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Local integration of Somali refugees: will it result in a reduction in terrorism in Kenya?

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Local Integration of Somali Refugees: Will it Result in a Reduction in Terrorism in Kenya?

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Master of Laws

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Local Integration of Somali Refugees: Will it Result in a Reduction in terrorism in Kenya?

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Submitted in Partial Fulfilment of the Requirements for the Degree of Master of Laws at Strathmore University

Strathmore Law School

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Mohammed, Hussein Abdinassir

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Approval

The thesis of Mohammed, Hussein Abdinassir was reviewed and approved by the following;

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Prof. Luis G. Franceschi,

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ABSTRACT

The legal basis of this paper is twofold. First is that the alignment of law, policy and practice in the treatment of refugees as per International and national laws is lacking. Second is that the existing legal framework relating to the movement, registration and treatment of refugees is lacking. This paper deals with preventing the social ill of radicalism and by extension terrorist activity by dealing with the root cause which will be proven to be radicalisation. The ultimate aim of this paper is to try to partly offer a solution to violent extremist activity and radicalisation and is directed towards finding measures that would do so.

This paper will begin by outlining a general introduction to radicalism and violent extremism in Kenya. This introduction will be introduced from a purely social point of view, in order to grasp the social issues. Thereafter, the contributing factors to radicalisation and extremist violence will be looked at. A distinction between causes and catalysts will be made, with a brief outline of each and how they relate to the individual. Thereafter, this paper will look at how various organisations have attempted to combat radicalism and terrorism. This analysis will compare local and international attempts at solving the problem, with a focus on Kenya's legal framework. Criticism and support of the current methods used to counter terrorism will be through the lens of the preventive value of these strategies.

Investigation of hypotheses will then be done through research questions. The level of refugee participation in terrorist activity will then be ascertained through investigation. Once this has been determined, the legal means to counter refugee terrorist activity available to the state will be analysed. Within this analysis will be an investigation of whether the state follows legal principles, such as non-refoulment. Then, a comparison of possible solutions in different jurisdictions will be made. There will be special focus on legal integration as a possible solution.

Finally, the paper will make findings based on what is presented. These findings will be on whether the state follows the legal framework surrounding treatment of refugees. Also, to what extent the refugees are to blame for terrorist activity and whether there are any weaknesses in the legal framework itself dealing with the treatment and integration of refugees. The paper will conclude by making the recommendations based on the findings of the topical issues. These are for a more appropriate integration policy (including education on integration and citizenship).

TABLE OF CONTENTS

LIST OF ABBREVIATIONS

AMISOM – African Union Mission in Somalia

AU – African Union

CVE – Counter Violence Extremism

CBO- Community Based Organizations

COMESA- Common Market for East and Central Africa

CSO- Civil Society Organizations

DRA- Department of Refugee Affairs

EAC- East African Community

EIJ-Egyptian Islamic jihad

EU- European Union

GoK – Government of Kenya

IGAD- Intergovernmental Authority on Development

ISIL - Islamic State of Iraq and the Levant

KDF- Kenya Defence Forces

KNCHR- Kenya National Commission on Human Rights

NCTC- National Counter Terrorism Centre

NGO – Non-Governmental Organisation

NSCVE- National Strategy to Counter Violent Extremism

OECD - Organisation for Economic Co-operation and Development

UDHR- Universal Declaration of Human Rights

UK- United Kingdom

UN – United Nations

UNDP- United Nations Development Program

UNHCR – United Nations High Commissioner for Refugees

US- United States

ACKNOWLEDGEMENT

I would like to acknowledge my supervisor Dr Edwin Bikundo for the guidance and stewardship throughout my thesis work.

DEDICATION

I dedicate it this work to my beloved wife Fatuma Abdullahi and my sons Yahya and Ayyub.

CHAPTER ONE
INTRODUCTION

1.1 Background to the Study

Kenya faces a national security threat from violent extremism.[1]The country's major towns of Nairobi and Mombasa have in the past experienced Al-Qaeda (the terror group associated with Osama bin Laden, whose main aim was the disruption of US domination in world affairs) inspired attacks with the August 1998 bombings of the US embassy in the capital and the 2002 bombings of an Israeli owned hotel in Mombasa.[2]

With the 2011 incursion of the Kenya Defence Forces into Somalia, there has been a new security challenge that has resulted in an escalation in radical extremism attacks particularly from the Al-Shabaab, the Somali based terror group whose aim is to establish shariah law in Somalia and neighbouring territories.[3]

Kenya's porous border with Somalia closer to major population centres, its international status, soft targets such as the tourist sector, the comparatively high number of Kenyan foreign fighters within the ranks of Al-Shabaab, presence of terror cells in Kenya and high corruption levels are other contributors to this phenomenon.[4]

The violent extremist group has in the recent past carried out retaliatory attacks in the country resulting to the deaths of many innocent civilians. The April 2015 Garissa University College attack was the second deadliest terrorist attack in the country since the 1998 US Embassy attack claiming the lives of 142 college students.[5]

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[1] 'Mwere D: Terror groups pose biggest threat to Kenya's security-NIS', *Daily Nation* https://www.nation.co.ke/news/NIS-terrorism-security-threat/1056-4103606-b06cccz/index.html on 20 September 2017.

[2] Warah R, *War crimes,* AuthorHouse, Bloomington, 2014, 105.

[3] 'Kibor F: Terrorism threat stalking us but we shall crush it, Uhuru says', *Standard Digital* https://www.standardmedia.co.ke/article/2001269042/terrorism-threat-stalking-us-but-we-shall-crush-it-uhuru-says on 9 February 2017.

[4] Brendon J & Ruto D, 'Why Al-Shabab attacks Kenya: Questioning the narrative paradigm', *Terrorism and Political Violence Journal*, (2017).

[5] Africa Union Incident Analysis, 'Terrorist attack, Garissa University Kenya', 2 April 2015 http://caert.org.dz/incident-reports/Terrorist%20Attack%20In%20Garissa.pdf

The threat to Kenya is made more peculiar because the country accommodates many Somali refugees, majority of who live in the designated refugee camps of Dadaab and Kakuma. Other refugees live among the local population as urban refugees in Nairobi and other towns.[6]

While this latter group of refugees is de-facto integrated into the local host community, they like the encamped refugees are not legally integrated and this is perceived to exacerbate the security risk.[7]

1.2 Research Problem

The Kenyan government has on varied occasions claimed that Somali refugees pose a peculiar threat to the country's national security.[8] This ever-present threat has been aggravated by the poor treatment of Somali refugees by the State and the xenophobic attitudes by the local population that lead to radicalization and as a result violent extremism.[9]

This paper proceeds on the premise that Somali refugees are not allowed to be legally integrated into the local communities due to the encampment approach stipulated by the Kenyan laws.[10] The research will interrogate whether systematic integration of Somali refugees will result in making them have a better sense of belonging and give them stakes in the country. It will delve to establish whether this will result in de-radicalization and hence a reduction in cases of violent extremism.

1.3 Hypotheses

   a) Failure to locally integrate Somali refugees has led to an increased risk of violent extremism in Kenya.

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[6] United Nations High Commissioner for Refugees, 'Kenya Comprehensive refugee Program', (2016), 3-7.
[7] Abdi A, 'Urban refugees reintegration: A case study of Nairobi's Eastleigh Somali refugees ', Thesis for Masters Degree in Armed Conflict and Peace Studies, University of Nairobi, November 2010.
[8] 'Sham S: Kenya to close refugee camps amid security and economic concerns', *Deutsche Welle* http://www.dw.com/en/kenya-to-close-refugee-camps-amid-security-and-economic-concerns/a-19240991 on 7 May 2016.
[9] 'Haron M: Kenya's immigrant crackdown: Harassing Somalis will not counter terrorism', *Ceasefire Magazine* https://ceasefiremagazine.co.uk/kenyas-immigrant-crackdown-harassing-somalis-counter-terrorism/ on 18 June 2014.
[10] Section 16 (4) and 17(f), *Refugees Act*, 2006 (Act No. 13 of 2006).

b) Systematic integration of Somali refugees among host communities in Kenya will result-in a reduction in violent extremism in the country.

1.4 Research Questions

a) Are Somali refugees involved in terrorism?
b) If so, what are the suite of legal responses that the Kenyan State has in responding to violent Somali refugee extremism?
c) Is integration a factor in reducing violent extremism?

    a. How far Are the Somali refugees in Kenya integrated into the local host population?

    b. What are the reasons as to why the Somali refugees in Kenya are not integrated into the local population?

    c. Could the systematic integration of Somali refugees among host communities produce a reduction in violent extremism in Kenya?

1.5 Literature Review

Violent Extremism is an ever-present threat in Kenya.[11] In recent times Al-Shabaab attacks on innocent civilians has led to the deaths of so many people the deadliest being the Garissa University attack and the Westgate Mall siege.

A Pew Research Centre survey published in March 2013 found that 55% of Kenyans believe that terrorism constitutes a major threat to the country[12]- violent extremism has caused an atmosphere of fear and terror in the daily lives of people in Northern Kenya, the Coast and Nairobi. It is therefore paramount to research on ways of reducing the threat of violent extremism so as to reduce the threat and fear among the local population.

Otiso KM in his article in the Kenya Studies Review Journal gives reasons why Kenya faces terrorist attacks as: (1) its close ties to western countries (2) its vibrant coastal beach tourism that threatens local Islamic culture and (3) the perception that the country's

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[11] 'David Mwere: Terror groups pose biggest threat to Kenya's security-NIS'
[12] Pew Research Centre, 'Climate change and financial instability seen as the top Global threats', *Survey Report* 24 June 2013.

predominantly Christian population is an obstacle to the Islamization of Eastern Africa.[13]

Brendon J and Dominic R have also pointed out that the Kenya security establishment's draconian tactics against the Kenyan Muslims and other communities (like the refugee community) have led to anger, frustration and, in some cases, radicalization.[14] Their assertion suggests that such methods as integration may increase the trust between refugee communities and the Kenyan state.

The United Nations Development Program (UNDP) in its policy brief on development in Kenya states that violent extremism has had a great negative impact on the Kenyan economy. It has affected infrastructure, physical and human capital, productivity and economic growth.[15] The brief paints a picture of the negative effects of violent extremism on the country's economy. Thus, exploring local integration of refugees as a way of reducing instances of violent extremism may help the general economy of the country.

In its February 2017 meeting report, the Rift valley Institute asserts that hard military and security approaches have not successfully addressed the threat of violent extremism and that a new approach of countering violent extremism has emerged that promotes preventive programming that aims to address the drivers of violent extremism that is a departure from reactive counterterrorism measures.[16]Local integration of Somali refugees can be presented as a counter violent extremism option.

Various human rights organizations' reports and accounts have documented the abuses against Somali refugees in Kenya. These abuses include periodic raids, beatings, police round-ups, extortion, torture and rapes. The Human Rights Watch report of 12th May 2014 describes some of these violations.[17]

Another report by Human Rights Watch that documented these abuses further stated that although the abuses do not necessarily translate into violent extremism because many

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[13] Otiso K, 'Kenya in the crosshairs of global terrorism', *Kenya Studies Review Journal*, (2009), 108.
[14] Brendon J & Ruto Pkalya 'Why Al-Shabab attacks Kenya: Questioning the narrative paradigm'.
[15] 'UNDP: Articulating the pathways of the impact of terrorism and violent extremism on the Kenyan economy', *Policy Brief* 1/2017, October 2017.
[16] 'Rift Valley Institute: Violent extremism in Kenya- risk and resilience', *Meeting Report*, February 2017.
[17] https://hrw.org/news/2014/05/12/kenya-end-abusive-round-ups on 12 May 2014.

Somali refugees have suffered persecution in the hands of radical groups like Al-Shabaab back in Somalia, the existence of radicalism as a result of abuses by the Kenyan state has aided those carrying out violent extremism attacks in Kenya.[18]

Kenyan journalist, Rasna Warah has highlighted the Kenyan state and local population's antagonistic attitude towards ethnic Somalis- both Kenyan and Somali. She interrogates the problem of the mistreatment of ethnic Somalis by highlighting the abuses they face in the Kenyan state; and discrimination and hostile attitude they face from the public.

Her book also gives a historical context in which the suspicions and mistrust between the ethnic Somalis and the various Kenyan governments since post-colonial period. [19]

In her article in the Journal for Refugee Studies, Elizabeth H. Campbell supports the idea of local integration of urban Somali refugees in Kenya arguing that they are not an economic burden as they are self-sufficient.[20]

Local integration can thus be explored to see if it can deal with grievances of these harassment. By giving the refugees the same status as citizens, these abuses and harassment may reduce and therefore by extension a decrease in radicalization.

Peter Kirui and Dr. John Mwarurie writing in the International Journal of Business and Social Sciences argue that the presence of refugees in Kenya poses national security threat.[21] They seem to suggest getting rid of refugees all together.

In their article exploring the development of radicalization in Kenya, the country's foreign and military policy in Somalia is identified as a factor influencing the rising threat of radicalization in Kenya.[22]

The study will rely on other reports by institutions dealing with human rights, refugee rights

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[18] https://www.hrw.org/report/2012/05/04/criminal-reprisals/kenyan-police-and-military-abuses-against-ethnic-somalis on 4 May 2012.
[19] Warah, *War crimes*, 125-152.
[20] Campbell E, 'Urban refugees in Nairobi: Problems of protection, mechanisms of survival, and possibilities for integration, 19 *Journal of Refugees* 3 (2006) 399-400.
[21] Kirui P, Mwarurie J, 'The dilemma of hosting refugees: A focus on the insecurity, in north eastern Kenya' 3 *International Journal of Business and social Sciences* (2012) 161.
[22] Petterson W, 'Islamic Radicalization in Kenya', *Joint Force Quarterly 78* (2015) 16-22.

and government policy. These include reports by Kenya National Commission on Human Rights (KNCHR)[23], United Nations High Commissioner for Refugees (UNHCR); refugee agencies like the Norwegian/Danish Refugee Agency; and Amnesty International.

This study seeks to bridge the gap in countering violent extremism by interrogating the option of local integration of Somali refugees and seeks to get answers as to whether if adopted, it will lead to a decrease in radicalization and hence a reduction in instances of violent extremism.

1.6 Approach and Methodology

This study will use desktop qualitative research along with traditional black letter doctrinal legal analysis. It will adopt secondary sources of information. It will evaluate the issues through looking into books, journals, reports and other relevant research papers. It will also look into primary information such as news material from newspapers and news websites.

The study will investigate into case studies such as the trial of the suspects of the Westgate Attack. The attack is the highest profile violent extremism attacks in the country as it has happened in the recent past, its trial is ongoing, and the events unfolded in the glare of the public through the media.

The case study will look into reports on possible involvement of Somali refugees in the planning and execution of the attack.

The study will also analyze the historical context to my research problem. It will look into the antagonism between Kenya and Somalia. Kenya has a sizeable ethnic Somali population that is connected to the Somalis of Somalia. This group has experienced historical injustices and the civil war in Somalia has affected its relationship with the Kenyan state.

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[23] 'KNCHR: The error of fighting terror with terror- preliminary report of the KNCHR investigations on human rights abuses in the ongoing crackdown against terrorism', *KNCHR* http://www.knchr.org/Portals/0/CivilAndPoliticalReports/Final%20Disappearances%20report%20pdf.pdf on September 2015.

1.7 Theoretical Framework

This research proceeds on the principles of national and international refugee rights as a reality and necessity when dealing with refugees and the international community at large. These principles, despite efforts to contravene them by the Kenyan state, is a necessity in maintaining the rights of refugees and protecting them from the conditions that they were fleeing.

Natural Law Theory will also play a minor role in informing the underlying justifications that I think are relevant to the discussion. Refugee rights are human rights and need to be respected. Natural Law theory was utilised in the 20th century in the development of human rights as universal principles within the international community. The idea of Natural law, in its simplest form definition, is viewed as a body of moral principles that is common to all humankind and is recognizable by human reason alone.

Systems theory will also inform the arguments that criticize the Government's maltreatment of refugees. It is the theory that a system should work well, in tandem with the legal framework resulting in a system where law, policy and practice align.

This study is further informed by Positivism. The theory of positivism reinforces the authority of a state as defined by the specific rights emanating from the constitutional structure. The state though, is also bound by other international bodies. However, this view is disputed by the decision-making model in foreign policy theories. State behaviour is also influenced largely by the internal actors and internal processes, like individual groups and organizations that are all important in determining the behaviour of states. The state needs to remain sensitive to internal pressures and internal constraints.

In this case, while the Kenya government is pre-occupied with issues of national security and control of migration flows into the country defined as Kenya's national interests, the handling of these interests impacts other obligations, including its international obligations towards refugee protection. Encapsulated in our problem statement is the dilemma faced by most states when considering the balance between legitimate state interests and the protection of rights and needs of refugees, without doing unnecessary harm to either. Despite States' recognition of the important role played by the 1951 Convention and its

1967 Protocol as landmark legal instruments in the setting of standards for the treatment of refugees globally, the degree of their implementation remains unsatisfactory.

From the foregoing theoretical framework, this study points out the minimum standards of protection to be guaranteed to refugees as human beings with inherent rights, and further highlights the challenges encountered by states in the implementation of state obligations towards refugees at both the international and national level.

1.8 Limitations and Assumption

This an academic research aimed at fulfilling the requirements for the conferment of master's in law degree and as thus was limited as to the time and resources committed to it.

It is also assumed from the onset that systematic integration of Somali refugees among host communities in Kenya will have a reduction in radicalization and violent extremism. This is the author's bias.

1.9 Chapter Breakdown

This study has five (5) chapters. The first chapter is the introduction. It analyses the problem, sets the hypothesis and research questions. It also provides the literature review, the theoretical framework, methodology, limitations and assumptions. The proposal for the research will constitute the first chapter of the study.

The chapter in addition defines key words used in the research so as give the author's understanding of key terms. Such terms will include terms like 'violent extremism', 'radicalization' and 'integration'.

Chapter two is on the problem of radicalization and violent extremism globally and more specifically in Kenya. It will give an insight as to the causes of radicalization in the country especially among the Muslim youth and among the refugee population. It will further highlight instances where such radicalization has resulted into acts of violent extremism. This chapter will address the questions as to (1) what are the factors and causes of this scourge (2) the historical development of the phenomena in Kenya and (3) what are the country's counter-terrorism interventions and their effectiveness or lack

thereof?

The chapter will give a historical context to the extremism and radicalization problem in the country. The problem is rooted in the historical injustices against the ethnic Somalis and Coastal Muslims and recently coupled with radical Islamic preaching.

Chapter three will seek to look into Kenya's counter terrorism measures- mechanisms aimed at reducing, preventing and fighting radicalization and violent extremism. The chapter will analyze the application of these measures in Somali/Muslim dominated area of Eastleigh- it will measure its effectiveness and give conclusions.

The various counter-terrorism tactics, techniques and strategies that will be looked into include: review of terrorist related laws, law enforcement, counter-terrorism policy, diplomatic efforts and deradicalization programs.

Chapter four will be used to proving or disproving the hypotheses. It will explore the lack of integration as a cause of radical extremism and look into the promise of integration. It seeks to analyze whether the successful integration (if adopted as a government policy) of Somali refugees into host local communities will result into a reduction of radicalization and instances of violent extremism. It will seek to show that if properly and successfully integrated, this will result into a reduction in instances of violent extremism in the country.

The final chapter gives the conclusion of the analysis of the research and draws inferences on the findings. It will also provide for recommendations.

CHAPTER TWO
RADICALISATION AND VIOLENT EXTREMISM

2.1 Introduction

Chapter one gave the basis on which the paper will take, that is, a look into the local integration of Somali refugees and the outcome it will have in reducing terrorism if integration is effective. However, before further delving into this the section below will look at the meaning and parameters to which the paper will approach integration. After which the paper will delve into the historical context of radicalization, factors that lead to radicalization and therein conclude.

2.2 Social Integration

Social integration can be understood in three different ways. The first is when social integration is looked at as an inclusionary goal that implies equal opportunities and rights for all human beings. Secondly, social integration can be viewed in a negative connotation of complete uniformity, loss of culture and 'westernization'. Thirdly, social integration can be seen as neither negative nor positive but as an established pattern of human relations in any given society.[24] For the purpose of the objectives of this dissertation the author uses social integration to imply the first understanding of equal opportunities for all human beings despite religion, nationality and ethnic background. [25]

Therefore, for social integration to be present there has to be: a heightened understanding of different cultures and religion to avoid misinterpretation of hatred for certain persons based on religion and culture, adequate systems (health, security, immigration, educational, employment) that provide equal opportunities to all those who seek their help, adequate representation within the government and a positive view within the community of immigration and refugees.[26] The above factors will be assessed when looking at the causes

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[24] *UNRISD Briefing Paper No.1, Social Integration: Approaches and Issues, World Summit for Development, 5, 16.*

[25] The mentioned parameters are not the only know differentiating factors but are the most relevant to the purpose of this dissertation.

[26] *UNRISD Briefing Paper No.1, Social Integration: Approaches and Issues, World Summit for Development, 5, 16.* It should be noted that within such systems the immigrant is meant to be able to meet all their basic needs in all levels including the economic level. This means that the systems in place in a government should ensure any immigrant seeking refuge and citizenship is not only able to attain refuge

of radicalization to illustrate deficiencies in the above factors can easily result to radicalization. The section below will lay down the foundation of radicalization in Kenya by giving a historical context.

2.3 Historical Context of Radicalization

The term radicalization has been attributed to terrorism studies and counter-terrorism studies since 2004.[27] The process of radicalization is a complex interaction of factors that do not always result into extreme violence.[28] The process can take many different routes, including non-violent ones. Therefore, radicals can engage in non-violent actions but still have radical ideas on certain issues.[29] Therefore, not every radical thinker becomes a terrorist, although every terrorist has gone through the radicalization process.[30]

Terrorism then becomes the worst possible outcome of the radicalization process. The process of radicalization seems to evolve according to the counter terrorism mechanisms that countries deploy against radicalization. Before delving into the causes of radicalization leading to extreme violence, it is important to look at the historical context of the problem of terrorism in Kenya.

Kenya has been frequently targeted by terrorist and violent extremist since the Al-Qaeda 1988 bombing of the U.S embassy in Nairobi.[31] This attack killed 220 people.[32] Since then, there have been over 200 violent incidents involving explosives or automatic weapons that have been linked to the Al shaabab.[33] These attacks have been in government offices, public transport, universities, places of worship and shopping malls. The most known attack being the Westgate attack which was a four-day siege that left 67 people dead and hundreds others injured. The attack occurred on 21 September 2013.[34] Two years later on 2 April,

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and citizenship but also good living conditions.

[27] Kundnani A, 'Radicalisation: the journey of a concept' 54(2) *Institute of Race Relations,* 2012, 1.

[28] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 5.

[29] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 5.

[30] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 5.

[31] UNDP, *Support to prevention of Violent Extremism in Kenya*, 1.

[32] UNDP, *Support to prevention of Violent Extremism in Kenya*, 1.

[33] UNDP, *Support to prevention of Violent Extremism in Kenya*, 1.

[34] UNDP, *Support to prevention of Violent Extremism in Kenya*, 1.

gunmen, linked to Al shaabab, attacked Garissa University found in Garissa town. This attack left 148 students and teachers dead and 80 injured. The most recent attack occurred on 15 January 2019, where gunmen stormed the Dusit2 Complex in Nairobi. This 19-hour siege claimed the lives of 21 people and left several injured.[35]

The impact and cost of such attacks on Kenya's development agenda is enormous.[36] Consequently, the radicalization and violent extremist phenomena are disproportionately impacting youth and women from marginalized areas and communities.[37] Al-shaabab and other violent extremists have tapped into such regions and used the fragility of the youth and women in said marginalized groups to recruit into violent extremism. However, it is important to understand that the phenomenon of violent extremism and radicalization is not only a Kenyan problem.[38] Acts of terrorism have been experienced across the world.[39] According to the top-line statistics of the fourth edition of the Global Terrorism Index, generally since 2000 to 2016 the levels of global terrorism as a whole have reduced.[40] However, the report highlights the complex dynamic of how certain countries have increased in there level of radicalization and consequently violent extremist acts while others have reduced.[41]

Additionally, groups such as Boko Haram and ISIL have increased their activities into neighbouring regions such as West Africa and Europe respectively.[42] This is despite the fact that within their home territory they are being weakened.[43] This dynamic illustrates the various factors that can lead to terrorism, radicalization and extreme violence at a trans-national level even though counter-terrorism measures are being deployed.[44] To further

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[35] 'Kenya attack: Nine arrests over bloody Dusit2 hotel siege' BBC, 17 January 2019 https://www.bbc.com/news/world-africa-46902564 on 22 March 2019.
[36] This is seen through the loss of property, economic opportunities in the form of tourism (which declines due to insecurity), lowers the rate of trade and instils fear of certain groups of people such as Muslims thereby bringing unrest. See further UNDP, *Support to prevention of Violent Extremism in Kenya*, 5.
[37] UNDP, *Support to prevention of Violent Extremism in Kenya*, 1.
[38] Institute for Economics and Peace, *Global terrorism Index*, 2016, 14.
[39] Institute for Economics and Peace, *Global terrorism Index*, 2016, 14.
[40] Institute for Economics and Peace, *Global terrorism Index*, 2016, 36.
[41] Institute for Economics and Peace, *Global terrorism Index*, 2016, 14.
[42] Institute for Economics and Peace, *Global terrorism Index*, 2016, 49. This is noted by the increase in combined death rates from both terrorist groups totalling to an 84% increase.
[43] Institute for Economics and Peace, *Global terrorism Index*, 2016, 14.
[44] Kundnani A, 'Radicalisation: the journey of a concept', 5.

understand this dynamic the next section will analyse the causes of radicalization leading to extreme violence.

2.4 Factors that Lead to Radicalization and Extreme Violence

When analysing the correlation of terrorism there are certain factors that are statistically significantly dependent on the level of development of a country. In developing countries factors such as marginalization, unemployment, corruption and history of conflict influence the level of radicalization and extreme violence.[45] Whereas in the Organisation for Economic Co-operation and Development (OECD) countries, socio-economic factors such as youth unemployment, militarization, levels of criminality, access to weapons and distrust in the electoral process are the most influential in assessing contributors to radicalization.[46]

The factors that contribute to radicalization and extreme violence that will be assessed in this section work on a few fundamental assumptions. The first assumption is that radicalization is seen collectively as a process of socialization that affects individual behaviour.[47] It implies that radicalization of certain groups can be explained by analysing the behaviour of individual members.

Secondly, there is no single explanation for radicalization.[48] The causes of radicalization are many and diverse. Therefore, independent factors are insufficient to result in radicalization and consequently extreme violence.[49] Radicalization is an outcome of complex interaction of several factors that vary according to countries. Thirdly, causal factors that contribute to radicalization do so in different magnitudes. External factors such as political, economic and cultural conditions shape and constrain the individual's environment.[50] However, they do not have a direct effect on individual behaviour to the

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[45] Institute for Economics and Peace, *Global terrorism Index*, 2016, 38.

[46] Institute for Economics and Peace, *Global terrorism Index*, 2016, 40. The author is cognizant of the metric of development used by the OECD countries to be that on not only economic improvements but also societal progress in the form of improvements to well-being. This framework is used when determining certain causes of radicalization such as youth unemployment.

[47] Udehn L, *Methodological Individualism*: *Background*, *History and Meaning*, 1, Routledge, London, 2002, 12.

[48] Borum R, *Psychology of Terrorism*, 1, University of South Florida, United States, 2004, 22.

[49] Borum R, *Psychology of Terrorism*, 22.

[50] Blomberg S, Hess G and Weerapana A, 'Economic conditions and terrorism' 20(2), European Journal of

extent to radicalize into extreme violence.[51]

The social and individual level interactions are factors that are able to catalyse other external factors to lead to radicalization. This brings in the distinction of causal factors into causes that set the foundation for radicalization such as external factors, and catalysts that abruptly accelerate the radicalization process.[52] The central focus should be how these causes and catalyst interact with each other, when combined result in radicalization and extreme violence.

Causal factors of radicalization can be distinguished into two different axes. The first axes being a distinction between external, social and individual level.[53] These factors differ in the extent to which they contribute to radicalization and do not have a direct effect on radicalization. However, social and individual factors can intercede this relationship and cause direct effect. The second axes focuses on the causes and catalysts that manifest from the three levels of external, social and individual level.[54] It is evident that the individual forms the core of the distinction of axes based on his behaviour that is subjected to a variety of causes and different measurement levels.

External factors can be divided into political, economic and cultural dimensions.[55] External factors manifest themselves independent of the individual. They have the power to shape and constrain the individual's environment. However, the individual has little to no influence on his environment.[56] The political climate of a country is an external factor. Political events generally occur outside the scope of the individual as their influence is minimal on the situation. The same observation can be seen in economic or cultural developments such as globalization and industrialization.[57] Therefore, external factors do

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Political Economy, 2004, 463-478.

[51] Blomberg S, Hess G and Weerapana A, 'Economic conditions and terrorism', 463-478.

[52] Coleman J, *Foundations of Social Theory*, Belknap Press of Harvard University Press , 2, United States, 1998, 36. The role of social factors is multifaceted. It can act as a catalyst but can set the foundation whenever it is coupled by other external factors such as political and economic.

[53] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 18.

[54] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 19.

[55] Blomberg S, Hess G and Weerapana A, 'Economic conditions and terrorism', 463-478.

[56] Blomberg S, Hess G and Weerapana A, 'Economic conditions and terrorism', 463-478.

[57] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-*

not have a direct effect on individual behaviour. This can be further illustrated by looking at the effect of absolute deprivation.[58] Poverty acts as an economic problem, hence an external factor that absolutely deprives others the right to well-being.[59] However, poverty does not have a direct effect on radicalization as not all poor people are radicalized. Consequently, showing the importance and impact of the social context of an individual in the process of radicalization.

Social factors form the second level and refers to the mechanisms that position the individual in relation to relevant others.[60] This means the social context is not limited to in-groups but also includes out-groups.[61] The social factor can be divided into network dynamics, relative depravation and identification process.[62] The social factor plays an intervening role in the relation with external factors and radicalization. For example the use of social media to stigmatize Islam acts as a social factor that will impose a stronger radicalization force on Muslims than non-Muslims. Especially if external factors such as contravention of basic rights based on Islam already exist.[63]

The third level is the individual level. At this level psychological characteristics, personal experiences and rationality influence how people respond to their social and external environment.[64] This means that people radicalize based on their knowledge and attitudes towards the political and economic climate coupled with how they respond to major life

radicalisation Strategy, 20.

[58] Gurr T, *Why men rebel*, Princeton University Press, 2, New York, 1989, 20.

[59] Gurr T, *Why men rebel*, 22.

[60] The Library of Congress, *Sociology and Psychology of Terrorism: Who Becomes a Terrorist and why*, 1999, 22.

[61] The Library of Congress, *Sociology and Psychology of Terrorism: Who Becomes a Terrorist and why*, 1999, 22.
In-groups are the direct groups that one associates with such as the Muslim community while out-groups refer to other social groups found within the society that are non-Muslim.

[62] The Library of Congress, *Sociology and Psychology of Terrorism: Who Becomes a Terrorist and why*, 1999, 15, 22. Relative deprivation refers to a lack of relation or means of relation to significant groups whereas absolute deprivation refers to a lack of means to survive. This distinction shows the difference between external and social factors as one concentrates on the means while the other looks at an individual's relation dynamic in society.

[63] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 25.

[64] Loza W, 'Psychology of Extremism and Terrorism: A Middle-Eastern Perspective', 12(2), *Aggression and Violent Behaviour*, 2007, 150.

events.[65] Even though individual causal factors occur closest to the individual, it does not automatically mean they have the strongest influence on an individual to radicalize into extreme violence. [66]

The above factors form the second axes of causes. However, catalysts are also causal factors that contribute to radicalization. Catalysts can occur in the three levels of the first axes often penetrating through all levels.[67] Catalysts accelerate the radicalization process but differ from causes in that they do not initiate the process of radicalization but further the process. Catalysts are dependent on the individual, as what one discards as irrelevant can be a trigger for one person. Therefore, catalysts tend to have an unpredictable and volatile nature. Consequently, catalysts are not reasons for radicalization but influencing factors for individuals that are already in the process of radicalization.[68] The two major catalysts are recruitment and triggering events.[69] The section below will analyse the general causal factors found in external, social and individual level then proceed to analyse the two major types of catalysts.

2.5 Causal Factors at The External, Social and Individual Level

2.5.1 External Factors

2.5.1.1 Political causes

Poor integration is the most prevalent political cause to be attributed to radicalization. In a study conducted in 2006 by Twenge, it was showed that individuals tend to become less pro-social when they are excluded from group activities.[70] Additionally, such people who are excluded tend to engage in self-defeating behaviours and have aggressive tendencies.[71]

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[65] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 26.

[66] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 27.

[67] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 26.

[68] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 27.

[69] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 30.

[70]Tajfel H and Turner J, 'An integrative theory of intergroup conflict' in Austin W and Worchel S (eds), 3rd ed, The social psychology of intergroup relations, Brooks/ Cole Pub. Co, Monterey, 1979, 33.

[71] Tajfel H and Turner J, 'An integrative theory of intergroup conflict', 36.

Hence, people in a society need to be involved and consulted in matters that are pertinent in that society for them to feel like they belong in society. This is attributed by the fact that the need to belong is one of the primordial wants of the human being and it is only through attaining it does one act as a good citizen.[72]

However, poor integration of Muslims in Kenya and Western societies is a key issue. Over the past decade research has shown that the integration of Muslims in Europe is usually half-hearted. Muslims in European countries are generally excluded in policy making decisions and from leadership positions.[73] This can be seen by the clear underrepresentation of the Muslim community in any public institution and organizations.[74] This in turn hinders the Muslim community from identifying and relating to any European organisation or Institution, bringing about a sense of isolation and non-involvement.

Furthermore, institutional support of Muslims challenging discrimination was found to be lacking. Hence, any attempts to involve Muslims in public debates are seen to be insincere. Kenya too is plagued with similar facts in the integration of Muslims into the Kenyan society as citizens.[75] In a study done in 2015, the major factor that increasing the probability in youth radicalization in Kenya is the perception of social exclusion and marginalization.[76] This includes lack of participation in key issues that affect the country, under representation in government, mistreatment of Muslims based on their religion resulting in contravention of basic human rights among other factors.[77]

Unchecked and blatant exclusion from group membership can instigate negative and aggressive behaviours and attitudes.[78] Under certain circumstances, those who have not experienced this exclusion to its fullest can identify to the experience and emotions on

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[72] Tajfel H and Turner J, 'An integrative theory of intergroup conflict', 36.
[73] European Monitoring and Centre on Racism and Xenophobia, *Activities of the EUMC 2006*, 2007, 18.
[74] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 24.
[75] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 25.
[76]Ooko S, 'Global Terrorism Threat: Youth Radicalization in Kenya' unpublished, University of Nairobi, 2014, 28.
[77]Ooko S, 'Global Terrorism Threat: Youth Radicalization in Kenya' unpublished, University of Nairobi, 2014, 28.
[78]Ooko S, 'Global Terrorism Threat: Youth Radicalization in Kenya' unpublished, University of Nairobi, 2014, 29.

behalf of their marginalised group.[79] Hence, they are motivated to act towards group goals to elevate the situation of their in- group they identify with, i.e. the Muslim community. This sense of strong identification can make certain members perceive and interpret any threat to their group as a personal threat and respond in highly emotional ways. This shows that exclusion of a self-relevant group can trigger similar responses as exclusion of the self. Consequently, making exclusion of the Muslim society in any country as a foundation for radicalisation.

Additionally, the global perception of Muslims in the world fuels this threat of exclusion. This can be attributed to the general feel that Muslims all over the world think the West is fighting Islam.[80] An opinion poll conducted in 2017 shows that most American Muslims and British Muslims feel like the 'war on terror' is a 'war on Islam'.[81] This is despite the fact that most Muslim communities do not believe nor condone violent extremism done in the name of jihad.[82]

Conflicts of the West and the Middle East have a high influence on the rate and effectiveness of radicalization.[83] Especially, when the West picks diplomatic positions that are viewed as anti-Islamic. Such views are also placed on any country that is deemed to be in support of the West. In a study done by Usalaam Watch in 2014 showed that due to the position Kenya has with European countries, any internal security agencies deployed to respond to terrorist attack are not done without further alienating communities whose support and cooperation is essential in the fight against terrorism.[84]

Additionally, most major attacks in Kenya are 'revenge' missions on decisions made by other countries that Kenya supports. For example: The first major attack that occurred in

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[79]Ooko S, 'Global Terrorism Threat: Youth Radicalization in Kenya' unpublished, University of Nairobi, 2014, 30.
[80] George Monbiot, 'A Wilful Blindness' the Guardian, 11 March 2003, https://www.theguardian.com/world/2003/mar/11/usa.iraq on 20 March 2019.
[81]George Monbiot, 'A Wilful Blindness' the Guardian, 11 March 2003, https://www.theguardian.com/world/2003/mar/11/usa.iraq on 20 March 2019.
[82] 'Terrorism and concerns about extremism' Pew Research Centre, 26 July 2017, -<https://www.pewforum.org/2017/07/26/terrorism-and-concerns-about-extremism/>- on 22 March 2019.
[83] Ooko S, 'Global Terrorism Threat: Youth Radicalization in Kenya' unpublished, University of Nairobi, 2014, 28.
[84] International Crisis Group, Kenya: Al-Shabaab- Closer to Home, 17.

Kenya, the bombing of the Norfolk Hotel in December 1980 was attributed to the 1972 Israeli military raid in Entebbe, Uganda, that was initiated in Kenyan soil.[85] The 1998 Al-Qaida attack on the American Embassy in Nairobi occurred, killing 250 people and injuring approximately 5,000 member staff, passers-by and people in neighbouring buildings.[86] This attack was determined as revenge on the U.S for the involvement in the extradition, alleged torture and detention of four members of the Egyptian Islamic Jihad who had been arrested in Albania.[87]

In conclusion, political causes such as non-integration or poor integration of certain groups can form the basis for the radicalization process within the afflicted group. However, even though a basis is formed, it is not strong enough to be the only cause of radicalization of an individual. Other causes help to cement the foundation while others catalyse. The latter will be looked at in the section below.

2..5.1.2 Economic causes

The argument on economic causes can be summarised into two types of deprivation, relative deprivation and absolute deprivation. When looking at absolute deprivation the focus is on poverty.[88] Poverty being associated with the lack of means (usually monetary) to acquire all the basic needs. However, it is unclear whether absolute poverty is a cause to radicalize. This is because the number of people radicalized fall within all social classes. A larger percentage falling within middle-class families in contrast to low-income families.[89] Although on an individual basis, poverty can be a reason to radicalize, in as long as it is associated with other factors such as discrimination. On its own it does not stand as a cause that lays the foundation for radicalization.[90] Consequently, refuting the causal

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[85]Oded A, *Islam and Politics in Kenya,* 1, Lynne Rienner Publishers, London, 2000, 36, 82.

[86] 'Al-Qaida timeline: Plots and attacks' NBCNews, 7 November 2012 http://www.nbcnews.com/id/4677978/ns/world_news-hunt_for_al_qaida/t/al-qaida-timeline-plots-attacks/#.XKeBapgzY2w on 22 March 2019.

[87] Mayer J, *The Dark Side*: *The Inside Story of How The War on Terror Turned into a War on American Ideals*, 1, Anchor Books, New York, 2009, 11.

[88] Sageman M, *Understanding terror networks*, 2nd ed, University of Pennsylvania Press, Philadelphia, 2004, 24.

[89] Sageman M, *Understanding terror networks*, 24.

[90]Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 19. This is however arguable as some authors have noted that when the country faces economic problems the level of terrorism rises. Hence, making the decision to engage in terrorism based on opportunities and constraints.

relationship of absolute poverty and radicalization. Thereby, relative deprivation is manifested.

Relative deprivation looks at subjective perception of being unfairly disadvantaged in relation to a certain group.[91] Hence, a community is not poor because they are 'lazy' or 'unmotivated'. Rather a community is deemed poor based on systematic discrimination that marginalises them and denies opportunities such as employment, education, leadership, citizenry based on the identity of such as community, i.e. following the Islamic faith.[92] Such deprivation can act as a concrete foundation for radicalization.

2.5.1.3 Cultural causes

The stigmatization of Muslim especially in European countries is not directly correlated to the Islamic faith but to cultural practices that some Muslim communities have. These cultural issues are repression of women, honour killings, and circumcision of young girls. However, in some Muslim communities the above issues are also considered Islamic. Illustrating the close intertwine of cultural and religion in the Muslim community.

In this age of globalization and modernisation, social interactions are frequent and easier between different cultures and religions. This increases the possibility of inter-ethnic and inter-cultural conflicts. Additionally, due to globalisation it is easier to spread ideological movements such as radical Jihad to Muslims all around the globe. Hence, globalization can encourage the 'brotherhood of the oppressed'. This spread of an ideology be it the 'problems of Islam' or the 'radical jihad' can cause conflict between Islamic communities and the West as well as conflict within Muslim communities. Furthering the process of radicalization.

2.5.2 Social causal factors

2.5.2.1 Social identification

Individual social behaviour is attributed to some extent with identification with social

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[91] Gurr, *Why men Rebel*, 24. The inability to obtain what is felt to be justified triggers feelings of frustration and ultimately facilitates the emergence of collective violence. Davies theory on rising expectations, frustration aggression hypothesis, time acts as a crucial element in generation aggravation.

[92] Gurr, *Why men Rebel*, 24.

groups. How we behave to a large extent depends on whom we identify with.[93] People define themselves as individual selves but the group they identify with forms what the individual self-constitutes. This suggests that we feel good about ourselves when the group we identify with accepts us.[94] An individual can belong to several identity groups based on sex, sexuality, ethnicity, profession, religion or a football club. However, among all those identities one takes precedence over the others.[95] For radicalisation two ambits come into play, that is, an identity crisis and security of the group.

Under identity crisis, it is common for Muslim youths in foreign countries feel alienated from the community.[96] In the Netherlands, Muslim-Dutch youth feel alienated from their parents and the Dutch community. This meeting of two worlds that is the Western and the Muslin world cause an identity crisis.[97] An identity crisis refers to when an individual seems to not fit in into any of the groups they seek to identify with.[98] As a way out of this isolation, such youth tend to find an identity in the Ummah that binds them with other Muslims facing or having gone through a similar plight of identity crisis.[99] Whether the Muslims are Dutch or Moroccan is irrelevant.

It is such groups that the second ambit comes into play. The importance of social identification is reflected when the group one associates with, such as the Muslim community, is threatened.[100] The threat is perceived as personal. This threat of their sacred in group can result in external aggression to out groups and in-group favouritism. Hence, a threat into their religious groups can prompt Muslims to withdraw into a strict in ward focused community with impassable borders.[101] In such a time of an identity threat all other identities become irrelevant such as nationality. Hence, it becomes easier to harm others in

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[93] Tajfel H and Turner J, 'An integrative theory of intergroup conflict', 38.
[94] Tajfel H and Turner J, 'An integrative theory of intergroup conflict', 40.
[95] Tajfel H and Turner J, 'An integrative theory of intergroup conflict', 41.
[96] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 30.
[97] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 31.
[98] Tajfel H and Turner J, 'An integrative theory of intergroup conflict', 42.
[99] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 40.
[100] Tajfel H and Turner J, 'An integrative theory of intergroup conflict', 42.
[101] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 32.

the society in as long as they don't form part of your prevalent identity group and helps 'protect' your in-group from threat. Therefore, Muslims that highly identify with their Islamic social group when faced with perceived discrimination based on their faith will trigger their most prominent identity to be their religious group and result in aggression towards anyone in the out-groups.[102]

This applies in Kenya in as much as it applies in Netherlands. When the Muslim community is termed as 'terrorists' based on their beliefs they will in turn retaliate to the threat of stigmatization by radicalizing.[103] This form of group identity threat can easily be catalysed by actual discrimination especially when it is systematic such as poor integration policies among the Muslims within Kenya.[104]

2.5.2.2 Network Dynamics

Network dynamics revolve around social groups. Radicals, are most influential in the circle within which they advocate for their ideas. Therefore, for one to be radicalized they are in complex interaction systems that shape and constrain their behaviour. Other people who form that part of the interaction system can have more influence on their behaviour than they might think, even if they choose to follow them. The mere presence of a charismatic leader can have tremendous results on how, when and what rate people radicalize. Coupled with the need to belong, youngsters can easily fall into the trap of charismatic leaders who seem to 'understand' their plight. In this dynamic relationship, it is easy for radical individuals to instil their ideas and attitudes in young, receptive Muslims. [105]

Radical ideas are thereby easily transmitted through social groups as social networks influence people's tendencies to radicalize. This can be done through several ways. The first avenue is through similarity which breeds connection. This can be explained through the theory of homophily, where individuals tend to invest in relationships with people that

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[102] Tajfel H and Turner J, 'An integrative theory of intergroup conflict', 43.

[103] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 37.

[104] This can be seen from the forceful displacement of Somali refugees back into their country on grounds of illegality. This is despite the fact that those grounds are not usually satisfied with reasonable evidence but on a suspicion basis. See further O'Callaghan S and Sturge G, ' Against the odds: refugee integration in Kenya' Overseas development Institute, HPG Working paper, 19, 21 -< https://www.odi.org/sites/odi.org.uk/files/resource-documents/12542.pdf on December 2018.

[105] Sageman M, *Understanding terror networks*, 26.

share their opinions and beliefs. Once within that network, social influence can lead one to adopt other attitudes and behaviours that are pertinent in the network.[106]

Once such attitudes and beliefs are adopted by the social network they can form prescribed norms within the network. This forms the second avenue to which network dynamics can enhance the radicalization process. When such norms are realized, anyone in the group feels obliged to prescribe to them so that they can fit in. Furthermore, mutual encouragement and punishment in network structures encourage conformity and breeds over aggressive behaviours. Conformity can lead to encouragement and avoidance of punishment and isolation. To some extent individuals can be so close in in their social network that they believe whatever they do is right and serves the good of the group even when it means harming out groups. This form of conformity is usually associated with suicidal terrorism.[107]

In conclusion, in social networks radical behaviours, attitudes and beliefs can easily be developed and spread through the presence of similarity that breeds connection, well-developed social norms that are encouraged, charismatic leaders and strong exerting influence to conform. Hence, this radical interpretation of Islam that advocates for extreme violence and demands for devotion to the in group can exert tremendous pressure and willingness to act on behalf of one's religious ideals.

2.5.3 Individual level

2.5.3.1 Psychological characteristics

Psychological characteristics of radicals have not been proven to be significantly different from others. Although radicals are conventionally termed as crazy and extraordinary. However, this is not supported by research.[108] Contrary, most research shows that radicals are anything but extraordinary. Consequently, no socio-demographic can fit the group termed as 'radical' nor a psychological profile.[109]

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[106] Sageman M, *Understanding terror networks*, 27.
[107] Sageman M, *Understanding terror networks*, 247
[108] Victoroff J, 'The mind of the terrorist. A review and critique of psychological approaches' 49 (1) *Journal of Conflict Resolution*, 2005, 41.
[109] Gurr, Why men Rebel, 30.

However, some studies have showed that terrorist behaviours don't have a psychological profile but have a psychological parameter of functioning variables that distinguish radical extremist and non-radicals.[110] One such influencing factor that has been identified is the significance of culture. Some cultures are simply violent, anti-social and aggressive. Such cultures tend to heighten the effects of emotional moments such as embarrassment, humiliation, isolation and discrimination.[111] This makes the radical in said culture to be more impulsive and lack self-control. In conclusion, cultures have a large effect on the attributes of the radical in that society.

2.5.3.2 Personal experiences

Personal experiences shapes how and what decisions we make. Individual experiences can be divided into two categories, these are emotional and cognitive experiences. Cognitive refers to people's knowledge and thoughts on their environment while emotional experiences are feelings on the environment.[112]

In the cognitive level, what people perceive of their environment is based on what they know and what they believe.[113] Sometimes this belief maybe detached from actual reality. This perception of what they know and believe influences how they respond to causal factors at the external and social level. Hence, radical interpretations of religion and its purpose can act as a spring board for terrorism but not as a direct cause. This is because people are susceptible to radical ideas in as long as their previous experiences have allowed for certain vulnerability. Most people would not be found with such vulnerability, to the extent to turn them into violent, hate-spreading ideologies. Therefore, following an ideology is not a cause of radicalisation but an indicator of the process. [114]

For such vulnerability to occur, a certain level of emotional experiences must have occurred. For example, feelings of guilt, shame and desire for revenge are prominent causes

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[110] Gurr, *Why men Rebel*, 30.
[111] Victoroff J, 'The mind of the terrorist. A review and critique of psychological approaches', 41.
[112] Victoroff J, 'The mind of the terrorist. A review and critique of psychological approaches', 42.
Therefore, emotions are fast and unstable and can be easily triggered in comparison to cognition that can manifest into ideologies.
[113]Victoroff J, 'The mind of the terrorist. A review and critique of psychological approaches', 41.
[114] Victoroff J, 'The mind of the terrorist. A review and critique of psychological approaches', 41.

of suicide terrorism. According to a 2006 study, Muslims around the world are thought to feel humiliated. Such feelings tend to act as vulnerability holes that radical ideologies can grow and lead to extreme violence.[115]

2.5.4 Catalysts

2.5.4.1 Triggering events

Trigger events are situational factors that immediately precede the occurrence of terrorism. This can be in the form of events that heighten emotions and call for revenge or action. Such events can be violence against in-groups, police brutality, contested elections, provoking acts by out-groups and compromising speeches by leaders. [116] These events can intensify the radicalisation process.

In the social level, triggering events can lead to group discussions online by networks and personal relations which can enhance radical ideologies. Additionally, if the triggering event occurs within know networks the effects are catalysing to radicalisation as the triggering event touches on treasured in-groups of a social network.[117]

Lastly, at the personal level, strategies to cope with major life events can determine whether one fully radicalises into violence or stops.[118] Those who have faced traumatic experiences and have difficulties dealing with such events are most probable to being radicalised based on their vulnerability. Also, an individual's perception of external and social triggering events can determine whether they fully radicalize or not. Hence, triggering events at the individual level tend to be dynamic and unpredictable.

2.5.4.2 Recruitment

Recruitment acts as an important catalyst for violent extremism that can be found in

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[115] Taarnby M, ' Jihad in Denmark – An Overview and Analysis of Jihadi Activity in Denmark' 1990-2006, Danish Institute of International Studies, DIIS Working Paper 2006: 35, 2006, 6,8 https://www.econstor.eu/bitstream/10419/84540/1/DIIS2006-35.pdf on 24 March 2019.

[116] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 35. The Abu Ghraib scandal acts as an example. The scandal revolved around the blatant disrespect, humiliation of Muslim (Iraqi) prisoners by American soldiers. This prompted angry responses from Muslims around the world and incited protests of Muslims all around the world.

[117] Stern J, Terror in the name of God: Why religious militants kill, 2nd ed, HarperCollins books, New York, 2003, 32.

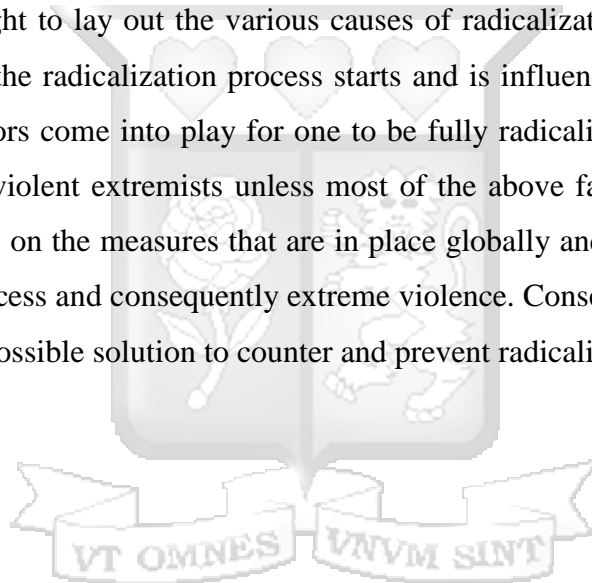[118] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 36.

external, social and individual levels. Recruitment therefore, does not start radical thoughts or emotions but accelerate the radicalisation process as a sort of tipping point.[119]

In Kenya, mosques are particularly known for facilitating top down recruitment of potential radicals.[120] Recruitment at the individual level is marked by self-enlistment as a way to search for identity as a Muslim in a country that does not fully recognize your identity. Additionally, personal in-groups such as childhood friends, makes it easier for recruitment and reduces the guilt felt when harm is inflicted because all people in your in-group think it's justified. Thereby, showing the influence of recruitment on the social level.[121]

2.6 Conclusion

This chapter sought to lay out the various causes of radicalization to show the complex dynamic of how the radicalization process starts and is influenced. From the above it is clear several factors come into play for one to be fully radicalized. Additionally, not all radicals become violent extremists unless most of the above factors integrate. The next chapter will focus on the measures that are in place globally and in Kenya to prevent the radicalization process and consequently extreme violence. Consequently, this chapter will analyse the best possible solution to counter and prevent radicalisation.

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[119] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 37.

[120] Ooko S, 'Global Terrorism Threat: Youth Radicalization in Kenya' unpublished, University of Nairobi, 2014, 30.

[121] Ooko S, 'Global Terrorism Threat: Youth Radicalization in Kenya' unpublished, University of Nairobi, 2014, 30.

CHAPTER THREE
COUNTER TERRORISM MECHANISMS

3.1 Introduction

The chapter above gave a detailed analysis of the various causes of terrorism in the global sphere and highlighted those that are particular to Kenya. In light of this, governments all around the world have deployed several mechanisms to help in reducing and preventing terrorism in their countries and regions, such mechanisms are known as counter-terrorism strategies.[122] Therefore, counter terrorism mechanism refer to practices, tactics, techniques and strategies used by different governments and its operatives in response to terrorist threats.[123]

There are various approaches to counter terrorism mechanisms ranging from review of terrorism related laws, increasing budgetary allocation to fighting terrorism, training more law enforcement on effective ways of dealing with terrorist and developing and implementing effective plans. In the global perspective, most countries tend to adopt measures to combat terrorism that are based on the Counter terrorism strategy.[124] This strategy focuses on combined regional and international efforts to reduce terrorism within national boundaries. It subsequent review included an analysis of conditions that are conducive to the spread off terrorism and methods of addressing such conditions in affected nations.[125]

This chapter in the sections below will look at the counter terrorism mechanisms that are being applied in Kenya such as the use of the National Counter Terrorism Centre; the African Union Mission in Somalia; Operation Linda Nchi; Legislative and law enforcement efforts; diplomatic efforts; regional, international and collaborative efforts and counter radicalization mechanisms. After which the chapter will analyse the effectiveness of these mechanisms. Lastly, the chapter will look at the specific mechanisms

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[122] Adeyemi A and Musa M, *Terrorism and political violence in West Africa: A global perspective*, 2, Xlibris publications, US, 2015, 55.

[123] Consequently, counter terrorism mechanisms should be effective in reducing and preventing terrorism while upholding basic human rights.

[124] Adeyemi, *Terrorism and political violence in West Africa: A global perspective, 55.*

[125] Adeyemi, *Terrorism and political violence in West Africa: A global perspective,*

applied in largely Muslim areas such as Eastleigh and assess their effectiveness in Countering Terrorism in Kenya. Therein the chapter will conclude.

3.2 Counter Terrorism Mechanisms Used in Kenya

Kenya from recent events has proved to be highly vulnerable to terrorist attacks, thereby urging the government and regulatory bodies to find solutions to the insistent terrorist attacks. In 2003 the Kenyan government created the Anti-Terror Police Unit which focused on reducing the rate of radicalization of foreign nationals in Kenya and Kenyan nationals from migrating into Somalia to join Al-Shabaab.[126] This formed the foundation of various other counter terrorism mechanisms in Kenya that are discussed below.

3.2.1 National Counter Terrorism Centre (NCTC)

After several attacks by the Al-Shabaab militants against and inside Kenya, the Kenyan government introduced the National Counter Terrorism Centre. This was after the government realized that terrorism in Kenya is a cross-border crime and a national security threat.

The National Terrorism Centre therefore, became a coordination centre which counters the violent terrorist activities including the operationalization of the National strategy on countering violent extremism and the support for international missions on the war against terrorism such as the presence of Kenyan troops in Somalia.[127]

The NCTC was formed as a multi-agency mechanism that combined key actors and coordinating mechanism with National Counter Terrorism as a focal point. The centre gains its mandate from the Kenya Police Strategic Plan that was implemented in 2003, which has increased the capacity of the police to cater for internal developments of the police force while promoting the welfare of the citizens. These efforts were further boosted by the 2013-2017 strategic plans that helped improve the operations of the police organ by providing better administrative structures, equipment and intelligence collection and distribution strategies. Hence, NCTC then becomes a policy institution to serve the coordinating agency

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[126] Congressional Research service, *Countering Terrorism in East Africa: The U. S. Response*, 2011, 23.
[127] National Counter Terrorism Centre, -http://counterterrorism.go.ke/aboutus.html-

for all Counter Terrorism efforts for the Government of Kenya (GoK).[128]

The centre has also set up a prevention centres to counter radicalization and violent extremism forming part of Kenya's comprehensive CT strategy which aims at taking a softer approach to counter-terrorism from the root of the problem of indoctrination and radicalization.

3.2.2 National Strategy to Counter Violent Extremism (NSCVE)

The national strategy to counter violent extremism is the national document that guides different stakeholders to counter violent extremism in Kenya. Until September 2016, Kenya was guided by its Constitution and other security related laws in responding to violent extremism and terrorism. The Kenyan army, for instance has been in Somalia fighting radical groups. However, it has been noted that counter terrorism efforts do not address the underlying issues that lead to this problem. For example, radicalisation and recruitment which are key in propagating violent extremism and terrorism cannot be tackled by deploying the army.

The goal of the Government of Kenya in developing this inclusive National strategy to counter violent extremism is rally all sectors of Kenyan social, religious, and economic life to emphatically and continuously reject violent extremist ideologies and aims in order to shrink the pool of individuals whom terrorist groups can radicalise and recruit.[129]

The practical implementation of the NSCVE falls upon the shoulders of the National Counter Terrorism Centre, whose intricacies were outlined above. The President gave a directive for Counties to develop their own Action Plans that will guide them at the county level to address violent extremism. The Action Plans are supposed to contribute to the objectives and overall goal of the national strategy and as such are guided in principle by it. So far, there are a number of counties that have developed, launched and in the case of Mombasa began implementation of these County Action Plans. Kwale, Kilifi, Lamu, Tana

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[128] The NCTC has the mandate to advise the National Security Advisory Committee, public and private institutions on terrorism as a threat to the country and how to deal with terrorism as an institution. Additionally, NCTC coordinates counter terrorism so as to detect, deter, and disrupt terror acts by establishing a database to assist law enforcement agencies, conduct public awareness on terrorism prevention and develop counter-radicalization strategies.
[129] *National Strategy to Counter Violent Extremism*, 14.

River, Isiolo, Garissa and Mombasa are leading in example in implementing this directive.[130]

To broadly summarise, the document is divided into five sections:

- **Context Rationale and Aims of the Strategy** – Examines the radicalist threat and details how certain laws have made it more difficult to fight radicalism and violent extremism.

- **Radicalisation** –This section talks about what drives people into violent extremism. Radicalisation could be self or by someone else. The drivers identified here are ideological, global, socio-economic, political, personal and technological. Radicalisation is a gradual process that takes place in different phases; pre-radicalisation, self-identification, indoctrination and violent extremism. It is through this process that people are recruited into groups where members subscribe to similar ideologies. Radicalisation can take place in different spaces; religious institutions, online, learning institutions, training camps, prisons and even in neighbourhoods.

- **Structuring CVE work** – Provides information on how countering violent extremism efforts can be crafted. It talks about the nine pillars in which CVE actors can organise their work around depending on interest or industry positioned: media and online, psychosocial, education, legal and policy, arts and culture, training and capacity building, political, faith based and ideological and security pillar. Research on CVE, disengagement and integration are also outlined.

- **Stakeholder Entry Point for Effective CVE** – Relevant stakeholders are the national leadership, private sector, civil society; NGOs and CBOs, Kenya Government Ministries, Departments and Agencies, Bilateral and Multilateral partners, communities, citizens and elected leaders. Active citizenship in attack prevention is also provided for.

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[130] -< http://A-Policy-Content-Evaluation-of-Kenyas-National-Strategy-to-Counter-Violent-Extremism.pdf> - on 3 June, 2019.

- **Measuring CVE (Counter Violence Extremism) Impact** – Has details on why it is important to measure and review CVE efforts. This is to ensure that partners are on track with the objectives of the strategy, are up to date with emerging trends in violent extremism. With the instances of terrorist financing through institutions including NGOs, it is important that all efforts to counter violent extremism are reviewed and monitored by the National Counter Terrorist Centre.

An especially important aspect of the NSCVE is the relatively novel aspect of rehabilitation of radicals who reject their previous ways of radical life. Prior to the development of the NSCVE, measures against violent extremism were security-focused, and were incorporated in the following laws: The Prevention of Terrorism Act 2012; the Security Laws (Amendment) Act, 2014; and the Proceeds of Crime and Anti-Money Laundering (Amendment) Act 2017. These laws focused on addressing violent extremism through policing, money laundering controls, intelligence gathering, and prosecution.

However, the Strategy now complements these security-focused counterterrorism measures with a framework for CVE measures, which include the provision of employment options, business opportunities and life skills, among other interventions, aimed at reducing youth vulnerability to violent extremism.[131] This aspect of the policy has however been mirrored in other areas of research. One example is the joint effort between Japan and the UNDP.[132]

A major gap in the NSCVE is it lacks quantitative or qualitative data on the extent and nature of the challenge of violent extremism in Kenya, the different actors in CVE work and their successes and failures. This data would help to better frame and justify the interventions that have been adopted. This is in contrast to the UK Counterterrorism Strategy, for instance, which contains comprehensive statistics on causalties, UK citizens fighting in terrorist-related conflicts abroad, thwarted terrorist attacks and so on, upon which interventions are based.9 This data gap in the NSCVE is however partly addressed

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[131] *National Strategy to Counter Violent Extremism*, pg. 30.

[132] <https://www.undp.org/content/dam/kenya/docs/Peace%20Building/CVE%20Japan_Final_Report_Project%2300098877.pdf> - on 2 June, 2019.

by the fact that the Strategy's roll out prioritizes research and monitoring and evaluation in the design and implementation of its interventions.1[133]

3.2.3 African Union Mission in Somalia Initiative (AMISOM)

The African Union Mission in Somalia is an active regional peacekeeping mission that is operated by the AU.[134] AMISOM has the mandate to support Somalia's forces in their battle against Al-Shabaab militants. Since 2007 the troops have been able to carry out several offensive strategies against Al-Shabaab militants with a troop strength of 22, 126 since 2015 resulting in the killing of several of the Al-Shabaab leaders.[135] In addition, KDF and AMISOM troops have been able to evict Al-Shabaab from their stronghold in central and southern parts of Somalia such as Mogadishu and Kisumayo. This has had a drastic effect in reducing the activities of the Al-Shabaab as the group lost import and export revenue due to the capture of the Ports, which formed the main source of income for their terrorist activities.[136]

3.2.4 Operation Linda Nchi

Kenya, had an inter-national coordinated military operation between the Kenyan and Somalia militaries in Somalia. This acts as an extension of the AMISON initiatives but on a binational rather than regional level. Operation Linda Nchi was an 8 month program that started in 16 October 2011 and ended on 31 May 2012.[137] The soldiers in this program cracked down on Al-Shabaab militants that had been alleged to have kidnapped several foreign tourists and aid workers in Kenya. This operation was able to weaken several Al-

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[133] -<https://www.undp.org/content/dam/kenya/docs/Peace%20Building/CVE%20Japan_Final_Report_Project%2300098877.pdf> - on 2 June, 2019.

[134] *United Nations Security Council Resolution 2182, Adopted by the Security Council at its 7286th meeting, on 24 October 2014, Paragraph 23 -< http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2182(2014>-*

[135] *United Nations Security Council Resolution 2182, Adopted by the Security Council at its 7286th meeting, on 24 October 2014, Paragraph 23 -< http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2182(2014>-*

[136] Buluma G, 'Al-Shabaab: The Threat to Kenya and The Horn Of Africa' United States Army War College, 2014, 20.

[137] Al Jazeera, 'Kenyan troops pursue al-Shabaab into Somalia in Operation Linda Nchi' Al Jazeera, 16 October 2011-http://www.aljazeera.com/news/africa/2011/10/20111016115410991692.html-

Shabaab operations by capturing and interrogating many Al-Shabaab leaders. [138]

3.2.5 Focus on Legislation and Law Enforcement

The focus on legislation came after the Government of Kenya realized that a bulk of terrorist activities were being funded within the country. This lead to the Anti-Money Laundering and Combating the Financing of Terrorism task force that was able to review existing legislation and recommend various ways of formulating effective national policy that would shut down existing and prevent emerging channels of financing terrorism. [139]

This lead to the GoK to use the Non-Governmental Organisation (NGO) Co-ordination Act of 1990 to deregister an array of Muslim NGOs which were accused of having financial linkage to terrorist groups. These groups included the World Assembly of Muslim Youth, al-Haramain Islamic Foundation, Wakalatul-Rahmah offices, the al-Ibrahim Foundation and the al-Najah Islamic Centre. Additionally, in 2014 the Kenyan NGO Coordination Board publicized the registration revocation of 510 NGOs for failing to give requisite financial reporting. The board also hinted at a possible inclusion of 15 more NGOS to the list on the suspicion of financing terror. [140]

This shows that the Kenyan Anti-Money laundering operations have become functional over time through the increased monitoring, evaluation and reporting capacities. This is largely attributed to deficiencies in the resources that include but are not limited to electronic-Financial reporting systems. Furthermore, the Central Bank of Kenya has created awareness on the need for citizens to use legal financial sectors in their transactions and savings in order to ensure effective and transparent financial flow in financial institutions. This has greatly helped in the tracing of illegal transactions that might be

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[138] The operation involved more than 6,000 Kenyan security personnel which included the police. The operation was able to kill more than 700 Al-Shabaab militant and capture around 61. This was achieved through collaborating with IGAD, AU, US and the Ethiopian military. [138] Al Jazeera, 'Kenyan troops pursue al-Shabaab into Somalia in Operation Linda Nchi' Al Jazeera, 16 October 2011 http://www.aljazeera.com/news/africa/2011/10/20111016115410991692.html

[139] McKay A, 'Counterterrorism in Kenya: an interview with Oscar Mwangi' Oxford Research group, 22 February 2019-< https://www.oxfordresearchgroup.org.uk/blog/counter-terrorism-in-kenya-an-interview-with-oscar-mwangi>- on 17 April 2019.

[140] McKay A, 'Counterterrorism in Kenya: an interview with Oscar Mwangi' Oxford Research group, 22 February 2019-< https://www.oxfordresearchgroup.org.uk/blog/counter-terrorism-in-kenya-an-interview-with-oscar-mwangi>- on 17 April 2019.

linked to terrorism.

Later on in 2012 the Prevention of Terrorism Act was passed to help the Proceeds of Crime and Money Laundering Act of 2011 and the Prevention of Organized Crime Act of 2012 to run more effectively in countering terrorism.[141] In 2014 the Security Laws Act was amended to reform twenty existing laws in a bid to enhance the effectiveness of the Counter terrorism policy framework.[142] This initiated steps to the creation of a coordinated border control agency, criminalization of aiding or support for terrorist training and strengthening the capacity of the NCTC. However, the reform also allowed for loopholes that lead to the infringement of human rights such as the freedom of speech and the rights of refugees.[143]

In a bid to make the reform more effective, the GoK, in 2013 divided the Counter Terrorism roles between the three arms of the National Police Service which are the Kenya police consisting of civil police, the Anti-terrorism Police Unit and the paramilitary General Services Unit; the Directorate of Criminal Investigation and the Administration police; and the non-policy agencies such as the National Intelligence Service and the KDF.[144]

The purpose of this division was to increase the number of personnel that were involved in Counter Terrorism strategy, to enhance the effectiveness by dividing duties among the arms of National Police Service and increasing the skill set that was available in countering terrorism. However, this was not possible as the functioning efficacy of this effort was jeopardized due to a lack of intra and inter- police institution coordination as well as military coordination. Additionally, the lack of adequate training, resources, politicization and corruption made the division unsuccessful and created more confusion.[145]

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[141] McKay A, 'Counterterrorism in Kenya: an interview with Oscar Mwangi' Oxford Research group, 22 February 2019-< https://www.oxfordresearchgroup.org.uk/blog/counter-terrorism-in-kenya-an-interview-with-oscar-mwangi>- on 17 April 2019.

[142] McKay A, 'Counterterrorism in Kenya: an interview with Oscar Mwangi' Oxford Research group, 22 February 2019-< https://www.oxfordresearchgroup.org.uk/blog/counter-terrorism-in-kenya-an-interview-with-oscar-mwangi>- on 17 April 2019.

[143] McKay A, 'Counterterrorism in Kenya: an interview with Oscar Mwangi' Oxford Research group, 22 February 2019-< https://www.oxfordresearchgroup.org.uk/blog/counter-terrorism-in-kenya-an-interview-with-oscar-mwangi>- on 17 April 2019.

[144] McKay A, 'Counterterrorism in Kenya: an interview with Oscar Mwangi' Oxford Research group, 22 February 2019-< https://www.oxfordresearchgroup.org.uk/blog/counter-terrorism-in-kenya-an-interview-with-oscar-mwangi>- on 17 April 2019.

[145] Congressional Research service, *Countering Terrorism in East Africa: The U. S. Response*, 2011, 30.

Although there has been an increase in legislation that tackles counter terrorism, the implementation of these law have been hindered by the lack of security capacities and the insufficiency of national identification systems that have decreased the rate of success of law enforcers' ability to detect and detain potential terrorists. This eventually necessitated the use of biographic, biometric screening and terrorist screening watch lists at the main entry ports in the country.[146]

3.2.6 Diplomatic Efforts

From Chapter two it is clear that the environment around a country can act as a cause of terrorism. Kenya, is not free from this as it has unstable neighbours such as Somalia and Sudan.[147] This has greatly contributed to the rate of terrorist attacks in Kenya. Due to such an environment, Kenya has used diplomatic efforts in both Somalia and Sudan as Counter Terrorism strategy. This has included talks initiated in Eldoret and in Nairobi that led to the recognition and institution of the Transitional Federal Government in Sudan that lead to establishing some form of peace in the country.[148]

Furthermore, Kenya through IGAD enabled the Sudan peace talks that lead to a Comprehensive Peace Agreement in Sudan and South Sudan's independence. This is despite the fact that South Sudan later went into its own war. From the above highlighted efforts Kenya deployed a Counter Terrorism strategy of stabilizing neighbouring countries such as Sudan, South Sudan and Somalia to make them into peaceful neighbours whose security will greatly benefit Kenya.[149]

3.2.7 Regional, International and Collaborative Cooperation

Kenya is involved in several regional and international conventions. Since 2003, Kenya has ratified over thirteen international conventions and protocols, this cumulated into the publication of the Suppression of Terrorism Bill. In the regional sphere Kenya is part of AU, IGAD, EAC and COMESA as a member and has substantially contributed to the

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[146] Congressional Research service, *Countering Terrorism in East Africa: The U. S. Response*, 2011, 30.
[147] Kimunguyi P, 'Terrorism and Counterterrorism in East Africa' Monash university, 2011, 14.
[148] McKay A, 'Counterterrorism in Kenya: an interview with Oscar Mwangi' Oxford Research group, 22 February 2019-< https://www.oxfordresearchgroup.org.uk/blog/counter-terrorism-in-kenya-an-interview-with-oscar-mwangi>- on 17 April 2019.
[149] Kimunguyi P, 'Terrorism and Counterterrorism in East Africa' Monash university, 2011, 15.

bilateral and multilateral agreements through a substantial troop presence in the affected nations.

Furthermore, Kenya has been in an active role in the development of regional policies that boost the effectiveness of Counter Terrorism. This is illustrated through the Peace and Security Council meeting organised by the AU, and the regional summits of the EAC intelligence and police chiefs. Additionally, Kenya has been an active member in helping member states of the AU and EAC to acquire military skills, trainings and drills in their military and professional police enforcement so as to enable them to better deal with terrorism.

In the collaborative sphere. Kenya and US have been in a partnership since the 9/11 attacks against the Global War on Terror. This partnership involved training, sales of equipment, exchange of strategic information and logistical support. Kenyan officers were able to participate in many U.S led and sponsored programs that tackled crisis response, investigations and prosecution.[150]

3.2.8 Counter Radicalization and Violent Extremism

In 2014, Kenya made the pivotal step of partnering with NGOs such as the CSOs civil society to help counter terrorism through the 2014 National Conference on Security and CVE. During this conference state and non-state actors were actively engaged in formulating and adopting the Violent Extremism Advocacy and Accountability Charter. This helped to formulate a concise National Counter Radicalization Strategy which tasked religious leaders on their significant role in the community to reduce the risk of radicalization and further violent extremism through influencing peace and reducing tension within their communities.[151]

The above form the Counter Terrorism approaches that have been applied in a national level. The section below will take a particular look into the specific approaches that are used in Muslim populated areas with our case study being Eastleigh. This section will seek

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[150] For example the Antiterrorism Assistance program conducted by the U.S department of states in East Africa was able to focus on crisis response of the military forces in countries affected by terrorism.
[151] Rosand E, Millar A and Ipe J, 'Civil society and the UN global counter-terrorism strategy: opportunities and challenges' Centre on Global Counterterrorism Cooperation, 2008, 6-9.

to analyse how effective the Counter Terrorism mechanisms in Eastleigh are and if they promote peace or further ostracize the Muslim community.

3.3 Counter Terrorism Strategies In Muslim Populated Areas: Case Study Of Eastleigh Location

In 2014, the Global Terrorism Index ranked Kenya as the twelfth in the highest ranking countries that are affected by terrorism. The study found out that it is necessary for the GoK to tackle the underlying problems to terrorism that have greatly been increased by the refugee inflow who have migrated and settled into urban areas. Eastleigh is predominantly recognized as more of a profit making business centre with a wide range of retailers and wholesalers than a residential area.[152]

Eastleigh was established and referred to as a 'Little Mogadishu' owning to the fact that it had a high resident rate of refugees in the region who are of largely Somali origin. Eastleigh has over 350,000 inhabitants who mostly include Somali Kenyans as well as registered Somali refugees.[153] However, Eastleigh despite being the hub of trade networks locally and internationally is faced by frequent state security arrest and identification of illegal migrants.

This can be partly attributed by the fact that the area has experienced numerous terrorist attacks with the climax being in 2012 that had a recorded more than 6 attacks. Therefore, Eastleigh became a primary concern in regards to Counter Terrorism efforts in Kenya. In response to the rise of terror attacks since 2012 to present date, most residents in Eastleigh have noted an increase in police squads and units heavily geared to prevent terrorism from happening and location and detaining culprit with ease. [154]

The parties that have been part of the beefed up police squad are the Anti-Terrorism Police Unit, National Counter Terrorism Centre, National Security Intelligence Service and National Security Advisory Committee.[155] Due to the insistent attacks in the Eastleigh region several other Counter Terrorism mechanisms have been deployed in the area. This

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[152] This turn form residential to business centre took place in the 1990s.
[153] UNHCR, *Kenya*: *Somali Refugees*, UNHCR Factsheet, 2014.
[154] UNHCR, *Kenya*: *Somali Refugees*, UNHCR Factsheet, 2014.
[155] UNHCR, *Kenya*: *Somali Refugees*, UNHCR Factsheet, 2014.

strategies are highlighted below:

3.3.1 Risk Reduction Strategies

Risk reduction is a process that involves the identification, assessment and mitigation of risks of a calamity.[156] The main aim of risk reduction is to minimize the social-economic exposures and approach to deal with occurring hazards that are mainly environmental. According to Murty, there exists four main risk factors that are explosions, armed attacks, and arson, biological and nuclear attacks. However there exists a fifth category of others that deals with cyber terrorism, terrorism and unauthorized surveillance. These factors act as a potential source of harm if not properly tackled and anticipated. The effects of said factors have been experienced in Kenya during numerous occasions such as the 1998 U.S Embassy bomb attack.

The risk reduction strategies that have been used in Eastleigh are metal detectors, automation of services, electronic detection systems, checks and searches in interest area, barring of major roads and managing random security checks in public. However, these risk reduction strategies are only good in paper as their enforcement is constantly hindered by the numerous challenges that are faced in its implementation.[157] Most of the challenges that the risk reduction strategy faces are; inadequate policy and legal framework for the implementation of risk reduction strategies, weak to non-existent disaster management capabilities within the police, organization and the communities, inadequate co-ordination and integration among the ministries and inadequate regional linkages. These insufficiencies led to the risk reduction strategy being ineffective and furthermore being seen as a geared attack towards Somali refugees in Kenya due to the human rights violations that occurred during risk reduction strategies such as the rights of an arrested person and the rights of refugees.[158]

This can be illustrated by the fact that most residents in Eastleigh find that putting risk

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[156] Pashley V and Cools M, 'Private intelligence services: their activities and role in public-military intelligence strategies'7(1) *Journal of intelligence studies*, 131,132.

[157] Mogire E and Agade M, 'Counter-terrorism in Kenya' 29(4) *Journal of Contemporary African Studies,* 2011, 475.

[158] Mogire E and Agade M, 'Counter-terrorism in Kenya' 29(4) *Journal of Contemporary African Studies,* 2011, 476.

measures could be a simple exercise of stationing police checks and restricting entry under reasonable grounds. However, most incidents have been quoted to include violence and out right discrimination towards the Muslim population in Eastleigh.[159]

3.3.2 Security Operations

Security operations is a Counter Terrorism strategy that aims at identifying and removing individuals who are found in the country illegally.[160] Most of those who are affected by such as operation are mainly Somalis who have been ethnically profiled. [161]

Security Operations in Eastleigh have mainly been through the Operation Usalama Watch which was launched in April 2014 with a personnel of over 6,000 police officers and Soldiers who were deployed in Eastleigh.[162] The goal of the Usalama Watch was to remove the foreign nationals as a Counter Terrorism strategy. The security operation therefore deal with and deported all immigrants who were suspected to engage in illegal activities. The strategy was successful in apprehending many illegal immigrants who were located in Eastleigh. Most of which were detained and taken to refugee camps.[163]

Although the operations were well intended, most of the activities of the Usalama Watch were met with criticism. This is because the measures taken were deemed to be excessive and biased towards Somali people. This is largely because the operations do not solve the root of the problem that is why most immigrants would choose to stay as illegal immigrants instead of applying for citizenship. The answer to which is the tiresome and discriminatory nature of the process for applying for citizenship form Somali refugees in Kenya.[164]

This then forces most refugees to find a means of living as illegal immigrants, to which not

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[159] Mogire E and Agade M, 'Counter-terrorism in Kenya' 29(4) *Journal of Contemporary African Studies,* 2011, 477.

[160] O Kefa, 'Kenya in the crosshairs of global terrorism: Fighting terrorism at the periphery' 3(1) *Kenya Studies review,* 2009, 107.

[161] O Kefa, 'Kenya in the crosshairs of global terrorism: Fighting terrorism at the periphery' 3(1) *Kenya Studies review,* 2009, 107.

[162] O Kefa, 'Kenya in the crosshairs of global terrorism: Fighting terrorism at the periphery' 3(1) *Kenya Studies review,* 2009, 109.

[163] O Kefa, 'Kenya in the crosshairs of global terrorism: Fighting terrorism at the periphery' 3(1) *Kenya Studies review,* 2009, 109.

[164] O Kefa, 'Kenya in the crosshairs of global terrorism: Fighting terrorism at the periphery' 3(1) *Kenya Studies review,* 2009, 109.

many options are offered leading to an inclination to criminal activities. Michelle Kigali of the Amnesty International has then rightly termed the Operation Usalama Watch as a pretext for the blanket punishment of the Somali Community in Kenya.[165] There have been scapegoats with thousands arrested and ill-treated, forcefully relocated and hundreds unlawfully expelled to a war-torn country. This therefore, calls for the police in charge of the Operation Usalama Watch to be more vigilant with conducting their operations to ensure no discrimination occurs.[166]

3.3.4 Community Policing

Community Policing is a change of strategy that involves the community in ensuring that the environment they reside in is safe. This approach differs from the traditional Counter Terrorism mechanisms as it requires the police to work hand in hand with the community to ensure peace, thereby sharing mandates and powers within both spheres of the police and the community.[167]

The community based approach arose as a Counter Terrorism mechanism due to the rapid change in crime conditions that ended up rendering most policing attempts futile. Furthermore, the deteriorating trust in the police force by the communities required community involvement to ensure accountability.[168] Hence, the security organs are able to get a localised response to prevalent issue thereby increasing police efficiency and accountability. Additionally, existing problems to the pre-existing challenges are easily identified and solved.[169]

The community based strategy three key factors ought to be implemented for it to function effectively. These three are; community partnership, change management and problem

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[165] O Kefa, 'Kenya in the crosshairs of global terrorism: Fighting terrorism at the periphery' 3(1) *Kenya Studies review,* 2009, 110.
[166] O Kefa, 'Kenya in the crosshairs of global terrorism: Fighting terrorism at the periphery' 3(1) *Kenya Studies review,* 2009, 110.
[167] Henderson J and Merrick C, 'Community: policing: Variations on the western model in the developing world' 4(3) *Police Practice and Research,* 2003, 281.
[168] Henderson J and Merrick C, 'Community: policing: Variations on the western model in the developing world' 4(3) *Police Practice and Research,* 2003, 282.
[169] Henderson J and Merrick C, 'Community: policing: Variations on the western model in the developing world' 4(3) *Police Practice and Research,* 2003, 282.

solving.[170] Therefore for the community policing to be effective, public seminars and rallies should be conducted so as to educate citizens concerning the role of the police and the role of the community by giving avenues to which the community can be involved. This will foster a strong community and police partnership as each of their roles are fully discussed and understood. This enables a sense of collective responsibility through community cooperation and community consent.[171]

In Kenya, community policing was initiated in 2003 and is still ongoing. The Kenya Police Annual Report stated that the community policing was to combine the efforts and resources of the government agencies and the community members so as to bridge the gap between the government agencies and the community members.[172] This eventually led to the Nyumba Kumi initiative as a community policing initiative. The initiative was implemented as a way to engage the community more in preventing and curbing terrorism in the area. [173]

The strategy has been largely successful but is plagued by several challenges. For example the community policing approach is viewed by many as a tool used by the government to minimize crime and terrorist attacks instead of an agent. This implies that the community acts as a source of information but the police do not reciprocate the same information sharing.[174] This is attributed to the fact that the community within the Nyumba Kumi initiative as meant to provide information to the police and on this reliance the police act. However, the police do not provide any information themselves. This can be seen as unfair and discourage most members of the community from participating in the community policing initiative. Additionally, the community policing system can only work with a small number of people due to the limited resources and funding to further expand the

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[170] Henderson J and Merrick C, 'Community: policing: Variations on the western model in the developing world' 4(3) *Police Practice and Research,* 2003, 283.
[171] Henderson J and Merrick C, 'Community: policing: Variations on the western model in the developing world' 4(3) *Police Practice and Research,* 2003, 283.
[172] Mogire E and Agade M, 'Counter-terrorism in Kenya' 29(4) *Journal of Contemporary African Studies,* 2011, 475.
[173] Mogire E and Agade M, 'Counter-terrorism in Kenya' 29(4) *Journal of Contemporary African Studies,* 2011, 475.
[174] Mogire E and Agade M, 'Counter-terrorism in Kenya' 29(4) *Journal of Contemporary African Studies,* 2011, 475.

Community Policing programs.[175]

3.3.5 Random Searches

The police unit assigned to Eastleigh usually subject the residents to random searches. These searches range from premises of the detainees, their documents, bank records, photographs and other items that are seized at the time of the search. The periodic screening occurs due to the perception that Somali residents in Eastleigh are perceived to have wealth which is deemed to come from illegal activities or sources.

However, the police have been reported to use this as an opportunity to extort and arrest residents.[176] This is illustrated by the fact that these usual searches are done without search warrants or any proper procedure used when a search warrant is not present. This is despite the fact that Kenyan law requires the issuance and presentation of a search warrant during searches and seizures.

3.4 Effectiveness of the Counter Terroism Strategies

Effectiveness is determined by how well strategies are adopted and implemented to meet the intended goal. For effectiveness to occur proper communication, interpretation, adoption and actions of the strategies must occur.[177] At Eastleigh several attempts have been made by the GoK to counter terrorism as highlighted in the above sections. Additional efforts such as training and employing the police personnel, and formation of special agencies has aided in the implementation of the Counter Terrorism mechanisms. In terms of the intelligent services, most attacks have been detected and stopped before occurring in Eastleigh. This is due to the heightened security measures that have been put in place such as deploying more personnel in interest areas in the region. Emergency drills are also conducted within Eastleigh to ensure preparedness of the community in the event of an attack.[178]

However, the counter terrorism mechanisms have not been fully efficient on how they are

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[175] Mogire E and Agade M, 'Counter-terrorism in Kenya' 29(4) *Journal of Contemporary African Studies,* 2011, 475.

[176] Officers are found to demand bribes, harass and assault residents. See HRW, 'Third Imam killed in 2 years' HRW, 4 April 2016 -< https://www.hrw.org/news/2014/04/04/kenya-third-imam-killed-2-years

[177] IPOA, *Operation sanitization Eastleigh Report,* 2014, 4.

[178] IPOA, *Operation sanitization Eastleigh Report,* 2014, 4.

implemented. Some residents in the area have indicated that only Muslims and Somalis are unfairly targeted in comparison to other groups of people. Hence the root causes of terror within the region are not fully tackled such as radicalization, unemployment and poverty due to lack of proper integration of the Somali refugee community in Kenya. Additionally, police officers are known to ask for bribes hence making their targets the most well of in the region instead of those who are highly suspected to be terrorists.[179]

3.5 Conclusion

The finding of this chapter show that the Kenyan Counter Terrorism strategies implemented between 2003 and 2019 have been grossly insufficient and ineffective. This is evident by the insistent small and large scale attacks that have occurred in Kenya within that time frame. Additionally, the strategies deployed have been plagued with corruption, lack of resources, organizational inefficiency, technical capacity, poor interagency law enforcement coordination, insufficient training and politicization of some terrorist incidents that have reduced the effectiveness of the Counter Terrorism mechanisms used.

Furthermore, from a keen look of the Counter Terrorism strategies it is clear that most strategies take a state-centric and militarized angle to solving the issue of terrorism. Which as mentioned in chapter two is not the ideal means to deal with terrorism in the preventive stage. This is because the factors that facilitate terrorism in Kenya are not properly dealt with, the biggest cause being non-integration and alienation of the Muslim Somali refugees in Kenya. A deeper look into the main cause of terrorism in Kenya will allow the GoK to formulate long lasting humane strategies that prevent terrorism rather than focusing on controlling terrorism. The next chapter will analyse whether Somali refugees in Kenya are properly integrated. Upon which the chapter will analyse the connection between effective integration and reduction in instances of radicalization leading to violent extremism.

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[179] H Warah, 'Eastleigh crackdown offers major opportunity for bribe-taking and harassment by police' 2(1) *Sahan Journal,* 2014, 5.

CHAPTER FOUR
PROVING AND DISPROVING HYPOTHESES: EXPLORING LACK OF INTEGRATION AS A CAUSE OF RADICAL EXTREMISM AND THE PROMISE OF INTEGRATION

4.1 Introduction

The core function of this chapter is to prove or disprove the hypotheses outlined in Chapter Three, through research questions. This chapter will first look at the validity of the claims that Somali refugees are involved in violent extremist activity. Focus will be on the respondents of this study. Special focus will be on the urban Somali population in Eastleigh, though the rural populations will be considered as well. Once the level of refugee participation is established, an outline and analysis of the legal mechanisms available to the Kenyan Government to counter violent extremism by said refugees will be given.

Thereafter, the possibility or impossibility of integration being a factor in reducing violent extremism will be investigated. It is at this point that the arguments will become more local and suited to the subjects of this study, i.e. the urban Somali refugees in Kenya. This possibility or lack of it will first be investigated by assessing the level of local integration of Somali refugees. Only then will the reasons behind the lack of integration be questioned and answered. An in depth investigate the causes of radicalisation has already been given in Chapter Two and thus will not be repeated.

Using information on integration as a factor in violent extremism, an attempt at a Kenyan solution to violent extremism will be investigated. This will be through an analysis of whether the local Somali refugee population's participation in violent extremist activity can be curbed through successful local integration.

Thereafter, the chapter will seek to explore whether the successful integration of Somali refugees into host local communities will result in a reduction of radicalization and associated instances of violent extremism. The study will seek to show that if properly and successfully integrated, this will result in a reduction in instances of violent extremism in Kenya.

This chapter will investigate local integration as a concept. This concept will be analysed

from the point of whether it is a factor in mitigating violent extremism. It will seek to understand how the process works and has been implemented in other countries that have adopted it.

4.2 What is the legal framework surrounding the handling of refugees, and is it sufficient?

The chapter will commence by analysing the Kenyan case of **Kituo Cha Sheria & Others vs. The Attorney General**[180] that tackled the issue of the purported repatriation of refugees back to Somalia by the Kenya government. Kituo Cha Sheria a legal aid and advocacy non-governmental organization filed the case at the Kenyan High Court:

Kituo cha Sheria founded its cause on the basis that the State violated Article 47 of the Constitution which enjoins the State to take administrative action that is, "expeditious, efficient, lawful, reasonable and procedurally fair."[181] It averred that Government Directive to move all refugees in urban areas to refugee camps violates various provisions of the Constitution. Among them was Article 28 which protects the right to dignity. This is human dignity, in accordance with Natural Law sentiments that all human beings share the same dignity by virtue of being human. Another right claimed to be violated is Article 39 which protects the right to movement. This right to movement should not be confused with the right to settle that is only available to citizens. The right to movement extends to refugees as well, including other law-abiding inhabitants. Another claimed violation was one contrary to Article 27 which prohibits arbitrary and discriminatory actions, which have no justification in law.

The Government directive referred to in this case is the one mandating the return of Somali refugees to camps, even allowing the use of force to do so that will be mentioned below. It is important to note that the Bill of Rights applies to all persons within Kenyan borders. In its interpretation of strict wording, that includes people who got into the country by unknown means. The government annexed in its submissions to the court case law where

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[180] *Kituo Cha Sheria & 8 others v Attorney General,* (2013) eKLR.
[181] Article 47, *Constitution of Kenya* (2010).

Somali refugees were found to be engaging in extremist radical activity.[182]

The treatment of refugees in Kenya as per their classification as vulnerable persons, e.g. in the Kituo cha Sheria case was contrary to the required legal standard.[183] It was documented, submitted and accepted that some of the petitioners were brutally confined against their will. This included children, who are even more protected persons as will be shown later. As per the legal standard, vulnerable persons are those who are in danger from forces they need protection from. The party required to provide this protection is the state. Refugees are a special category of persons who are, by virtue of their situation, considered vulnerable. The legal basis of this assertion is Article 21.[184]

Article 21(3) imposes specific obligations on the State in relation to vulnerable persons. It provides that, "All State organs and all public officers have the duty to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities."

An interesting scenario arises concerning the status of refugees. Section 3 of the Refugees Act (2006) provides for the classification of refugees by their status. Prima farcie refugees are those who simply find themselves in the country. This class of refugee is recognised only to enable registration of them, with no other apparent purpose than to accord a lower legal status. Section 11 of the same Act mandates that all prima facie refugees be registered. This seems to imply that person does not automatically become a refugee with all refugee rights upon entry into Kenya. He or she must apply for registration to be recognised as such. Specifically, section 11(1) of the Act states that any person who has entered Kenya by any means must register as a refugee.[185] The wording of this section seems to suggest that those who do not comply with it either do not wish to stay in Kenya or are not allowed to Stay in Kenya.

There are local and international instruments that crush the logic of the statement that some

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[182] *Kituo Cha Sheria & 8 others v Attorney General,* (2013) eKLR.
[183] *Kituo Cha Sheria & 8 others v Attorney General,* (2013) eKLR.
[184] Article 21, *Constitution of Kenya* (2010).
[185] See Sections 3 and 11, *Refugee Act* (2006).

refugees could leave against their will. Among the international instruments are:

a. The 1951 Convention Relating to the Status of Refugees ("1951 Convention")

b. The 1967 Protocol relating to the Status of Refugees

c. The 1969 Organisation of African Unity Convention [186]. This has been updated to the modern day as Article 2(3) of the AU Convention.

d. The Universal Declaration of Human Rights

e. The International Covenant on Economic, Social and Cultural Rights

f. The International Covenant on Civil and Political Rights

g. The African Charter on Human and Peoples' Rights ("The African Charter").

A recognised refugee (meaning one who has been recognised by the Act through registration) has a range of rights. Section 16 of the Refugees Act, 2006 provides that every recognised refugee and every member of his family living in Kenya shall be entitled to the rights and be subject to the obligations contained in the international conventions to which Kenya is party. Additionally, they shall be subject to all the laws in force in Kenya.

Under section 14 of the Act, every refugee shall be issued with a refugee identity card or pass in the prescribed form and is permitted to remain in Kenya in accordance with the provisions of the Act. Section 15 extends these rights to members of the family of a refugee. Refugees are also entitled to the protections of the Constitution and the Bill of Rights.[187]

The above two paragraphs are all fitting and I have no scrutiny to extend upon them in their explicit meaning. However, their implicit meaning harbours a sort of loophole that can be exploited by the Government. The Act states that only recognised refuges are accorded the rights mentioned above. This seems to suggest that unrecognised refuges are not protected by the Act. This may lead to some problems as will be shown later on especially regarding urban refugees. It is no surprise that the respondents of the study claimed a denial of a refugee identity card. These same refugees were denied registration due to the State's 2014 encampment policy.

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[186] Governing the Specific Aspects of Refugee Problems in Africa ("AU Convention").
[187] See Sections 14 and 15, *Refugee Act* (2006).

Regarding whether the urban population of refugees get to enjoy the freedom of movement that they have, the courts gave a decisive opinion. That Article 39 of the Constitution ought be read together with Article 26 of the 1951 Refugee Convention. This is in order to give effect the rights of refugees. As a boost, Article 26 provides thus; "Each contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory subject to any regulations applicable to aliens generally in the same circumstances."[188] This provision is manifested in section 16 of the Act and is not inconsistent with the Article 39 of the Constitution. Article 12 of the African charter expresses that every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law.

As far as refugees are concerned, two conclusions may be drawn from Article 39. First, although the right under Article 39(3) is limited to citizens, it does not expressly limit the right of refugees to move within Kenya guaranteed under Article 39(1).[189] The only omission is settlement, i.e. permanent residence. This is a requirement for integration of refugees. Thus, it can be said that the Constitution denies integration based on this distinction. This would only be a partial assumption because there are no Constitutional prohibitions either.

Regarding applicability of the Bill of Rights, Article 19(3)(b) of the Constitution states that, "The rights and fundamental freedoms in the Bill of Rights – (b) do not exclude other rights and fundamental freedom not in the Bill of Rights, but recognised or conferred by law, except to the extent that they are inconsistent with this Chapter." It follows that any limitations to these rights cannot be arbitrary and must comply with the legal standards. The standard to be adhered to is found in Article 24, as will be demonstrated.

Section 17 of the Act is merely facilitative in the sense that it sets out the responsibilities of a refugee camp officer to register refugees. There is no outright refusal to deny refugees their rights as per the Constitution. The 2006 Refugee Act does not require that all refugees and asylum seekers to ordinarily reside in camps nor does it preclude the State from

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[188] Article 26, *Constitution of Kenya* (2010)
[189] Article 39, *Constitution of Kenya* (2010).

providing refugee services in urban centres. The courts held that the failure to provide such services in urban centres was a threat to their right to movement enshrined in Article 26 of the 1951 Convention as read with section 16 of the Act. Additionally, it seems that the Government directive of encampment had no legal basis within the Refugee Act. The court in the 2013 Kituo cha Sheria held as much in its judgement.[190]

In the judgement of the Kituo cha Sheria case, the court gave direction on to what extent article 24 can be used as a defence of rights abuses by the state. It came out that in such instances the threat to national security by individuals has to be proven. Group guilt cannot be assumed, as was and sometimes is the case. The relief granted in the landmark Kituo cha Sheria case guaranteed as much. The decision was that arbitrary application of Article 24 violates the State's responsibility towards persons in vulnerable situations contrary to Article 21(3).

Kenya hosts a large refugee population, which is managed jointly by the country's Department of Refugee Affairs (DRA) and the United Nations High Commissioner for Refugees (UNHCR) under the 2006 Refugees Act and the 2009 Refugees Regulations[191]. Kenya recognizes two classes of refugees: prima facie refugees and statutory refugees. All asylum seekers go through an initial registration. At this point in the process, they are screened for their eligibility to seek asylum and to obtain accelerated processing. This is followed by an interview.

An asylum seeker is issued an asylum-seeker pass upon applying for refugee status, which is replaced by a refugee identification card after his application is granted. All asylum seekers and refugees are required to live in their designated refugee camps and need a movement pass in order to travel anywhere outside the camp. These rules do not apply to refugees based in urban centres.

Before 2011, Kenya allowed refugees and asylum seekers to live in urban areas, a policy that received official endorsement when. In 2011, the government began registering

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[190] *Kituo Cha Sheria & 8 others v Attorney General,* (2013) eKLR.
[191] -<https://www.loc.gov/law/help/refugee-law/kenya.php>- on 3 June 2019.

refugees in urban centres and issuing them refugee certificates. By 2012, there were an estimated 100,000 refugees living in Nairobi, over three times the officially registered refugees in the city in 2006. Following a series of terrorist attacks in urban locations, the DRA announced an encampment policy at the end of 2012, requiring all refugees and asylum seekers in cities to relocate to refugee camps with the plan to repatriate them to their home countries. In a ruling issued in July 2013, the Court held that the government announcement was, among other things, a violation of the constitutional right of movement and the principle of non-refoulement enshrined in the Refugees Act.

The right protected in Article 39 of the Constitution makes a distinction between person and citizen.[192] Freedom of movement under the Constitution relates to everyone, but the right to enter, remain and reside anywhere in Kenya is accorded only to citizens hence the State may impose reasonable condition upon the right to enter, remain in and reside anywhere in Kenya upon non-citizens.

A cursory glance at both practice and policy since December 2006 however reveals that the enactment of the Act has neither improved nor changed the refugee response in Kenya and refugees and asylum seekers continue to be subjected and regarded as aliens under the Aliens Restrictions Act and Immigration Act, hence far from enjoying their internationally recognised rights[193]

There appear to be fundamental flaws in the legal framework and implementation surrounding the treatment of refugees. Refugees as registered by the government in accordance with the refugee act are subject to discrimination, against the constitution and international law as will be shown below. It has been shown that this classification of refugees exacerbates the problem. Based on the analysis of the integrated portion of the Somali community, it is reasonable to assume that a change in the legal framework surrounding refugee classification may be a solution. That integration would help solve the problem of radicalisation has already been proven.

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[192] see *Famy Care Ltd v Procurement Administrative Review board and Another* (2012) eKLR and *Nairobi Law Monthly Company Limited v Kenya Electricity Generating Company and 2 Others* (2013) eKLR.
[193]

The Refugee Advisory Committee tasked with advising and assisting the Commissioner of refugees on matters related to recognition of refugees is yet to be constituted. The required legal framework is clearly incomplete.

4.3 Is there a disconnect in how the state enforces the required standard of law towards refugees?

In the realm of unofficial crackdowns, the rights of refugees have been trampled upon especially the right to dignity. This right to dignity is especially underpinned by one international human rights instrument: The UDHR which states; "Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world."[194] This is an ample example of Natural Law theory.

I am of the opinion that the state has previously hid behind human rights abuses through the use of the national security argument. It is correct to state that the rights enjoyed by the refugees under the 1951 Convention are not absolute and they are expected to abide by the national law. The rights also go with responsibilities such as abiding by national legislation. Article 33(2) of the 1951 Convention states convicted persons or those who commit crimes are not entitled to refugee protections.[195] Sections 4 and 16 of the Refugee Act mirror such sentiments, citing dangers to the country as not deserving of the title 'refugee'.[196]

Any assertions that the state is always in compliance with the directive to register refugees would be naïve in the extreme. It has been proven, even in a court of law that there are instances where services have been denied to urban refugees (e.g. in the kituo cha sheria case, among others).

There are instances where the Government cannot arbitrarily blanket all refugees as threats to national security. The learned Justice in both Kituo cha Sheria cases held that a policy that does not make provision for examination of individual circumstances and anticipated exceptions is unreasonable and a breach of Article 47(1).[197] This article allows for the

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[194] -< https://www.un.org/en/universal-declaration-human-rights/>- on 3 June 2019.
[195] *Kituo Cha Sheria & 8 others v Attorney General,* (2013) eKLR.
[196] *Kituo Cha Sheria & 8 others v Attorney General,* (2013) eKLR.
[197] *Kituo Cha Sheria & 8 others v Attorney General,* (2013) eKLR.

examination of different individual circumstances.

Documentation of denial of the Government to issued registration and service delivery does exist. Evidence to the tune that the 5th petitioner in the Kituo Cha Sheria case had applied for renewal of his refugee identity card was admitted.[198] It was held that the State had not taken any steps to facilitate the renewal of his identity card by providing registration centres within urban areas. In fact, the affirmative policy of the government then and now was to close such registration centres in urban areas in order to force urban refugees into camps.

Such a policy undermines the protections and the rights of refugees living in urban areas by surreptitiously imposing a policy of encampment thus denying them an opportunity to renew identity papers. It is interesting to note that there are no legal arguments that back such a position. The right to movement is even manifested in Section 16 and is not inconsistent with the Article 39.[199]

Although refugees have been allowed to engage in informal employment in the past as will be shown, this appears to be getting increasingly difficult as the encampment policy constrains their ability to move about the country. In addition, work permits are rarely issued to refugees. This was again confirmed by over four fifths of the interviewed respondents.

Similarly, while refugees are technically free to apply for naturalization if they meet certain requirements, which on their face are not prohibitive, in practice Kenya does not naturalize refugees. All the respondents who knew of those who had tried to obtain citizenship complained of requests for bribes, and sometimes outright refusal to register refugees. Under the mention of the Citizenship Act, it will become clearer why this position is held.

In December 2014, Kenya took the matter further and made key amendments to the Refugees Act of 2006. A provision in the 2014 amendment sought to make permanent the encampment policy. Another provision states that every refugee and asylum seeker will

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[198] *Kituo Cha Sheria & 8 others v Attorney General,* (2013) eKLR.
[199] Section 16, *Refugee Act* (2006) and Article 39, *Constitution of Kenya* (2010).

leave the designated refugee camp only with the permission of the Refugee Camp Officer.[200] Once again, this only applies to those in camps at the time of the amendment. There should be no reason to force urban based refugees into camps.

The most drastic provision in the 2014 amendment was one that sought to dramatically reduce the number of refugees and asylum seekers in the country, potentially through forced repatriation. It states that number of refugees and asylum seekers permitted to stay in Kenya shall not exceed one hundred and fifty thousand persons.[201] This is a prime example of knee-jerk reaction litigation. The strict implementation of this law today would result in the refoulment of 400,000 refugees and asylum seekers, most of whom are Somali citizens.

While refugees may theoretically work, the practice is reportedly much different. The Refugee Consortium of Kenya stated in 2012 that the government does not issue work permits to asylum seekers or refugees except in a few isolated cases.[202] As a result, refugees and asylum seekers are forced to seek employment in the informal sector. However, this is increasingly being made difficult by the country's encampment policy, which restricts the ability of refugees and asylum seekers to move about the country freely. Clear evidence of policy contrary to law.

Among the decisions was the directive that all refugees residing outside designated refugee camps as specified in **Gazette Notice No.1927** of 2014 must return to their designated camps immediately.[203]

The state had also failed to apply the **"best interests of the child"** standard in terms of **Article 53(2)** in the implementation of the directive and press statement.[204] That this standard is repeated in **Section 4(2)** of the **Children Act,** which provides that in all actions concerning children, whether undertaken by public or private social welfare institutions,

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[200] See generally Refugee Act (2006).
[201] -< https://www.loc.gov/law/help/refugee-law/kenya.php>- on 3 June, 2019.
[202] -< https://www.loc.gov/law/help/refugee-law/kenya.php>- on 3 June, 2019.
[203] **Gazette Notice No.1927** of 2014.
[204] *Kituo Cha Sheria & 8 others v Attorney General,* (2013) eKLR.

courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration.[205]

Furthermore, that upon registration in urban centres, refugees are issued with **UNHCR** mandate certificates which were still valid at the time that **"Operation Usalama Watch"** was conducted. These certificates no longer appear to be valid.[206] Interviews with the respondents confirm this, where the 20% who have at some point been arrested say that such documents did not help them.

A path to naturalization is apparently available to refugees. As shown above, the Constitution provides that a person who has been lawfully resident in Kenya for a continuous period of at least seven years and who meets other conditions prescribed in the relevant legislation may be naturalized. Kenyan law on citizenship provides additional conditions, including the ability to speak Kiswahili or a local language and the capacity to make a substantive contribution to Kenya's development. How can one prove substantive contribution when they are denied work permits? How can one prove that they have been in the country for seven years if they were denied registration and renewal of official refugee documents? This is probably why in practice; Kenya does not appear to grant citizenship to refugees in practice.

4.4 Are Somali Refugees Involved in Radical Extremism?

Violent extremist activity has escalated in frequency in Kenya.[207] It is important to note that Kenya has a long history of terrorist activity.[208] Therefore, the assumption that the problem (of radical extremism) begins and ends with Somali refugees would not be an accurate one to make. This is because even before Somali refugees entered en masse into the country there were still instances of radical extremism. Some reports such as one by Amnesty International claim that Somali refugees are being used as a scapegoat in Kenya for radical extremism. [209] This is one portion of the narrative, which suggests minimal

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[205] Section 4(2), Childrens Act (2002)
[206] *Refugee consortium of Kenya and another v AG*, (2017) eKLR.
[207] 'Kibor F: Terrorism threat stalking us but we shall crush it, Uhuru says', *Standard Digital* https://www.standardmedia.co.ke/article/2001269042/terrorism-threat-stalking-us-but-we-shall-crush-it-uhuru-says on 9 February 2017.
[208] UNDP, *Support to prevention of Violent Extremism in Kenya*, 1.
[209] 'Amnesty International: Kenya- Somalis scapegoated in counter-terror crackdown', *Amnesty*

participation by Somali refugees.

However, there is a case to be made for the recent involvement of local Somali refugees in the planning and execution of radical extremist activity. The office of the United Nations High Commissioner for Refugees (UN) has observed that instances of violent extremist activity have increased in Kenya since its military expedition into Somalia.[210]

There has also been a shift in the claimed culprits from organisations with ties in the Middle East (e.g. Al-Qaeda) to those with headquarters closer to home, specifically Al Shabab.[211] These statements imply that the executors of terror attacks have shifted from non-Somali to Somali persons. This is another portion of the narrative that suggests overwhelming participation on the part of Somali refugees. Meaning the radical extremism increases as more Somali refugees enter the country.

The above-mentioned portions of the narrative constitute a relatively black and white approach to answering the question. What the author finds to reflect the reality on the ground is an amalgamation of both points of view. This is a position shared by the Kenyan state. The Kenyan Government has alleged that Somali refugees have directly and indirectly participated in radical extremist activity.[212] Direct participation would constitute planning and execution of radical extremist activity. Indirect participation would be sympathizing with the cause and sheltering known radical extremists.

The general arguments given above provide little in the way of specific examples of Somali refugees engaging in radical extremism. There is no evidence to back reports that every single Somali refugee is a violent extremist. The four attackers in the Westgate Attack of September 2014 were Somalis, who are believed to have lived in Kenya for some time, two of who are claimed to have had illegally acquired Kenyan national identification papers

International 27 https://www.amnesty.org/en/latest/news/2014/05/kenya-somalis-scapegoated-counter-terror-crackdown/ on 27 May 2014.
[210] 'UNHCR: A look at the figures', *UNHCR* https://www.unhcr.org/ke/figures-at-a-glance on 30 April 2019.
[211] UNDP, *Support to prevention of Violent Extremism in Kenya*, 1.
[212]'Sham S: Kenya to close refugee camps amid security and economic concerns', *Deutsche Welle* http://www.dw.com/en/kenya-to-close-refugee-camps-amid-security-and-economic-concerns/a-19240991 on 7 May 2016.

and citizenship documents by the authorities.[213] Thus, they could have only been refugees, not members of the local population.

The April 2015 Garissa University College attack was the second deadliest terrorist attack in the country since the 1998 US Embassy attack, claiming the lives of 142 college students. It is implied that Somali refugees may have been involved.[214] The refugees mentioned primarily resided in two major locations. Frist is in the camps named Dadaab and Kakuma, and second is in urban areas such as Nairobi.[215]

If indeed Somali refugees are involved (and they are), where are they being recruited from? In Kenya, mosques are particularly known for facilitating top down recruitment of potential radicals.[216] This recruitment is of Somali refugees, as well as some locals. The other methods of recruitment are less organised and formal.[217] From the points outlined above, some refugees are active perpetrators of radical extremist acts. The extent is minimal in relation to the overall number of refugees but not ascertainable in terms of a specific percentage.

4.5 Analysing Kenyan Legal Responses to Violent Somali Refugee Extremism

To answer the question on whether legal responses are viable and important to consider, it must first be established that illegal means are ineffective and counterproductive.

The first illegal means considered was forceful expulsion. Forceful expulsion is not an available legal remedy. The principle of 'non-refoulment' prohibits the forceful return of refugees/asylum seekers to their original countries. Article 33 of the 1951 Convention Relating to the Status of Refugees, to which Kenya is a signatory, prohibits the expulsion

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[213] 'Lateef Margin: Hearing Starts, Adjourned for 4 Suspects in Kenya Mall Attack', *CNN* http://www.cnn.com/2014/01/15/world/Africa/Kenya-Mall-Trial on 14 January 2014.

[214] Africa Union Incident Analysis, 'Terrorist attack, Garissa University Kenya', 2 April 2015 http://caert.org.dz/incident-reports/Terrorist%20Attack%20In%20Garissa.pdf

[215] United Nations High Commissioner for Refugees, 'Kenya Comprehensive refugee Program', (2016), 3-7.

[216] Ooko S, 'Global Terrorism Threat: Youth Radicalization in Kenya' unpublished, University of Nairobi, 2014, 30.

[217] Counter Extremism Project, 'Al-Shabab' 3 March 2018 https://www.counterextremism.com/threat/al-shabab

or return of a refugee back to a war zone.[218] The article states as follows:

"No contracting state shall expel or return ('refoul') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, rationality, membership of a particular social group or political opinion".

Kenya has domesticated this principle section 18 of the Refugee Act.[219]This act has by extension also domesticated the whole of the Convention relating to the status of Refugees. The effect of this is that Kenya has an obligation under both international law and local law to not refoul refugees in its jurisdiction. This applies even in instances where the refugees got into the country illegally.[220]

As such, the Somali refugees domiciled in the territory of Kenya cannot be forcefully repatriated back to Somalia as the latter country is deeply unstable. Repatriation of refugees by force is this illegal for as long as Somalia is termed a war zone.

Another illegal and ineffective attempt to curb terror is local crackdowns. The method that the Kenyan Government has come to utilise is one of fighting terror with terror. This approach errs from two standpoints: the means used are usually illegal, and they fail at reducing radical extremism.[221] In fact, they seem to aggravate the problem, by creating conditions that promote radicalisation.

In its February 2017 meeting report, the Rift valley Institute asserts that hard military and security approaches have not successfully addressed the threat of violent extremism and that a new approach of countering violent extremism has emerged that promotes preventive programming that aims to address the drivers of violent extremism that is a departure from reactive counterterrorism measures.[222] Local integration of Somali refugees is presented as a counter violent extremism option.

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[218] Article 33, *Convention relating to the status of Refugees*, 25 July 1951.
[219] Section 16 (4) and 17(f), *Refugees Act*, 2006 (Act No. 13 of 2006).
[220] Article 31, *Convention relating to the status of Refugees.*
[221] 'KNCHR: The error of fighting terror with terror- preliminary report of the KNCHR investigations on human rights abuses in the ongoing crackdown against terrorism', *KNCHR* http://www.knchr.org/Portals/0/CivilAndPoliticalReports/Final%20Disappearances%20report%20pdf.pdf on September 2015.
[222] 'Rift Valley Institute: Violent extremism in Kenya- risk and resilience', *Meeting Report*, February 2017.

Various human rights organizations' reports and accounts have documented the abuses against Somali refugees in Kenya, by local authorities. These abuses were perpetrated in the name of preventing violent extremism. These abuses include periodic raids, beatings, police round-ups, extortion, torture and rapes.[223]

Having looked at these two main illegal tools of attempting to deal with radical extremism, many things become clear. Crackdowns and forced repatriation result in human rights abuses. They also serve to increase the extremism they were trying to stamp out. They also seem to be devoid of order in the case of crackdowns and unnecessarily complicated in the case of forced repatriation. Thus, there is need for the law to provide orderly, effective and lasting solutions.

The criminal justice system is one tool that the Kenyan Government can and has utilised to deal with radical extremist activity. Said activity is not limited to terror attacks. It involves planning and recruitment as well. This seems to a better option than the illegal means cited above, since they are not only enshrined in law but will be proven below to offer more lasting solutions.

This means that all terrorist activities classified as crimes are tried through the appropriate legal channels.[224] For example, the four attackers in the Westgate Attack were tried in a court of law taking heed of due process.[225]

It is well known and documented that radical clerics use mosques to recruit and radicalise impressionable Somali refugee youth.[226] Although crime detection and prevention is in the realm of the police force they must follow prescribed law. This is through the proper channels. For example, for evidence to be generally admissible in court the procedure and substance of searches and seizure must be followed. Investigations must also be as per the direction of the law.

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[223] https://hrw.org/news/2014/05/12/kenya-end-abusive-round-ups on 12 May 2014.
[224] The Penal Code of Kenya and other statutes that prescribe crime must therefore be used to accuse one of crime, and a trial be conducted.
[225] 'Lateef Margin: Hearing Starts, Adjourned for 4 Suspects in Kenya Mall Attack', *CNN* http://www.cnn.com/2014/01/15/world/Africa/Kenya-Mall-Trial on 14 January 2014.
[226] Sageman M, *Understanding terror networks*, 26.

There is also legislation on specific terrorism-related activity that grants special circumstances to aid in counter terrorism activities. This is a recent development as before 2010 Kenya's efforts to combat terrorism were hampered by a lack of legislation. Since then, the Security Laws (Amendment) Act changed 20 existing laws to strengthen Kenya's anti-terror legislative framework.[227]The new law created agencies to deal specifically with the terror threat. These included the anti-terrorism police unit, a bomb disposal unit and a cyber forensics investigative unit. The Kenya Defence Forces – army, air force, and navy - are now also legislated to be involved. Previously weren't actively involved in transnational counter-terrorism efforts.

The most recent development was the enactment of the Prevention of Terrorism Act, which grants special powers for special circumstances relating to the subject matter of the Act.[228] For example, the Kenya Council for Legal Reform's finding that the act allows for the suspension of some rights of arrested persons.

In conclusion, Kenya has come a long way in legislating against terrorism and using legal channels to counter terrorist activity, even though some of the laws have been declared unconstitutional.[229] However, the measures of criminal law are in the author's view only punitive. Integration would offer a more restorative model of justice

4.6 Is Integration a Factor in Reducing Violent Extremism?

It is the author's hypothesis that integration and violent extremism are linked causally. The lack of integration has been established as one of the reasons for radicalization. Radicalization in turn is a prerequisite for violent extremism to occur. This is derived from the discussion in chapter two. In conclusion, integration is a factor that if implemented has the possibility of reducing violent extremism. This possibility will be explored by the sub-questions below.

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[227] -< http://theconversation.com/how-kenya-is-managing-security-20-years-after-the-nairobi-blast-101143>- on 30 April 2019.
[228] -< http://www.klrc.go.ke/index.php/mandate/bail-and-bond-policy-guidelines/619-introduction>- on 30 April 2019.
[229] -< http://www.klrc.go.ke/index.php/media-center/523-security-law-amendment-act-ruling>- on 30 April 2019.

4.7 How far are the Somali refugees in Kenya integrated into the local host population?

Somali refugees in Kenya have been shown as above to be divided into two classes. The first class are those living in the refugee camps, while the second class are those who live in urban centres, especially in Nairobi. Based on these two classes, a distinction can be made in terms of levels of social integration.

It can be said generally that the urban population is de-facto integrated (it is also one of the assumptions of this study), with room for exceptions. They are still refugees, and thus are not legally integrated. It can also be said generally that the population of Somali refugees in the camps is not integrated in any way.[230]

The answer is not black and white, yes and no. There are varying shades of grey. Kenyan journalist, Rasna Warah has highlighted the Kenyan state and local population's antagonistic attitude towards ethnic Somalis- both Kenyan and Somali. She interrogates the problem of the mistreatment of ethnic Somalis by highlighting the abuses they face in the Kenyan state; and discrimination and hostile attitude they face from the public.[231]

In her article in the Journal for Refugee Studies, Elizabeth H. Campbell supports the idea of local integration of urban Somali refugees in Kenya arguing that they are not an economic burden as they are self-sufficient.[232] Her whole study extensively shows how far from integration Somali refugees are.[233]

To conclude, the urban population of Somali refugees appears to be relatively well integrated into the local population. While this latter group of refugees is de-facto integrated into the local host community, they like the encamped refugees are not legally integrated and this is perceived to exacerbate the security risk.[234]

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[230] See generally Campbell E, 'Urban refugees in Nairobi: Problems of protection, mechanisms of survival, and possibilities for integration.

[231] Warah, *War crimes*, 125-152.

[232] Campbell E, 'Urban refugees in Nairobi: Problems of protection, mechanisms of survival, and possibilities for integration, 19 *Journal of Refugees* 3 (2006) 399-400.

[233] See generally Campbell E, 'Urban refugees in Nairobi: Problems of protection, mechanisms of survival, and possibilities for integration.

[234] Abdi A, 'Urban refugees reintegration: A case study of Nairobi's Eastleigh Somali refugees ', Thesis for Masters Degree in Armed Conflict and Peace Studies, University of Nairobi, November 2010.

4.8 What are the reasons as to why the Somali refugees in Kenya are not integrated into the local population?

There are classes of reasons: socio-cultural, legal, and political. For purposes of clarity factors such as personal and individual psychological factors will not be considered. This is because (as outlined in the second chapter) they vary widely on a case-by-case basis.

The main legal reason for a low integration rate is the nature of integration itself in Kenya. The process of legal integration is outlined in the Kenyan Citizenship and Immigration Act.[235] The Constitution also lists the requirements.[236] For some refugees these requirements are too stringent to enable legal integration, and do not take account of factors outside of their control. De-facto integration is the closest form of integration available only to the urban-based refugees. The camp-based refugees remain completely unintegrated.

The primary social reason is a sense of identity and isolation. The main causes of this are radicalization and Radical clerics are one reason. In this dynamic relationship, it is easy for radical individuals to instil their ideas and attitudes in young, receptive and older Muslims alike.[237] The ideals instilled in them are usually negative towards the host country. Thus, even those who can integrate come to prefer not to.

Perceived religious differences play a major role in isolating the Somali refugees from the local host population. In Europe, the Muslim population is usually marginalised and underrepresented as established in chapter two, even when legally integrated. Kenya too is plagued with similar facts in the integration of Muslims into the Kenyan society as citizens.[238]

In a study done in 2015, the major factor that increasing the probability in youth radicalization in Kenya is the perception of social exclusion and marginalization.[239] This

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[235] Section 13(1) *Kenya Citizenship and Immigration Act.*
[236] Article 15(3), *Constitution of Kenya.*
[237] Sageman M, *Understanding terror networks*, 26.
[238] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 25.
[239]Ooko S, 'Global Terrorism Threat: Youth Radicalization in Kenya' unpublished, University of Nairobi, 2014, 28.

includes lack of participation in key issues that affect the country, under representation in government, mistreatment of Muslims based on their religion. These youth make no effort to integrate.

On the political front the prevalent view of Islam propagated by foreign powers is a political one, that has been adopted by the local Kenyans not Muslim or of Somali descent. An opinion poll conducted in 2017 shows that most American Muslims and British Muslims feel like the 'war on terror' is a 'war on Islam'.[240]

This is even though most Muslim communities do not believe nor condone violent extremism done in the name of jihad.[241] This attitude has been adopted by both non-Muslim and Muslim alike. Such views create a socio-political chasm between the host population and refugees.

In a study done by Usalama Watch in 2014 showed that due to the position Kenya has with European countries, any internal security agencies deployed to respond to terrorist attack are not done without further alienating communities whose support and cooperation is essential in the fight against terrorism.[242]

Under social and political identity crises, it is common for Muslim youths in foreign countries feel alienated from the community.[243] In the Netherlands, Muslim-Dutch youth feel alienated from their parents and the Dutch community. This meeting of two worlds that is the Western and the Muslin world cause an identity crisis.[244]

As a way out of this isolation, such youth tend to find an identity in the Ummah that binds them with other Muslims facing or having gone through a similar plight of identity crisis.[245]

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[240]George Monbiot, 'A Wilful Blindness' the Guardian, 11 March 2003, https://www.theguardian.com/world/2003/mar/11/usa.iraq on 20 March 2019.
[241] 'Terrorism and concerns about extremism' Pew Research Centre, 26 July 2017, -<https://www.pewforum.org/2017/07/26/terrorism-and-concerns-about-extremism/>- on 22 March 2019.
[242] International Crisis Group, Kenya: Al-Shabaab- Closer to Home, 17.
[243] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 30.
[244] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 31.
[245] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 40.

This leads to a failure to socially integrate, as they cannot see themselves as members of the host country.

The war between state agencies and refugees then becomes perpetual. This is because of the reactionary effect that isolation and harassment has on the refugee population. The effect is one where reactionary violence is bred. Unchecked and blatant exclusion from group membership can instigate negative and aggressive behaviours and attitudes.[246]

The state has had a large part to play by using excessive force which the radicals then take advantage of.[247] Brendon J and Dominic R have also pointed out that the Kenya security establishment's treatment of Kenyan Muslims and other communities (like the refugee community) have led to anger, frustration and, in some cases, radicalization.[248] Radicalized populations do not integrate.

In conclusion, there are many reasons as to why refugees of different groups do not integrate. The author is of the opinion that failure to integrate could involve one or more factors at any time, but that failure to legally integrate is the most devastating one.

4.9 Could the systematic integration of Somali refugees among host communities produce a reduction in violent extremism in Kenya?

The answer to this question is composed of two parts. Part one would be what constitutes properly executed systematic integration. Part two would be whether proof of such integration exists. An extension of the second part is whether integration, even imperfectly executed, has a lessening effect on violent extremism.

What does proper systematic integration look like? As per Alexandra Fielden, local integration as a durable solution has three elements.[249] The first is a legal process where the refugee attains rights in the host country. Secondly, a sustainable means of living is established. Lastly, a social and cultural process of adaptation to the host country takes

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[246]Ooko S, 'Global Terrorism Threat: Youth Radicalization in Kenya' unpublished, University of Nairobi, 2014, 29.
[247] Institute for Economics and Peace, *Global terrorism Index*, 2016, 14.
[248] Brendon J & Ruto Pkalya 'Why Al-Shabab attacks Kenya: Questioning the narrative paradigm'.
[249] Fielden Alexandra (2008) 'Local integration: an under reported solution to protracted refugee situations' New issues in Refugees research, Working paper No. 158.

place. Others such as Da Costa only argue for the legal process as being necessary.[250]

If one were looking for a most comprehensive policy on refugee integration and the guidelines for pursuing it, the European Union (EU) seems to lead the way. In the latest rankings of refugee integration, of the 27 top countries most of them were European.[251] A UN investigation of the EU's refugee integration policy reveals that it adheres to the model given by Alexandra Fielden.[252] Some elements such as mental health and healthcare plans were even included to mind the refugee's quality of life.

Since the scope of this study is primarily legal, the legal aspect will be looked at with the assumption that socio-cultural and economic integration will be provided for by the state. The focus will be on Kenyan integration policy. The process of legal integration is outlined in the Kenyan Citizenship and Immigration Act.[253] The Constitution also lists the requirements.[254]

The analysis into the causes of radicalization in Chapter Two shed light on the answer to this question. It has been shown that radicalization, though having many causes, has a lack of integration as its primary cause.[255] Radicalization has in turn been proven to be the determining factor in whether radical extremist acts are perpetrated by the individual.

Individual social behaviour is attributed to some extent with identification with social groups. How we behave to a large extent depends on whom we identify with.[256] Integration would make refugees identify with the host country and become less likely to attack it.

Proof that systematic, legal integration enhances social cohesion and a sense of national

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[250] Da Costa Rosa (2006), 'Rights of Refugees in the context of integration: Legal standards and recommendation', UNHCR Legal and Protection research series, Division of International Protection services.

[251] https://www.cgdev.org/blog/which-countries-have-best-migration-policies. Rankings by the global centre for development.

[252] 'United Nations Department of Economic and Social Affairs (UNDESA) Division for Social Policy and Development United Nations Expert Group', *Meeting New York*, 15 – 16 May 2018 https://www.un.org/development/desa/family/wp-content/uploads/sites/23/2018/05/Robila_EGM_2018.pdf

[253] Section 13(1) *Kenya Citizenship and Immigration Act.*

[254] Article 15(3), *Constitution of Kenya* (2010).

[255] Tajfel H and Turner J, 'An integrative theory of intergroup conflict' in Austin W and Worchel S (eds), 3rd ed, The social psychology of intergroup relations, Brooks/ Cole Pub. Co, Monterey, 1979, 33.

[256] Tajfel H and Turner J, 'An integrative theory of intergroup conflict', 38.

belonging then leads to an important proposition. The European example of how social isolation comes about given in Chapter Two provides a reasonable framework.[257] The proposition is that since the social isolation element has been removed, violent extremism no longer appears as a reaction to it.[258] Unchecked and blatant exclusion from group membership can instigate negative and aggressive behaviours and attitudes.[259] This effect would not take place in a system of systematic integration, removing one of the largest reasons for violent extremism.

The issue of cultural integration is more complex, especially when looking at religion. A population of European Muslims have integrated in all ways but cultural.[260] This persistence to remain culturally different despite generations in the host country is a pattern exhibited by Kenyan Somalis, most of whom are Muslim. The same pattern is thus expected of the refugees after integration.

Social integration is a process that can take place naturally. An example is the urban Somali refugee population in Eastleigh, Nairobi. While this latter group of refugees is de-facto integrated into the local host community, they like the encamped refugees are not legally integrated and this is perceived to exacerbate the security risk.[261] Only legal integration would complete this half-integration and reduce the security risk.

Local integration of Somali refugees can be presented as a counter to violent extremism. Integration of refugees would also remove the aggravating force of violent crackdowns by Kenyan forces.[262] There would be none to harass as refugees. This removal of a factor that enhances radicalisation would result in a drop in violent extremism. It would also bring to a halt the violent abuse that aids terror organisations in recruitment of violent radicals.[263]

There is a response to the argument against integration on grounds of high economic cost,

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[257] European Monitoring and Centre on Racism and Xenophobia, *Activities of the EUMC 2006*, 2007, 18.

[258] Tajfel H and Turner J, 'An integrative theory of intergroup conflict', 36.

[259] Ooko S, 'Global Terrorism Threat: Youth Radicalization in Kenya' unpublished, University of Nairobi, 2014, 29.

[260] European Monitoring and Centre on Racism and Xenophobia, *Activities of the EUMC 2006*, 2007, 18.

[261] Abdi A, 'Urban refugees reintegration: A case study of Nairobi's Eastleigh Somali refugees ', Thesis for Masters Degree in Armed Conflict and Peace Studies, University of Nairobi, November 2010.

[262] https://hrw.org/news/2014/05/12/kenya-end-abusive-round-ups on 12 May 2014.

[263] https://www.hrw.org/report/2012/05/04/criminal-reprisals/kenyan-police-and-military-abuses-against-ethnic-somalis on 4 May 2012.

since the local population would support the newcomers. In her article in the Journal for Refugee Studies, Elizabeth H. Campbell supports the idea of local integration of urban Somali refugees in Kenya. She provides an economic model for a self-sufficient integrated refugee lifestyle.[264] This would be better than maintaining a refugee population dependent on handouts, which would still be and is a financial burden.

4.10 Are there means other than integration that have served to deradicalize and avoid violent extremist activity?

It is clear that although the state takes liberties with refugee rights, there is a legal framework in place that presumes innocence. Such protections of refugee rights as explained above leave the Government weak in terms of measures to prevent terrorist activity. There arises a problem regarding the denial of services and hosting to refugees on grounds of crimes or inconsistency with the constitution. Such expulsions or arrests can only be done after the fact of the crime. They offer no protections whatsoever against refugees who become radicalised after entering the country. The adage 'Prevention is better than cure' is thrown to the wind in favour of legal protections and the presumption of innocence.

Since the scope of this study is primarily legal, the legal aspect will be looked at with the assumption that socio-cultural and economic integration will be provided for by the state. The focus will be on Kenyan integration policy. The process of legal integration is outlined in the Kenyan Citizenship and Immigration Act.[265] The Constitution also lists the requirements.[266]

The ultimate proof of integration working would be a marked decrease in violent extremism. This can be measure using the Kenyan Somali community, who are legally and economically integrated. A report by the Rift Valley Institute confirms this.[267]

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[264] Campbell E, 'Urban refugees in Nairobi: Problems of protection, mechanisms of survival, and possibilities for integration, 19 *Journal of Refugees* 3 (2006) 399-400.
[265] Section 13(1) *Kenya Citizenship and Immigration Act.*
[266] Article 15(3), *Constitution of Kenya* (2010).
[267] 'RVI' *Nairobi Forum Eastleigh meeting report* https://riftvalley.net/download/file/fid/3597.

Further proof that integration can work comes from the stated Kalobeyei integrated settlement which hosts both refugees and the local community. It is working at a solution of integration. Refugees are also working with NGOs to make a living from their skills.

The two other possibilities of inducing change have been outlined above and will be repeated as a conclusion. The legal framework and its implementation can be greatly improved upon. Secondly, deradicalization as shown in Chapter Three could also be a viable solution.

In conclusion, integration as an effective solution to violent extremism can only be realised where the integration is complete, as defined above. Even in cases of partial integration, there appears to be a reduction in the levels or violent extremism. Partial integration would thus be better than none.
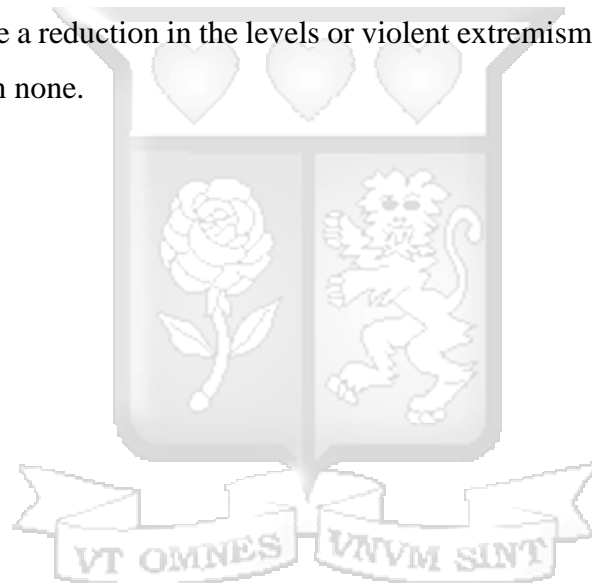
CHAPTER FIVE
FINDINGS AND RECOMMENDATIONS

5.1 Introduction

This chapter gives a detailed summary of the problem of radicalization and violent extremism globally and in Kenya through a historical context, the causes of radicalization and violent extremism in general with particular focus on those prevalent in Kenya, the counter-terrorism interventions and their effectiveness and the integration of Somali refugees and the connection it has to radicalization. This chapter further outlines the conclusion of the study and recommendation of the study.

5.2 An Introduction to Radicalization and Violent Extremism

The study found out the causes of radicalization cannot be attributed to just one factor. This is because radicalization is an interaction of complex factors that all work together.[268] These factors can be divided into two spheres. The first sphere consists of the external, social and individual level that differ in the extent to which they influence one to radicalization. The external level consists of the political, economic and cultural causes of radicalization. The social factor consists of the social identification and network dynamics that influence the rate of radicalization. Whereas the individual level tackles the psychological characteristics and personal experiences that contribute to radicalization.[269]

In the second sphere lies the catalysts to radicalization. These are not factors that lay the foundation for the process of radicalization, rather they are factors that speed up the process of radicalization.[270] Catalysts can be divided into two main categories; triggering events and recruitment. Both of which have tremendous influence on the rate of radicalization of an individual. From this chapter it became clear that the factors that influence radicalization are many.[271] However, for radicalization and consequently extreme violence to be stopped the mechanisms used should touch on the root of the issue which is usually the foundational

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[268] Blomberg S, Hess G and Weerapana A, 'Economic conditions and terrorism', 463-478.
[269] Tajfel H and Turner J, 'An integrative theory of intergroup conflict', 33.
[270] Tajfel H and Turner J, 'An integrative theory of intergroup conflict', 33.
[271] Ooko S, 'Global Terrorism Threat: Youth Radicalization in Kenya' unpublished, University of Nairobi, 2014, 30.

factors in the first sphere.[272] The study in chapter 3 was able to evaluate the Counter Terrorism mechanisms that are used in Kenya with a particular focus in Eastleigh.

5.3 Counter Terrorism Mechanisms

This study found in chapter 3 that there are various mechanisms that are used to counter terrorism globally. Kenya in particular applies on a national wide scale initiatives such as the establishment and use of the NCTC, joining the AMISOM initiative, conducting Operation Linda Nchi, focusing on substantive legislative changes that will make law enforcement easier when it comes to terrorism, using diplomatic efforts to stabilize problematic neighbouring countries such as Sudan and Somalia, participating in regional, international and collaborative efforts to increase the skill, equipment and information of the Kenyan Police force and using NGOs to help in the fight against radicalization and violent extremism of the youth.[273]

Although the efforts of the government to counter terrorism in Kenya since 2003 are recommendable, their effectiveness has been curtailed by technical incapacities, corruption, poor interagency law enforcement coordination, insufficient training and lack of resources. Additionally, in Muslim populated areas such as Eastleigh that are termed as high risk areas the government has resulted in using risk reduction strategies, security operation, community policing and random searches as Counter Terrorism mechanism. These strategies are a show of effort but they clearly work to control radicalization rather than prevent radicalization.[274]

Furthermore, the Counter Terrorism mechanisms that are deployed tend to be more military based and harsher in terms of upholding human rights of refugees. It is due to this that most residents in Eastleigh that are Muslim of Somali decent feel target and discriminated against, whenever the above mentioned strategies are used in Eastleigh. This study therefore concluded on the ineffectiveness of Counter Terrorism mechanisms in Kenya and

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[272] Transnational terrorism, Security and the Rule of Law, Radicalisation, *Recruitment and the Counter-radicalisation* Strategy, 24.

[273] McKay A, 'Counterterrorism in Kenya: an interview with Oscar Mwangi' Oxford Research group, 22 February 2019-< https://www.oxfordresearchgroup.org.uk/blog/counter-terrorism-in-kenya-an-interview-with-oscar-mwangi>- on 17 April 2019.

[274] Kimunguyi P, 'Terrorism and Counterterrorism in East Africa' Monash university, 2011, 14.

urges using mechanisms that touch on root causes of radicalization such as lack of social integration that brings about discrimination.[275]

5.4 Integration as a solution to violent extremism

The core function of chapter four was to prove or disprove the hypotheses outlined in Chapter Three, through research questions. This chapter will first looked at the validity of the claims that Somali refugees are involved in violent extremist activity. Focus was on the respondents of this study: the urban Somali population in Eastleigh, though the rural populations will be considered as well. It was found that refugees participate in violent extremism. [276] This was attributed partly to the government's policy of violence.

Thereafter, the possibility or impossibility of integration being a factor in reducing violent extremism was investigated. It is at this point that the arguments will become more local and suited to the subjects of this study, i.e. the urban Somali refugees in Kenya. The level of integration of Somali refugees was found to be low in all aspects. Only then were the reasons behind the lack of integration be questioned and answered. Among them were socio-political reasons, along with legal reasons. For example, access to information, political views, and negative stereotypes.

A brief legal analysis of terror as a phenomenon and legal and illegal tactics against it was given, where it was shown that Kenya made great strides forward but was still lacking. It was shown that it is possible to reduce violent extremism in theory given that integration was shown to affect rate of radicalisation under the second chapter, with the example of the Kenyan Somali community being given.[277] The study maintained that if properly done, the population of Somali refugees engaging in terrorist acts would reduce. The study also briefly mentioned the process of legal integration and understated its importance.[278]

5.5 Conclusion

The study found that partial integration partially reduces instances of violent extremism

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[275] Kimunguyi P, 'Terrorism and Counterterrorism in East Africa' Monash university, 2011, 15.
[276] 'Lateef Margin: Hearing Starts, Adjourned for 4 Suspects in Kenya Mall Attack', *CNN* http://www.cnn.com/2014/01/15/world/Africa/Kenya-Mall-Trial on 14 January 2014.
[277] 'RVI' *Nairobi Forum Eastleigh meeting report* https://riftvalley.net/download/file/fid/3597.
[278] Section 13(1) *Kenya Citizenship and Immigration Act.*

and full integration greatly reduces instances of violent extremism. The study also found that a portion of violent extremism is unrelated to integration of refugees. Rather, terror cells and networks can conduct violent extremist activity with little to no refugee assistance. The study also found that the social differences between non-Islamic Kenyans and Muslim groups is large enough to cause social divide.

The study concluded that some refugees take part in violent extremist activity, though some of the radicalisation is at the fault of the Kenyan Government due to their ultra-violent tactics.

5.6 Recommendations

Based on the study's findings I recommend that Somali refugees be integrated in order of their level of social and economic integration. Those in urban centres would be integrated first as they have been shown to be integrated in all ways but the legal. Integration should be followed using the tripartite of social, legal and economic. Such integration would require formation of a new policy and laws and would preferably be begun at the Parliamentary Committee stage. I therefore recommend that a Parliamentary Committee on integration be assembled.

I recommend that an amendment to the laws that follow be made. First, the Prevention of Terrorism Act be amended in light of its unconstitutional elements as per the direction of the Judiciary. The second is that the Refugees Act be amended to remove the distinction in legal status between statutory and non-statutory refugee status. They should be merged while maintaining the requirement for registration so as to enable service delivery. This would enable the time period that refugees spend waiting for documentation could count towards their citizenship application. This would enable integration of unregistered persons should the state mechanisms fail to recognise them as refugees due to lack of encampment.

I recommend that a formal report be made to the National Cohesion and Integration Commission by a body with the requisite capacity and information regarding the degree of legal and social isolation of the refugee community. This is in hopes that the Commission will look into possible ways of bridging the cultural and social divide between Somali refugees and other groups. Should this prove to be a viable option, the gains on enhancing

socialization may reduce radicalisation of refugees. This would in turn produce a reduction in radicalist extremist activity.

I recommend that more research into the rehabilitation of radicalised youth be done, by bodies with the requisite capacity (such as outlined in the NSCVE arguments above). This is because the limited information and strategies available suggest high value in the deployment of this CVE strategy.

I finally recommend that the encampment laws and policies put in place by the government in relation to urban populations of refugees be reviewed. This is because they are clearly partly efficient and only serve to deny partly integrated refugees full integration through denial of crucial documents such as refugee registration and alien IDs.
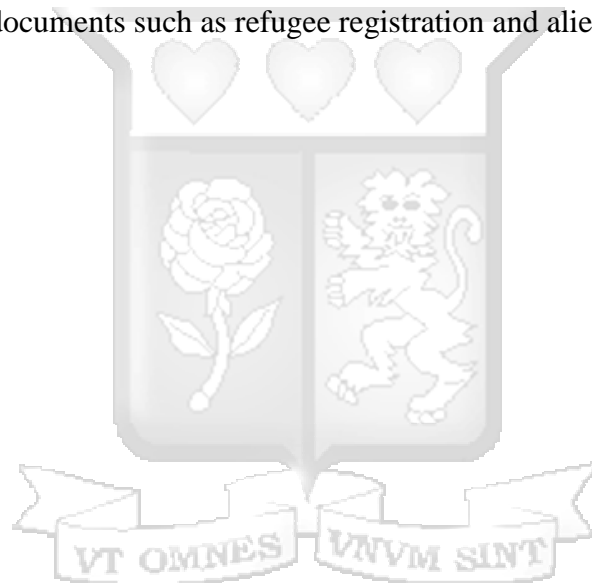
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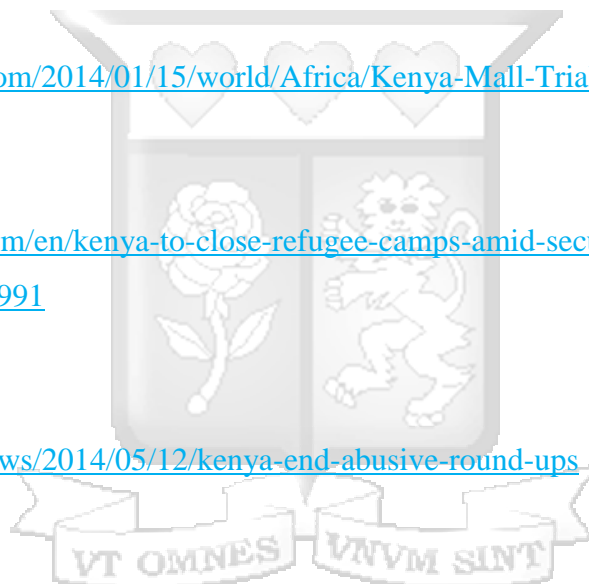
http://www.cnn.com/2014/01/15/world/Africa/Kenya-Mall-Trial

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