threats have now become existential threats that present a danger to nation states and their institutions. In particular law enforcement institutions at the front line face the greatest danger. In the event of absence or abstinence of law enforcement, existential threats if they materialize tend to have a negative impact not only on the state but also on the people. While not completely new, terrorism has intensified since the end of the Cold War.

Primarily after the Cold War, terror networks no longer had state sponsors from either sides that were involved in the Cold War, thus necessitating a change in strategy. Other push factors include the existence of weak or failed states, coupled with advancement in information technology and technological improvements and economic interdependence among states. In the post-cold war era, terrorism has become increasingly entrepreneurial at the global level. This position is based primarily on the uncomplicated exchange of goods and services between terrorist networks and organized criminal groups. Among multiple intelligence and law enforcement agencies, this convergence has been viewed as a marriage of convenience involving organized criminal groups and terrorist networks. After all, terrorist organizations require money, various materials, transportation means, identity documents, communication systems, and safe havens in which to orchestrate their aims.<sup>23</sup>

---

<sup>22</sup> Shaffer, R, "Following in Footsteps: The Transformation of Kenya's Intelligence Services Since the Colonial Era." (*Studies in Intelligence* Vol. 63, no. 1. 2019), p.25

<sup>23</sup> Hamm, Mark S., and Cécile Van de Voorde. "Crimes committed by terrorist groups: Theory, research, and prevention." (*Trends in Organized Crime* 9, no. 2 , 2005), p.18. Doi: 10.1007/s12117-005-1023-y

It can be argued that terrorist networks are technically transnational criminal groups. From this perspective, terrorist groups use criminal activities as an extension of their ideology. That is that they engage in criminal activities such as smuggling of goods, money laundering, kidnapping, taxation and extortion along illicit trafficking routes and networks in order to fund their terrorist operations. While Al Qaeda in East Africa seemed to prefer to collaborate with criminal networks, prior to Al Shabab, the modus operandi seems to imply a preference to engage in transnational crime. A 2018 report of the Monitoring Group on Eritrea and Somalia discovered that the Al-Shabab funding was from a variety of domestic sources. Taxation on transiting vehicles and goods, agricultural taxation, business extortion and forced *zakat* levies comprise the ways in which they got their finances. Illicit charcoal export trade is another business that has been taking place across the countries and has been closely linked to the importation of sugar into Al-Shabab controlled areas. Before loading of charcoal cargoes, many vessels have been characterized by the habit of offloading sugar first. The process of offloading and loading allows for easy smuggling of sugar to the overland and neighbouring countries especially Kenya.

Additionally, the group appears to completely exploit uncontrolled mobile money and domestic banking services to raise and move revenues across the nation. In addition to levying taxes, the Al Shabab also provides some basic services archetypally associated with government, such as the provision of rudimentary courts and access to legal recourse including the ability to enforce judgments.<sup>24</sup> The events of the 2011 Arab spring greatly strengthened the capacity of radical groups or 'jihadists' such as Al Qaeda and gave rise to the Islamic State of Iraq and Syria (ISIS).<sup>25</sup> This latter organization stated its intention to create a caliphate by installing political and religious structures that impose a moral order for 'believers only'.

In the horn of Africa, Al-Shabab and ISIS-Somalia have proved to be persistent and determined in their endeavor to undermine any processes towards the consolidation of governmental institutions.<sup>26</sup> The threat of international terrorism also includes the increasingly sophisticated abuse of information and communications technology (ICT), greater terrorist mobility, and actions of lone ranger terrorists or cells that could enable a terrorist organization to more efficiently and effectively accomplish their political or financial goals. The UN Global Counter Terrorism Strategy notably defines a holistic approach to counterterrorism that

---

<sup>24</sup> Wondemagegnehu, Dawit Yohannes and Daniel Gebreegziabher Kebede. "Charting a new course for African Union peace missions." [*African Security Review*, 26 (2), (2017)], p.200.

<sup>25</sup> Neethling, Theo. "The entanglement between peacekeeping and counterterrorism, with special reference to peacekeeping operations in Africa." [*African Journal on Conflict Resolution* 19, no. 2.(2019)], p.58

<sup>26</sup> Ibid

includes measures to address conditions that are conducive to the spread of terrorism; measures to prevent and combat terrorism; and measures to ensure respect for human rights for all; and the rule of law as the fundamental basis of the fight against terrorism.

In response to the events of 9/11, various law enforcement organizations were prompted by the corresponding developments to either adopt community policing or intelligence-led policing approaches. The former draws from establishing relationships between a law enforcement agency and that agency's given community – or patrol areas – to reduce crime and the fear of crime. The latter is designed to influence operations across the entire law enforcement organization – both internally and externally – and priorities are identified from within the organization to not only target threats and crime, but also allocate resources internally.<sup>27</sup> For instance, Western democracies have rapidly increased their intelligence budgets and in the process are extending generous budget support for counterterrorism to foreign governments.<sup>28</sup>

Researchers and human rights actors have however shown concern about the increasing focus on joint national security and police operations which somehow resulted in many law enforcement agencies being securitised and militarized.<sup>29</sup> Additionally, the creation of a national counterterrorism center in Kenya continues to be undermined by old problems, foremost being intelligence sharing. Despite a closer working relationship between the police and the intelligence services, the different nature of their roles and responsibilities still raises concerns for intelligence sharing. Individual intelligence agencies still harbour concerns on secrecy and security.<sup>30</sup> Another challenge relates to integration of information. Separate agencies hold important pieces of intelligence information. Essentially this has complicated counterterrorism decision-making and resource allocation. The results of the old intelligence sharing problems between the police service have exposed the national borders to external attacks from various terror groups such as the Al Shabaab and Al Qaeda; by now the law enforcement agencies should have resolved and addressed the secrecy concerns and focus on gathering and sharing actionable intelligence to enhance security at the porous borders.

---

<sup>27</sup> Foley, Frank. "The Expansion of Intelligence Agency Mandates: British Counter-Terrorism in Comparative Perspective." (*Review of International Studies*, vol. 35, no. 4. JSTOR,2009), pp. 983. [www.jstor.org/stable/40588098](http://www.jstor.org/stable/40588098). [Mar 12. 2020].

<sup>28</sup>

<sup>29</sup> Edward Mogire & Kennedy Mkutu Agade. "Counter-terrorism in Kenya." [*Journal of Contemporary African Studies* 29(4). Taylor and Francis ,(2011)], p.476. DOI: 10.1080/02589001.2011.600849

<sup>30</sup> Field, Antony. "Tracking Terrorist Networks: Problems of Intelligence Sharing within the UK Intelligence Community." (*Review of International Studies*, 35(4). Cambridge University Press, 2009), P.997. <[www.jstor.org/stable/40588099](http://www.jstor.org/stable/40588099)>.[March 12, 2020]

Besides being a danger to the security of the international community in the aftermath of the Cold War, terrorism has emerged to be a serious threat to both the survival and stability of many countries.<sup>31</sup> After the 9/11 attacks in United States, corresponding and advanced counterterrorism tactics became necessary to curb terrorism due to the changes in the *modus operandi* of terrorists. Before carrying out an attack, terrorists must plan and organize themselves. Planning among terrorists entails the process of enlisting recruits, supporters, sourcing for weapons and fundings, and obtaining secured transport mechanisms and credentials. Ostensibly, before implementing an attack they search for access to vulnerable targets. Therefore, effectively countering acts of terrorism requires a comprehensive and strategic approach, relying on a broad range of policies and measures. Higher national priorities are required for an act of terrorism to occur. The priorities comprises of better-trained and cosmopolitan personnel, both human and financial resources, all of which may be at the expense of the more conventional military tasks. Therefore, today the need to prevent terrorist schemes and provide warning before such acts happen is very important. National intelligence agencies by themselves, however strong and capable, may not be able to deal with threat of terrorism without the help of foreign intelligence institutions such as FBI and Mosad.<sup>32</sup>

Due to high rate of emerging threats, local police agencies are forced to execute a series of expanded counterterrorism roles in recent years. Intelligence gathering forms the major role played by the agencies in curbing terrorism. However, other roles such as criminal law enforcement, emergency response, and public protection join the list.<sup>33</sup> Intelligence is essential in countering terrorism, in diminishing its tactical effects and strategic importance. The US Congress Report of the National Commission on Terrorism stressed that “good intelligence is the best weapon against international terrorism”.<sup>34</sup> Two schools of thought on intelligence studies have emerged in the post-cold war era. The strategic surprise and intelligence failure forms the two schools. The former reflects on the topic of security silos, lack of imagination, poor understanding of history and the overuse of obsolete and traditionally focused pattern analysis. The later addresses the origins of situational surprise and its impacts. Ultimately owing to its focus on developing the ability and knowledge to anticipate potential risks and

---

<sup>31</sup> Karmon, E., “The Role of Intelligence in Counter-Terrorism.” (*The Korean Journal of Defense Analysis* Vol. XIV, 200 2), p.122.

<sup>32</sup> Otieno Fredrick Okoth. " Efficacy of Policing Approaches Utilised in Counterterrorism by the National Police Service in Lamu County, Kenya." *IOSR Journal of Humanities and Social Science (IOSR-JHSS)*. vol. 24 no. 05, (2019), p. 46.

<sup>33</sup> Matthew C. Waxman, “Police and National Security: American Local Law Enforcement and Counterterrorism After 9/11”, (*Journal of National Security Law & Policy* vol 3, Columbia Univesity Law school,2009), p. 377.

<sup>34</sup> US National Commission on Terrorism, *Countering the Changing Threat of International Terrorism*. (Public Law 105-277, H.R.4328 , 2000) Available at <<http://www.fas.org/irp/threat/commission.html>>

obstacles in a general way rather than in a specific way, the intelligence failure school is deemed to have prejudice that comes with hindsight while the strategic surprise school is often viewed favourably.<sup>35</sup>

Strategic Intelligence Law Enforcement tends to draw from the strategic surprise school or intelligence driven policing. It has become increasingly clear since the start of the global war on terror that security threats – and reactions to them – no longer conform to national borders but to regions and beyond. Therefore, the terrorist threat is now not seen as a specific military challenge for one country but rather as a much larger conflagration that transcends national borders. This is why 9/11 was a defining moment in global security; indeed, a watershed after which the world's perspective on security reached a turning point. Based on multiple points of view, the 9/11 attacks were not only transformative in terms of security response structures but also an opportunity for a switch in the security paradigm that had been in the offing for a while. This was partly due to the destabilizing effects of organized crimes which, like globalization in general, traversed borders at the beginning of the twenty first century both in terms of the security risk they posed and in terms of the networked nature of the desired reaction.

The role of security intelligence is paramount for the general national security of any state. It is one of the vital arms of the administration of justice used in securing the nation for the attainment of suitable environment for social, political and economic progress. The need for attitude shift and to address the reasons for the seeming reluctance of change in intelligence sharing issues is an idea whose time is now. The second need for examining the shift in pattern is because there is need for the policy maker to thoroughly synthesize the intelligence especially so as to avoid any form of biasness. This calls for a change in terms of the way intelligence is presented to the public and to the intelligence community. During crisis, it is not always clear who is to blame between the producer of intelligence and the policy maker. Thus, this needs an investigation.

Organisationally, this implies that intelligence players have unavoidably had to come together and begin working jointly, both with one another and with law enforcement agencies. This coming together has not always been smooth as expected though. But as Marilyn Peterson noted in a study for the US Department of Justice: ‘A critical lesson from the tragedy of

---

<sup>35</sup> Coyne, John William & Bell, Peter “Strategic Intelligence in Law Enforcement: A Review”, *Journal of Policing, Intelligence and Counter Terrorism*, 6(1) Taylor and Francis, 2011), p 27. DOI: 10.1080/18335330.2011.553179

September 11, 2001 is that intelligence is everyone's job'.<sup>36</sup> There is recognition of the need of intelligence professionals to carry out their trade across the intelligence communities in collaboration with one another and with the consumers of the intelligence so provided. The difference between the issues of law enforcement and national security has become blurred. De Lint noted that 'liberal democracies across the world are ramping up intelligence budgets [and] dismantling the "wall" between criminal and national security information.'<sup>37</sup>

The reality is that many young people are today attracted to supranational movements and cultural ideologies beyond their local or national identities. Some are attracted by the militant message of revolt adopted by terrorist networks and others by the financial opportunities that go with organized crimes. This implies that intelligence responses to these threats to national security will have to go across borders and equally be non-discriminatory with regard to what is 'domestic' and what is international.' This calls for an examination of strategic intelligence in law enforcement and how it is evolving in Africa, particularly in Kenya. Considering the dynamic nature of terrorism all over the world, police officers operating locally constantly need to be linked with intelligence analysts concerned with the strategic global picture, and both sides need to share information to detect and deter those networks. This scenario shows how the link between gathering of intelligence as done in intelligence circles and in law enforcement agencies is starting to become clearer.

Strategic intelligence is envisioned to support an organization or person in various ways such as for decision-making, planning, operations and similar endeavours. Operationally, strategic intelligence in law enforcement involves military or para-military operations to disrupt and neutralize such threats, identify beneficiaries, plug gaps, and dismantle entrenched criminal networks. The advancements made by terrorists in terms of tactics and capabilities require that police officers operating locally be linked with intelligence analysts in looking at the broader global scenario, and that both need to share information to ensure detection and infiltration of such networks. As such, counterterrorism as both law enforcement concern and intelligence has linked the process of gathering intelligence with policing aspects. As a result, the police service has been enabled to some extent to pursue and disrupt terrorism plots.

At the same time, counterterrorism approaches have evidently intricated the process of effective development of policing strategies necessary to curb terrorism. Fears have been

---

<sup>36</sup> Peterson, Marilyn. *Intelligence-led policing: The new intelligence architecture*. Washington, DC: US Department of Justice, Bureau of Justice Assistance, 2005), p.1.

<sup>37</sup> De Lint, Willem. "Editorial: Intelligence in Policing and Security: Reflections on Scholarship." (*Policing and Society*, Vol. 16. Sage ,2006), p.465.

expressed regarding various provisions of anti-terrorism legislations, especially those that do not provide sufficient legal safeguards to prevent human rights violation as required by the human rights law. This poses plausible questions on whether the role of police in counterterrorism has been understood and how they are evolving organizationally in Africa, more so Kenya. The persistence of factors underpinning the continuity or sustainability of terror attacks are of interest to this study, more specifically, their effect on coordination, intelligence sharing, and inter/intra-institutional operability. This gap is core to any attempt at counter-terrorism studies. This study seeks to advance knowledge of police operations in counter-terrorism operations in Kenya by responding to the foregoing gaps.

Terrorism threat in the global arena is unique in that it has no visible front, army, border or country to define in a map. This means that today there are rapid changes in terms of the enemy and threat perception unlike in the past, thus subjecting the players to change, particularly the law enforcement agencies to enhance security of the state by countering the terror threats. As earlier discussed, terrorism is subtly connected to human trafficking, illegal immigrants, drug trafficking and money laundering. These and others are organised crimes which have challenged the nations' strategic, tactical and operational capabilities. The inevitable consequences have had to include new security organization systems, strategic approaches and inculcating new intelligence tools and concepts. And since terrorism knows no international boundary, the need for international cooperation to counter terror threats cannot be overemphasized. There is also need to have suitable tools, methods, and promoting professionalism in order to facilitate inter agency cooperation. The intelligence profession continues to face challenges like vulnerability to fewer reforms that define security intelligence understanding. The 21st century redefined the borders especially national borders making them porous or conceptually borderless. This means that there is need for widespread criminal intelligence and this calls for fast use of information flow, embracing multi-agency approaches, and proper presentation of criminal evidence after the joint operations.

Counterterrorism policies and measures, as with any action by public authorities in a democratic state, should be accounted for. Kenya as a country has continued to face terrorist attacks despite investing heavily in the fight against terrorism. This should not be happening or at least the magnitude with which its happening should have reduced exponentially. Since the police play an active role in countering terrorism, it is particularly crucial that this gap that

seems to exist between the law enforcement agencies and the intelligence agencies be investigated in order to address the prevailing disconnect.<sup>38</sup>

As for the basic concepts of National Intelligence, there is available literature by both serving and retired officers from the CIA and FBI, agencies with a vast experience in terms of both the threats to national security and span of the organizations' existence. In Kenya, Brig. (Rtd) Wilson Boinett, a former Director General of NSIS, is celebrated to have transformed the intelligence service to meet the aspirations of modern day Kenyan. It was clear that the Special Branch (SB) needed to be replaced with an intelligence service that would be based on democratic principles. The days of the old SB and its crude and inhuman methods to extort information from suspects was over. To replace the SB and modernize the service, the National Security Intelligence Service (NSIS) was created by the National Security Intelligence Act of 1998. The Act of Parliament stated the objectives of the service to investigate, gather, evaluate, correlate, interpret, disseminate and store information whether inside or outside Kenya for the purpose. However, the dynamism of times and transitions in the intelligence system show the need to keep updating researches through building of a data bank on the same. Security sector reform and transitional justice in Kenya mainly built upon academic research in the field have a specific literature on the modern aspects of intelligence reforms. Building on the existing materials will help strengthen the law enforcement agencies in terms of resources in knowledge. Besides, understanding the history of the fight against terrorism will also open the minds of law enforcement agencies and help develop suitable strategic and tactical approaches that will render their counterterrorism operations more effective.

## 1.7 Theoretical Framework

This study adopted the Contingency Theory. According to the theory, the main objective of organizations is to achieve certain goals thus they are created and designed in the best way possible to attain specific set of goals and objectives, in this case law enforcement. William Richard Scott describes contingency theory in the following manner: 'The best way to organize depends on the nature of the environment to which the organization must relate.'<sup>39</sup> When the case calls for the law to be enforced in any specific way, law enforcement agencies are compelled by this model to act appropriately for the purpose of attaining the role of the

---

<sup>38</sup> Organization for cooperation and security in Europe (OCSE). Preventing Terrorism and Countering Violent Extremism and Radicalization that Lead to Terrorism: A Community-Policing Approach (Vienna, OCSE, 2014). p 25

<sup>39</sup> Scott, W. Richard. *Organizations: Rational, natural, and open systems*. (Prentice hall, 1998),p.491. DOI: 10.2307/2393090

organization. For example, if a gang proves to be a threat, the police are required to form a unit specifically implemented to deal with such a problem for the purpose of ensuring peace in the area.<sup>40</sup> This calls for structured and planned responses to deviance and socially problematic conduct. Social order is a situation in which a specific set of rules of ethics governs every established group of people. Preservation of social order applies to the mechanisms that define, maintain, and execute the established rules of conduct. This management is referred to as policing and is characterized as the intentional action involving an individual organization's active exercise of power or authority aimed at upholding law and maintaining peace or protection assurances.

Proactive policing promotes intervention before crimes are actually committed. In this context, strategic intelligence in law enforcement is intended to enhance proactive policing. The elements of the contingency theory include the leader-member relations, the position power, and the task structure, all of which fit into the different variables of this study. The theory enabled revelation of the specific areas that the Police Service ought to improve on in order to better carry out its counterterrorism operations. The theory is relevant that it is dynamic in nature and is able to help organizations design effective information systems. Its major limitation is that it is a complex approach that is reactive in nature. Consequently this study stuck to keeping everything simple to better deal with the complexity of the theory. In terms of the applicability of the theory in this study, the organization that is under consideration is the NPS. The task that needs to be achieved is keeping countering the threat posed by terrorism in the country. With that said, the theory dictates that the needs to be task structure which in this study implies that there should be a clarity and means of successfully countering the threat posed by terrorism. This study assessed how the NPS conformed to the provisions of the theory with respect to its role in counterterrorism operations.

### **1.8(a) Academic Justification**

Chumba et al. assess the effectiveness of border surveillance; they argue that porous borders contribute to terrorism. They advance an argument for enhanced border patrols and increased government presence.<sup>41</sup> As if taking this perspective, the government opted for

---

<sup>40</sup> Reising, Michael D. "Community and problem-oriented policing." (*Crime and justice* 39, no. 1 . University of Chicago Press, 2010), p.2.

<sup>41</sup> Chumba C., Okoth P.G., Were E. "Effectiveness of Border Surveillance Strategies in the Management of Transnational Terrorism in Kenya and Somalia." (*International Journal of Political Science (IJPS)* Volume 2, Issue 2,2016), p.42. Doi: 10.20431/2454-9452.0202004

border fencing, setting up of border command, and increased personnel deployment. Despite these measures, terror attacks have persisted. This study interrogates this gap by grappling with the apparent effects of inadequate operational, strategic, and tactical intelligence in counter-terrorism operations. This study advances from an assumption that police inability to contain terror attacks is a function of intelligence gaps. It equally interrogates some of the actors' internal roots, a factor that points to a lack of intelligence at the level of early warning.

Otieno Fredrick assesses sets of challenges underpinning the operational limitations of police units.<sup>42</sup> This includes haphazard deployment where officers are deployed in areas that they are not familiar with the geographical terrain, which in turn, derails their effectiveness. Moreover, he argues that the effects of self-interests of the force and those of junior officers have played a significant role in constraining service operational competence and probity. Besides that, he points out that the quality of the police recruitment process is also questionable.

However, what Otieno fails to tell us are factors underpinning the continuity of challenges of police recruitment. That these issues persist is of interest to this study, more specifically, their effect on coordination, intelligence sharing, and inter/intra-institutional operability. This gap is core to any attempt at counter-terrorism studies. He is also silent on the impact of police morale on civil-paramilitary relations, especially in the context where they are subjected to attacks. Our study examines, more specifically, the effects of these attacks on intelligence denial. **This study therefore sets the stage for a serious discourse as to the role of the Kenya Police Service in counterterrorism operations, especially in regard to gathering of information, sharing of intelligence, planning of operations and the strategies adopted to counter the recurrent threat. In seeking to explore the reasons as to why the police in Kenya seem to always be caught unawares by terrorism incidents, this study aims to promote best practices in intelligence sharing and coordination within and among the various security agencies in Kenya. This is because law enforcement agents must now more than ever respond to a global threat that has evolved significantly over the past decade, both in scale and complexity. This is not only by pre-empting terrorist incidents but also by being able to successfully prosecute terrorist acts and attempts. This calls for proactive methods of policing rather than the conventional way of policing which was largely reactive. The academic validation of the study is based on the evident vacuum of the intelligence literature in Kenya due the extreme secrecy surrounding it. Very few people have attempted to grapple with the**

---

<sup>42</sup> Fredrick Okoth Otieno. "Efficacy of Policing Approaches Utilised in Counterterrorism by the National Police Service in Lamu County, Kenya." (*IOSR* vol. 24 no.5, 2019), p.41.

subject of security intelligence especially in Kenya. Besides mentioning about intelligence collection and sharing, the few writers have explored its deep waters citing the absence of conceptual clarity in its usage and contribution to the security of the states. Such an important concept should not suffer from shortage of valuable local reference while materials on foreign intelligence communities especially those of the developed nations are easily accessible. Security intelligence ought to be anchored in Kenya schools' curriculum and demystified for acceptance in the public and private sectors. Increased need for transparency and accountability by the society has necessitated the demystifying of the security agencies through gradual modernization in terms of human and material resources and enhanced inter-agency cooperation among all stake holders, especially policy makers. This study therefore is essential in order to add more literature to the existing knowledge about the intelligence processes in Kenya.

### **1.8(b) Policy Justification**

Vision 2030 was adopted to enable Kenya transform from a Less-Developed Country (LDC) to a Middle-Income Country by providing a high-quality life to Kenyans in a clean and secure environment. Its main goal was to achieve positive political, economic, and social development between the period 2008-2030. It is worth noting that vision 2030 captures almost all aspects that Kenya needs in order to become prosperous and competitive globally. The Vision's strategy focuses on reforms and development across ten key sectors that include infrastructure, science, technology & innovation, public sector reforms, tourism, agriculture, trade, manufacturing, Business Process Outsourcing and Information Communication (BPO & ICT). However, an evident and surprisingly missing aspect in Vision 2030 is a national security strategy regarding operational, tactical, and strategic intelligence required to combat terrorism. Notably, to achieve all these, Kenya must build an environment conducive to attracting foreign and local investors and promoting a country that would enjoy both social and political stability - thus, police play a critical role. The document fails to address how the envisioned development will be realized without a working national security strategy in place to guide the relevant agencies in the manner through which they will collect, analyze, share and coordinate intelligence with a view to neutralize threats and counter-terrorism operations in Kenya.

Thus, this study aims to fill this gap by recommending strategies that can be incorporated with the proposed Vision 2030 policy to achieve this development. For example, this study emphasizes on the importance of communities' cooperation in providing reliable

information regarding national security threats in the country as this plays a critical role in maintaining the safety of society. Terrorists tend to blend in the community for purposes of planning an attack. This happens even in the most developed democracies such as the U.S, U.K, and France. It even happened in the United States when Al Qaeda militia lived in the country and planned the 9/11 attacks for four years. To collect, disseminate, and implement intelligence briefs effectively, therefore, the Kenyan police units must see the importance of positive/mutual trust agency-community relationships as they are a key element in maintaining public safety and for effective policing. Security in any given country is vital for development. As such, when safety is not assured, development may be difficult to achieve. This study provides the foundation for a law enforcement counterterrorism strategy that guides the police to support the Kenya envisioned in the Vision 2030 document.

### **1.9(a) The Research Design**

The study adopted the quasi-experimental research design. This design helped to create an understanding of why things happen the way they happen in respect of police counterterrorism activities in Kenya. It involved data collection from Kenya by use of questionnaires to determine characteristics within the population. This was deemed to be the most appropriate in collection of data both from documentary information and from individual respondents, with a view to capture the current status of the areas under study. In this case, causal research design therefore supported identification of respondents by use of census and purposive random sampling technique. The study applied a combination of both quantitative and qualitative research systems, relying more on the qualitative approaches since they are the most suitable for research in humanities and social sciences.<sup>43</sup> This approach was informed by the classified nature of the information required and the difficulties related with quantifying of some social phenomena.<sup>44</sup> Among the strengths of the causal research design include the fact that it helped to understand why things occur the way they occur. In this study, it has helped create an understanding of why terrorism continues to be a security threat in Kenya despite a plethora of counterterrorism measures put in place by the government.

---

<sup>43</sup> Ratcliffe, JH. *Intelligence-led policing. Environmental Criminology and Crime Analysis*, (edited by Richard Wortley and Lorraine Mazerolle; Willan Publishing, 2008), p.273.

<sup>44</sup> Flick, Uwe. *An introduction to qualitative research*. (Sage Publications Limited, 2018), p.5.

### **1.9(b) Population and Sampling**

In a bid to understand the role of the Police Service in counterterrorism operations in Kenya, this study targeted respondents drawn largely from the law enforcement agencies, the intelligence service and officers from organizations that are directly concerned with counterterrorism. These include the Anti-Terrorism Police Unit, the National Counter Terrorism Center (NCTC) and the National Crime Research Centre (NCRC). The study aimed to achieve a 95% confidence level and 5% margin of error.<sup>45</sup> Given the relatively small population involved, a census approach was adopted targeting all the relevant agencies. Simple random sampling, purposive sampling and convenient sampling techniques were used to select the study sample. This were considered appropriate in order to arrive at the most relevant and available respondents from the target population.

### **1.9(c) Data Collection Methods**

Primary data was collected by use of various methods such as application of both close-ended and open-ended questions, and use of structured interviews. The study employed the use of self-administered questionnaires due to the sensitive nature of affairs in the national security arena. The pool of respondents was drawn from the law enforcement agencies and the national intelligence service. Face-to-face questionnaires were used for the research. Research participants were randomly grouped into five groups where each group would be separately invited to fill in the questionnaires at locations that were convenient to them. Information was collected within a period of one month.

The questionnaire comprised of structured questions, made up of five sections namely Section 1: Demographic and General information of the respondent, Section 2: Kenya Vulnerability to Terrorism, Section 3: Issues constraining the Police in Kenya, Section 4: Intra and Inter-Institutional Information sharing Structures, and Section 5: Containing Terrorism in Kenya. One research assistant was engaged in the data collection process. The research assistant was given a brief orientation on the aims and objectives of the study, the target population, sample and sampling procedures, and the ethical considerations of the study. In addition, a check list guide featuring broad and unstructured set of questions was used to collect views from the National Counter Terrorism Center (NCTC), National Crime Research Centre

---

<sup>45</sup> Matthew C. Waxman, "Police and National Security: American Local Law Enforcement and Counterterrorism After 9/11", (*Journal of National Security Law & Policy* vol 3, Columbia University Law school,2009), p. 377.

(NCRC) and regional and international security related organizations such as United Nations Office for Drugs and Crime (UNODC) and International Police (Interpol). This was considered appropriate due to their overarching scope in respect of the subject of the study.

Observations by the researcher (as a serving officer) on the planning and execution of prevention measures against terrorism were also critical, as well as literature review of journals, books, government documents, legislations, policy reports and papers.

#### **1.9(d) Data Analysis Procedures**

The process of data analysis comprised of a four concurrent flow of activity: data reduction, data display and verification and conclusion drawing. Data reduction process entailed selecting, focusing, simplifying, and transforming the data. Reduction of data often triggers choices about which aspects of the assembled data were accentuated, minimized or set aside completely for the purposes of the study.<sup>46</sup> Data reduction was useful in organizing data. This made the data more manageable and intelligible to the research questions. Descriptive statistics were used to analyze the data in order to meet the objectives of the study. The frequency of occurrence and prevalence amongst the respondents was also determined.

#### **1.9(e) Research Quality**

This study involved a series of methods of research that were qualitative in nature. The accuracy of this research was judged through measuring various traits such as its dependability, credibility, confirmability, and transferability.<sup>47</sup> This alternative four criteria model was applied to test the quality of this research in respect of validity, reliability and objectivity. Transferability relates to both the extent to which the outcomes can be generalized to the studied population, and the point to which the findings can be conveyed to other populations. Guba and Lincoln argues that rich descriptions provide the reader with the necessary information to make decisions as to the transferability of the findings.<sup>48</sup> These are to be found throughout this research study. The dependability of research findings entails making sure that the collected data is not only just consistent but also stable throughout the time. Extensive time spent by the researcher in the field helped in the enhancement of the research dependability

---

<sup>46</sup> Kothari, C. *Research Methodology: Methods & Techniques* .(2nd Revised Edition, New Age International Publishers, 2004), p.122.

<sup>47</sup> Strauss, A. and Corbin, J. *Basics of Qualitative Research: Grounded Theory Procedures and Techniques*, (California; Sage, 1990), p.40.

<sup>48</sup> Guba, E. and Lincoln, Y. *Naturalistic Inquiry*. ( Sage Press, London, 1985).

Maxwell argues that the confirmability and dependability of research findings can be extensively enhanced if there is reduction in threats of inaccuracy in data collection.<sup>49</sup>

To improve the dependability of the findings, the research employed the use of recordings in interviews, and verbatim transcripts. Verification of confirmability is concerned with the relationship between what research participants meant and what the researcher has inferred.<sup>50</sup> Guba and Lincoln argue that the most effective means of ensuring this is to have research participants check research data. This method was used throughout the research process in the form of a number of participants (50%) reviewing their interview transcripts and records.<sup>51</sup>

### **1.9(f) Ethical Considerations**

As a formal requirement, all Strathmore University research for postgraduate theses and dissertations must be reviewed and approved by the University Institutional Ethics Review Committee. Further, any research involving the participation of humans in Kenya has to be assessed and monitored by the National Commission for Science, Technology, and Innovation (NACOSTI). As a matter of principle, this study throughout considered in high regard all the human values of everyone that was involved or participated in the research study. This consideration was founded on the understanding that all human beings have dignity which must be respected, and that they have a fundamental human right to make choices which the researcher must respect.<sup>52</sup> This research therefore endeavored to focus on and uphold the principles of privacy, accuracy, property and accessibility when dealing with the participants and data.<sup>53</sup> Respondents were also politely requested to participate in the study.

According to Mugenda, an ethical study is one that allows freedom of purpose from the participant as well as one that protects their rights.<sup>54</sup> The study involved provision of a clause in the introduction section of the questionnaire that allowed respondents to voluntarily participate in the study. Respondents were regularly informed of the procedures and nature of the study. Upon completing administration of questionnaires, respondents were granted an

---

<sup>49</sup> Maxwell, J. *Qualitative Research Design: An Interactive Approach*, Sage; Thousand Oaks, 1996.

<sup>50</sup> Kothari, C. *Research Methodology: Methods & Techniques* .(2nd Revised Edition, New Age International Publishers, 2004), p.20.

<sup>51</sup> Ibid

<sup>52</sup> Kivunja C., Kuyini A. B., “Understanding and Applying Research Paradigms in Educational Contexts”, (*International Journal of Higher Education*, Vol. 6, no. 5, October 2017), p. 28.

<sup>53</sup> Kothari, C. *Research Methodology: Methods & Techniques* .(2nd Revised Edition, New Age International Publishers, 2004), p.20.

<sup>54</sup> Mugenda & Mugenda. “Research methods Nairobi.” (Nairobi publishers, 2003).

opportunity to assess their responses and to make obligatory changes to their earlier comments. The study capped ethical considerations by acknowledging the contribution of the authors of all literature cited in the research. And throughout all processes of data collection, objectivity was maintained whereby there was no misinterpretation of information. In addition, data collected was used for this academic purpose only. Analysed data was only applied in the research report of this study. Further to that, the research had an insignificant likelihood of causing harm as it is unlikely to result in any kind of atrocity whether social, economic or legal harm.

### **1.9(g) Chapter Outline**

**Chapter One:** This chapter anchors the core elements of the study. These include the background of the study, statement of research problem, research questions, research objectives, the hypothesis of the study, the scope of the study, the literature review, theoretical framework, the justification of the study, research design, population and sampling, data collection methods, data analysis procedures and research quality. The chapter provides an introduction and the background to the study which puts everything in context regarding what the study is all about. It also highlights the specific research questions that the study aims to answer.

**Chapter Two:** The chapter provides a historical foundation of policing relative to issues of our study. The span of interest of this chapter is between 1963-2008. Underlying this is the argument that the challenges the police force face today have a historical background, without which appreciation the study could not have adequately responded to the research questions. Even though the chapter examines these events in post independence period (during the Jomo Kenyatta's regime, Daniel Moi's era and Mwai Kibaki's administration), it makes references to the colonial period given the fact that the the police service traces its roots to the colonial era and the dynamics explaining the existing police constraints are embedded in that history. By examining the origin of the problem, this study adequately covers the historical overview of policing and intelligence. The elements central to this chapter include the dynamics surrounding the Kenya Police, Administration Police, Special Branch, Criminal Investigation Department, and the General Service Unit. All these are discussed under the three regimes of Jomo Kenyatta Daniel Moi and Mwai Kibaki. The Study examines the timeline, scope, and attributes of internal security operations. Other than law enforcement models, the study also

examines the politicization and militarization of the police and the Special Branch during Moi's reign.

**Chapter Three:** This chapter builds on chapter two. It essentially seeks to examine as to why Kenya has continued to suffer more attacks despite various counter-terrorism measures by the government. It anchors the task of our first objective of the study: examining and analyzing factors underlying the continued terrorism attacks in Kenya. It explores police constraints and the continuity of terror attacks in Kenya despite the various counterterrorism measures that the Kenyan government put in place. The core areas of this chapter include inter/intra-institutional factors, global factors, and external factors influencing terrorism in Kenya. Additionally, it also assesses whether or not the counterterrorism operations carried out by the police service in Kenya have been a success, and the influencing factors. The traditional causes of terrorism have been attributed to various reasons. As for the countries that are targeted by terrorist attacks, economic prosperity will cause attacks when determining global economic inequality (south vs. north countries). The cycle of modernization is promoting extremism as it involves, inter alia, economic growth, modern modes of communication and behaviors, and new theories (e.g. Western ideology). It is often claimed that the political and social structure matter in terrorism. The core premise is that terrorism shows a clear self-energizing tendency in terms of both space and time.

**Chapter Four:** In this chapter, the study addresses the question as to how the crisis of intra and inter-institutional coordination and intelligence sharing constraint police counter-terrorism operations. It anchors the task of the second objective of the study: examining and analyzing effects of intra and inter-institutional coordination and intelligence sharing constraints on police counter-terrorism operations in Kenya. The chapter assesses the argument that coordination and intelligence sharing are critical elements when dealing with organized groups or terrorists. To achieve this objective, this chapter lays out the researcher's findings in terms of the responses from the participants who took part in the study. In order to understand the importance of coordination and intelligence sharing, the institutions that have been discussed in this chapter include the NIS, the DMI, and the international intelligence community.

**Chapter Five:** This is the last chapter of the study. It summarizes the two core objectives of the study with a view to determine the extent to which they have been met. This is repeated with respect to the two hypothesis that inform and structure the study. The chapter reviews the two hypothesis with a view to determine the extent to which they are validated. Further the chapter anchors the conclusions and thesis of our study. Lastly the chapter allows for the study to proffer research-based responses to enhance police counterterrorism operations in Kenya.

## CHAPTER 2

### HISTORICAL OVERVIEW OF THE POLICE AND COUNTERTERRORISM IN KENYA

#### 2.0 Introduction

This chapter provides a historical foundation of policing in Kenya relative to operations, intra and inter-institutional intelligence gathering, and intelligence coordination. The period of interest here is the time between the year 1963 and 2008. Underlying this is the argument that the challenges the police service faces today have historical roots. Without this appreciation, it would be hard to understand the challenges of police counterterrorism and intelligence issues in the coming chapters. Even though this chapter concentrates on the events in the post-independence period, it also stretches back to the colonial era given the fact that the dynamics explaining the existing police constraints are embedded in history. The elements central to this history include the origins of Kenya Police, Administration Police, Special Branch, Criminal Investigation Department, and the General Service Unit. All these are discussed under the three regimes of Jomo Kenyatta, Daniel Moi and Mwai Kibaki. The chapter examines the timelines, scope and attributes of internal security operations. Other than law enforcement models, this history also highlights the politicization and militarization of the police Special Branch during Moi's reign. In particular, it discusses the brutal crackdown and torture of the regime's critics in the aftermath of the failed 1982 coup. In addition, this chapter reviews the efficiency of the intelligence system in relation to transnational terrorist activities within and between the borders of Kenya and its neighbours. In this regard, the study analyzes the 1980 and 1998 terrorist incidents, their precursors, and the responses of security teams during the attacks.

The idea of a Kenyan police unit was conceptualized by the Imperial British East Africa Limited (IBEAL).<sup>1</sup> For security during the beginning of the construction of the Kenya – Uganda railway line, the railway police unit was established by Sir William McKinnon. The Mombasa based Unit operated from 1887 to 1902. In 1902, Tribal Police was formed which later became the Kenya Police Force (KPF) in 1906.<sup>2</sup> In terms of mandate, the colonial police was primarily tasked to guard the officers of the colonial government and their property. Critical infrastructure by then included the Kenya Uganda railway line, government buildings,

---

<sup>1</sup> Chtalu, K. A. "The Challenges related to police reforms in Kenya: a survey of Nairobi County, Kenya." (*Unpublished Master's Research Thesi*: University of Nairobi, Kenya , 2014), p.12.

<sup>2</sup> Ibid

and settler properties. Other important functions of the police force were the enforcement of curfew orders and segregation laws in settler farms. The Tribal Police and home guards used to brutally execute draconian colonial laws imposed on natives.

For example, Africans found trespassing on settler farms would be arrested, tortured and in some cases, killed. Similar fate would befall natives found without the colonial identification tags *kipande*. The colonial government also started the Criminal Intelligence Unit in 1926 after a surge in insecurity. The Unit was placed under the control of the Commissioner of Police who was essentially the chief of the police force. Principally, the Criminal Intelligence Unit had been tasked to gather intelligence and counter any imminent activities deemed unlawful. Before formation of the CIU, the colonial intelligence system had been made up of the regular colonial police and military branches. The Unit, would establish and maintain a database for suspected and convicted criminals. Later after integration of the crime, passport, fingerprints, and immigration sections, the Unit was renamed to be known as the Criminal Investigations Department (CID).

In the 1940s, the colonial government was encountering a formidable security threat in the form of Mau Mau uprising. In essence, Mau Mau's ideology was driven by the desire to liberate the country from colonial rule. To achieve this mission, the group waged asymmetrical warfare against the colonial masters. In an article titled '*Mau Mau This Year*', the Institute of Current World Affairs described Mau Mau as an organized terrorist group that was unleashing "savagery attacks" under the guise of social justice. Apart from Central province, the group had expanded its activities to Nairobi, Nakuru, Laikipia, Embu and Meru. The frequency and magnitude of the Mau Mau attacks reverberated across these areas culminating in the declaration of a state emergency in 1952.<sup>3</sup> It is then that the Special Branch unit of the police force was formed after the unprecedented Mau Mau offensive.

Unlike the Criminal Intelligence Unit, the Special Branch turned out to be a dedicated national intelligence agency. It was tasked to track down on Mau Mau adherents and to disrupt the activities of the movement. Also, the Special Branch had the mandate to convey intelligence updates to their military and police counterparts. Special Branch officers were trained by the Military Intelligence Section Five (MI5) agents to collect human intelligence and signals intelligence. For instance, the officers could intercept and decode telegraphic messages sent by government adversaries. Other than enlisted Special Branch officers, the elaborate intelligence network had entailed settlers, missionaries, explorers, and merchants. In his memoirs,

---

<sup>3</sup> Ibid

renowned archeologist Lous Leakey had confessed to working for the colonial government as a spy.<sup>4</sup> The nationwide network of spies had been instituted to deter the upsurge in ethnic revolts.

Despite technical superiority and adequate resources at their disposal, initial police response to Mau Mau insurgency had been incoherent and shambolic. This enabled the Mau Mau movement to thrive and continue committing heinous acts. Colonial chiefs and home guards were kidnapped, harassed, brutalized, or assassinated by Mau Mau fighters. Colonial collaborators and their families were executed in public or had their limbs severed. For instance, in 1953, the Daily Mail had recounted that;

Ninety women and children died when a Mau Mau gang descended on a [Lari] village in the dead of night, surrounded the people inside their homes, poured petrol on the thatch roofs, and set the houses ablaze. Those who didn't die in the fire but managed to claw their way out were cut down with pangas and left to die a slow, lingering death.<sup>5</sup>

On the same night, a security lapse had resulted in a daring attack on Naivasha Police Station. During the incident, a group of Mau Mau fighters managed to free prisoners after overpowering the sentries on guard duties.<sup>6</sup> Rattled by the Mau Mau offensive, Governor Evelyn Baring summoned General George Erskine to lead the fight against the insurgency. In 1953, experienced British servicemen Frank Kitson and Ian Field were enlisted by the colonial government to boost the Special Branch's counterinsurgency operations.<sup>7</sup> To effectively counter the Mau Mau menace, the Unit adopted the Malayan policing strategy, an approach which the British Imperialists had successfully deployed to quell the communist uprising in Malaysia.<sup>8</sup> At the core of the Malayan Model had been police pseudo gangs. Reformed Mau Mau informers and police agents had been dispatched to infiltrate the Mau Mau. The spies would access Mau Mau's committee meetings, recruitment exercises, graduation and oathing ceremonies while disguised as Mau Mau militia men. Acting from within the Mau Mau, police informers would obtain vital information leads. In 1955, Sergeant J. A Miller, a seasoned

---

<sup>4</sup> Lebishoy, Kitur S. "Paradigm shift in Kenyans security intelligence service: a case study of Kenya, 1963-2010." Ph.D. diss., 2013, p.24.

<sup>5</sup> Rennell, Tony. "Justifiably the British Are Accused of Brutality in 1950s Kenya: But Why Aren't the Mau Mau Butchers Also in the Dock?" (*Daily Mail Online*, April 12, 2011 ), par.20. <<https://www.dailymail.co.uk/news/article-1375967/Kenya-Mau-Mau-atrocities-1950s-dossier.html>> [September 25, 2020]

<sup>6</sup> Bennett, Huw. *Fighting the Mau Mau: The British army and counterinsurgency in the Kenya emergency*. (Cambridge University Press, 2013), p.17.

<sup>7</sup> Shaffer, Ryan. "Following in Footsteps: The Transformation of Kenya's Intelligence Services since the Colonial Era." (*Studies in Intelligence Journal* 63, no. 1; CIA, 2019), p.25.

<sup>8</sup> Ibid

counterterrorism expert, was assigned to coordinate mock police gangs in Thika.<sup>9</sup> At the time, Thika and Fort Hall (Murang'a) were Mau Mau's operation bases. Besides, Field Intelligence Assistants (FIAs) had been deployed around Mt Kenya and Aberdares forests to gather intelligence on Mau Mau activities. The intelligence gathered and collated by field Special Branch officers would be conveyed to District Intelligence Coordination Committees to plan counter-offensive raids.<sup>10</sup>

The results of the Malayan strategy had been impressive. Special Branch operatives were able to trace a significant number of Mau Mau hideouts and managed to foil many imminent attacks. In one instance, sergeant Miller infiltrated a top-level Mau Mau meeting. Acting on Miller's tip-off, the Emergency police unit ambushed and neutralized over a hundred insurgents in Thika. Similarly, dozens of fighters were arrested and detained during the swoop. In a joint operation codenamed "Overdraft," the Special Branch, Emergency Company, and military troops neutralized over 1200 Mau Mau fighters from their hideout in the Mt Kenya forest.<sup>11</sup> In 1954, an intelligence-based raid had led to the arrest of 40,000 Mau Mau insurgents in an operation codenamed "Anvil". The capture of General China, General Katanga and Field Marshall Dedan Kimathi between 1954 and 1957 epitomized the efficiency of the police pseudo gangs.<sup>12</sup> Also, the Special Branch agents unearthed secretive Mau Mau sympathizers and financiers through the elaborate network of informers. For instance, Jomo Kenyatta was linked to Mau Mau activities and was arrested and imprisoned in Kapenguria together with five other sympathizers. Eventually, the Mau Mau lost its potency after a well-orchestrated security onslaught.

In retrospect, the colonial police played a profound role in shaping the police culture during successive political regimes. Apparently the British imperial government's systemic use of police as a tool for political expediency was effectively entrenched. At the time, the security agencies were designed to protect the colonial elites from the Kenyan natives. As an illustration, peasants from Central Kenya and Rift Valley would frequently be displaced by colonial police to pave the way for British settlers. Indigenous people had been forced into political submission by the government-controlled army and police. Trade unionists,

---

<sup>9</sup> Bailey, Bill. "Hearts and Minds, Pseudo Gangs and Counter-Insurgency: Based upon Experiences from Previous Campaigns in Kenya (1952-60), Malaya (1948-60) & Rhodesia (1964-1979)." (Edith Cowan University 2010), p.10.

<sup>10</sup> Bennett, Huw. *Fighting the Mau Mau: The British army and counterinsurgency in the Kenya emergency*. (Cambridge University Press, 2013), p.19.

<sup>11</sup> Ibid.

<sup>12</sup> McConnell, John A. *The British in Kenya (1952-1960): Analysis of a successful counterinsurgency campaign*. (Naval Postgraduate School, Monterey CA, 2005), p.53.

nationalists, and pro-independence political leaders would be arrested at the Colonial administrators' discretion. In numerous instances, prominent pan Africanists were arrested and detained for trumped-up charges. Effectively, the culture of impunity was deeply embedded within police ranks during the colonial era. Special Branch, Emergency police unit, Tribal Police, and home guards would torture and execute underprivileged natives without due regard. The colonial administrators mastered an elaborate cover-up strategy every time the colonial police committed atrocities against the locals. The post-independence security agencies would later mirror the same trajectory.

## **2.1 Policing Methods During the Kenyatta Era**

After independence, the Kenyatta administration had reorganized the colonial police into a more localized and comparatively professional police force. However, the post-independence government resolved to inherit the colonial police structures and intelligence systems instead of conducting a complete overhaul. The decision had been informed by the need for a smooth political transition. As a result, Kenya Police Force (KPF), Administration Police Force (APF), and the Special Branch Unit (SB) had been retained as the mainstream law enforcement agencies. KPF had been established by the Kenya Police Act of 1961 while the APF had been constituted by the Administration Police Act of 1958.<sup>13</sup> Until its reorganization, APF had existed as the Tribal Police Unit. The APF Act of 1958 and KPF Act of 1961 had outlined the structure, mandate and disciplinary measures for the respective police departments. The Acts had been reinforced by the respective police standing orders. In terms of organizational structure, APF was placed under the Office of the President. An AP Commandant headed the unit. By contrast, KPF was situated under the Ministry of Internal Security, with the Commissioner of Police as the head. The General Service Unit (GSU), a paramilitary unit, and Criminal Investigations Departments (CID) had been constituted as semi-autonomous units within the KPF. A GSU Commandant and CID Director headed the respective units. Kenya Police Reservists (KPR) had been categorized as an auxiliary police unit. Unlike during the preceding administration, native Kenyans could now enlist as KPRs. Under the dual policing model, APF and KPF had been assigned specific mandates to exemplify efficiency in law enforcement. The APF officers were primarily deployed to guard government installations, border points, high-level government officers and critical infrastructure. On the other hand, KPF and its semi-autonomous agencies was performing

---

<sup>13</sup> Sommer, H. "History of the Police in Kenya 1885–1960." (PP Press, 2007), p.14.

considerably significant law enforcement roles. First, the elite units within GSU constituted the president's security detail. Additionally, GSU was mandated to suppress local insurgency groups, organized criminal groups and cattle rustlers. Secondly, the units within the CID conducted investigations, made arrests and instituted prosecutions involving serious crimes. Thirdly, regular police units were deployed in highways, airports and social areas to oversee general law compliance. As a way of localizing the police force, Sir Richard Catling was replaced as Commissioner of Police by Mr. Bernard Hinga in 1964 after Kenya attained independence.

The new political regime sought to reform the repressive nature of the preceding security units. The KANU government envisaged a democratic policing model. The primary objective was to anchor police operations under professionalism, accountability and regard to the rule of law. Criminal justice law was enacted to regulate policing activities under the independence Constitution of 1963. Under the new structure, Police were required to work closely with the offices of the Attorney General and of the Director of Public Prosecutions. The Criminal Procedure Code and Police Standing Orders laid out the standard operating procedures for APF, KPF and the Special Branch officers. Essentially, the guidelines elaborated on conduct of investigations, arrest procedures and criminal prosecutions. In 1965, President Kenyatta hived off the Special Branch from the mainstream Kenya Police Force. Under the new arrangement, Mr. James Kanyottu effectively rose to the helm of the autonomous agency.<sup>14</sup> Principal SB functions entailed the collection and collation of HUMINT and SIGINT. The agency oversaw the recruitment and handling of criminal informers, profiling of persons of interest and infiltration of criminal networks. Efforts to pre-empt local insurrections, banditry attacks, cattle rustling and tribal vigilante groups formed the nexus of the intelligence system. The intelligence network would be coordinated at district, provincial and national levels. Field intelligence officers would gather raw intelligence and convey the information to their handlers at the District level.

Acting on the chain of command, the handlers would prepare field intelligence reports and present them to the District Security Committee. After assessment, valid intelligence would be escalated to the Provincial Security Committee for action or further review. The Provincial Security Committees would notify the Special Branch and police chiefs for appropriate action. The president was receiving routine intelligence reports from the provincial and national

---

<sup>14</sup> Shaffer, Ryan. "Following in Footsteps: The Transformation of Kenya's Intelligence Services since the Colonial Era." (*Studies in Intelligence* 63, no. 1; CIA, 2019), p.27.

security chiefs depending on the urgency of information. Primarily, the president was the ultimate decision maker on actionable intelligence. However, the head of state would occasionally delegate the decision making authority to the the Director of Special Branch and/or the Commissioner of Police. Until 1968, security agencies were battling the Northern Frontier District Liberation Army (NFDLA). What distinguished NFDLA from common criminals had been its political ideology, paramilitary training and access to heavy weaponry. Driven by perennial marginalization, ethnic Somalis from Northern Frontier District (NFD) had expressed the desire to secede from Kenya. However, after the then referendum attempts had failed, NFDLA fought to annex NFD from Kenya forcefully. Earlier on, NFDLA shooters had assassinated Senior Chief Haji Dido and Daudi Wabera, a District Commissioner. Also, Shifta insurgents had been targeting non-Cushite residents in Isiolo, Marsabit, Wajir, Mandera, and Garissa. The attacks were followed by looting of cattle and destruction of property in the affected areas.

In response, the government imposed curfew orders on the NFD. The paramilitary GSU and APF contingents were deployed in NFD to supplement the Kenya Army regiment. Special Branch was spearheading reconnaissance and intelligence collection during the operation. Collected intelligence would be synthesized to facilitate in threat assessment and planning of security swoops. Besides, intelligence based operations were necessary since the adversary was also well organized. According to Whittaker, NFDLA had split into battalions of 1000 rebels. Each battalion had Italian rifles, bren machine guns, bazookas, and grenade launchers.<sup>15</sup> The use of heavy weaponry, mine warfare and guerrilla tactics by insurgents had proved a profound challenge for the security team. Nonetheless, the mop-up operations had remarkably prevailed. Acting on intelligence leads from the Special Branch, the military, GSU and APF teams had inflicted significant losses to the bandits. Similarly, the security teams had unleashed collective punishment to deter community members from shielding NFDLA militias. For example, in May 1967, police had rounded up residents of Garissa township after a police convoy overran landmines planted by Shifta insurgents. The mine attack led to ten fatalities.<sup>16</sup> During the swoop, the residents were restricted within Jaribu Primary School for a prolonged period and severely roughed up. In November 1967, joint police and military regiments launched a full-scale offensive against Shifta militants. At one incident in Mandera, security forces neutralized

---

<sup>15</sup> Whittaker, Hannah. "Pursuing Pastoralists: The Stigma of Shifta during the 'Shifta War' in Kenya." (Eras , 2008), p.8.

<sup>16</sup> Whittaker, Hannah. "Legacies of Empire: State Violence and Collective Punishment in Kenya's North Eastern Province, c. 1963–Present." (*The Journal of Imperial and Commonwealth History* 43, no. 4 ; Taylor and Francis, 2015), p.648.

some 40 Shifta militants during a confrontation.<sup>17</sup> The disruption of weapons supply channels, confiscation of livestock and mass arrests of Shifta affiliates curtailed momentum of the insurgency. Eventually, the well-coordinated security onslaught culminated to a negotiated cease-fire.<sup>18</sup> However, it later emerged that the use of collective punishment had caused the victimization of innocent civilians. For instance, Mohammed Mohammed, a provincial administrator, and Ismail Mohammed, a police officer, had lost livestock and property during a security swoop.<sup>19</sup> The two cases aptly reflected the plight of dozens of other ethnic Somalis in the aftermath of the Shifta war.

As early as 1976, Special Branch and Mossad had teamed up to conduct joint surveillance and reconnaissance missions. A cordial relationship between Kenyatta's administration and the Israel government facilitated intelligence sharing. The joint team of sleuths targeted PFLP and PLO activities within Kenyan borders. On a particular incident in 1976, Mossad and Special Branch agents trailed and arrested a PFLP weapons courier and accomplices. The terror cells had intended to shoot down an Israel Airliner with a surface to Air Missile. Eventually, the Kenyan security team surrendered the terrorists to Israeli authorities for interrogation. In the same year, the Special Branch and local police units had offered logistical support to Israel's military and Mossad during the raid on Entebbe airport whereby the 'Operation Thunderbolt' was remarkably successful in rescuing the Jewish hostages.

## **2.2 Policing Strategies and the Intelligence System Under The Moi Regime**

Due to the volatile security situation in the NFD, KPF and APF teams had been conducting regular patrols to enforce the curfew orders which had been imposed in the region. Other than Special Branch leads, the security teams were also relying on tip offs from local informers to stage mop-up operations. Such law enforcement missions had been sanctioned by the provincial security committee. However, the Security committee would seek the advisory of national security chiefs before sanctioning high magnitude security operations. In October 1978, the patrol team apprehended suspected Shifta insurgents after a local tip off.<sup>20</sup>

---

<sup>17</sup> Whittaker, Hannah. *Insurgency and Counterinsurgency in Kenya: A social history of the Shifta conflict, c. 1963-1968*. (Brill, 2014), p.10.

<sup>18</sup> Ibid

<sup>19</sup> Whittaker, Hannah. "Pursuing Pastoralists: The Stigma of Shifta during the 'Shifta War' in Kenya." (Monash Edu Press, 2008), p.15.

<sup>20</sup> Whittaker, Hannah. "Legacies of Empire: State Violence and Collective Punishment in Kenya's North Eastern Province, c. 1963–Present." (*The Journal of Imperial and Commonwealth History* 43, no. 4; Talor and Francis, 2015), p. 650.

Some 543 rounds of ammunition were recovered from the suspects during the incident. Such operations significantly weakened the potency of the Shifta insurgency. At the start of the 1980s, security agencies had been grappling with the emergence of transnational terrorism. The surprise attack on Norfolk Hotel had been a culmination of four factors. First, the anti-Zionist crusade by Arab nations had metamorphosed into deep-rooted hatred for Israel and its allies. By associating with the Jewish state, Kenya had been sucked into the Israel-Arab conflict. The Black September Movement and Popular Liberation Front of Palestine (PFLP) had embarked on revenge attacks against Israeli sympathizers. At this point, retributory attacks in Kenya for its alliance with Israel had been inevitable.

The close cooperation between Kenya security agencies and the Western intelligence agencies had acted as a catalyst to the Norfolk Hotel Incident. For instance, PFLP leader Wadia Haddad sanctioned a high magnitude attack in Kenya after earlier arrests of PFLP agents in Nairobi by the Mossad agents. During the Norfolk incident, PFLP militants detonated explosives in the hotel, resulting in 15 fatalities.<sup>21</sup> The glaring security lapse triggered numerous questions among government officials, foreign actors and the general public. How had the Special Branch and the police counterparts missed early warnings? How had the major suspect entered and exited the country without detection? An excerpt on the Standard Newspaper dated October 2014 narrated fateful events as follows:

Police were caught unawares [by the attackers]. However, there was hardly any backlash against the people in charge, including commissioner of police Ben Gethi and Internal Security Minister G. G. Kariuki. As investigations started, one of the foremost actions by police was to contact big hotels to ask for names of tourists booked there. Within hours, the authorities had identified him [the attacker] as Abd-El-Hamid. But it was too late. Unbeknown to the police, the guest in Room 7 had already left the hotel without checking out. At 2.30 pm that afternoon [fateful day], he boarded Kenya Airways Flight 358 bound for Jeddah, through Khartoum. That was six hours before the explosion.<sup>22</sup>

The fact that a foreign terrorist organization had a tactical edge over the national security apparatus was appalling. Failure to pursue the perpetrators exposed the institutional limits inherent in the Special Branch and Kenya police. Similarly, the incident had set a worrying precedent for lackluster police performance in the face of organized terrorist groups.

---

<sup>21</sup> Nyambura, Simon. "Counterterrorism strategies: a comparative analysis of Ethiopia and Kenya." (*Journal on Terrorism and Security Analysis* 6, no. 1; Satsa. Edu Press, 2011), p.99.

<sup>22</sup> Mugo, Waweru. "Kenya's First Terror Attack Caught Police Unawares." (*The Standard*, October 9, 2013), par.14. Available at <<https://www.standardmedia.co.ke/kenya/article/2000095154/kenyas-first-terror-attack-caught-police-unawares.html>> [September 23, 2020]

In 1984, the surge in cattle rustling, inter-ethnic clashes and proliferation of small arms had necessitated largescale dis-armament missions in the NFD and Rift Vally regions. In February 1984, a multi-agency security operation in Wagalla flopped dramatically.<sup>23</sup> A team of Special Branch, GSU and Kenya Army officers had been dispatched to recover illegal firearms in Garissa. As the disarmament mission unfolded, Special Branch officers had lured ethnic Degodia males and detained them at Wagalla airstrip. However, after the security team failed to recover any illegal firearms, the security officers descended on the victims leading to an unprecedented massacre of over 1000 Degodia clansmen.<sup>24</sup> In the same period, a botched security mop-up operation in Pokot had culminated to the massacre of 800 members of ethnic Pokot. The two incidents propagated widespread resentment of security agencies. Since then, the relationship between security agencies and local communities deteriorated to a great extent. Consistent use of extrajudicial tactics during such operations alienated the previous gains and reputation of the police agencies. Critics and legal experts had continually affirmed that the heavy-handedness of the police agencies had no legal basis. In such a context, many police actions were considered a zero-sum game as they came out as solving one crime by committing another.

### **2.2(a) The Special Branch and Police Operations during the Nyayo Era**

As President Moi's reign progressed, the police and Special Branch transformed from custodians of security to the purveyors of state sanctioned terror. From 1985 onwards, security agencies had escalated the crackdown on regime opponents. The repeal of Section 2A and declaration of one party state had led to unprecedented cases of police atrocities. Daniel arap Moi effectively used the police as a tool for repression and assassinations as well as for detention and torture of his political opponents. For example, one Hezekiah Ochuka and others were arrested and later executed for the attempted coup of 1982.<sup>25</sup> In 1986 President Moi tried to rebrand the Special Branch to become the Directorate of Security Intelligence (DSI). However, the DSI would still be referred to as Special Branch since the name had already stuck. In 1988, Section 14 of the Police Act was amended to allow for two weeks detention of suspects without trial. The move gave the police and DSI the leeway to commit extralegal activities without any legal liability. The regime made the changes to exert political dominance

---

<sup>23</sup> Truth, Justice, and Reconciliation Commission. "Public Hearing Transcripts-North Eastern-Wagalla Massacre (RTJRC, 2011), p.15.

<sup>24</sup> Commission on Revenue Allocation. "Historical Injustices: A complementary guide for distributing the equalization fund." (*CRA Working Paper* No.2012/02; CRA,2012), p.33.

<sup>25</sup> Ibid

over outspoken regime critics. As the public face of Moi's autocracy, Special Branch officers hunted on fierce university dons, students and scholars critical to KANU's rule. During the period, over 100 individuals were arrested for alleged association with the outlawed *Mwakenya* group. Prominent politicians such as Raila Odinga, Gitobu Imanyara, Koigi wa Wamwere and Kenneth Matiba were arrested and detained during the purge for suspicions of subversion. Special Branch agents would apply torture to obtain confessions from the detainees. The secret police had set up bases in Nyayo House where political detainees would be tortured and held incommunicado. Inside the notorious 'Nyayo Chambers', suspects would be stripped naked, waterboarded for long hours and subjected to endless beatings and starvation.<sup>26</sup> Nonetheless, the militarisation of police and Special Branch had little impact on surging criminal activities since politics had proved to be a profound distraction to a pragmatic law enforcement.

During the 1992 general elections, the DSI had failed to detect looming ethnic clashes across the vast Rift Valley province.<sup>27</sup> Violence erupted in the region after the pronouncement of presidential results. The spy agency had grossly underestimated the gravity of the ethnic tensions in the build up to the elections. Besides, the agency had become complacent for political reasons. As a result, DSI had withheld prior intelligence that could have been acted upon to prevent post-election violence. According to some accounts, rogue agency officers had directly aided ethnic warmongers in Nakuru, Laikipia and Uasin Gishu. Political incitement had sparked deadly politically instigated ethnic clashes. This form of terror was facilitated by politicians in terms of operations, making it hard for the police to contain as politicians directly controlled a section of police who had the mandate to gather intelligence, investigate and arrest the perpetrators of the ethnic clashes between Kikuyus and Kalenjin. In the mid 1990s, security lapse along the Somalia and Ethiopia borders had led to infiltration of foreign terrorists. The collapse of the Somalia government in 1991 provided a perfect gateway for Al Qaeda operatives into the country. Similarly, Somalia based Al-Ittihad-Al-Islami (AIAI) had emerged in 1995 amidst the political anarchy.<sup>28</sup> The founders who had been Al Qaeda renegades had eventually expanded their activities to North Eastern Kenya. Security agencies struggled to contain the influx of illegal immigrants due to over-indulgence in political affairs. At the time, a significant number of police and intelligence personnel had been deployed as per

---

<sup>26</sup> Wa Kinyatti, Maina. *History of resistance in Kenya*. Mau Mau Research Centre, 2008, p.445.

<sup>27</sup> Bay, Sebastian. "Intelligence and State-Building." (*Masters Thesis*.Lund University, 2010), p. 34. Available at <<http://lup.lub.lu.se/student-papers/record/1608306>>

<sup>28</sup> Shinn, T. David. "Terrorism in the Horn of Africa." (United States Institute of Peace Special Report, 2005), p.10.

Moi's discretion. Similar police and DSI resources had been diverted to pursue political interests.

The national intelligence and policing systems had faltered in the wake of 1998 terror attack on the US Embassy. FBI investigations revealed that the militants had used a stun-grenade and explosive-laden truck in the attack which claimed 224 lives and caused over 5000 casualties.<sup>29</sup> Agile Al Qaeda operatives had outmanoeuvred the Kenyan security apparatus. In her memoirs, Prudence Bushnell pointed out that fallible intelligence had been the main precursor to the Embassy attacks by Al Qaeda.<sup>30</sup> Bushnell, the then US Ambassador to Kenya, reflected that poor coordination between DSI and Police agencies had given Al Qaeda militants an undue operational advantage. Similarly, the mobility of terror cells had been facilitated by unguarded borders and corrupt security officers. In a follow-up report, the US Institute of Peace had affirmed that Al Qaeda operatives had brazenly recruited local cells and planned the 1998 attack right under the police radar. According to the investigation report by the US Justice Department, Al Qaeda militants had planned the attack for four years. It had been an intrigue that Special Branch and CID agencies had repeatedly failed to detect Al Qaeda operatives as they conducted reconnaissance missions in the build-up to the actual attack. In a clear illustration of grave security lapse, the terror operatives had concealed explosives and the delivery truck in a garage located at the affluent 43 Runda Estate.<sup>31</sup> In retrospect, security agencies had been lacking the capacity to deal with sophisticated criminal organizations. For instance, neither the CID nor the Special Branch had the expertise to follow the money trail of the Al Qaeda network. In particular, Al Qaeda had used the Hawala funds transfer system to wire logistical funds for the 1998 US Embassy attack.<sup>32</sup> The cash transfer had been meticulously undertaken, such that it had been devoid of a paper trail.

Similarly local security agencies had lacked specialized anti-financial crime divisions. Neither of the Kenyan security agencies had a robust liaison channel with Interpol. As a result, tracking cross-border criminals was a profound challenge for DSI and Kenya police. The faulty criminal justice system had curtailed any successful convictions of suspected militants. For

---

<sup>29</sup> Hassan, Hared. "Dynamism of Terrorist Threats in Kenya." (*PhD diss.*, University of Nairobi, 2015), p.3.

<sup>30</sup> Champagne, Becky, Wayne B. Cobb, Sascha Kaplan, Don Morrison, Zachary Beus, and William Strachan. "Anatomy of a terrorist attack: An in-depth investigation into the 1998 bombings of the US embassies in Kenya and Tanzania." (Ridgway Center for International Security Studies 17, 2005), p.9.

<sup>31</sup> Hoffman, Tod. *Al Qaeda Declares War: The African Embassy Bombings and America's Search for Justice.* (ForeEdge, 2014), p.3.

<sup>32</sup> Champagne, Becky, Wayne B. Cobb, Sascha Kaplan, Don Morrison, Zachary Beus, and William Strachan. "Anatomy of a terrorist attack: An in-depth investigation into the 1998 bombings of the US embassies in Kenya and Tanzania." (Ridgway Center for International Security Studies 17, 2005), p.14.

instance, interpretation and prosecution of suspected terrorist elements was defined by acts of omission or commission. The police were relying on the inconclusive Penal Code to investigate and prosecute suspected terrorists. On various occasions, cases related to suspected terrorists collapsed due to insufficient evidence. Besides, rivalry between Security Agencies and the Judiciary had led to a palpable disconnect between law enforcement and law interpretation functions. The Office of the Attorney General which had overseen prosecutions was losing its credibility due to political interference.<sup>33</sup> Lethargy in intelligence collection then prompted the government to initiate a raft of corrective measures.

## **2.2(b) From DSI to NSIS**

After the 1998 US Embassy attacks, President Moi disbanded the DSI. Attempts to reform the spy unit had proved futile for two reasons. First, the agency had lost its credibility among the general populace. Special Branch reputation had been tainted by forceful interrogation techniques and harassment of regime dissidents.<sup>34</sup> Secondly, corruption culture had deeply permeated the agency ranks.<sup>35</sup> The reorganization of the Special Branch into Directorate of Security Intelligence proved to be just a cosmetic exercise. As Musau opines, Special Branch had lost its potency in intelligence gathering due to pervasive misconduct, negligence, and corruption within its ranks

Upon the dissolution of the DSI, the intelligence outfit was renamed National Security Intelligence Service. The NSIS effectively assumed the role of the lead intelligence agency in the country. NSIS was instituted through the National Security Intelligence Service Act of 1998. As the successor to Special Branch, NSIS highlighted the dynamic landscape of the intelligence strategies. The reorganization marked the transition from a politically-aligned agency to a seemingly autonomous and professional intelligence unit. Under the NSIS Act, the civilian agency had four broad functions. First was to detect imminent security threats in the country. The agency was expected to share threat assessment briefs with the relevant police units for appropriate actions. Secondly, the NSIS Director-General had to brief or advise the President on various national issues based on verified intelligence reports. Thirdly, the agency had to vet prospective employees who needed to obtain security clearance prior to employment.

---

<sup>33</sup> Kenya Human Rights Commission. *The police, the people, the politics: police accountability in Kenya*. (Kenya Human Rights Commission, 2006), p.37.

<sup>34</sup> Kenya National Commission on Human Rights, ed. "Footprints of Impunity: Counting the Cost of Human Rights Violations: Nyayo House Torture Chambers. Nairobi." (KNHRC, 2017), p.5.

<sup>35</sup> Bay, Sebastian. "Intelligence and State-Building." ( *Masters Thesis*.Lund University, 2010), p.42. Available at <<http://lup.lub.lu.se/student-papers/record/1608306>>

Lastly, NSIS had been mandated to protect all national interests proactively. Brig. (Rtd) Boinnet had envisaged that NSIS would integrate talent, skills and discipline in order to enhance service provision. To recruit a talented workforce, Boinnet directed all former Special Branch officers to resign. Many of the defunct SB officers who had been accused of corruption were sacked in the reorganization. University graduates and recruits from private and public sectors filled the newly created positions. The recruits were trained on espionage, counter-intelligence, infiltration techniques and cyber security. Additional training was offered on public administration, psychology and sociology. As a way of streamlining operational efficiency, NSIS established the political, economic, security and diplomacy divisions of the unit. In 2002, Boinnet again reorganized the divisions to read democratic, economic, foreign and diplomacy. The Analysis and Production department was also created during the internal restructuring. As the main intelligence organ, NSIS was limited by the constitution to intelligence collection and advisory roles. Notably, the powers of arrest that had defined the Special branch were removed in the NSIS Act. Unlike the SB, NSIS could be oversighted by the Complaints Tribunal. The Tribunal was constituted by the president, with a qualified judge to head it. Civilians now had the channel through which to report any misconduct by the intelligence agents.

However, the transition from Special Branch to NSIS led to some unprecedented intelligence loopholes. According to Shaffer (2019), the 1998 disbandment of Special Branch had created a security vacuum.<sup>36</sup> In the early years of operation, NSIS had repeatedly failed to share actionable intelligence on various occasions. Initial attempts to establish a working relationship between NSIS and police had culminated into inter-agency rivalry, mistrust and some level of duplication of roles. In some instances, CID and regular police units denied ever receiving intelligence briefs from the spy team.<sup>37</sup> In 1999, The Turkish government incriminated the NSIS and the Kenya Police in colluding with their Greece counterparts to protect one Abdullah Ocalan.<sup>38</sup> At the time, the Kurdistan party leader had been declared to be an international terrorist. His capture in Nairobi was a humiliating event for the government and security officials. Towards the end of Moi's reign, security teams were pervasively involved in the use of brutal force in the course of law enforcement. In 2000 Sir Nigel Rodley,

---

<sup>36</sup> Shaffer, Ryan. "Following in Footsteps: The Transformation of Kenya's Intelligence Services since the Colonial Era." (*Studies in Intelligence Journal* 63, no.1; CIA, 2019), p.33.

<sup>37</sup> Bay, Sebastian. "Intelligence and State-Building." (*Masters Thesis*.Lund University, 2010), p.42. Available at <<http://lup.lub.lu.se/student-papers/record/1608306>>

<sup>38</sup> Prestholdt, Jeremy. "Kenya, the United States, and counterterrorism." *Countering Violent Extremism*.(Africa Today 57, no. 4; NCTC, 2011), p.9.

the then UN Special Rapporteur, reported systematic torture and harassment of suspected criminals by the Kenya security agencies. According to the report, CID and GSU units had been summarily executing criminal suspects in major towns within the country. In July 2001, the police were accused of the extrajudicial execution in cold blood of seven Kenya Bus passengers on suspicion of criminal activities. The victims had been apprehended enroute Athi River Town. The incident triggered widespread condemnation from human rights activists. Further reports of police extrajudicial killings were reaffirmed in 2003 by subsequent reports from the Kenya National Human Rights Commission (KNHRC) and Independent Medico-Legal Unit (IMLU).<sup>39</sup> The KNHRC report pointed out 67 documented cases of police brutality. On its part, the IMLU report indicated about 358 documented cases of torture by police.

### **2.3 Policing Methods and the Intelligence System during the Kibaki Administration**

The NARC regime coincided with the beginning of the Global War on Terror (GWOT). Globally, security agencies were then remodeling their law enforcement in order to counter Al Qaeda threats. Reacting to the 2002 attack on Paradise Hotel in Mombasa, the Kibaki administration embarked on formulating a national counter-terrorism strategy. For a start, the security agencies had sought practical mechanisms to proactively counter terrorist activities. Unlike Moi's regime, Kibaki's government established a dedicated terrorism prevention police unit. The Anti-Terrorism Police Unit (ATPU) was constituted in 2003 against the backdrop of AL Qaeda and Al-Ittihad-Al-Islami (AIAI) activities within the borders.<sup>40</sup> The Unit was mandated to detect, investigate, track down and pre-empt imminent acts of terrorism. From 2003 onwards, NSIS, Anti-Terrorism Police Unit (ATPU) and the Directorate of Military Intelligence (DMI) took the lead role in counterterrorism. Essentially, a counterterrorism strategy would require deep understanding of motives behind terrorist groups and the primary targets of terrorist attacks. Also, the security teams had the responsibility to identify tactics and modes of operation that the terrorists would prefer. Similarly, the security agencies had the duty to scrutinize the organizational structure of terrorist entities and the prevailing political situations in their operational hideouts.<sup>41</sup> Based on that information, coordinating agencies had

---

<sup>39</sup> Commonwealth Human Rights Initiative. "The Police, the People, the Politics: Police Accountability in Kenya." (CHRI, 2006), p.22.

<sup>40</sup> Horowitz, Jonathan. "'We're tired of taking you to the court': human rights abuses by Kenya's Anti-Terrorism Police Unit." (Open Society Foundation, New York, 2013), p.17. Available at <<https://www.opensocietyfoundations.org/sites/default/files/human-rights-abuses-by-kenya-atpu-20140220.pdf>>

<sup>41</sup> Carter, Jeremy G., and David L. Carter. "Law enforcement intelligence: implications for self-radicalized terrorism." (*Police practice and research* 13, no. 2; Taylor and Francis, 2012), p.145.

designed a counterterrorism masterplan that incorporated six functions. First was about gathering of Human Intelligence (HUMINT) and Signals Intelligence (SIGINT). Security agencies would strive to obtain HUMINT through a network of state spies, criminal informers, and public reports. SIGINT had to be acquired by eavesdropping on or interception of phone calls associated with terror activities. Secondly, the police and NSIS would establish inter-agency partnership in monitoring, arrest, prosecution and conviction of suspected terrorists. The third function was identification and seizure of all assets and illegal proceeds emanating from acts of terrorism. Fourthly, the security agencies would strengthen the bilateral and multilateral cooperation with Israel and the West in intelligence sharing. Next, security agencies would launch pre-emptive attacks on terrorist hideouts. Finally, the government would strategically fund police and NSIS to enhance their operational and technical capacities.<sup>42</sup> Consequently, the ATPU was to liaise with the NSIS to create profile databases for suspected terrorists. Among others, NSIS and ATPU had been monitoring radical clerics, terrorist recruiters, sympathizers and local terrorist sleeper cells. NSIS would later share the information with other police units and foreign intelligence agencies such as the CIA and Mossad. Additionally, local security agencies embarked on a proactive strategy to curb the radicalization of Muslim youths. The security teams had identified the Dadaab refugee camp, the Coastal region and NEP as the major radicalization hideouts for Al Qaeda and AIAI jihadists.<sup>43</sup> The government was then ordering the closure of Madrassas and Youth Centers advocating for Wahhabism or Islamic Jihad. Alternatively, such institutions would be directed to review their curriculum and sever ties with notorious Arab donors. After compliance, they could be allowed to operate albeit under close surveillance of ATPU and NSIS agents.

Similarly, the government was relying on NSIS and ATPU assessment reports to blacklist NGOs funding local Al Qaeda and AIAI cells.<sup>44</sup> To curb rogue clerics, ATPU and NSIS enlisted informers to monitor activities in madrassas and mosques. Also, NSIS deployed specialized technological equipment such as IMSI catchers to intercept or eavesdrop on suspect communications.<sup>45</sup> After validation, NSIS would relay credible intelligence to ATPU teams for preventive actions. Besides, NSIS and ATPU conducted joint surveillance and reconnaissance

---

<sup>42</sup> Weisburd, David L., and David H. Bayley. "The Role of the Police in Counterterrorism." *To Protect and to Serve: Policing in an Age of Terrorism New York*. (Springer Verlaag, 2015), p.17.

<sup>43</sup> Mogire, Edward, and Kennedy Mkutu Agade. "Counter-terrorism in Kenya." (*Journal of Contemporary African Studies* 29, no. 4. Taylor and Francis, 2011), p.475.

<sup>44</sup> Otiso, Kefa. "Kenya in the crosshairs of global terrorism: fighting terrorism at the periphery." *Kenya Studies Review* 1, no. 1 (2009), p.127.

<sup>45</sup> Privacy International. "Track, Capture, Kill: Inside Communications Surveillance and Counterterrorism in Kenya." (Privacy International, 2017), p.27.

missions with Mossad, MI6 and US C-T experts. Kenya had granted the US and the West allies a leeway to conduct covert counter-terrorism missions in North Eastern and coastal regions.<sup>46</sup> The American assets had been part of the Combined Joint Task Force-Horn of Africa (CJTF-HOA), which had been stationed in Djibouti. Close coordination between NSIS and ATPU led to significant disruption of local Al Qaeda affiliated networks. Using forensic cellular analysis technology, NSIS and ATPU tracked down one Said Omar, an accomplice in the 2002 Paradise hotel attack.<sup>47</sup> Eventually, Omar was apprehended by the ATPU team in August 2003. Further analysis of the suspect's phone unearthed the planning, logistics and execution strategies used in the 2002 attack. As a result, the security teams established extensive databases for local and foreign Al Qaeda operatives. In addition, NSIS and ATPU officers foiled a terror plot against the US embassy in June 2003. The arrested suspect confessed to a planned attack using an explosive-laden truck and a plane from Wilson airport.

The enactment of the Anti-Corruption and Economic Crime Act (2003) was vital in the disruption of terrorist activities. According to the Act, the Kenya Anti-Corruption Commission had the authority to investigate suspected illicit financial dealings and illegal sources of wealth. Under this act, terrorist financiers would be investigated, prosecuted and convicted.<sup>48</sup> Also, the KACC could liaise with local and foreign security agencies to pursue money trails emanating from terrorist activities. Essentially, the Anti-Corruption and Economic Crimes Act had enhanced the powers of the police force. The remedies were intended to reinforce the Criminal Justice System in response to the escalation of terror-related activities. Since 2004, Recce Squad, Rapid Response Team (RRT), and Rapid Deployment Unit (RDU) had increased their involvement in counterterrorism missions. The combined units had encompassed the country's Special Weaponry and Tactics (SWAT) division. RRT was formed in 2004 to handle critical terrorist incidents such as hostage situations. Commando teams drawn from the GSU and AP continuously enhanced their expertise under the CIA counter-terrorism training initiative. For instance, selected Recce Unit, RRT, and RDU teams received advanced training from US counter-terrorism experts. According to Shabibi Namir, a UK-based investigative journalist, the paramilitary teams had flown to CIA facilities in Maryland and Virginia. The Kenyan Units were then trained in tactical operations, close combat, reconnaissance, SIGINT, HUMINT,

---

<sup>46</sup> Nyambura, Simon. "Counterterrorism strategies: a comparative analysis of Ethiopia and Kenya." (*Journal on Terrorism and Security Analysis* 6, no. 1 Syracuse University.2011), p.99.

<sup>47</sup> Fighel, Jonathan. "Al-Qaeda-Mombassa Attacks 28 November 2002." (*International Institute for Counter-Terrorism, Herzlyia, Israel* 13. Wikileaks.org, 2011), p.11.

<sup>48</sup> Kenya Human Rights Commission. *The police, the people, the politics: police accountability in Kenya*. (Kenya Human Rights Commission, 2006), p.37.

surveillance and ordinance handling.<sup>49</sup> Furthermore, the Commandos had been trained by CIA contractors on renditions and disruption operations.

This security partnership was covered under the Anti-Terrorism Assistance Program (ATA).<sup>50</sup> As Shabibi noted, the RRT and Recce teams' anti-terrorism missions had been overly secretive. For instance, RRT was barely known to Kenyans despite its existence tracing back to 2004. The unit members had been conducting covert missions in the Dadaab refugee camp and in Northern Kenya towns under the disguise of humanitarian workers. Apart from raiding terrorist hideouts, the units had been integral in guarding critical infrastructure. JKIA, diplomatic buildings, government buildings and Five Star Hotels had emerged as major soft targets for Al Qaeda. The GSU commandant had routinely deployed the Recce team and RRT officers to vulnerable embassies in Nairobi. Their expertise in weapon handling and threat assessment was vital in detecting and deterring imminent attacks.

Between 2006 and 2007, laxity in law enforcement had led to a dramatic increase in urban-based crimes. Lack of community policing and poor coordination among NSIS, CID and regular police departments had created room for vicious gangs such as *Mungiki* and *Taliban*. Similarly, rogue police officers had been colluding with gangsters. Hon. David Mwenje, the then legislator for Embakasi had alleged that some police officers had been leasing guns to criminals for as little as three hundred shillings.<sup>51</sup> In August 2006, the then Russian Ambassador to Kenya Valery Yegoshkin was ambushed by armed gangs near Thika town.<sup>52</sup> Yegoshkin was stabbed during the incident. The daring attack highlighted the critical policing gaps in major towns around that time. According to police statistics, 54 people, including 22 police officers had been killed by criminal gangs within Nairobi city for the period between December 2006 and February 2007.<sup>53</sup> In 2007, escalation of *Mungiki* terror had informed the overhaul of police response tactics. At the time, *Mungiki* members had managed to impose the group's doctrine within its areas of domain in full awareness of security teams. The insurgents had been collecting "protection fees" from traders and matatu operators. In escalated cases, the sect members had orchestrated attacks against police officers, raiding police posts,

---

<sup>49</sup> Shabibi, Namir. "Revealed: The CIA and MI6's Secret War in Kenya." (*Declassified UK*. August 28, 2020), par.10. Available at <<https://www.dailymaverick.co.za/article/2020-08-28-revealed-the-cia-and-mi6s-secret-war-in-kenya/>> [September 22, 2020]

<sup>50</sup> Ibid

<sup>51</sup>

<sup>52</sup> Mkutu, Kennedy A., and Kizito Sabala. "Private security companies in Kenya and dilemmas for security." *Journal of Contemporary African Studies* 25, no. 3 (2007): 391-416. (p,400)

<sup>53</sup> (p,392)

and murdering numerous civilians.<sup>54</sup> Traders who failed to pay extortion fees had been beheaded or severely mutilated. Mungiki dominance was then eliciting panic, confusion and resentment among the general populace. By 2007, the Mungiki sect had grown to become one of the most powerful organized gangs in Nairobi and its suburbs.<sup>55</sup>

To execute Mungiki crackdown strategies, the then CID director formed the *Rhino* and *KweKwe* Squads.<sup>56</sup> The elite units were tasked to spearhead the hunt for key Mungiki figures within Nairobi and Central Kenya. By mid 2007, GSU and AP units had joined the Mungiki purge. The paramilitary units conducted largescale swoop operations on Mungiki hideouts. The executive order to use lethal force on the armed militants had given police teams the latitude to apply extra-legal tactics in their pursuit of Mungiki fighters. On June 2007, the New York Times reported that:

More than 500 police and paramilitary officers have swarmed Mathare this week in search of Mungiki, which is accused of the deaths of at least 20 people in the past three months including 12 found mutilated or beheaded since May. The group is accused of killing two police officers on Monday.<sup>57</sup>

Intensified security operations in 2007 had resulted to apprehension of 85 suspected terrorists by ATPU and GSU teams. The government had later resolved to deport the suspects to Somalia.<sup>58</sup> In another intelligence led operation, ATPU field officers had captured a wanted terrorist, Mohammed Abdul Malik in Mombasa on February 2007. Later on, the unit surrendered the fugitive to US Counter-terrorism counterparts for interrogation. Malik had later been transferred by US counterterrorism teams to Guantanamo Bay prison. Amidst the purge on organized crimes, security agencies refuted the civil societies' allegations of extra-judicial killings. Led by the then Security Minister John Michuki, the police heads had reaffirmed that the police activities had been legal and justified.<sup>59</sup>

---

<sup>54</sup> Immigration and Refugee Board of Canada. "Kenya: The Mungiki (Mungiki) cult, including its organizational structure, its leaders, its criminal activities, and the state protection available to victims of this cult (June 2002-February 2005)" Last modified March 2007 .(IRBC, 2005), par.4. Available at <https://www.refworld.org/docid/45f147f720.html> [accessed 28 September 2020]

<sup>55</sup> Hull,Bryson. "Kenya's Live in Silent Fear of Mungiki Gang." (*Reuters*, July 1, 2007), par. 17. Available at <https://uk.reuters.com/article/us-kenya-gang-idUSHUL13001020070701.html>[September 22,2020]

<sup>56</sup> Ruteere, Mutuma. "Dilemmas of crime, human rights and the politics of Mungiki violence in Kenya." *Human Rights and the Politics of Mungiki Violence in Kenya* (August 27, 2009). ( SSRN, 2009), p.21.

<sup>57</sup> "Kenyan Police Continue Violent Crackdown on Mungiki Sect." (*The New York Times*, June 7, 2007), par.5.Available at <https://www.nytimes.com/2007/06/07/world/africa/07iht-07kenya.6042028.html>.>[September 24,2020]

<sup>58</sup> Horowitz, Jonathan. "'We're tired of taking you to the court': human rights abuses by Kenya's Anti-Terrorism Police Unit." (Open Society Foundation, New York, 2013), p.45. Available at <https://www.opensocietyfoundations.org/sites/default/files/human-rights-abuses-by-kenya-atpu-20140220.pdf>.

<sup>59</sup> Ponge, Awuor. "The Impact of Counter Terrorism Policies and Laws on Civil Society Organisations in Kenya." (*IJRISS* |Volume IV, Issue VI; June 2020), p.660.

The creation of the Rural Border Patrol Unit (RBPU) in 2008 boosted ATPU and NSIS efforts in preventing the infiltration of foreign extremists.<sup>60</sup> Also, the Border Unit had emerged against the backdrop of a refugees' influx. Inept regular officers and corrupt immigration officials had raised the concerns of police bosses. RBPU operated in strategic locations along the 1800km Kenya-Somalia border. Its mission was to apprehend illegal immigrants at border the points. The Border Patrol officers were coordinating with ATPU to thwart cross-border terror activities. Additionally, the highly trained officers had been monitoring radical groups operating from remote parts of North Eastern province.<sup>61</sup> Lastly, the unit teams actively identified and closed illegal entry and exit points.

Despite a fair share of successful operations, the war on Mungiki and extremist groups exposed gaps in law enforcement. Inconclusive investigations, poor inter-agency coordination, corruption within police ranks and political patronage had been major impediments to seamless security enforcement. The CID had repeatedly failed to prosecute key Mungiki leaders despite their arrests. On various occasions, the suspects were vindicated by the courts due to a lack of credible evidence. Investigation failures resulted from negligence of officers, conflict of interests, political interference and poor relationships between the CID department and the office of the Director of Public Prosecutions (ODPP).<sup>62</sup> In some cases, police officers were accused by NGOs of shielding criminal elements from possible arrest and conviction.

Lack of specific anti-terrorism laws had profoundly curtailed convictions of terrorists. In particular, the difficulty in gathering evidence and the unwillingness of informants to make court appearances forced the security operatives to apply extra-legal measures.<sup>63</sup> Similarly, the security gaps culminated in the infiltration to Kenya of Al Qaeda operatives from neighboring Somalia. For instance Fazul Muhammed an Al Qaeda operative repeatedly evaded security dragnets to plan and coordinate attacks in Nairobi and Mombasa.<sup>64</sup> On various occasions, terror masterminds had bribed security agents to smuggle ordinances and contrabands, and to obtain

---

<sup>60</sup> Musau, S. "Combating terrorism and upholding Human Rights in Kenya." *African Policing Civilian Oversight Forum*. (APCOF Press, 2018), p.3.

<sup>61</sup> Maguire, Thomas J. "Kenya's 'War on Poaching': Militarised Solutions to a Militarised Problem?." In *Militarised Responses to Transnational Organised Crime*, ( Palgrave Macmillan, Cham, 2018), p.74. Doi:10.1007/978-3-319-57565-0\_5

<sup>62</sup> Osse, Anneke. "Police reform in Kenya: A process of 'meddling through'." (*Journal of Policing and Society* 26, no. 8. Taylor and Francis, 2016), p.908.

<sup>63</sup> Ibid

<sup>64</sup> Njogu, Roseline, and Makambo Makabila. "Terror, Power and the Legitimacy of the State." (*Law Digest Issue* No.8, 2015),p.42.

illegal travel documents. Also, terrorist elements were escaping from arrests by way of compromising immigration officials.<sup>65</sup>

Potential human rights violations during counterterrorism operations had set ATPU on a collision path with rights advocacy groups. UN Special Rapporteur on Human Rights and KNHCR reported the systematic torture and disappearance of alleged terrorists. Accordingly, human rights groups equated the police C-T techniques to the concept of 'necessary evil'. Rights groups and civil societies broadly disputed the use of extra-legal tactics as a means to an end. For instance, Amnesty International described the Rendition program as a plot by security teams to circumvent the criminal justice system.<sup>66</sup> By 2008, ATPU had gained notoriety for arbitrary arrests, torture and systemic disappearance of suspected terrorists.<sup>67</sup>

Apparently the terrorist groups managed to keep the Kenya government security apparatus so busy that once again the then NSIS failed to warn the government of looming post election violence prior to the 2007 general elections. The resulting 2007/08 PEV was of a magnitude and scale never witnessed before in the nation of Kenya. After the Peace Accord presided over by the former Secretary General of the UN Mr. Kofi Annan, a post-mortem of the protracted PEV revealed critical issues in regard to the structures of the national security apparatus of Kenya. No wonder that with the promulgation of a new constitution in Kenya came with it a raft of changes in the structures and systems of the various security organs in the country. The hitherto Armed Forces of the Republic of Kenya was renamed to the Kenya Defense Forces. The Kenya Police Force and the Administration Police Force were renamed to read the Kenya Police Service and the Administration Police Service respectively. The CID was also rebranded to become the Directorate of Criminal Investigations (DCI). The three together formed the National Police Service headed by the newly created office of the Inspector General of Police. This was in an effort towards reforming the police service to become responsive to the challenges of the modern day Kenya. The NSIS was renamed to become the National Intelligence Service (NIS) and was recognized as one of the national security organs of Kenya. Essentially, the NIS was expected to inject public trust through the element of transparency. Public trust would be essential for NIS, especially when gathering intelligence about potential threats to national security. The name change was largely seen as a move to

---

<sup>65</sup> Shaffer, Ryan. "Following in Footsteps: The Transformation of Kenya's Intelligence Services since the Colonial Era." (*Studies in Intelligence* 63, no. 1. CIA,2019), p.33.

<sup>66</sup> Aronson, Samuel L. "Kenya and the global war on terror: Neglecting history and geopolitics in approaches to counterterrorism." (*African Journal of Criminology and Justice Studies: AJCJS* 7, no. 1&2; London Scholl of Economics,2013), p.32.

<sup>67</sup> Orina, Nabil. "Fighting Terror Within the Law: Challenges and Prospects of Kenya's Counter-Terrorism Measures." *Leading Legal Issues in Sub-Saharan Africa* (Maulana Ayoub Ali (Ed.); SSRN,2016), p.74.

dissociate NSIS from its hitherto controversial past. However, it is worth noting that the promulgation of the New Constitution in 2010 restructured Kenya's administrative districts into counties. It therefore called for at least one intelligence officer in all the divisions of the 47 counties. The reasons behind the name change therefore included aligning the intelligence service to the operational dynamics occasioned by the implementation of the new Constitution. The change was not only in the agency's name but also in its structure, functions, powers and limitations. This background sets the stage for the next chapters which discuss in depth the relationships among the various security organs, particularly in issues of intelligence sharing and coordination.



## CHAPTER THREE

### OF POLICE CONSTRAINTS AND THE COUNTINUITY OF TERROR ATTACKS IN KENYA

#### 3.0 Introduction

According to the International Association of Chiefs of Police's survey (IACP 2005), changes in policing arising from terrorism have demonstrated two significant shifts. The first element of the transition has to do with organizational and tactical shifts in the reaction to threats, much of which are strategic.<sup>1</sup> The second dimension is one of training, resources, reorganization, redeployment, and coordination between departments. For the longest time, the Kenya Police has been unable to effectively counter the threat of terrorism because it lacks the capacity to do so. This lack of capability is rooted from inadequate resources in terms of finances, training and equipment. The Kenya Police personnel need to be highly trained in order to catch up with the modern patterns of terrorism. However, the training regime that law enforcement officers underwent back in the days is largely the same to what they still undergo today. Inadequate resources render the Kenya Police unable to neither purchase the latest equipment nor improve the training facilities in order to equip the law enforcement officers with the latest skills.

The foregoing observations anchor our analysis about prevailing constraints to containment of terror attacks by the Kenya police. In specific terms we seek to grapple with the first question of our study, as to why Kenya has continued to suffer more attacks despite various counter-terrorism measures by the government. We examine and analyse the factors underlying the continued terrorism attacks in Kenya despite the many measures put in place. The chapter is of the contention that the continuity of terror attacks is a function of Al-Shabaab's ability to protect their operational intelligence by denying security agents access to that intelligence. Further to that, that the inability of the police to counter terror attacks is a function of absence of enhanced intra and interinstitutional coordination and cooperation in intelligence sharing. The chapter is organized around three parts. The first part examines factors that are internal to the police service, such as inadequate material and personnel resources, command and control issues, recruitment and deployment economics. The second part looks at the socio-economic and political factors external to the Service, such as youth radicalization,

---

<sup>1</sup> International Association of Chiefs of Police. "Post 9-11 Policing: The Crime-Control-Homeland Security Paradigm - Taking Command of New Realities." (Alexandria, VA: International Association of Chiefs of Police, 2005).

youth unemployment and political polarization. The third part examines such global factors as a common interest with the foreign security policy goals of the US, the European Union (EU) and other multilateral organizations that inform inter-institutional collaboration on security policies and strategies, including the UN, AU and IGAD.

### **3.1 Intra-Service Imperatives and Terror Attacks**

The challenge of counter-terrorism intelligence in law enforcement is structural, operational and tactical. These are critical in terms of joint decision-making process, joint operation decisions and tactical decisions. In comparison with the period before Sept. 11, an analysis of literature shows an increase in security sector budget allocations across many developed and developing countries. These efforts have been made to improve the overall set up of counterterrorism agencies. A lot of resources are being allocated for intelligence gathering, analysis and sharing, and for terrorism-related investigations. Law enforcement experts point out that there is a need for intelligence sharing when it comes to counterterrorism. The same applies for local crime prevention strategies. The centralization of intelligence sharing and analysis through a single point or network enables much success. Although the intelligence function is broad, a deeper analysis of threats renders strategic intelligence as the best tool for combating crime in the society. When responding to both internal and external threats to any given country, strategic intelligence comes handy. Strategic intelligence in counterterrorism impacts decision-making. These decisions relate to the immediate and future crime control.

Law enforcement intelligence is also an important tool for management which impacts on resource allocation, implementation and a variety of other managerial duties.<sup>2</sup> Counterterrorism requires joint decision-making, extensive collaboration among security organs, including between the police and intelligence services. Structurally, Kenya has several counterterrorism institutions with varying mandates and converging objectives. The three formations under the NPS and other affiliate agencies play different roles in the overall counterterrorism quest. Additionally, through the Prevention of Terrorism Act of 2012, Kenya established the National Counter-Terrorism Centre (NCTC). The head of the NCTC is appointed by the President from among the different agencies involved in the war against terrorism, such as the NIS, the KDF, the NPS and the office of the Attorney General among others. NCTC is tasked with coordinating national counterterrorism efforts. This implies that

---

<sup>2</sup> Peterson, M. *Intelligence-Led Policing: The New Intelligence Architecture* (NCJ 210681, US Department of Justice, Bureau of Justice Assistance, 2005), p.1.

the agency is responsible for ensuring that the different agencies involved in counterterrorism work in harmony. The specifics in this case include setting up a database for gathering intelligence which can be used by law enforcement agencies to carry out counterterrorism operations, in addition to dealing with terrorism precursors such as radicalization and the like. Other roles that the NCTC plays include spearheading public awareness campaigns with regards to the threat of terrorism.

Despite all these, various counterterrorism engagements have shown that the security and law enforcement agencies have had a challenge when it comes to coordination of efforts when launching counterterrorism interventions. This challenge is not confined to Kenya alone but is a major problem common to counterterrorism coordination initiatives across Africa — where political mistrust among government institutions has led to a “high level of skepticism” about joint efforts. For instance in Kenya, the Security Laws (Amendment) Bill reflected internal power struggles and personal differences amongst security bosses over the distribution of security related powers.<sup>3</sup> Although the National Police Service has a joint counterterrorism objective, each of its formations are managed and structured differently with varying levels of autonomy and decision-making control. The Anti-Terrorism Police Unit (ATPU) plays a critical role in detecting, deterring and disrupting terror activities, whereby there has been an alignment of policing operations and application of integrated approach in deployments. But still other police units such as the Rapid Deployment Unit (RDU), General Service Unit (GSU), Rural Border Patrol Unit (RBPU) occasionally employ dynamic strategies that are commensurate with the varying situations presented by their counterterrorism operations.<sup>4</sup> This weak coordination and poor relations is also sfound between departments tasked with policing and those that are tasked with collection of intelligence.

These departments have traded blame games following the failure to foil several terror attacks in recent years, such as the Westgate attack in 2013.<sup>5</sup> The police have also been accused of ignoring intelligence reports issued by the National Intelligence Service relating to the terrorist attacks at Garissa University, in Mpeketoni and Maporomoko. As reported by the Independent Policing Oversight Authority (IPOA), the security operation in response to the

---

<sup>3</sup> Lind, Jeremy, Patrick Mutahi, and Marjoke Oosterom. "‘Killing a mosquito with a hammer’: Al-Shabaab violence and state security responses in Kenya." (*Peacebuilding* 5, no. 2; Informa Uk, 2017), p.132. DOI: 10.1080/21647259.2016.1277010

<sup>4</sup> Fredrick Okoth Otieno. "Efficacy of Policing Approaches Utilised in Counterterrorism by the National Police Service in Lamu County, Kenya." (*IOSR Journal of Humanities and Social Science (IOSR-JHSS)*). vol. 24 no. 05, 2019), p. 43.

<sup>5</sup> Shaffer, R "Following in Footsteps: The Transformation of Kenya's Intelligence Services Since the Colonial Era." (published in *Studies in Intelligence* Vol. 63, No. 1, 2019), p.34.

massacres was uncoordinated because the different units of the police could not agree on a joint counter-offensive measure.<sup>6</sup> In this regard, a continued lack of coordination is responsible for the continued attacks.

A major underlying impediment to implementing inter-organizational counterterrorism action plan is that it also requires cooperation in a given country. In the contemporary world, counterterrorism war is highly reliant on surveillance technology. The surveillance is achieved through the use of drones. This approach is considered as a threat to national security by different countries as opposed to a means of countering terrorism. Under such circumstances, proactive measures may be oversupplied from the global perspective, such that local police agencies may emphasize counterterrorism because resources have been made available to do so.<sup>7</sup> According to Davis et al, the United States' counterterrorism preparedness positively correlates with the federal funding of the same.<sup>8</sup>

Since the 9/11 attacks, the USA embarked on a robust counterterrorism quest and as a result Kenya, an ally of the west, has received additional resources. The country has been allocated resources for border and port security<sup>9</sup>, commercial vehicle enforcement, high-tech/computer crime investigation, and preventive patrols. There is also Kenya's participation in the U.S. Terrorist Interdiction Program (TIP), which provides technology to screen travelers arriving at airports and border crossings. In addition, Kenya and the United States signed an agreement that greenlighted the implementation of advanced targeting and tracking equipment to bolster the war against terrorism. These equipment were to be placed at the major points of entry.

Among other benefits of such joint measures is the creation of intelligence fusion centers at the major points of entry which enhance the cooperation among law enforcement partners toward terrorism preparedness. To this end, a Joint Terrorism Task Force (JTTF) and the National Counterterrorism Center (NCTC) have since been established in Kenya. Additionally, the NIS along with other agencies including the Kenya Defense Forces and the National Police Service, have benefitted from training on "The Role of Command, Control, Communication and Intelligence; Chain of Command and Preparedness for Violence" by the

---

<sup>6</sup> Lind, Jeremy, Patrick Mutahi, and Marjoke Oosterom. "Killing a mosquito with a hammer": Al-Shabaab violence and state security responses in Kenya." (*Peacebuilding* 5, no. 2; Informa UK, 2017), p.131. DOI: 10.1080/21647259.2016.1277010

<sup>7</sup> Howitt, Arnold M. *Countering terrorism: dimensions of preparedness* (MIT Press, 2003), p.4.

<sup>8</sup> Bayley, David H., and David Weisburd. "Cops and spooks: The role of police in counterterrorism." In *To protect and to serve*. (Springer, New York, NY, 2009), p.82. Doi: 10.1007/978-0-387-73685-3\_4.

<sup>9</sup> Omeje, Kenneth, and John Mwangi Githigaro. "The Challenges of State Policing in Kenya." (*Peace and Conflict Review*,2012), p.13.

United Kingdom (UK) <sup>10</sup>. Consensus among law enforcement experts suggests that the Joint Terrorism Task Force effects adjustments to address state and local characteristics and nuances. Regarding regional organization and cooperation, Kenya is a member of the African Union (AU), with a seat in the Peace and Security Council.<sup>11</sup> The situation is similar in other African countries that are part of partnerships that have been brought forth by the need to fight the threat of terrorism.<sup>12</sup> For instance, Kenya contributes KDF troops to the AU mission in Somalia. Kenya is also an active participant in the counterterrorism efforts of the IGAD. Besides Kenya is a founding member and host of the East African Standby Brigade.

### 3.2 External Factors Influencing Terror Attacks

In response to the emerging terrorism threat in Kenya, the police have played an increasingly significant role in the war against terrorism. Such roles include intelligence gathering, enforcement of criminal law, emergency response among others.<sup>13</sup> With regards to the criminal justice system, the law enforcement intelligence carries out investigations and subsequently arraigns suspects in court with the evidence gathered so that they can be prosecuted. Traditional policing is characterized by strict law enforcement and arrests with limited prosecutorial discretion.<sup>14</sup> The requirement for disclosure during prosecution only applies to security agencies or the prosecutor. The investigator or prosecutor enjoys the liberty of deciding to conceal or reveal sensitive information regarding operational, tactical and strategic law enforcement operations, informant identities, or operationally sensitive sources and methods.<sup>15</sup> Therefore, the application of counterterrorism laws depends largely on to what extent the police are willing to apply the law.

Political interference is the other factor that hampers the effectiveness of the police when it comes to countering the threat of terrorism in Kenya. When it comes to politics, deployment and promotion of individuals within the police force is affected. First off, security personnel are supposed to keep Kenyans safe from both internal and external security threats. However, the ratio of security personnel to the Kenyan population is still low. This challenge is further compounded by the Kenyan politicians who feel entitled to be accorded security

---

<sup>10</sup> Edward Mogire & Kennedy Mkutu Agade. "Counterterrorism in Kenya" *Journal of Contemporary African Studies* 29 no.4, 2011), p.480. DOI: 10.1080/02589001.2011.600849

<sup>11</sup> Ibid

<sup>12</sup> Neethling, T. The entanglement between peacekeeping and counterterrorism; with special reference to peacekeeping operations in Africa in the *African Journal on Conflict Resolution* (2019)

<sup>13</sup> Waxman, Matthew C. "Police and national security: American local law enforcement and counterterrorism after 9/11." (*J. Nat'l Sec. L. & Pol'y* 3; Columbia University Law School, 2009), p.385.

<sup>14</sup> Millie A. and Das D. K. *Contemporary issues in law enforcement and policing.* (CRC Press, 2012)

<sup>15</sup> Ibid

personnel to keep them safe. As such, a significant number of security personnel is deployed as security detail of politicians at the expense of Kenyans, leaving a further emaciated police service that is still expected to ensure the safety of ordinary Kenyans.

The UN Global Counter Terrorism Strategy encourages an all-inclusive counterterrorism approach. Such an approach must include measures of addressing conditions that promote terrorism, measures of preventing and combating terrorism, and measures of ensuring that human rights are respected for all, and that the law acts as the basis of the fight against terrorism.<sup>16</sup> However, with respect to the rule of law, this study demonstrates that the enforcement of counterterrorism laws does not always guarantee an outcome. For instance, the law enforcement intelligence has preferred military, the para-military and other strong-arm tactics over instruments of law enforcement intelligence that can be tested through judicial and parliamentary oversight. This approach, while acknowledging that every suspect is innocent until proven otherwise, to the contrary propagates extra judicial killing of suspects by ‘trigger-happy’ law enforcement officers.

Since the onset of reforms in 2003, the Kenyan Police has played an increasingly significant role in the criminal justice system. While the police are expected to carry out thorough investigations and present the courts with something to prosecute (suspects and evidence), the investigative capacity of the police has often come under scrutiny following the collapse of many counterterrorism cases that could not withstand rigorous scrutiny in courts.<sup>17</sup> As a result of such failures to convict the suspects, the police tend to revert to targeted killing. In this regard, the state-funded Kenya National Commission on Human Rights (KNCHR) has continuously levelled accusations against the security agents’ extrajudicial killings and forced disappearances during counterterrorism operations.<sup>18</sup> The burden that is placed on police officers to ensure effective prosecution of the cases has contributed to the failure to convict terror suspects, many of whom later engage in the continued attacks against Kenya.

Law enforcement in the modern day and time aims to happen in accordance with ethics. The type of police services found across different countries is sharply different from the one inaugurated by Robert Peel. However, the ineffectiveness of traditional policing alongside

---

<sup>16</sup> Fredrick Okoth Otieno. “Efficacy of Policing Approaches Utilised in Counterterrorism by the National Police Service in Lamu County, Kenya.” (*IOSR Journal of Humanities and Social Science (IOSR-JHSS)*). vol. 24 no. 05, 2019), p.47.

<sup>17</sup> Edward Mogire & Kennedy Mkutu Agade. “Counterterrorism in Kenya” *Journal of Contemporary African Studies* 29 no.4, 2011), p.476. DOI: 10.1080/02589001.2011.600849

<sup>18</sup> Lind, Jeremy, Patrick Mutahi, and Marjoke Oosterom. “Killing a mosquito with a hammer’: Al-Shabaab violence and state security responses in Kenya.” (*Peacebuilding* 5, no. 2; Informa UK, 2017), p.132. DOI: 10.1080/21647259.2016.1277010

professional shortcomings amidst increasing terrorism has been glaring. The distinction is clearly in the professional strategies and conduct. Professional law enforcement accepts the responsibility for protecting citizens' civil rights while protecting the community,<sup>19</sup> rather than rigid paramilitarism. In this context, professionalism is a holistic approach that encompasses strict code of ethics and working, based on values as opposed to rules. Professionalism in policing is exhibited through culture, attitudes, mindsets, and the psychological behavior of law enforcement officers.<sup>20</sup>

The Kenya police falls short when it comes to complying to the specifics of professionalism. These deficiencies negatively impact on their efficiency when countering the threat of terrorism. Police officers in far-flung areas of Kenya where counterterrorism operations are rife have revealed that they were not remotely concerned with understanding people's interrelations with others, their emotional connections, and their lifestyles and behavioral aspects, including antisocial traits or acts.<sup>21</sup> The unbecoming conduct of police extends to a lack of professional courtesy to local administrators where counterterrorism operations are conducted. Many are not made aware of the location and purpose of such operations. The police even intimidate local administrators such as the chiefs when they raise pertinent complaints. As discussed elsewhere in this report, the raids are conducted in secrecy such that the police involved don't even identify themselves while conducting operations.

Lack of accountability by the police service is also responsible for unprofessional conduct. The policing agencies in Kenya are hardly accountable and easily get away with impunity. The violations have further served to widen the gulf and distrust between the police and the citizens.<sup>22</sup> The failure to prosecute law enforcement officers who violate human rights and those that are corrupt promotes a culture of impunity. It is this culture of impunity that proves to be stumbling block in the war against terrorism. As a result, the activities of the police are responsible for a lot of negative consequences directly connected with the anti-terrorism war. This has entrenched unnecessary religious divisions in so far as counterterrorism operations are concerned. The ineffectiveness of control techniques highlights

---

<sup>19</sup> Carter, David L. "Law enforcement intelligence: A guide for state, local, and tribal law enforcement agencies, Washington DC: US Department of Justice, Office of Community Oriented Policing Services." (Michigan State University, 2009), p.9.

<sup>20</sup> Millie A. and Das D. K. Contemporary issues in law enforcement and policing. (CRC Press, 2012)

<sup>21</sup> Chumba C., Okoth P.G., Were E. "Effectiveness of Border Surveillance Strategies in the Management of Transnational Terrorism in Kenya and Somalia" (IJPS Vol 2, no.2, 2016), p.49. Doi: 10.20431/2454-9452.0202004

<sup>22</sup> Omeje, Kenneth, and John Mwangi Githigaro. "The challenges of state policing in Kenya." (USIU-A School of Humanities and Social Sciences Faculty, 2012)

the lack of embedded policing intelligence skills which by itself provides a fertile ground for criminal and terrorism activities to thrive.

Intelligence and local law enforcement agencies engaged in counterterrorism must have the capacity to gather intelligence that can be used to counter the threat of terrorism. One such way is by fostering ties with communities to confront terrorism. A good relationship between the community and the law enforcement agencies is crucial in the war against terrorism. This is in the sense that members of the community can help the law enforcement officers to gather intelligence.<sup>23</sup> Law enforcement intelligence must have the capacity to detect environmental changes to threat so as to coin potent counterterrorism measures to nip such threats in the bud. The dilemma brought about by counterterrorism tactics is that increasing short-run security may also diminish long-run security.<sup>24</sup> Many governments have responded through a punitive hardline approach that employs the use of force against terrorists and their supporters. These include military, paramilitary repressive options and covert operatives with a goal of instilling punitive measures to systematically do away with the terrorism organization.

Considering the harms caused by acts of terror, such punitive responses seem justified. At the same time, there is also an increase in poverty levels when economic activities are interrupted by terrorism leading to a rise in unemployment levels. It is worth noting that increase in both poverty and unemployment levels orchestrates corruption, which in turn creates loopholes that terrorist elements can exploit as it increases individual susceptibility to being recruited into terrorist groups. Corruption in turn creates openings for terrorist elements to expand their terrorist and criminal reach. Counterterrorism can also fuel terrorism in that by economically suffocating potential terrorist elements it increasing the likelihood of them being recruited as they grow frustrated.<sup>25</sup> Economic deprivation renders individuals frustrated and this leaves them vulnerable to being recruited by terrorist groups that may lure them with money.<sup>26</sup> Part of Kenya's internal security challenges are compounded by the state's alleged use of violence and perceived inequalities among the citizens. Over a long time, this internal security challenge has provided a safe haven for the threat posed by Al-Shabaab to thrive. Moreover, the prejudice perceived to be harbored by security agencies against Somalis hampers

---

<sup>23</sup> Millie A. and Das D. K. Contemporary issues in law enforcement and policing. (CRC Press, 2012)

<sup>24</sup> Ibid

<sup>25</sup> De Mesquita, Ethan Bueno. "The political economy of terrorism: A selective overview of recent work." *The Political Economist* 10, no. 1 (2008), p.7.

<sup>26</sup> Krieger, Tim, and Daniel Meierrieks. "What causes terrorism?." (*Public Choice* 147, no. 1-2; Springer 2011), p.5. Doi: 10.1007/s11127-010-9601-1.

the war against terrorism.<sup>27</sup> Security responses based on the aforementioned prejudice is responsible for a continued spate of insecurity in the areas that such communities inhabit as they perceive law enforcement officers as enemies rather than enforcers of the peace.

As seen in the preceding chapters, the US led the rest of the world to wage war on terror on a global scale after the 9/11 terror attack. In Kenya, counties in the coastal and North Eastern regions have suffered immensely from terrorism activities, whereby the terrorists often intend to create religious discord in the country for their interests. Consequently counterterrorism in Kenya has disproportionately been biased against the local Muslim community. Both in Kenya and in the West, Muslims have often been seen as terrorists or terrorists' sympathizers. Islamic radicalization is usually associated with sympathy for terrorists.<sup>28</sup> The US has increasingly been involved in the counterterrorism pursuit in Kenya by deploying its operatives to the areas where the threat of terrorism is imminent, mainly in the Coastal and the North Eastern regions. This move serves to secure the security interests of both nations.

Socioeconomic disparity is the other factor that propagates terrorism in Kenya. The regions where the inhabitants are normally suspected of being terrorist sympathizers are mainly occupied by Muslims and are usually marginalized. The people there are thus vulnerable to being recruited by Islamist militant groups that promise them economic prospects. There is also the notion that those escaping the conflict in Somalia bring with them the threat of terrorism into the refugee camps. This has resulted in Somalis and the Muslim community in general being labelled as terrorist sympathizers. Curbing terrorism therefore becomes challenging because of claims that the counterterrorism measures are discriminatory against the Muslim community in Kenya, particularly the Somali. Consequently, sharp reactions have been elicited on the grounds that the Muslim community is being discriminated against. Ideally, the Muslim community should be incorporated into the counterterrorism quest. The local residents believe that their regions are targeted in counterterrorism investigations and operations because of the belief that young people from the area are radicalized.<sup>29</sup> There is an entrenched perception that the police are extortionists, partisan and unaccountable in their operations. Sections of the local residents believe that with the profiling of the region as a terrorist haven, there is open discrimination against the indigenous population.

---

<sup>27</sup> Lind, Jeremy, Patrick Mutahi, and Marjoke Oosterom. "Killing a mosquito with a hammer': Al-Shabaab violence and state security responses in Kenya." (*Peacebuilding* 5, no. 2; Informa UK, 2017), p.133. DOI: 10.1080/21647259.2016.1277010

<sup>28</sup> Edward Mogire & Kennedy Mktu Agade. "Counterterrorism in Kenya" *Journal of Contemporary African Studies* 29 no.4, 2011), p.485. DOI: 10.1080/02589001.2011.600849

<sup>29</sup> Mohochi, Samwel Mukira. "Preventive Counter Terrorism Action': Case Study of Kenya." (*Available at SSRN 1898930*, 2011), p. 5. Available at <<http://dx.doi.org/10.2139/ssrn.1898930>>

Kenya's counterterrorism strategy of supporting global war on terror can be deemed as counterproductive due to the fact that its cordial relationship with both the West and Israel have rendered it a terrorist target.<sup>30</sup> Counterterrorism security operations have negatively affected the local economy which largely relies on tourism. For instance the various travel advisories that have been issued against Kenya by foreign countries, whose citizens make up a big chunk of tourists that consume Kenya's tourism products and services, have resulted in low revenues in the tourism sector. This is because of low tourist numbers, which subsequently leads to massive layoffs and closure of hotels and hospitality premises. By extension, counterterrorism operations have affected the reputation of some of the towns in terms of business and trade.

At the most basic level, both counter-terrorism and humanitarian laws seek to protect civilians from harm. To fulfil its responsibility and obligation to protect its citizens under the human rights umbrella, a state has the duty to draft and employ effective and efficient counter-terrorism measures in order to deter and prevent any aggressive attacks. This includes the responsibility to prevent any future terrorist attacks and also to prosecute those that have been found to aid or are responsible for carrying out terrorist attacks. Failure to balance with the need for upholding basic human rights and operational intelligence requirements presents a major problem especially here in Kenya. In this regard the UN in its resolutions obliges countries to align their counterterrorism measures with the international human rights law, refugee law and the humanitarian law.<sup>31</sup> However, in the aftermath of the global war on terror, governments have been forced to intrude into personal privacy.<sup>32</sup> Furthermore, the nature of new anti-terrorism approaches are technical and legal. These laws are intended to tighten border controls, financial transactions, or protect communication networks and other infrastructure which impinge on certain freedoms.

To establish and employ effective counter-terrorism measures, states must sometimes undermine some civil liberties which in turn raises serious human rights concerns for countries including Kenya.<sup>33</sup> This is because while some counterterrorism actions may be deemed legal by some, they may be illegal to others and/or neither legal nor illegal to yet others. Such imbalance is found where counter-terrorism action is both intelligence and intervention, such

---

<sup>30</sup> Edward Mogire & Kennedy Mkuu Agade. "Counterterrorism in Kenya" *Journal of Contemporary African Studies* 29 no.4, 2011), p.485. DOI: 10.1080/02589001.2011.600849

<sup>31</sup> Fredrick Okoth Otieno. "Efficacy of Policing Approaches Utilised in Counterterrorism by the National Police Service in Lamu County, Kenya." (*IOSR* vol. 24 no.5, 2019), p.41.

<sup>32</sup> Privacy International. "Track, Capture, Kill: Inside Communications Surveillance and Counterterrorism in Kenya." (Privacy International, 2017), p.12.

<sup>33</sup> Sempijja, Norman & Nkosi, Bulelwa. "National Counter-Terrorism (C-T) Policies and Challenges to Human Rights and Civil Liberties: Case Study of Kenya." (ResearchGate, 2019), p.4. Doi: 10.1007/978-981-10-4181-5\_36

as the detention of a suspect. For instance arresting a militant terrorist during battle and the subsequent interrogation qualifies as both intelligence and law enforcement. Another example of the imbalance faced by governments is when protecting intelligence sources, which may require limiting the disclosure of evidence at hearings related to terrorism. It may prove challenging to do this while at the same time respecting the right to a fair trial and the right to a fair hearing for the individual. Amidst the lack of clarity regarding counterterrorism actions, the United Nations OHRC suggests that in order to deal with the imbalance, countries must develop legal frameworks to properly incorporate intelligence information and analysis into both the operational planning and post incident accountability phases of state responsibility. This, they argue, must further ensure that only such solid information, combined with the adoption of appropriate procedural safeguards, would lead to the use of lethal force.

Even though modern law enforcement seeks to perform all law enforcement responsibilities in a lawful and professional manner, the contrary has however been happening. For instance in order to gain access to terror suspects, governments have had to intercept and monitor private communications of individuals. However, such intelligence efforts to counter terrorism have resulted in the violation of human rights. Such violations occur in the form of lack of adherence to the due process and unlawful monitoring of individuals elements such as speeches. In Kenya, the National Intelligence Service Act (2012) grants the Director General of the NIS the ability to intercept an individual communications when the agency has ‘reasonable grounds to believe’ such information is required for an investigation, subject to a prior application to the High Court for an interception warrant. On the law enforcement side, the Prevention of Terrorism Act (2012) grants police officers of or above the rank of a Chief Inspector the powers to request for an interception of communications order from the High Court. In practice, however, intelligence gained by intercepting phone communications primarily by the NIS is provided regularly to units of the police to carry out counterterrorism operations, particularly the GSU-Recce company and Anti-Terrorism Police Unit (ATPU) without following the due process.<sup>34</sup>

Similarly, while the main objective of the rule of law in regard to combating counterterrorism is to avert victimization, it is accompanied by diverse established principles which are appropriate to humanitarian action. Several reports and studies have indicated potential inharmoniousness between impartial, independent and neutral counter-terrorism objectives,

---

<sup>34</sup> Privacy International. “Track, Capture, Kill: Inside Communications Surveillance and Counterterrorism in Kenya.” (Privacy International, 2017), p.16.

and humanitarian action. In particular, impartiality forbids discrimination based on age, nationality, religion, race, or other similar criteria. However, this approach contradicts existing counter-terrorism actions which through profiling, assume certain armed actors to be terrorists, hence they are considered criminal and one may be victimized for engaging with them. Thus, profiling based on characteristics that comprises of political inclination, color, ethnicity, economic status becomes the easiest route to identification of any terror suspect, criminal or otherwise.<sup>35</sup> In Kenya, targeting certain groups such as the Muslims and the Somalis through profiling has created a feeling of victimization.<sup>36</sup>

One of the factors that create mistrust between the police and members of the local communities is barracking as it alienates them from connecting with the society. Detached from reality, the police are likened to conscienceless beings that are hellbent on unleashing a reign of terror on innocent civilians in the name of following ‘orders from above’. As such, anti-terrorism operations are characterized by unparalleled violence meted on members of the community by the law enforcement officers. It can be argued that barracking of the police has been counterproductive in the war against terrorism. This argument is brought forth by the reality that the police are perceived by local community members as enemies. With this perception, the community members cannot cooperate with the police in terms of sharing intelligence that can help them thwart terrorism plots. Simply put, the general public has trust issues when it comes to working with the police. No one can blame the public for not trusting the police, but the mistrust can be blamed for creating a loophole that terrorist elements take advantage of to orchestrate terror attacks in the country.

Over the last decade as counter-terrorism measures and laws have been drafted and developed considerably, humanitarian actors such as NGOs have begun to fear for the impact on their work.<sup>37</sup> The degree to which organizations are targeted by counter-terrorism legislation vary within the NGO sector. Many NGOs are more or less targeted because of their workers nationalities and the environment they are expected to operate in. This is regardless of the variability of regional counter-terrorism legislation procedures or ability to satisfy the conditions of the most challenging host state standards. The NGO's operation category is a deciding factor as well. How governments and, to some degree, the general population view

---

<sup>35</sup> Musau, S. “Combating terrorism and upholding Human Rights in Kenya.” *African Policing Civilian Oversight Forum*. (APCOF Press, 2018), p.6.

<sup>36</sup> Sempijja, Norman & Nkosi, Bulelwa. National Counter-Terrorism (C-T) Policies and Challenges to Human Rights and Civil Liberties: Case Study of Kenya. (ResearchGate, 2019). 10.1007/978-981-10-4181-5\_36. p.1-19

<sup>37</sup> Privacy International. “Track, Capture, Kill: Inside Communications Surveillance and Counterterrorism in Kenya.” (Privacy International, 2017), p.6.

NGOs often shape how they are affected. To be suspected of mutual support, as some of the organizations have been, has resulted in closure of their operations. A number of Muslim associated non-governmental groups have undergone stronger criticism than secular organizations.

In Kenya, the government is also increasingly scrutinizing civil society groups as part of its counterterrorism campaign. In late 2014, it deregistered 500 civil society groups 17 for alleged registration irregularities and suspected fraud. Prominently critical Muslim human rights groups were deregistered and had their bank accounts frozen in April 2015 when the government claimed that they were linked to the Al-Shabaab.<sup>38</sup> Ultimately, the push and pull between police actions and humanitarian law has diverted resources from what should be the core focus of counterterrorism, resulting in continued attacks.

### **3.3 Global Factors Constraining the Containment of Terror**

Generally speaking, the security apparatus in Kenya have had a common interest with the foreign security policy goals of the US, the European Union and other multilateral organizations including the UN, AU and IGAD. In so far as Kenya is concerned, the convergence of interests as has been mentioned above is beneficial because international cooperation and support can assist to overcome capacity deficits with respect to policing terrorism.<sup>39</sup> However, Kenyan counterterrorism efforts in as much as they enjoy vast material support from the West, have been at best ineffective and at worst counterproductive.<sup>40</sup> Further, the broad donor-driven counter-terrorism funding agreements have caused tensions among local institutions. While all of Kenya's counterterrorism security agencies share similar responsibilities and jurisdictions, there is an intense inter-institutional rivalry. These conflicts reveal division among the country's security leadership. In many instances the security leadership is viewed as being interested in advancing selfish agency-specific interests with the aim of having an advantage over other institutions involved in counterterrorism efforts. The division is further amplified by the absence of a reliable regional intelligence mechanism to

---

<sup>39</sup> Chumba C., Okoth P.G., Were E. "Effectiveness of Border Surveillance Strategies in the Management of Transnational Terrorism in Kenya and Somalia." (*International Journal of Political Science (IJPS)* Volume 2, Issue 2, 2016), p.42. Doi: 10.20431/2454-9452.0202004

<sup>40</sup> Edward Mogire & Kennedy Mkutu Agade. "Counterterrorism in Kenya" *Journal of Contemporary African Studies* 29 no.4, 2011), p.485. DOI: 10.1080/02589001.2011.600849

coordinate information sharing, while external intelligence information is routinely ignored.<sup>41</sup> As a result, terrorists have exploited this division to continue their attacks in the country.

When it comes to fighting the threat of terror, the Kenya Police is usually keen to display its role in the counterterrorism arena. However the challenges that the Kenya Police face, most of which have been discussed above, impact negatively on the police effectiveness in handling terrorism. As the internal security apparatus for a sovereign country, the Kenya police prides in its mandate to keep Kenya safe. But going by the number and destructiveness of the recent terrorist attacks, it is apparent that the Kenya Police is struggling to keep Kenyans safe. Comparatively, foreign intelligence institutions such as the FBI have the resources and the capacity to gather intelligence that is critical in dealing with the threat of terrorism. As such, a cooperation between the Kenya Police and the FBI would be beneficial to Kenya as its security apparatus would benefit from the resource surplus resulting from the relationship. However, there is a perception among the security apparatus in Kenya that asking for help from foreign intelligence institutions is a sign of weakness. While the relationship between the two parties is not estranged, the Kenya Police has always been reluctant to ask for help to offset its shortcomings. This trend has had detrimental ramification to the security situation in the country. For instance during the Westgate terror attack, the security agencies in Kenya wanted to appear to respond to the attack without seeking help from any foreign agency.

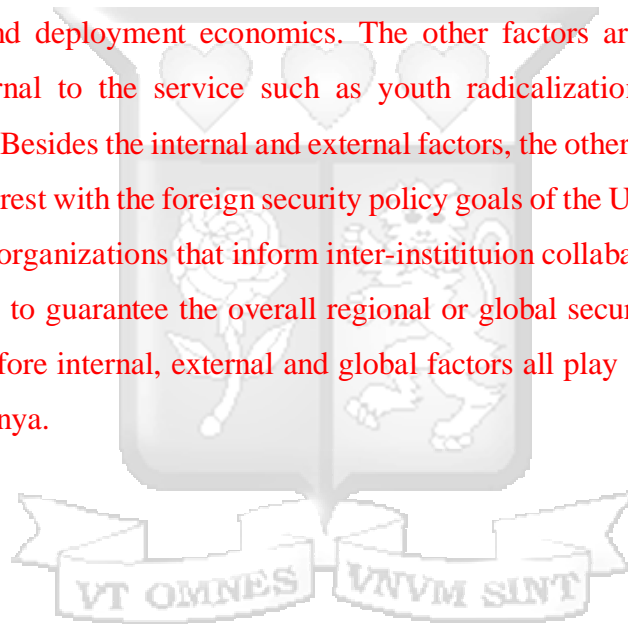
The prevailing notion after the terror attack was that if the security agencies in Kenya had sought help from foreign intelligence agencies such the Mossad and the FBI, the siege would not have lasted as long as it did. In addition, the number of casualties would not have been as high as it turned out to be. Essentially, the relationship between the Kenya Police and other foreign intelligence institution is not severed. The problem is that the Kenya Police is keen to reassure the Kenyan public as well as the international audience of its ability to counter the threat of terrorism. Evidently, the Kenya Police faces several challenges hence cannot effectively counter the threat of terrorism on its own.

Changes in policing arising from the threat of terrorism have demonstrated two significant dimensions. One is the organizational and tactical shift by law enforcement agencies in reaction to threats, much of which is strategic. The other shift is in the areas of training, resources, reorganization, deployment, and coordination between or among relevant security departments. As discussed above, the Kenya Police has been unable to counter the terrorism

---

<sup>41</sup> Edward Mogire & Kennedy Mkutu Agade. "Counterterrorism in Kenya" *Journal of Contemporary African Studies* 29 no.4, 2011), p.486. DOI: 10.1080/02589001.2011.600849

threat because the department lacks the requisite capacity. We have seen that this inability stems from inadequate resources in terms of finances, training and equipment. In other words, the enemy is adequately funded, better trained and more equipped than the police service in Kenya. Furthermore the threat is more severe and much complicated now thus requiring coordinated efforts by law enforcement agencies from within and across the borders. The main argument in this chapter of the study is that the continuity of terror attacks is a function of the terrorists' ability to protect their operational intelligence by denying security agents access to that intelligence. Further to that, that the inability of police to counter terror attacks is a function of absence of enhanced intra and interinstitutional coordination and cooperation in intelligence sharing. We have seen that some of the factors which expose the country to terror attacks are internal to the force such as inadequate material and personnel resources, command and control issues, recruitment and deployment economics. The other factors are socio-economic and political factors external to the service such as youth radicalization, unemployment and political polarization. Besides the internal and external factors, the others are the global factors such as a common interest with the foreign security policy goals of the US, the European Union and other multilateral organizations that inform inter-institution collaboration such as security policies and strategies to guarantee the overall regional or global security, including the UN, AU and IGAD. Therefore internal, external and global factors all play a part in the continuity of terror attacks in Kenya.



## CHAPTER FOUR

### INTELLIGENCE SHARING AND COORDINATION ISSUES IN COUNTERTERRORISM OPERATIONS IN KENYA

#### 4.0 Introduction

*“National intelligence agencies are an important component for the security of the state as an inter-agency outfit but is of no use to the nation, particularly if its policymakers do not understand their role in the cycle.”<sup>42</sup>*

The challenge of maximizing on intelligence is fundamental to the success or failure of counterterrorism operations. In this chapter, we examine the reality of this assertion with respect to the Kenya law enforcement agencies. The chapter examines and analyzes the crisis of intra and inter-institutional coordination and intelligence sharing, and the implications for police counterterrorism operations. The chapter is anchored on the predicate that intelligence sharing and coordination are critical elements when dealing with organized groups and terrorists. Maximizing on select cases such as the terrorist attacks at the Westgate Mall,<sup>43</sup> Dusit D2, Mpeketoni,<sup>44</sup> Manda Bay military camp<sup>45</sup> and Operation Linda Boni.<sup>46</sup> The chapter lays out inherent challenges and trickle-down effects.

Efficacy intelligence-based policing demands commitment and coordination at the strategic, tactical and operational levels among the national security organs.<sup>47</sup> Among the major considerations to the intelligence policing model include strategic planning, robust inter-agency collaboration, augmented information sharing, community liaison and centralized command structure.<sup>48</sup> This chapter argues that intelligence sharing and coordination among the Kenyan security organs have been characterized by conflict rather than cooperation. The national intelligence cycle is fundamentally disjointed such that planning, gathering, analysis,

---

<sup>42</sup> Lebishoy, Kitur S. "Paradigm shift in Kenyans security intelligence service: a case study of Kenya, 1963-2010." (Ph.D. diss., University of Nairobi, 2013), p.78.

<sup>43</sup> Anderson, David M., and Jacob McKnight. "Kenya at war: Al-Shabaab and its enemies in Eastern Africa." (*African Affairs* 114, no. 454, 2015): 1-27.

<sup>44</sup> Njeru, M & Ntoyai, J et al. "IPOA Report Following the Mpeketoni Attacks (15 and 16 June 2014): Redacted Version." (IPOA, 2014), p.15. Available at <<https://reliefweb.int/sites/reliefweb.int/files/resources/MpeketoniAttackMonitoringReport.pdf>> [October 31, 2020]

<sup>45</sup> Bariyo Nicholas and Donati Jessica. "U.S. Says Attack in Kenya Kills Three Americans." (Wall Street Journal, January 5, 2020). Accessed from < <https://www.wsj.com/articles/u-s-and-kenyan-forces-repel-airfield-attack-by-al-shabaab-11578238596>> > [November 7, 2020]

<sup>46</sup> Mogire, Edward, Kennedy Mkutu, and Doreen Alusa. "Policing Terrorism in Kenya." *Security Governance in East Africa: Pictures of Policing from Ground* 79. (Rowman & Littlefield, 2017).

<sup>47</sup> Ratcliffe, Jerry H. *Intelligence-led policing*. (Routledge, 2016), p.16.

<sup>48</sup> Ibid.

production, and dissemination of intelligence among the security agencies barely exist.<sup>49</sup> The disconnect among NIS, the police, and military intelligence emanate from supremacy battles over the control of strategic operations, coupled by rigid command structures, and fundamental mistrust among the respective agencies' personnel. Personal and institutional interests perpetuate individual security heads' appetite to command critical counterterrorism operations. Consequently, such interests elicit impulsive actions that overshadow pragmatism leading to costly intelligence gaps and security lapses.

The chapter is structured around two parts. First is an examination of inter-agency coordination and intelligence sharing constraints among state security institutions in Kenya. The second part analyzes the dynamics of intelligence sharing and coordination among Kenya's security agencies, and between them and external allied agencies. Comparative analysis of the specific case scenarios formed the nexus to determine the blindspots in intelligence sharing and the vitality of robust inter-agency coordination. Lastly, this chapter assesses coordination and intelligence gathering with respect to the NPS and foreign intelligence agencies such as the FBI and the Mossad among others. In this regard, the study analyzes the effect of coordination and intelligence sharing constraints on the success or failure of such operations. Across the different sections in this chapter, the aim is to emphasize the importance of coordination and intelligence sharing in counterterrorism operations.

#### **4.1 Kenya Police, NIS, and the Politics of Actionable Intelligence.**

Robust coordination among the national security organs involves regular and consistent sharing of human, signals, technical, and counterintelligence.<sup>50</sup> The holistic approach to intelligence management ensures that strategic, operational, and tactical commanders have adequate information to plan and execute pro-active counter-security measures based on actionable intelligence. However, coordination between the NIS and police agencies has been constrained by the spy agency's conspicuous nature. For illustration, the NIS has been substantially opaque to partner with security organs that depend on HUMINT and SIGINT updates. Most of the NIS activities are conducted under utmost secrecy, while the personnel maintains reclusive profiles. The spies maintain minimal contact with the police officers even in joint security operations. Primarily, the intelligence shared by NIS only captures the specific

---

<sup>49</sup> Walubengo John. " Westgate Terror Attack: What is the nature of our Intelligence System?" (*Daily Nation*, September 23, 2013). Accessed from < <https://www.nation.co.ke/kenya/blogs-opinion/blogs/dot9/westgate-terror-attack-what-is-the-nature-of-our-intelligence-system--896998>> [November 7, 2020].

<sup>50</sup> Ratcliffe, Jerry H. *Intelligence-led policing*. (Routledge, 2016), p. 17.

details without giving the background details. For instance, NIS officers have occasionally directed ATPU and RRT teams to suspects without providing further information about the suspects' profiles. This has repeatedly raised concerns among the police teams over the actual motives leading to such arrests. In various instances, investigating agencies have failed to make meaningful progress on terror cases because NIS personnel avoided involvement in court proceedings. For example, ATPU officers have often been unable to justify to the court the need for a warrant of intercepting communication from suspects due to non-cooperation from the NIS officers.<sup>51</sup>

The Westgate mall security fiasco unearthed underlying gaps in intelligence sharing between the NIS and NPS.<sup>52</sup> Police and intelligence chiefs shifted the blame on each other as it emerged that the attack, orchestrated by Al Shabaab, could have possibly been averted.<sup>53</sup> For instance, Al Shabaab cells are believed to have set up a shop at the mall months before the attack. The shop was used as a logistical and surveillance base as the terrorists rolled out their plan meticulously without raising the suspicion of NIS and DCI counterterrorism units.<sup>54</sup> During the parliamentary security committee hearings in wake of the Westgate attack, Maj. Gen. (Rtd) Gichangi, the then NIS Director, reported that the spy agency had issued warnings of an imminent attack to the Inspector General of Police and to the Director DCI.<sup>55</sup> The Al Jazeera investigative report of October 2013 noted that a NIS risk assessment brief had pinpointed Westgate as a possible target, although the specific dates for the attack had not been given.<sup>56</sup> In the intelligence report released in September 2012, NIS had warned of active Al Shabaab cells who intended to conduct a high magnitude attack on the Israeli-owned business premises.<sup>57</sup> Apparently the intelligence so given seems to have not been acted upon at the strategic level by the DCI and NPS commanders. Consequently, the officers at the tactical level had no intelligence to move in expeditiously and avert the attack. For instance, the first police officers to arrive at the scene were on regular patrol and initially thought that they were

---

<sup>51</sup> Privacy International. "Track, Capture, Kill: Inside Communications Surveillance and Counterterrorism in Kenya." (Privacy International, 2017), p.30.

<sup>52</sup>KNA. "Report of the Joint Committee on Administration and National Security; and Defense and Foreign Relations on the Inquiry into the Westgate Terrorist Attack, and other Terror Attacks in Mandera in North-Eastern and Kilifi in the Coastal Region." (Kenya National Assembly, Eleventh Parliament-First Session, 2013), p.7.

<sup>53</sup> Ibid.

<sup>54</sup> Ibid.

<sup>55</sup> Shaffer, Ryan. "Following in Footsteps: The Transformation of Kenya's Intelligence Services since the Colonial Era." (*Studies in Intelligence* 63, no. 1; CIA, 2019), p.34.

<sup>56</sup> Yusuf Mohammed. "Kenyan Officials Warned of 'Westgate' Attack." (*Al Jazeera*, October 1, 2013), par.3. Available at <https://www.aljazeera.com/features/2013/10/1/kenyan-officials-warned-of-westgate-attack> [October 31, 2020]

<sup>57</sup> Ibid

responding to an armed robbery incident at the mall.<sup>58</sup> Such scenes of a lack of situational awareness demonstrated a dysfunction in intelligence sharing and coordination between NIS and police at strategic and tactical levels. To support this assertion, the Parliamentary Security and Defense Committee noted the existence of a major disconnect in intelligence sharing between NIS and NPS at the county, regional and national levels.<sup>59</sup> The parliamentary report implicated top police commanders for ignoring the strategic intelligence collated and disseminated by the NIS team.<sup>60</sup> However, no evidence exists as to whether any disciplinary action was instituted on the culpable officers. Furthermore, the NPS's lack of preventive action on the shared intelligence pointed to gross violation of Article 244 of the Constitution that demands professionalism and work ethics on police service.

Similarly, the terrorist attacks in Mpeketoni demonstrated the discord in intelligence sharing and coordination between NPS and NIS. In the first attack on June 15, local police had no prior warnings because advanced intelligence had been withheld at the strategic level by the regional and county police chiefs. In the ensuing attack, A.P. Divisional Headquarters and Mpeketoni police stations were overrun by heavily armed Al Shabaab militias. During the Mpeketoni attacks, local Kenya police and APS officers were caught unawares despite augmented counterintelligence operations in Lamu by NIS and DMI officers. According to the IPOA fact-finding report on the Mpeketoni attacks, Mombasa regional and Lamu County NPS commanders ignored NIS's pre-emptive warnings in the prelude to successive attacks propagated in June 2014.<sup>61</sup> For illustration, NIS had raised the alarm over groups of armed foreigners who had been sighted by locals around Panda Nguo and Boni forests a few weeks before the Mpeketoni attack.<sup>62</sup>

In particular, a month before the first June 2015 attack, NIS had obtained credible information about a cache of weapons that had been concealed at a hotel in Witu.<sup>63</sup> The arms had been smuggled into the country through the Liboi border. However, senior police chiefs

---

<sup>58</sup> Lebishoy, Kitur S. "Paradigm shift in Kenyans security intelligence service: a case study of Kenya, 1963-2010." Ph.D. diss. (University of Nairobi, 2013), p.69.

<sup>59</sup> KNA. "Report of the Joint Committee on Administration and National Security; and Defense and Foreign Relations on the Inquiry into the Westgate Terrorist Attack, and other Terror Attacks in Mandera in North-Eastern and Kilifi in the Coastal Region." (Kenya National Assembly, Eleventh Parliament-First Session, 2013), p.53.

<sup>60</sup> Ibid

<sup>61</sup> Njeru, M & Ntoyai, J et al. "IPOA Report Following the Mpeketoni Attacks (15 and 16 June 2014): Redacted Version." (IPOA, 2014), p.15. Available at <<https://reliefweb.int/sites/reliefweb.int/files/resources/MpeketoniAttackMonitoringReport.pdf>> [October 31, 2020]

<sup>62</sup> Ibid

<sup>63</sup> Ibid

ignored the crucial intelligence leads, giving Al Shabaab cells the leeway to plan and execute the deadly attacks.<sup>64</sup> Due to a disconnect in intelligence flow, the response from RDU and GSU reinforcements dispatched to de-escalate the Mpeketoni attacks was characterized by confusion. For instance, both teams were uninformed on the local terrain and the escape routes predominantly used by Al Shabaab operatives. Furthermore, as IPOA pointed out, lack of information sharing created a loophole for the secondary attack on June 16. Consequently, a total of 60 civilian and police lives that could have been saved were lost as the warning intelligence had been rendered useless by inter-agency feuds. As the report noted, bad blood between the regional police commanders and NIS chiefs rendered the given intelligence useless because it was disregarded at the strategic and tactical police levels. The unabated negligence illustrated weak accountability mechanisms in the national security system as far as actionable intelligence is concerned.

In hindsight, recent NPS's reactionary anti-terrorism measures have primarily resulted from the failure to tap into the NIS's technical capabilities. For instance, the successive ambush attacks against civilian and police convoys in Garissa and Mandera<sup>65</sup> could have been averted had the police liaised with NIS for conclusive threat assessment. The NIS possesses phone calls interception abilities, triangulation, and network jamming equipment to detect suspicious terrorist-related activities if optimally utilized.<sup>66</sup> The NIS technical team has been operating Base Transmission Stations (BTS) in Nairobi and North Eastern areas.<sup>67</sup> These BTS hold call registers that can geo-locate all suspicious Al Shabaab elements using GPS or satellite technology. However, top GSU and A.P. commanders have repeatedly failed to utilize such advanced technology resulting in botched counterterrorism operations. For instance, on June 15, 2019, eight GSU officers were killed while tracking down Al Shabaab militants in East Wajir after their land cruiser hit an IED. The incident could have been prevented if the GSU contingent on patrol had prior intelligence on the impending ambush.

Nonetheless, relations between NIS and Kenya police improved slightly against the backdrop of disastrous counterterrorism operations at Westgate and Garissa University. Enhanced coordination between the two security organs is vital in counterterrorism operations, as witnessed during the Riverside Complex attack response in January 2019. In particular,

---

<sup>64</sup> Ibid

<sup>65</sup> Atallah Juliet. "A Timeline of Terror Attacks in Kenya Since 1975." (*The Elephant Info*, January 20, 2019). Accessed from <<https://www.theelephant.info/data-stories/2019/01/20/a-timeline-of-terror-attacks-in-kenya-since-1975/>> [November 7, 2020]

<sup>66</sup> Privacy International. "Track, Capture, Kill: Inside Communications Surveillance and Counterterrorism in Kenya." (Privacy International, 2017), p.27.

<sup>67</sup> Ibid

police units had swiftly organized themselves and responded within minutes after the attack unwrapped. For instance, Mr. George Kinoti, the Director of DCI, had arrived at the scene within minutes, accompanied by the defunct Flying Squad and SPCU officers. The Recce team was also activated, and the local police and NIS units immediately on the ground conducted a preliminary situational analysis and risk assessment. As an efficiency measure, the Operations Command Centre at Dusit D2 was coordinated by Mr. Edward Mbugua, the Deputy Inspector-General of Police.<sup>68</sup> The establishment of a unitary hierarchy of command and a clear definition of the various law enforcement agencies' roles averted intra and inter-agency conflicts. Unlike the Westgate incident where supremacy battles reigned, Dusit D2 operation unfolded seamlessly under utmost professionalism. Recce Squad, Bomb Disposal Unit, NIS Counterterrorism team, DCI units, and foreign intelligence agencies harmonized the rescue and evacuation operations, thereby saving many lives in the process.

However, notable gaps remain in intelligence sharing despite the progressive efforts of harmonizing NIS and NPS operations. Although the NIS counterterrorism division has been availing vital data to frontline teams, surprise Al Shabaab counter-attacks have continued to bedevil North Eastern and Coastal areas. For instance, on January 5, 2020, NIS and DMI counterterrorism teams were caught flat-footed as Al Shabaab militants launched a brazen attack on Manda Bay forward operating base.<sup>69</sup> Three American soldiers were fatally injured as the militias went on a rampage at the U.S. operated facility. Lack of coordination between NIS and NPS tactical teams caused the security breach that allowed the insurgents to plan and execute the raid on the highly sensitive facility without prior detection.

#### **4.1(a) Police vs. KDF-DMI**

One of the tenets of a versatile intelligence system is robust coordination and information sharing network between the police and the military. Military intelligence comes into the internal security matrix because organized criminal groups such as terrorists have a transnational web of operatives. For instance, the military intelligence unit of KDF is vital in tracking down Al Shabaab operatives from their operational hideouts in Somalia. As such, the

---

<sup>68</sup> Kamau John. "How Security Forces Outplayed Terrorists in Rescue Mission." (*Daily Nation*, January 17, 2019), par.5. Accessed from <<https://nation.africa/kenya/news/how-security-forces-outplayed-terrorists-in-rescue-mission-128918>> [November 1, 2020]

<sup>69</sup> Gibbons-Neff, Schmitt Eric, & Savage Charlie et al. "Chaos as Militants Overran Airfield, Killing 3 Americans in Kenya." (*New York Times*, January 22, 2020), par.3. Accessed from <<https://www.nytimes.com/2020/01/22/world/africa/shabab-kenya-terrorism.html>> [November 1,2020]

seamless circulation of strategic and tactical intelligence between the police and DMI is critical in planning and executing efficacious counter terrorism operations. Strategic planning involves joint mapping of terrorist bases, analysis, and collating the intelligence tips and operationalization of pro-active counterterrorism strategy based on actionable intelligence. Unfortunately, the divide between the NPS and KDF has been deep-rooted and hindered the realization of a successful joint counterterrorism approach. The liaison channels between the two security organs have been minimal, tense, and strenuous. Furthermore, the coordination gap has been aggravated by a lack of legal provisions establishing standard operating procedures for joint KDF-NPS special operations. In numerous instances, frontline officers drawn from the KDF have disregarded either information leads or instructions from police commanders and vice-versa. The culture of antagonism has been detrimental to national security, as witnessed during major counterterrorism operations.

As discussed above in the opening remarks, the security operation that followed the Westgate mall attack was overshadowed by turf wars between the military and the police tactical and strategic teams.<sup>70</sup> The absence of real-time intelligence sharing and rigid command structures between the police and military teams stalled the rescue and evacuation process for days. In contrast, the attackers ravaged through the mall smoothly in a well-scripted tactical formation. The terrorists had insurmountable intelligence at their disposal occasioned by months of reconnaissance missions at the mall and a detailed pre-attack plan. During the raid, the attackers received regular updates and instructions from a centralized source, as reported by forensic intelligence officers who analyzed CCTV footage and phone call signals originating from the attackers.<sup>71</sup>

The multi-agency team consisting of the defunct Flying squad, Recce team, KDF infantry advance team, and KDF Rangers Strike Force teams conducted rescue and evacuation operations in the mall without a clear central coordination.<sup>72</sup> Most notably, the KDF Special Forces and the Recce Squad found themselves on a collision course during the operation as each was receiving commands from their respective superiors.<sup>73</sup> Tactical intelligence was

---

<sup>70</sup> KNA. "Report of the Joint Committee on Administration and National Security; and Defense and Foreign Relations on the Inquiry into the Westgate Terrorist Attack, and other Terror Attacks in Mandera in North-Eastern and Kilifi in the Coastal Region." (Kenya National Assembly, Eleventh Parliament-First Session, 2013), p.52.

<sup>71</sup> NYPD. "Analysis of Al-Shabaab's Attack at the Westgate Mall in Nairobi, Kenya." (NYPD, 2013), p.22.

<sup>72</sup> Mwangi, Oscar Gakuo. "Neo-elitism and counterterrorism operations in Kenya." (*African security review* 26, no. 1; Taylor and Francis, 2017), p.17.

<sup>73</sup> KNA. "Report of the Joint Committee on Administration and National Security; and

scanty to both teams even as they grappled to secure the building and rescue the hostages. Police commanders relied on phone messages from the hostages to brief the Recce team on the mall's situation.<sup>74</sup> However, it is unclear whether the KDF team had prior situational intelligence as they breached into the mall since they had a parallel and discreet command center.<sup>75</sup> Due to discrepancies in information and lack of coordination, the operation was marred by confusion from the onset. For instance, the absence of situational intelligence at some point led to an exchange of fire between the Recce team and KDF Special forces. A Recce Squad commando was fatally wounded by the friendly fire forcing the elite GSU team to withdraw from the operation.<sup>76</sup>

KDF deployment to Westgate mall was not informed by prior military intelligence but rather legal provisions of Article 241 (3) (b) of the Constitution, which mandates KDF to intervene in emergencies.<sup>77</sup> As such, the military plan was reactionary since it was devoid of strategic and tactical intelligence. Based on the parliamentary security and defense committee's findings, it is evident that the KDF team struggled to conceive efficient counterterrorism even as they took over the operation from the Recce team. Lack of liaison and information exchange between the KDF and police tactical teams led to confusion at the strategic level. Over the 60-hour long operation, the then Inspector General of Police, the Chief of Defence Forces, and the Cabinet Secretary for Interior and Coordination of National Government issued conflicting statements that reflected a lack of inter-agency unity and minimal tactical and situational intelligence. For instance, Mr. David Kimaiyo, the then Inspector General of police, and Major Emmanuel Chirchir, the KDF spokesperson at the time, tweeted conflicting statements regarding the progress of the search and rescue operation inside the mall. Moreover, confusion arose over the number of terrorists involved, their nationalities, and gender. Claims that the notorious Samantha Lewthwaite coordinated the attack have never been substantiated to date. Besides that suspect, also known as the 'White Widow', has never been apprehended despite intelligence reports that she actually resided in the country at some point after the incident.

---

Defense and Foreign Relations on the Inquiry into the Westgate Terrorist Attack, and other Terror Attacks in Mandera in North-Eastern and Kilifi in the Coastal Region." (Kenya National Assembly, Eleventh Parliament-First Session, 2013), p.38.

<sup>74</sup> Ibid

<sup>75</sup> Ibid

<sup>76</sup> Mogire, Edward, Kennedy Mkutu, and Doreen Alusa. "Policing Terrorism in Kenya." *Security Governance in East Africa: Pictures of Policing from Ground* 79. (Rowman & Littlefield, 2017).

<sup>77</sup> KNA. "Report of the Joint Committee on Administration and National Security; and Defense and Foreign Relations on the Inquiry into the Westgate Terrorist Attack, and other Terror Attacks in Mandera in North-Eastern and Kilifi in the Coastal Region." (Kenya National Assembly, Eleventh Parliament-First Session, 2013), p.38.

Subsequently, the Westgate Mall operation degenerated into a shambolic KDF operation. There is a consensus among the general populace that if both the KDF and the GSU Recce Squad worked together, many of the lost lives would have been saved.

Nonetheless, relations between NPS and KDF have improved considerably in the recent past due to interventions from the President and the Cabinet Secretaries for Defense and Interior. For instance, Lamu's excellent progress in counterterrorism operations has been due to a multi-agency taskforce effort consisting of GSU, ATPU, RDU, and KDF special forces teams. Although the security undertaking dubbed 'Operation Linda Boni' suffered from poor coordination during the initial stages, contentious issues were ultimately ironed out to pave way for a harmonized operation. Seamless intelligence sharing among the tactical teams has to a large extent sealed the gaps that the terrorist used to exploit to sneak in and hit both soft and hard targets. As a result, the potency of Al Shabaab cells operating from the Boni enclave has significantly diminished. In effect, a well-coordinated multi-agency offensive has established a buffer zone between terrorist hideouts and the civilian villages in Lamu.<sup>78</sup>

#### **4.1(b) Police vs. Foreign Intelligence Agencies**

The Kenya Police has worked in cohorts with foreign intelligence agencies such as the FBI to counter the threat of terrorism in the country. However, the cooperation between the NPS and the FBI has been widely termed as a reluctant partnership.<sup>79</sup> The NPS may lack in terms of capacity but such shortcoming can be offset through coordinating its efforts with foreign intelligence agencies. Prior to the Westgate attack, for instance, Kenya's intelligence institutions had been warned about an impending attack targeting the Westgate Mall and the Holy Family Basilica, both in Nairobi.<sup>80</sup> The only missing information was the date when the said terror attacks would be unleashed. From the response that was lodged by the security agencies following the Westgate Mall attack, one can deduce that the different security agencies were individually furnished with the intel about the attack and subsequently the respective units forged their individual counterterrorism operations. This scenario emphasizes on the importance of operational intelligence as a tool for planning and conducting counterterrorism operations tactically. When operational intelligence is not handled

---

<sup>78</sup> Mogire, Edward, Kennedy Mkutu, and Doreen Alusa. "Policing Terrorism in Kenya." *Security Governance in East Africa: Pictures of Policing from Ground* 79. (Rowman & Littlefield, 2017).

<sup>79</sup> Whitaker, Beth Elise. "Reluctant Partners: Fighting terrorism and promoting democracy in Kenya." *International studies perspectives* 9, no. 3 (2008): 254-271.

<sup>80</sup> "Kenyan Intelligence Warned of Westgate Attack," The World from PRX, accessed November 3, 2020, <https://www.pri.org/stories/2013-09-30/kenyan-intelligence-warned-westgate-attack>.

appropriately as is the case with the various counterterrorism agencies in Kenya, tactical counterterrorism operations cannot be launched.

Since the Westgate Mall attack lasted about four days, there were calls for the counterterrorism agencies to ask for assistance from foreign intelligence agencies such as the FBI or the Mossad. However, the Kenyan security agencies were reluctant to ask for help from any of the available foreign intelligence agencies. The Kenyan security agencies wanted to prove that they were up to the task with regard to countering the threat of terrorism.<sup>81</sup> After the 9/11 attack, USA embarked on a global counterterrorism quest. In this quest, USA sought to not only address the threat of terrorism within its borders but also to help its allies in the war against terrorism. Kenya is a known USA ally thus has been a target of terrorist attacks for a long time now.<sup>82</sup>

The ties connecting USA and Kenya with respect to the threat of terrorism call for the two countries to continually coordinate their counterterrorism efforts. For the longest time, the coordination between Kenya and USA has been less than optimal because of alleged reluctance by Kenyan security agencies. The reluctance is brought about by a lack of a laid-out mechanism guiding how the two countries can share intelligence. On several occasions, the Kenyan security forces have been accused of failing to act on intelligence shared to them. Subsequently, the Kenyan security agencies have been caught flat-footed when the attacks they had been warned about are executed. There is a lack of a clear mechanism for intelligence-sharing among the various counterterrorism institutions in the country as well as between the counterterrorism institutions in the country and foreign intelligence institutions such as the FBI.

Handling of intelligence is also a sensitive matter. As such, the various counterterrorism institutions in the country find their hands tied with respect to the intel availed to them. Not all intel that has been gathered can be shared as some are classified. Classification of intelligence can thus be identified as one of the constraints to intelligence sharing among counterterrorism institutions. This constraint not only affects the sharing of intelligence among counterterrorism institutions in the country but also intelligence sharing between the counterterrorism institutions in Kenya and foreign intelligence agencies. With restrictions against sharing classified intelligence, counterterrorism agencies find themselves in a fix with regards to planning their counterterrorism operations. One can thus deduce that there is a blurred line

---

<sup>81</sup> United Nations High Commissioner for Refugees, "Refworld | Country Reports on Terrorism 2017 - Kenya," Refworld, accessed November 7, 2020, <https://www.refworld.org/docid/5bcf1f9c11.html>.

<sup>82</sup> Prestholdt, Jeremy. "Kenya, the United States, and counterterrorism." *Countering Violent Extremism. (Africa Today 57, no. 4; NCTC, 2011)*, p.9.

between counterterrorism and declassifying classified information. When information that is regarded as classified contains details about terrorists' meticulous plans to carry out a terror attack, the classification thus constraints counterterrorism operations. Such is the case because the relevant institutions cannot plan a coordinated counterterrorism operation as they have to have intel to do so. The importance of intelligence-sharing among counterterrorism institutions when countering the threat of terrorism cannot be emphasized enough.

In so far as intelligence-sharing and coordination between the Kenya Police and the foreign intelligence agencies are concerned, many factors make them suboptimal. For instance, until recently, there was no framework guiding the nature of the collaboration between the police and the FBI. The first overseas joint terrorism taskforce bringing together the Kenyan counterterrorism agencies and the FBI was brought into force in February 2020.<sup>83</sup> At the same time, there is no clear framework dictating the nature of cooperation of Kenyan counterterrorism agencies and other foreign intelligence agencies such as the Mossad. This lack of framework has hampered the coordination of counterterrorism efforts between Kenyan counterterrorism agencies and foreign counterterrorism agencies.

Without such frameworks, the parties that ought to work together find themselves in different wavelengths due to their varying counterterrorism capacities. This inadequacy impacts negatively on the Kenya Police ability to gather intelligence and use it to thwart impending terror attacks in the country. The varying capacities between the two parties can thus be termed as constraints as they hinder their coordination and intelligence-sharing, leaving Kenya vulnerable to terrorist attacks. It is worth noting that for a coordinated effort to be successful, it is crucial for the parties involved to be at the same wavelength. When the parties are not at the same wavelength, there is a high chance that the coordinated effort will be marred by constraints emanating from issues of inferiority and seniority statuses. The difference in wavelengths is brought about by the different levels of training that the respective agencies are subjected to. For instance, NPS personnel have to undergo further training to be in sync with the foreign intelligence agencies for them to cooperate and coordinate their efforts.

The FBI has clear leadership structures that enable it to perform its counterterrorism obligation effectively and to cooperate with other intelligence agencies around the world. As for the NPS, many factors hinder its ability to gather adequate intelligence that can help it decipher what terror suspects are plotting. It faces a myriad of internal challenges that

---

<sup>83</sup> "FBI, State Department Partner with Kenya to Launch First Overseas Joint Terrorism Task Force — FBI," Press Release, accessed November 7, 2020, <https://www.fbi.gov/news/pressrel/press-releases/fbi-state-department-partner-with-kenya-to-launch-first-overseas-joint-terrorism-task-force>.

negatively impact on its ability to carry out its counterterrorism operations, apart from its ability to work with foreign intelligence agencies such as the FBI. Many factors affect the ability of Kenyan counterterrorism agencies to coordinate and share intelligence with foreign counterterrorism agencies. As has been discussed above, the constraints to coordination and intelligence sharing have resulted in counterterrorism operations that were not as successful as they ought to be.

In summary, the national intelligence agencies of a state are a critical component for enhancing the state security, provided that policymakers understand its role in the bigger security cycle. This is to say that even though the national intelligence agency is just one of the components of a larger security cycle, the role it plays in coordination and intelligence sharing is important towards ensuring the security of a nation. The challenge of maximizing on intelligence is fundamental to the success or failure of counterterrorism operations. This chapter discussed the reality of this assertion with respect to the Kenya law enforcement agencies in regard to the crisis of intra and inter-institutional coordination and intelligence sharing, and its implication on police counterterrorism operations. In this case, coordination and intelligence sharing are critical elements when dealing with organized groups/terrorists. Markedly, effective intelligence-based policing demands commitment and coordination at the strategic, tactical, and operational levels among the national security organs, and between them and foreign based intelligence organizations.

From the discussion we deduce that indeed intelligence sharing and coordination among the Kenyan security organs have been characterized by conflict rather than cooperation, making the country vulnerable to terrorist attacks. It is evident that the national intelligence cycle is fundamentally disjointed such that planning, gathering, analysis, production, and dissemination of intelligence among the security agencies barely exist. The disconnect among the NIS, the police, and military intelligence emanates from supremacy battles over the control of strategic operations, coupled with rigid command structures, and fundamental mistrust among the respective agencies. Addressing these issues adequately would go a long way in enhancing the role of the police service in counterterrorism operations in Kenya.

## CHAPTER FIVE

### RECAPITULATION, CONCLUSIONS AND RECOMMENDATIONS

#### 5.0 Introduction

This chapter presents a recapitulation of the study, makes conclusions and provides for responses to the core issues of discussion in this work. This is with a view to demonstrate the process of operationalizing the research objectives, to validate the hypotheses of this study and to proffer research-based responses towards enhancing police counterterrorism operations in Kenya.

#### 5.1(a) Factors Relevant Continued Terror Attacks in Kenya

This study identified the factors that contribute to the continued terror attacks in Kenya despite the counterterrorism measures put in place by the government, particularly those factors that constrain the police service in counterterrorism operations in the country. Three factors stand out; internal factors, factors external to the police service, and global factors. Some of the factors that were addressed in the study include inadequate funding, political interference, traditional ways of policing, characterized by arbitrary arrests with limited prosecutorial discretion, and a limited cooperation between the security agencies and the local communities. The study found that the above factors have indeed impacted negatively on the ability of the police and other counterterrorism agencies in the country to do counterterrorism. In examining the pestering threat of terrorism in Kenya, the study analyzed the constraints that favour continued terror attacks in Kenya. It also assessed the various strategic, tactical and operational measures adopted by NPS in counterterrorism operations. While doing so, it is acknowledged that terrorism is an ever-present threat anywhere in the world and as such Kenya is no exception. It is true that Kenya has suffered its fair share of terrorist attacks which have resulted in massive loss of lives and damage to property. The threat still lingers as evidenced by the numerous travel advisories that have continued to be issued by countries such as the USA. The study discusses at length the possible causes of terrorism and the factors that cause terrorism to thrive. The study finds that there are intra and inter-institutional issues that are central to counterterrorism which need to be addressed. It comes out clearly that the continuity of terror attacks is a function of Al Shabab's ability to protect their operational intelligence, and deny the security agencies access to this intelligence. Further to that, that the inability of the police

to counter terror attacks is a function of a lack of enhanced intra and inter-institutional cooperation in intelligence sharing and coordination.

The study discusses at length the intra and inter-institutional challenges that have hampered counterterrorism operations by the police in Kenya. In this regard, the study noted that there are three main branches of the National Police Service which coordinate counterterrorism operations. These include the KPS, the APS, and the DCI. Besides these units, the NIS, the KDF, and the NCTC also play a big role in the fight against terrorism. The study confirmed that there are various challenges surrounding the different agencies in regard to coordinating their efforts towards counterterrorism. These challenges are traced to deep-rooted mistrust issues, adapted differences and power struggles. As noted in the study, although the National Police Service has a joint objective regarding counterterrorism, the different branches under it are structured differently and have varying levels of autonomy. Their approaches are thus different, and a lack of consensus has been blamed for their failure to prevent terrorist attacks such as the Westgate attack.

Suboptimal inter-organizational cooperation is the other factor that was seen to be impeding the success of counterterrorism operations, especially those that are supposed to be coordinated between countries. There are complexities that arise with respect to the specific operations of counterterrorism. For instance, some of the methods used to gather intelligence during a coordinated counterterrorism operation have been alleged to be a threat to national security of the countries involved. Kenya for example has had a close relationship with countries such as the US and Israel and continental blocks such as the EU. This close relationship has resulted in Kenya carrying out joint counterterrorism operations with the aforementioned countries. The relationship can be said to be both a blessing and a curse in that Kenya has thus received additional resources to fight terrorism but also effectively became a target of terrorist attacks due to involvement in that relationship. Citizens from these countries who reside in Kenya and their businesses have often been the main targets of terrorist attacks.

Another factor found to be propagating the threat of terrorism in Kenya is the dilemma involved in using counterterrorism intelligence during prosecutions, whereby it is a hard task to win convictions against terror suspects considering due regard to the humanitarian law as it were. In addition, issues to do with professional misconduct, counterterrorism measures that are considered punitive, and an imbalance between counterterrorism measures and violation of human rights have greatly undermined the efforts that have been put in place to fight terrorism. As a result, Kenya is perilously at the constant risk of a looming terrorist attack. Evidently it is not about if it will happen again but a question of when it will happen again.

### **5.1(b) Factors Constraining Coordination and Intelligence-sharing**

To respond to this issue, the study discussed the factors that hinder coordination and intelligence sharing among the various counterterrorism institutions. In this regard, the study divided the constraints into three categories, to wit, constraints between the police and KDF-DMI counterterror units, constraints between the police and the NIS (and the politics of actionable intelligence), and the constraints between the police and foreign intelligence agencies such as the FBI. Some of the constraints that were addressed include supremacy battles between the different counterterrorism agencies, the lack of a strategic intelligence framework to guide coordination and intelligence sharing between the police and foreign intelligence agencies, mistrust among the different counterterrorism institutions, and the lack of a unitary chain of command. This study concluded that coordination and intelligence sharing are central processes in the fight against terrorism.

In examining how intra and inter-institutional coordination and intelligence sharing constraints affect police counterterrorism operations, the study first identified the institutions that have been tasked with the responsibility of gathering intelligence. These institutions include the NIS, the DMI, and foreign intelligence agencies such as the FBI. The study pointed out that for counterterrorism operations to be effective, the intelligence agencies have to share in time with other counterterrorism institutions the intelligence that they gather for that purpose. Given that the DMI is more of a military intelligence agency than a counterterrorism agency, the NIS remains the main agency responsible for gathering and disseminating intelligence especially concerning such non-state actors as terrorist elements. Therefore the NIS has to share the intelligence with institutions such as the NCTC, the NPS, and KDF. From the various terrorist attacks that Kenya has suffered, one outstanding allegation is that the relevant authorities were reluctant to act on the intelligence that had been provided to them, or that they received the information rather late to prevent the attacks. It is for this reason that terror attacks such as the Mpeketoni attacks, the Garissa University attack and the Westgate Mall attack resulted in such large numbers of casualties. The counterterrorism agencies did not aptly share the intelligence about the impending attacks so as to formulate joint counterterrorism approaches. This was evidenced by the broken nature of the responses to the terror attacks.

This study found that there is a subliminal conflict among the various counterterrorism agencies in the country, largely resulting from rigid command structures, supremacy battles, and fundamental mistrust between the various agencies. As such, when these agencies launch a joint counterterrorism operation, such operations tend to be marred with what can be termed

as insubordination. This refers to isolated instances in the disciplined services whereby security agents from one institution tend to disregard instructions from a superior commander of a friendly force. Supremacy battles, for instance, result in numerous and disjointed points of command, an aspect that puts the different institutions on a collision course. The Westgate Mall attack, for instance, was dominated by turf wars coming from various points of command that immediately responded to the incident. In essence, one of the major constraints to coordination and intelligence sharing among the various counterterrorism agencies in the country is the lack of a unitary chain of command. This has resulted in various command posts that put the counterterrorism agencies on a collision course. In many cases, the NPS has been accused of resorting to reactionary counterterrorism measures due to the fact that it does not tap into the technical capabilities of the NIS and the DMI. A liaison between the NPS and the NIS, for instance, would have prevented the various terror attacks on civilians as well as law enforcement officers. Animosity between the NPS and civilians has also created a socially awkward situation whereby the civilians do not share intelligence regarding potential terror threats with the law enforcement officers.

The classified nature of intelligence gathering is another constraint that impedes intelligence sharing amongst the counterterrorism agencies hence impeding their coordination. Additionally, poor funding, poor training and equipping are the other constraints to coordination and intelligence sharing amongst the counterterrorism agencies. Compared to the FBI, the Kenya police lacks the facilities to gather intelligence on terrorist elements in the country with the efficiency of the FBI. While the NPS and other counterterrorism agencies can cooperate with foreign intelligence agencies such as the FBI, pride issues comes forth as an impediment. From the study, it is clear that coordination and intelligence sharing amongst the counterterrorism agencies play a central part in the success of counterterrorism operations. In Kenya, various constraints as have been discussed in this research have impeded coordination and intelligence gathering amongst the counterterrorism institutions leading to fatal mistakes.

Issues of corruption, supremacy battles, poor training, lack of proper equipment, and mistrust among the various counterterrorism institutions have been identified as the major intra-institutional and inter-institutional constraints on police counterterrorism operations in Kenya. Criminal organized groups such as terrorist networks take a big advantage of this situation. Terrorist organizations, by contrast, have a system which ensures that there is only one center of command. This is why a good number of their plans reach fruition, unfortunately. Such is because their objectives and plans are clear and are so strictly enforced such that everybody plays their part as directed from a unitary command post. As has been discussed

earlier on in this study, the Westgate Mall attack serves as a classic case study of the effects of intra-institutional and inter-institutional coordination constraints on police counterterrorism operations in the country. The different units of the organs of national security in Kenya were at the scene of the attack but each had its separate center of command. Consequently, a misunderstanding ensued resulting in some of the police units withdrawal of personnel from the scene. Chances are high that the number of casualties would have been lower, and that the siege would not have lasted as long as it did, had there been optimal intra-institutional and inter-institutional coordination in response to the attack. Moreover, if the intelligence about the Westgate Mall attack would have been competently shared among the different counterterrorism institutions, the attack would have been foiled before it happened. The same can be said of the other terrorist attacks that Kenya has suffered in the recent past.

## **5.2 Conclusion**

This study concluded that the National Police Service plays a key role in the fight against terrorism in Kenya. The study further confirmed that there are various counterterrorism measures that the Government of Kenya has put in place to fight terrorism. Despite the significance of the role of the police service in counterterrorism operations and the existence of various counterterrorism measures by the Government, the study found that the threat of terrorism in Kenya is still imminent. This implies that the counterterrorism approaches currently practiced by the National Police Service are ineffective. There are many factors, as has been discussed in this study, that constrain counterterrorism operations by the National Police Service. Until these issues are addressed, Kenya will continue to be susceptible to terrorist attacks, since the enforcement of the national counterterrorism strategy remains a challenge in such circumstances. This is because the fight against terrorism, as has been affirmed in this study, should be a coordinated effort by the different units and agencies involved in counterterrorism. This study is of the conclusion that the factors that predispose Kenya to the threat of terrorism are yet to be adequately addressed. The concluding converge is that the absence of practical intra and inter-institutional coordination and intelligence sharing has impeded the internal security agencies' access to Al Shabab's operational intelligence hence their inability to pre-empt terror attacks.

## **5.3 Recommendation**

In view of the foregoing, this study recommends the adoption by the National Police Service of a practical counterterrorism strategy that measures up to the challenge of terrorism

as an emerging threat to the nation's internal security. This approach shall enable the Kenya police to shift from the use of ad hoc responses to terrorism and make use of strategic intelligence in law enforcement. Towards this end, the National Police Service should involve all the relevant stakeholders in the Criminal Justice System when developing the counterterrorism strategy. This will ensure that the resultant strategy so developed will be in harmony with the policies of the other players involved in counterterrorism issues. A good example is in respect of the relationship between the police department and the courts of law. The policies put in place here should be in such a way that when the police investigate and arrest terror suspects, the suspects can be arraigned in court with good prospects of winning a conviction. At the moment, many terror suspects are advantaged by some legislations which appear to hinder or slow down the process of prosecution.

Besides, the various units of the NPS will be enabled to have better ways of collecting and sharing intelligence and this would in return greatly improve their coordination and cooperation efforts. At the moment, the different units appear to try to attain a common objective separately and using disjointed approaches rather than through coordinated efforts. Definitely, challenges would arise when the different units have their own different approaches to counterterrorism. As such, the National Police Service headquarters should do more than just providing an objective and leaving the rest to its different units to somehow achieve the given objective. By involving all the various stakeholders in developing a counterterrorism strategy, all the players will be in sync thus be able to coordinate their operations and increase the chances of success. In addition, squabbles and wrangles that arise due to lack of a central command will be eliminated.

Secondly, inadequate funding has been identified as one of the factors constraining the counterterrorism operations by the National Police Service. As such, this study recommends that the National Police Service should be adequately funded to enable it to effectively counter the threat of terrorism. The National Police Service does not have the necessary equipment such as those used to gather intelligence and those used to track the movement of terror suspects. Adequate funding will enable the police service to better train its personnel and to procure the necessary equipment needed to counter the threat of terrorism, in addition to setting up the technological facilities which would help to operate the equipment. With equipment such as drones that can be deployed to survey the borders, the National Police Service would be able to monitor the movement of terror suspects from the border points and the information could be relayed to a central command center. Moreover, the National Police Service will be able to verify foreign intelligence about a terrorist threat and act on it accordingly. The security

agencies in the country have been numerous accused of failing to act on intelligence provided to them and thus terrorist attacks that would have been prevented have occurred. This state of affairs can be changed when the security agencies have the necessary equipment to verify the intel.

Various national security policies and the counterterrorism strategy must be complementary to each other, if the counterterrorism operations carried out by the National Police Service are to be successful in keeping the threat of terrorism at bay. At the moment, the policies and the counterterrorism strategies are not perceived to be in harmony towards containing the threat of terrorism in the country. In essence, there are policies in place but instead of countering the threat of terrorism, they unintendedly propagate it. This is because the counterterrorism policies that are in place are not open to accountability and scrutiny by oversight institutions. Ironically, when police officers try to do their work in relation to investigation of terrorism activities, they are often accused of violating the human rights of terror suspects and sadly there are no frameworks to cushion them against these accusations.

Similarly, when the police blatantly violate human rights in the name of fighting terror there are no frameworks to hold them accountable. As such, human rights violations continue to mar counterterrorism operations thus resulting in the development of sympathy towards terror suspects by members of the public and resentment towards the police. This sympathy and resentment is a lethal combination that greatly impedes counterterrorism operations as carried out by members of the National Police Service in Kenya. Policies that are transparent and which can subsequently be scrutinized will not only help right the perceived wrongs of previous human rights violations, but also allow the enforcer to be held accountable or alternatively be protected by law as the case may be. Simply put, there should be an enforcement of policies that focus on addressing the threat of terrorism within the confines of the law.

The community plays a crucial role in the war against terrorism. This is because the sharing of information highly relies on community participation. However, there has been a reluctance by the communities in Kenya to share intelligence pertaining to terrorism with law enforcement officers. Among the factors that have contributed to this state of affairs is the alleged victimization of community members by law enforcement officers when acting on intelligence shared to them. As such, members of the community have opted to keep quiet and thus cut the intelligence sharing chain. This study hence recommends that the various counterterrorism institutions should come up with a framework that will be focused on engaging the members of the public. More emphasis should thus be put in community

intelligence and righting the wrongs that the security agencies have been accused of in the past, which have resulted in deterioration of the principles of community policing. Such wrongs include the assumption that members of certain communities are terrorist sympathizers. Investigations here would suffice rather than making blanket condemnations which would hamper police-civilian relations.



## REFERENCES

1. Agbiboa, D.E. "Terrorism without Borders: Somalia's Al-Shabab and the global jihad network. Contemporary Voices." *St Andrews Journal of International Relations*, 5(1). School of International Relations; University of St Andrews, 2014.  
Doi: <http://doi.org/10.15664/jtr.826>
2. Aronson, Samuel L. "Kenya and the global war on terror: Neglecting history and geopolitics in approaches to counterterrorism." *African Journal of Criminology and Justice Studies* vol 7, no. 1&2 ; London School of Economics, 2013 . Doi: 10.1080/10439463.2014.993631
3. Bailey, Bill. *Hearts and Minds, Psuedo Gangs and Counter Insurgency: Based upon Experiences from Previous Campaigns in Kenya (1952-60), Malaya (1948-60) & Rhodesia (1964-1979)*. Edith Cowan University Press, 2010.
4. Bay, Sebastian. "Intelligence and State-Building." *Masters Thesis*. Lund University, 2010.
5. Bayley, David H., and David Weisburd. "Cops and spooks: The role of police in counterterrorism." *To protect and to serve*, pp. 81-99. Springer, New York, 2009.
6. Benjamin, Daniel. *Strategic counterterrorism*. Brookings Institution, 2008.
7. Bennett, Huw. *Fighting the Mau Mau: The British army and counter-insurgency in the Kenya emergency*. Cambridge University Press, 2013.
8. Carter DL . *Law enforcement intelligence: A guide for state, local, and tribal law enforcement agencies* (2nd ed.). Michigan State University, 2009.
9. Carter, Jeremy G., and David L. Carter. "Law enforcement intelligence: implications for self-radicalized terrorism." Pp. 138-154. *Police practice and research* 13, no. 2. Indiana University – Purdue University, Indianapolis (2012). DOI: 10.1080/15614263.2011.596685
10. Chtalu, K. A. "The Challenges related to police reforms in Kenya: a survey of Nairobi County, Kenya." *Master's Thesis*; University of Nairobi, 2014.
11. Chumba C., Okoth P.G., Were E. "Effectiveness of Border Surveillance Strategies in the Management of Transnational Terrorism in Kenya and Somalia."pp.39-53 *International Journal of Political Science (IJPS)* 2, no.2; ArcJournals.org, 2016.  
Doi: 10.20431/2454-9452.0202004
12. Commission on Revenue Allocation. "Historical Injustices: A complementary guide for distributing the equalization fund." *CRA Working Paper* No.2012/02; CRA, 2012. Available at <<https://devolutionhub.or.ke/file/4ef1130cd1d003e8061520e4d784e647.pdf>>
13. Commonwealth Human Rights Initiative. "The Police, the People, the Politics: Police Accountability in Kenya." CHRI, 2006.

14. Corbin, Juliet M. *Basics of qualitative research: Grounded theory procedures and techniques*. Sage Publications, 1990.
15. Coyne, John William, and Peter Bell. "Strategic intelligence in law enforcement: a review." Pp.23-39. *Journal of Policing, Intelligence and Counter Terrorism* 6, no. 1; Taylor and Francis Group, 2011. DOI: 10.1080/18335330.2011.553179
16. Crelinsten, Ronald D. "Analysing terrorism and counter-terrorism: A communication model." Pp. 77-122. *Journal of Terrorism and Political Violence* 14, no.2; Taylor and Francis Group, 2002.
17. Dahl, Erik J. "Local approaches to counterterrorism: the New York Police Department model." Pp.81-97 *Journal of Policing, Intelligence and Counter Terrorism* 9, no.2; Taylor and Francis Group, 2014. Doi:10.1080/18335330.2014.940815
18. De Lint, Willem, and Sirpa Virta. "Security in ambiguity: Towards a radical security politics." Pp.465-489. *Theoretical Criminology* 8, no. 4; Sage, London, 2004.
19. Evers, C. "East Africa Needs a Regional Counterterrorism Center." Small Wars Journal Blog, 2019. Available at <<https://smallwarsjournal.com/jrnl/art/east-africa-needs-regional-counterterrorism-center>>
20. Fighel, Jonathan. "Al-Qaeda–Mombassa Attacks 28 November 2002." *International Institute for Counter-Terrorism, Herzlya. Israel* 13; Wikileaks.org, 2011.
21. Flick, Uwe. *An introduction to qualitative research*. Sage Publications Limited, 2018.
22. Foley, Frank. "The expansion of intelligence agency mandates: British counter-terrorism in comparative perspective."pp. 983-995. *Review of International Studies*; Cambridge University Press ,2009. Available at < <https://www.jstor.org/stable/40588098>>
23. Fredrick Okoth Otieno. "Efficacy of Policing Approaches Utilised in Counterterrorism by the National Police Service in Lamu County, Kenya."pp. 39-48. *IOSR Journal of Humanities and Social Science (IOSR-JHSS)*. vol.24 no.5; Iosrjournals.org,2019. DOI: 10.9790/0837-2405013948
24. Geertz, Clifford. *Local knowledge: Further essays in interpretive anthropology*. Basic books, 2008.
25. GoK.*Defence White Paper* .Government Printer, Nairobi, 2017.
26. Griffith, Samuel B. *Sun Tzu: The Art of War*. Clarendon Press, 1965.
27. Hamm, Mark S., and Cécile Van de Voorde. "Crimes committed by terrorist groups: Theory, research, and prevention." Pp. 18-50. *Trends in Organized Crime* 9, no. 2; Springer, 2005. <<https://doi.org/10.1007/s12117-005-1023-y>>

28. Hassan, Hared. "Dynamism of Terrorist Threats in Kenya." *PhD diss.*, University of Nairobi, 2015.
29. Herman, H. *Intelligence Power in Peace and War* .Cambridge University Press, 2008.
30. Hoffman, Tod. *Al Qaeda Declares War: The African Embassy Bombings and America's Search for Justice*. ForeEdge, 2014.
31. Hope, Kempe Ronald. "Police corruption and the security challenge in Kenya." Pp. 84-108. *African security* 11, no. 1; Taylor and Francis Group, 2018.  
DOI: 10.1080/19392206.2017.1419650
32. Horowitz, Jonathan. "'We're tired of taking you to the court': human rights abuses by Kenya's Anti-Terrorism Police Unit." Open Society Foundation, New York, 2013. Available at <<https://www.opensocietyfoundations.org/sites/default/files/human-rights-abuses-by-kenya-atpu-20140220.pdf>>
33. Howitt, Arnold M. *Countering terrorism: dimensions of preparedness*. MIT Press, 2003.
34. Hübschle, Annette. "The T-word: Conceptualising terrorism." *African Security Studies* 15, no. 3. Taylor and Francis (2006): 1-18. DOI: 10.1080/10246029.2006.9627601
35. Hull, Bryson. "Kenyans Live in Silent Fear of Mungiki Gang." (Reuters, July 1, 2007), Available at <<https://uk.reuters.com/article/us-kenya-gang-idUSHUL13001020070701.html>>[September 22, 2020]
36. International Association of Chiefs of Police. "Post 9-11 Policing: The Crime-Control-Homeland Security Paradigm." *Taking Command of New Realities*; Bureau of Justice Assistance, 2005.
37. Karmon, Ely. "The role of intelligence in counter-terrorism." pp. 119-139. *The Korean Journal of Defense Analysis* 14, no. 1; Taylor and Francis Group ,2002.  
Available at < <https://doi.org/10.1080/10163270209464016>>
38. Kovacs, Amos. "Using intelligence." Pp. 145-164. *Journal of Intelligence and National Security* 12, no. 4; Taylor and Francis Group ,1997. Doi:10.1080/02684529708432452
39. Keegan, John. *The Mask of Command: A study of generalship*. Random House, 2011.
40. Kenya Human Rights Commission. *The police, the people, the politics: police accountability in Kenya*. KHRC, 2006.
41. "Kenyan Police Continue Violent Crackdown on Mungiki Sect." *The New York Times*, June 7, 2007. .Available at <<https://www.nytimes.com/2007/06/07/world/africa/07iht-07kenya.6042028.html>>[September 24, 2020]
42. Kenya National Commission on Human Rights. "Footprints of Impunity: Counting the Cost of Human Rights Violations: Nyayo House Torture Chambers. Nairobi, Kenya." KNCR, 2017.

Available at

<<http://www.knchr.org/Portals/0/CivilAndPoliticalReports/FOOTPRINTS%20OF%20IMPUNITY-B5-F-T-24-7-2017.pdf?ver=2017-07-27-105838-067>>

43. Kivunja, Charles, and Ahmed Bawa Kuyini. "Understanding and applying research paradigms in educational contexts." Pp.26-41. *International Journal of higher education* 6, no. 5; Sciedu Press, 2017.
44. Kothari, Chakravanti Rajagopalachari. *Research methodology: Methods and techniques*. New Age International Publishers, 2004.
45. Lather, P. *Getting smart: Feminist research and pedagogy with/in the postmodern*. Psychology Press, 1991.
46. Law, Randall D., ed. *The Routledge history of terrorism*. Routledge, 2015.
47. Lincoln, Yvonna S., Susan A. Lynham, and Egon G. Guba. "Paradigmatic controversies, contradictions, and emerging confluences, revisited." *The Sage handbook of qualitative research* 4, pp.97-128. Sage Press, London 2011.
48. Lind, Jeremy, Patrick Mutahi, and Marjoke Oosterom. "'Killing a mosquito with a hammer': Al-Shabaab violence and state security responses in Kenya." Pp. 118-135 *Peacebuilding* 5, no. 2; Informa Uk, 2017. DOI: 10.1080/21647259.2016.1277010.
49. Maguire, Mike. "Policing by risks and targets: Some dimensions and implications of intelligence-led crime control." Pp.315-336. *International Journal Journal of Research and Policy* 9, no. 4; Taylor and Francis Group, 2000. Doi: 10.1080/10439463.2000.9964821
50. Maguire, Thomas J. "Kenya's 'War on Poaching': Militarised Solutions to a Militarised Problem?." In *Militarised Responses to Transnational Organised Crime*, pp. 61-90. Palgrave Macmillan, Cham, 2018. DOI: 10.1007/978-3-319-57565-0\_5
51. Mabia J H, Iteyo C, Were E. "Effectiveness of Intelligence-Led Policing in the Management of Domestic Crimes in Kenya, A Case of Kakamega County." *Global Journal of Nursing and Forensic Studies*, 2016. Doi: 10.4172/2572-0899.1000111
52. Mackintosh, Kate, and Patrick Duplat. *Study of the impact of donor counter-terrorism measures on principled humanitarian action*. UN, 2013.
53. Makarenko, Tamara. "Europe's Crime-Terror Nexus: Links between Terrorist and Organized Crime Groups in the European Union." *European Parliament. Directorate General for Internal Policies. Policy Department C: Citizens' Rights and Constitutional Affairs. Brussels*. European Parliament, 2012.  
<<http://www.europarl.europa.eu/document/activities/cont/201211/20121127ATT56707/20121127ATT56707EN.pdf>>

54. Maxwell, J. *Qualitative Research Design: An Interactive Approach*. Sage, 1996.
55. McConnell, John A. *The British in Kenya (1952-1960): Analysis of a successful counterinsurgency campaign*. Naval Postgraduate School Monterey CA, 2005.
56. Meierrieks, Daniel & Krieger, Tim. "What causes terrorism?" Pp.3-27. Springer, 2011. DOI. 10.1007/s11127-010-9601-1.
57. Mesquita E.B. De "The political economy of terrorism: A selective overview of recent work" pp. 1-12. *The Political Economist*, 2008.
58. Millie A. and Das D. K. *Contemporary issues in law enforcement and policing*. CRC Press, 2012.
59. Mogire, Edward, and Kennedy Mkutu Agade. "Counter-terrorism in Kenya." Pp.473-491 *Journal of Contemporary African Studies* 29, no. 4; Taylor and Francis, 2011.
60. Mohochi, Samwel Mukira, 'Preventive Counter Terrorism Action': Case Study of Kenya. SSRN Publishers, 2011. Available at <http://dx.doi.org/10.2139/ssrn.1898930>
61. Mongare, A. B. "Terrorism as a Global Peril: A Kenyan Scenario Tactic." Pp.1-22. *International Journal of Social Science and Technology* 3, no. 5; Ijicia, 2018.
62. Mugo, Waweru. "Kenya's First Terror Attack Caught Police Unawares." *The Standard*, October 9, 2013.  
Available at <<https://www.standardmedia.co.ke/kenya/article/2000095154/kenyas-first-terror-attack-caught-police-unawares.html>> [ September 23, 2020]
63. Musau, S. "Combating terrorism and upholding Human Rights in Kenya." Pp. 1-16. APCOF Research Paper, 2018.
64. Mwazighe, Charles L. *Legal responses to terrorism: case study of the Republic of Kenya*. Naval Postgraduate School Monterey CA; Dept of National Security Affairs, 2012.
65. Neethling, Theo. "The entanglement between peacekeeping and counterterrorism, with special reference to peacekeeping operations in Africa." Pp.57-84. *African Journal on Conflict Resolution* 19(2); ACCORD Publishers, 2019.
66. Njenga, Frank, and Caroline Nyamai. "The experience of the Nairobi US Embassy bombing." *Disasters and mental health*, pp.153-166. Wiley Publishers, 2004.
67. Njogu, Roseline, and Makambo Makabila. "Terror, Power and the Legitimacy of the State." Published in the *Law Digest Issue* No.8, 2015.
68. Nyambura, Simon. "Counterterrorism strategies: a comparative analysis of Ethiopia and Kenya." Pp. 97-101. *Journal on Terrorism and Security Analysis* 6, no. 1; Satsa Edu Press, 2011.

69. Omeje, Kenneth, and John Mwangi Githigaro. "The challenges of state policing in Kenya." USIU-A; School of Humanities and Social Sciences Faculty, 2012.
70. Opon, Dan Odhiambo, P. G. Okoth, and K. Onkwere. "Immigration Border Control Human Resource Challenges and Opportunities Affecting Counter-terrorism Strategies in Kenya." Pp. 301-309. *International Journal of Education and Research* 3, no. 5, 2015.
71. Orina, Nabil. "Fighting Terror Within the Law: Challenges and Prospects of Kenya's Counter-Terrorism Measures." *Leading Legal Issues in Sub-Saharan Africa, Maulana Ayoub Ali (Ed.)*. SSRN, 2016.
72. Osse, Anneke. "Police reform in Kenya: A process of 'meddling through'." Pp.907-924. *Policing and Society* 26, no. 8; Taylor and Francis, 2016.
73. Otiso, Kefa. "Kenya in the crosshairs of global terrorism: fighting terrorism at the periphery." Pp. 107-132. *Kenya Studies Review* 1, no. 1, (2009).
74. Peter G. "Termites at Work: Transnational Organized Crime and State Erosion in Kenya" International Peace Institute, New York, 2011.
75. Peterson, Marilyn. *Intelligence-led policing: The new intelligence architecture*. Washington, DC: US Department of Justice, 2005.
76. Ponge, Awuor. "The Impact of Counter Terrorism Policies and Laws on Civil Society Organisations in Kenya." *IJRISS* |Volume IV, Issue VI, June 2020.
77. Prestholdt, Jeremy. "Kenya, the United States, and counterterrorism." Pp. 3-27. *Africa Today* Vol 7, no. 4; Indiana University Press, 2011. DOI: 10.2979/africatoday.57.4.3
78. Privacy International. "Track, Capture, Kill: Inside Communications Surveillance and Counterterrorism in Kenya." Privacy International Org, 2017. Available at <[https://privacyinternational.org/sites/default/files/2017-10/track\\_capture\\_final.pdf](https://privacyinternational.org/sites/default/files/2017-10/track_capture_final.pdf)>
79. Ramakrishna, Kumar. "" The Southeast Asian Approach" to Counter-Terrorism: Learning from Indonesia and Malaysia." *Journal of Conflict Studies* 25, no. 1 (2005). Available at <<https://journals.lib.unb.ca/index.php/JCS/article/view/189>>
80. Rasmussen, Jacob. "Political becoming and non-state emergence in Kenya's security sector: Mungiki as security operator." *Private Security in Africa: From the Global Assemblage to the Everyday*. Zedbook, 2017.
81. Ratcliffe, Jerry H. *Intelligence-led policing*. Routledge, 2016.
82. Reisig, Michael D. "Community and problem-oriented policing." Pp.1-53. *Crime and justice* 39, no. 1. University of Chicago Press, 2010.
83. Rennell, Tony. "Justifiably the British Are Accused of Brutality in 1950s Kenya: But Why Aren't the Mau Mau Butchers Also in the Dock?" *Daily Mail Online*, April 12, 2011.

<<https://www.dailymail.co.uk/news/article-1375967/Kenya-Mau-Mau-atrocities-1950s-dossier.html> >[September 25, 2020]

84. Research Directorate, Immigration and Refugee Board of Canada, Ottawa “ Kenya: The Mungiki (Munguki) cult, including its organizational structure, its leaders, its criminal activities, and the state protection available to victims of this cult (June 2002-February 2005).” Immigration and Refugee Board of Canada, 2005.  
Available at <<https://www.refworld.org/docid/45f147f720.html>>
85. Ruteere, Mutuma. "Dilemmas of crime, human rights and the politics of Mungiki violence in Kenya :*Human Rights and the Politics of Mungiki Violence in Kenya.*” SSRN, (August 27, 2009.) Doi: 10.2139/ssrn.1462685
86. Sempijja, Norman, and Bulelwa Nkosi. "National Counter-Terrorism (CT) Policies and Challenges to Human Rights and Civil Liberties: Case Study of Kenya.” Pp. 431-448. SSRN, 2019:. Doi: 10.1007/978-981-10-4181-5\_36
87. Shabibi, Namir. “Revealed: The CIA and MI6’s Secret War in Kenya.” *Declassified UK*, August 28, 2020. Available at <<https://www.dailymaverick.co.za/article/2020-08-28-revealed-the-cia-and-mi6s-secret-war-in-kenya/>> [September 23, 2020]
88. Shaffer, Ryan. "Following in Footsteps: The Transformation of Kenya’s Intelligence Services since the Colonial Era." Pp. 23-40. *Studies in Intelligence publications* vol 63, no.1; CIA,2019. Available at <<https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/csi-studies/studies/vol-63-no-1/pdfs/Kenya-intel-since-colonial-era.pdf>>
89. Shinn, T. David. "Terrorism in the Horn of Africa: United States Institute of Peace Special Report." USIP33 Publication, 2005.
90. Somerville, Peter. “ Understanding community policing. Policing.” *An International Journal of Police Strategies and Management* Vol 32 no.2; Emerald Group,2009. Doi:10.1108/13639510910958172.
91. Sommer, H. "History of the Police in Kenya 1885–1960." PP Press, 2007.
92. Truth, Justice, and Reconciliation Commission. "Public Hearing Transcripts-North Eastern-Wagalla Massacre.” TJRC,2011.
93. United Nations General Assembly .*UNGCTS Resolution 60/288*. United Nations, New York, 2006.
94. Van Um, Eric, and Daniela PISOIU. *Effective counterterrorism: What have we learned so far?*. No. 55. Economics of Security Working Paper, 2011.
95. von Einsiedel, Sebastian. "Assessing the UN’s Efforts to Counter Terrorism’." United Nations University Centre for Policy Research , 2016.

96. Waller, Richard. "Towards a contextualization of policing in colonial Kenya." Pp.525-541. *Journal of Eastern African Studies* 4, no. 3. Taylor and Francis Group, 2010.  
DOI: 10.1080/17531055.2010.517421
97. Waxman, Matthew C. "Police and national security: American local law enforcement and counterterrorism after 9/11." Columbia Law school, 2009.
98. Whittaker, Hannah. *Insurgency and Counterinsurgency in Kenya: A social history of the shifita conflict, c. 1963-1968*. Brill, 2014.
99. Wise, R. *Al-Shabab. Case Study Number 2*. Centre for Strategic and International Studies, Washington, DC, 2011.
100. Zondi, Sikhumbuzo. "Assessing policy responses of African states and international actors on the threats of transnational terrorism to Africa's security and stability: a case study of Kenya." *PhD diss*; University of KwaZulu-Natal, 2015.
101. "Kenya," *United States Department of State* (blog), accessed November 3, 2020, <https://www.state.gov/reports/country-reports-on-terrorism-2019/kenya/>.
102. "Kenyan Intelligence Warned of Westgate Attack," *The World from PRX*, accessed November 3, 2020, <https://www.pri.org/stories/2013-09-30/kenyan-intelligence-warned-westgate-attack>.
103. Amollo Otiende. "The Aftermath of the Baragoi Police Operation: The Ombudsman Unearths the Flaws." *The Commission on Administrative Justice*, 2014. Available at <<https://www.ombudsman.go.ke/index.php/media-center/press-statements-and-releases/category/65-press-release-2015?download=145:press-statement-baragoi-police-operation-19th-december-2015>> [November 1, 2020]
104. Atallah Juliet. "A Timeline of Terror Attacks in Kenya Since 1975." (*The Elephant Info*, January 20, 2019). Accessed from <<https://www.theelephant.info/data-stories/2019/01/20/a-timeline-of-terror-attacks-in-kenya-since-1975/>> [November 7, 2020]
105. Bay, Sebastian. "Intelligence and State-Building." (*Masters Thesis*.Lund University, 2010), p. 34. Available at <http://lup.lub.lu.se/student-papers/record/1608306>
106. Chumba C., Okoth P.G., Were E. "Effectiveness of Border Surveillance Strategies in the Management of Transnational Terrorism in Kenya and Somalia" (*IJPS* Vol 2, no.2, 2016), p.49. Doi: 10.20431/2454-9452.0202004
107. Defence and Foreign Relations on the Inquiry into the Westgate Terrorist Attack, and other Terror Attacks in Mandera in North-Eastern and Kilifi in the Coastal Region." (Kenya National Assembly, Eleventh Parliament-First Session , 2013), p.7.
108. Gibbons-Neff, Schmitt Eric, & Savage Charlie et al. "Chaos as Militants Overran Airfield, Killing 3 Americans in Kenya." *New York Times*, January 22, 2020. Accessed from <

<https://www.nytimes.com/2020/01/22/world/africa/shabab-kenya-terrorism.html>> [November 1,2020]

109. Kamau John. "How Security Forces Outplayed Terrorists in Rescue Mission" *Daily Nation*, January 17, 2019. Accessed from <<https://nation.africa/kenya/news/how-security-forces-outplayed-terrorists-in-rescue-mission-128918>> [November 1, 2020]
110. KNA. "Report of the Joint Committee on Administration and National Security; and
111. Mogire, Edward, Kennedy Mkutu, and Doreen Alusa. "Policing Terrorism in Kenya." *Security Governance in East Africa: Pictures of Policing from the Ground* 79. (Rowman & Littlefield, 2017).
112. Mwangi, Oscar Gakuo. "Neo-elitism and counterterrorism operations in Kenya." *African security review* 26, no. 1. Pp.12-25; Taylor and Francis, 2017.
113. Njeru Macharia & Ntoyai Jedidah, et.al. "IPOA Report Following the Mpeketoni Attacks (15 and 16 June 2014): Redacted Version." IPOA, 2014. Available at <<https://reliefweb.int/sites/reliefweb.int/files/resources/MpeketoniAttackMonitoringReport.pdf>> [October 31, 2020]
114. Prestholdt, Jeremy. "Kenya, the United States, and counterterrorism." *Countering Violent Extremism*.(Africa Today 57, no. 4; NCTC, 2011), p.9.
115. Ratcliffe, JH. *Intelligence-led policing. Environmental Criminology and Crime Analysis*, (edited by Richard Wortley and Lorraine Mazerolle; Willan Publishing, 2008), p.273.
116. Yusuf Mohammed. "Kenyan Officials Warned of 'Westgate' Attack." *Al Jazeera*, October 1, 2013. Available at <<https://www.aljazeera.com/features/2013/10/1/kenyan-officials-warned-of-westgate-attack>> [October 31, 2020]

## APPENDICES

### Appendix A: Letter of Introduction

#### LETTER OF INTRODUCTION

My name is James Waringa, a student at Strathmore University. In partial fulfilment of the requirements for the Degree of Master of Arts in Diplomacy, Intelligence and Security, I am required to do a dissertation covering my area of study. In this regard, I will conduct a research titled “An Analysis of the Role of the Police Service in Counterterrorism Operations in Kenya”. I kindly welcome you to be part of the respondents by way of answering a few questions which I request to ask you. I wish to assure you that the responses I will get from you will be treated with utmost confidentiality and that the information will not be used for any other purpose other than for this academic research.

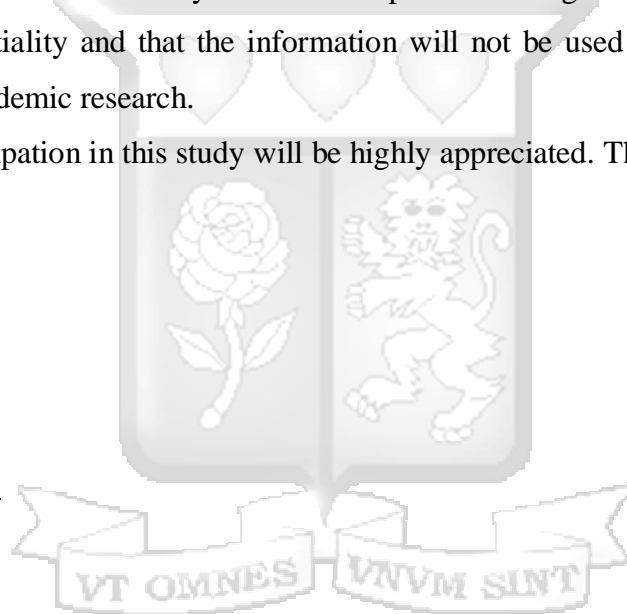
Your voluntary participation in this study will be highly appreciated. Thank you in advance.

Yours Sincerely,

J. N. Waringa

MDIS - 119108

Strathmore University



**Appendix B: Research Instrument**

**SURVEY QUESTIONNAIRE**

A. Questionnaire Number:

.....

B. Start time:

.....

C. End time:

.....

D. Date of interview:

.....

E. Name of the Area:

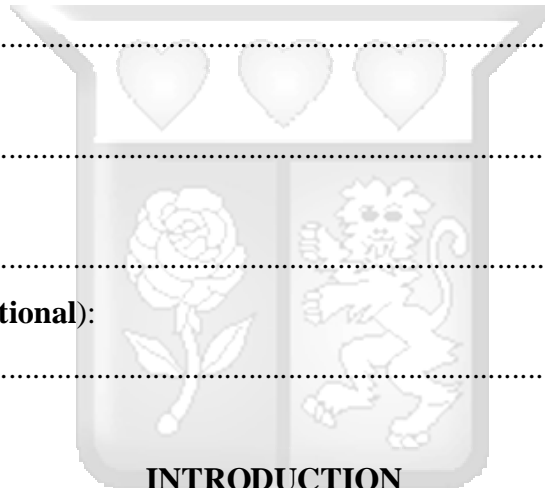
.....

F. Interviewer number:

.....

G. Name of interviewer (**Optional**):

.....



**INTRODUCTION**

I James Waringa, conducting a study on the “An Analysis of the Role of the Police Service in Counterterrorism Operations in Kenya”, would like to interview you on **POLICE COUNTERTERRORISM CAPABILITY ISSUES IN KENYA**. The information that you will provide shall be used for purposes of this academic research only. The survey will take approximately **45 minutes** time. Please answer as accurately as possible, and if you don't understand any question kindly let me know. The information you will give shall be treated as **CONFIDENTIAL**.

**SECTION 1: DEMOGRAPHIC AND GENERAL INFORMATION OF THE RESPONDENT**

|   |                                   |   |
|---|-----------------------------------|---|
| 1 | Age of respondent                 | 1) <input type="checkbox"/> 18 - 25 years<br>2) <input type="checkbox"/> 26 - 35 years<br>3) <input type="checkbox"/> 36 – 45 years<br>4) <input type="checkbox"/> 46 – 55 years<br>5) <input type="checkbox"/> 56 – 64 years<br>6) <input type="checkbox"/> 65 years and older |
| 2 | Sex                               | 1) <input type="checkbox"/> Male      2) <input type="checkbox"/> Female  |
| 4 | Marital status                    | <input type="checkbox"/> Single, never married<br><input type="checkbox"/> Single, divorced or separated<br><input type="checkbox"/> Married<br><input type="checkbox"/> Widow/widower<br><input type="checkbox"/> Living with a partner  |
| 5 | Level of education                | <input type="checkbox"/> Diploma<br><input type="checkbox"/> Graduate<br><input type="checkbox"/> Post Graduate   |
| 6 | Length of time in law enforcement | <input type="checkbox"/> Less than one year<br><input type="checkbox"/> 1 year but less than 5 years<br><input type="checkbox"/> 5 to 10 years<br><input type="checkbox"/> More than 10 years   |
| 7 | Religion<br>(specify)             | <input type="checkbox"/> Christian <input type="checkbox"/> Muslim <input type="checkbox"/> Hindu <input type="checkbox"/> Buddhist <input type="checkbox"/> Traditional <input type="checkbox"/> None <input type="checkbox"/> Other   |

**SECTION 2: KENYA’S VULNERABILITY TO TERRORISM**

|    |   |  |
|----|---|--|
| 8  | What are some of the counterterrorism institutions that have been put in place to prevent attacks from occurring? |  |
| 9  | Were there certain factors that predisposed Kenya to more attacks in the past?                                    |  |
| 10 | Have these past vulnerabilities been adequately addressed?  |  |

|    |  |  |
|----|--|--|
| 11 | Thinking about the most recent attack at DUSIT, are there certain unique factors that still continue to make Kenya vulnerable to more attacks now and in the future? |  |
|----|--|--|

**SECTION 3: FACTORS CONSTRAINING NPS**

|    |  |  |
|----|--|--|
| 12 | What are the gaps faced by law enforcement officers which limit their ability to detect and prevent terrorism? |  |
|----|--|--|

On a scale of 5 to 1, with 5 being excellent and 1 being very poor, how well is the NPS prepared to anticipate terrorism? (SELECT ONE OPTION ONLY)

| 13  | 5 | 4 | 3 | 2 | 1 |
|---|---|---|---|---|---|
| NPS officers have been inculcated with enough training to identify and distinguish terrorism            |   |   |   |   |   |
| NPS has formations and units setup to prioritize detection and prevention of terrorism                  |   |   |   |   |   |
| NPS officers are well equipped (with counterterrorism skills and tools) to detect and prevent terrorism |   |   |   |   |   |
| NPS daily work activities are designed to disrupt terrorism   |   |   |   |   |   |
| NPS officers are backed with a legal framework that provides for detection and disruption of terrorism  |   |   |   |   |   |

**SECTION 4: Intra and Inter Institutional Information Sharing Structures**

|    |   |  |
|----|---|--|
| 14 | Which institutions are mandated with coordination and sharing of information relating to Terrorism? |  |
| 15 | What are the channels/steps provided /structures for availing or accessing shared information?      |  |

|    |  |  |
|----|--|--|
| 16 | What are the internal challenges affecting coordination and information sharing?   |  |
| 17 | What are the external challenges influencing coordination and information sharing? |  |

**SECTION 5: Containing terrorism**

|    |   |  |
|----|---|--|
| 18 | What more needs to be done to ensure that terrorism attacks do not occur in future? |  |
|----|---|--|

On a scale of 5 to 1, with 5 being excellent and 1 being very poor, Which of the following institution(s) has the responsibility of ensuring that terrorism attacks do not occur (SELECT ONE OPTION ONLY)

| 19 Institution(S)                 | 5 | 4 | 3 | 2 | 1 |
|-----------------------------------|---|---|---|---|---|
| National Police Service           |   |   |   |   |   |
| National Intelligence Service     |   |   |   |   |   |
| Kenya Defense Forces              |   |   |   |   |   |
| National Counter Terrorism Center |   |   |   |   |   |
| Other, Specify _____              |   |   |   |   |   |

**SECTION 6: Links between terrorism and international organized crime**

|    |  |  |
|----|--|--|
| 20 | What are the nature and types of crimes that aid in the commission of terrorist attacks?                           |  |
| 21 | Do you think law enforcement agencies are/have been able to identify the links between these crimes and terrorism? |  |

## Appendix C: Consent Form

### CONSENT FORM

#### *Description*

My name is James Waringa. I am doing a study titled ‘An Analysis of the Role of the Police Service in Counterterrorism Operations in Kenya’. This is in partial fulfillment for the award of a Master of Arts Degree in Diplomacy, Intelligence and Security. The purpose of the study is to make a contribution to the development of theoretical knowledge of the subject matter. This research will mainly seek to; understand the influence of law enforcement intelligence on policing methodologies, examine and analyze factors underlying the continued terrorism attacks in Kenya despite various counterterrorism measures by the government, examine and analyze the effect of limited coordination and cooperation in information sharing on police counterterrorism efforts in Kenya. The results of the study will aid to proffer research-based responses for guiding counterterrorism strategies for the police service in Kenya.

#### *Participation*

I will need to ask you a few questions that are relevant to the research study. I kindly request you to accord me some of your time to respond to the issues in question. Your participation in this exercise is purely on voluntary basis. Kindly can we interview you?

- If **Yes**, please give consent by appending your signature on the space provided below.
- If **No**, kindly cease the interview. All the same, thank you for your time.

#### *Confidentiality*

The information that you will provide for this study is for academic use only and will be treated with utmost confidentiality. You may choose to stop the interview at any time if you so wish. We encourage your participation so as to gather as much information as possible. Thank you for your assistance.

#### *Benefit*

The information you provide may not benefit you directly but will be very useful in expanding knowledge about the development of theoretical knowledge on strategic intelligence in law enforcement.

**Statement of Consent**

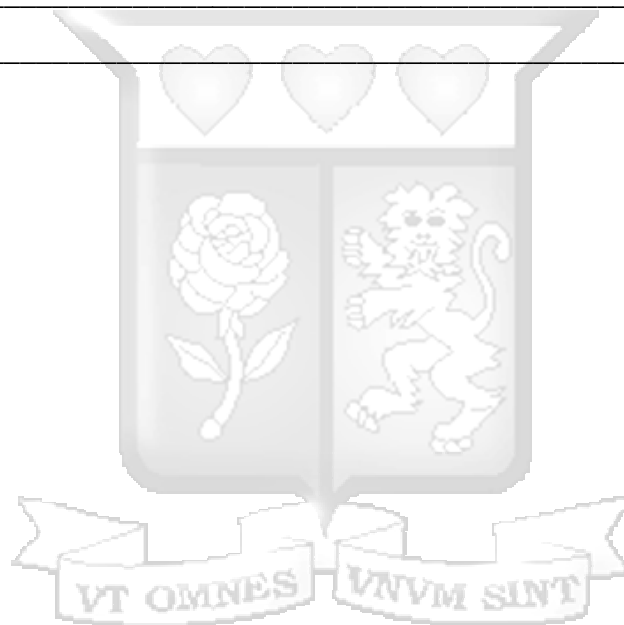
By signing this statement I consent that;

- I have read and understood the information document regarding this study
- I have had my concerns addressed to my satisfaction regarding this study
- I understand that, should I have additional questions I can contact the researcher
- I understand that, I can withdraw at any time without comment or penalty
- I understand that, I can contact the research supervisor if I have concerns regarding ethical conduct of the of the study
- I agree to willingly participate in the study

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_





## Appendix E: Ethical Clearance

### ETHICAL CLEARANCE



**Strathmore**  
UNIVERSITY

12<sup>th</sup> May 2020

Mr Waringa, James  
james.waringa@strathmore.edu

Dear Mr Waringa,

**RE: An Analysis of the Role of the Police Service in Counterterrorism Operations in Kenya**

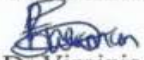
This is to inform you that SU-IERC has reviewed and **approved** your above research proposal. Your application approval number is **SU-IERC0725/20**. The approval period is **12<sup>th</sup> May 2020 to 11<sup>th</sup> May 2021**.

This approval is subject to compliance with the following requirements:

- i. Only approved documents including (informed consents, study instruments, MTA) will be used
- ii. All changes including (amendments, deviations, and violations) are submitted for review and approval by SU-IERC.
- iii. Death and life threatening problems and serious adverse events or unexpected adverse events whether related or unrelated to the study must be reported to SU-IERC within 72 hours of notification
- iv. Any changes, anticipated or otherwise that may increase the risks or affected safety or welfare of study participants and others or affect the integrity of the research must be reported to SU-IERC within 72 hours
- v. Clearance for export of biological specimens must be obtained from relevant institutions.
- vi. Submission of a request for renewal of approval at least 60 days prior to expiry of the approval period. Attach a comprehensive progress report to support the renewal.
- vii. Submission of an executive summary report within 90 days upon completion of the study to SU-IERC.

Prior to commencing your study, you will be expected to obtain a research license from National Commission for Science, Technology and Innovation (NACOSTI) <https://oris.nacosti.go.ke> and also obtain other clearances needed.

Yours sincerely,

  
Dr Virginia Gichuru,  
Secretary; SU-IERC

Cc: Prof Fred Were,  
Chairperson; SU-IERC



## Appendix F: Originality Report

### TURNITIN ORIGINALITY REPORT

