AN EMPIRICAL ANALYSIS OF COUNTER TERRORISM MEASURES IN KENYA IN RESPONSE TO HUMAN RIGHTS VIOLATIONS

BY

DAVID MAROTICH

(ID No. 632548)

A Thesis Submitted to the School of Humanities and Social Sciences in Partial Fulfilment of the Requirements for the Master of Arts Degree in International Relations

UNITED STATES INTERNATIONAL UNIVERSITY - AFRICA

SUMMER 2020
STUDENT’S DECLARATION

I, the undersigned, declare that this is my original work and has not been submitted to any other college, institution or university other than the United States International University - Africa in Nairobi for academic credit.

Signed: ___________________________       Date: ________________________

David Marotich (632548)

Supervisor’s Declaration

This project has been presented for examination with my approval as the appointed supervisor.

Signed: ___________________________       Date: ________________________

Professor Cassandra Veney

Signed: ___________________________       Date: ________________________

Professor. Martin C. Njoroge

Dean, School of Humanities and Social Sciences
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ABSTRACT

The study examines the effectiveness of counter-terrorism measures through a content analysis of Kenya, with examples from The United States and Israel. The analysis of existing literature has demonstrated that counterterrorism measures do not always have the same effect, and that they are independent of time. Just like external military interventions in a conflict will have the largest effect at the early stages of a conflict or once the belligerents have become war-weary, the same holds true for counter-terrorism. The study also examined how counter terrorism measures affect civil liberties; furthermore this study shall examine and analyse the proactive, reactive, systematic counter-terrorism actions, challenges, and the lack of a clear effective counter-terrorism law in relation to human rights concerns.

The study uses secondary data for analysis. The data was gathered from publications from journals, government records, non-profit organisations (NGOs) records, media articles, and studies related to the current topic. The data obtained is analysed using content analysis. The study concludes that experiences from Israel and the United States could contribute to the enhancement of counter-terrorism efforts in Kenya.
ACKNOWLEDGEMENT

First and foremost I give my gratitude and humble appreciation to God for the gift of life, good health, a sound mind and divine providence that enabled me to come up with this research project.

Secondly, I wish to accord my Supervisor, Professor Cassandra Veney special acknowledgement, for equipping me with the knowledge and skills in writing the project with great insight, encouragement and guidance throughout the research project by reading and correcting my work.
DEDICATION

This study is dedicated to my loving family for their support, patience and encouragement during the entire process.
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ATPU - Anti-Terrorism Police Unit

CT - Counter Terrorism

FBI - Federal Bureau of Investigations

ICCPR - International Covenant on Civil and Political Rights

IDF - Israel Defense Forces

IRA - Irish Republican Army

IRTPA - Intelligence Reform and Terrorism Prevention Act

JTTF - Joint Terrorism Task Force

KDF - Kenya Defense Forces

PA - Palestinian Authority

PFLP - Popular Front for the Liberation of Palestine

PLO - Palestinian Liberation Organization

RAF - West German Red Army Faction

SPU - Special Prosecution Unit

TPU - Tourist Police Unit

U.S.A - United States of America

UDHR - Universal Declaration of Human Rights
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CHAPTER ONE

1.0 INTRODUCTION

1.1 Background of the Problem

According to Alberto (2014), terrorism is a global issue that has necessitated major legislative and precautionary adjustments to counter terrorism. The issue has resulted to adjustments that are viewed by many to violate the right to privacy and fundamental freedoms. The term ‘terrorism’ suggests political violence or insurgency primarily (Oren, 2013). According to Jenkins (2010) cited in Wilkinson and Stewart (2014), terrorism can be described as a kind of weapons system.

Eli (2013), states that terrorism has increasingly become a focus of attention in social sciences since the 1960s. There are some practical reasons for the burgeoning of such literature. The main reasons, according to many scholars like Long (2013); and Rice (2014), is that the state of the international system in the Cold War made engaging into conventional wars extremely costly. Therefore, the strategic balance favoured unconventional warfare as a means of engaging rivals (Laitin, 2013). As a result of these developments, terrorist organizations and their activities spread during the 1960s, 1970s and 1980s, and this increase in use of terror as a tactic by non-state actors brought with it a greater focus on terrorism in the social sciences.

According to Estaban (2013), these academic perspectives on terrorism differ widely. Estaban argued that disciplinary interests such as cultural anthropology, religion, social psychology, history, political science, geography, demography, weapons technology, communications, electronics, and forensics influence them. Technological development in
the 19th century played a major role on the rise and growth of terrorism (Weimann, 2015). This is because of the presence of mass communication technologies that gave room to the availability of news, ideas as well as event to be communicated rapidly long distances thereby making it easier for the terrorist groups to carry out their attacks and broadcast information more easily thereby playing a major role in enhancing the rise of terror groups across the globe (Fleming, 2008).

The growth and rise of terrorism has continued decade after decade with various groups involving in terrorism acts in various parts across the world and there in no corner of the word that has never experienced a slight terror attack thereby leading to countries to put in place policies that will be able to curb terrorism (Mueller & Stewart 2015). Measures towards counterterrorism have been implemented or put in place across the globe by the utilization of various strategies such as data collection, analysis as well as monitoring and evaluation. Many nations especially the developed countries such as the United States, Israel, Canada, Australia as well as the United Kingdom have invested in heavily in fighting of curbing terrorism thereby putting the emphasises to also the developing nations such as Kenya, Nigeria and Ethiopia on the importance of having measures of eliminating terrorism (Pham, 2016).

John (2013), opines that many of the terror attacks that have been experienced in the recent past are usually non-combat whereby the terrorist attack on civilians which result to a high number of fatalities as a result of these attacks and this has been the norm of most terror groups. The attacks on most countries are as a result of them being allies of the United States,
Israel or other country which have vowed to eliminate terrorism in the world and therefore the terror group usually target on the soft spots with Kenya being a perfect example.

Kenya has been adversely affected by terrorism (Ministry of Internal Security, MoIS, 2017). According to MoIS, Kenya has experienced a number of terrorist attacks because of its role as an American ally and its move to invade Somalia among other very important reasons such as lack of oversight and high-level corruption. The country has had to make significant adjustments to enhance its security with measures that require extensive privy of what would have ordinarily been viewed to be within the privacy and civil liberties realm (Wanjau, 2013). However the current counterterrorism operations seem to be a pretext for the blanket targeting of the Somali community in Kenya (Ahmed, 2017).

The Kenyan government has long viewed refugees as contributing to national security issues (Amos, 2014). A report by Kenya National Human Rights Commission (KNHC, 2017) indicated that Operation Usalama Watch has been carried out in blatant disregard for national and international law, including Kenya’s 2010 constitution which reflects key provisions of international human rights instruments and refugee conventions to which Kenya is a party. Amnesty International has also documented scores of cases where people have suffered human rights violations.

Mwazighe (2012), explains that an inadequate legal framework in Kenya has hindered efforts to combat terrorism, which is a major intimidation to Kenya’s national security and its interests. The level of insecurity in Kenya has been in the rise in the past decades with terrorism attacks being experienced frequently. Prestholdt (2014), indicates that since 1980 to the present day, Kenya has suffered a number of terrorist attacks by Al Qaeda and Al
Shabaab cells. These attacks include the U.S. embassy bombing of 1998, Westgate attack in September 2013 up to the recent attack at the Garissa University College in 2015 as well as the 14 Riverside attack in 2019.

According to Amos (2015), Israel’s experiences and the lessons of counter terrorism measures for Kenya and The United States suggest three key principles that must be borne in mind in any fight against terrorists. First, the number of effective terrorists is limited. By eliminating the most skilled and dangerous terrorists through arrests (the preferred method) or by targeted killings (if absolutely necessary), a state can greatly disrupt the operations of a terrorist organization.

Secondly, a related principle is that not every terrorist needs to be killed or arrested for a counterterrorism measure to be successful. If the pace of arrests and killings is rapid enough, then the terrorist organization can lose the critical mass of skills and capabilities that it requires to function. Third, it is far better that a local government’s forces are used to fight terrorism than to call on outside forces, no matter how skilled (Amos, 2015).

Clutterbuck (2013), suggests that the rising costs of anti-terrorism efforts have become an increasing problem. This is because the terror groups techniques attacks keep on changing whereby they devise various ways to conduct their attacks thereby becoming hard to contain them. For example in Kenya the Al- shabaab Somali terror group has been targeting non-local in the North Eastern Kenya in the recent past (Hassan, 2015). Klor (2015), affirmed that the vast land area of the United States and widespread United States interests abroad are impossible to protect entirely. In addition, billions of dollars have been spent to develop
counterterrorism technologies, establish crisis management training and enhance security staffing throughout the country.

Claude (2014), argues that effective local partners are vital for counterterrorism and building up their capabilities is a long process, but the will to fight is critical. Moreover, one of the most controversial counterterrorism measures employed by Israel since the outbreak of the Al-Aqsa Intifada (uprising) in September 2000 is assassinating a member of Palestinian terrorist organizations (Morris, 2014). According to Morris, the policy is controversial for several reasons. One objection is legal: the argument is that assassinations are extra-judicial executions. A second objection is moral and centres on the possibility that assassination attempts will hurt non-combatants.

According to Ian (2013), the effectiveness of assassinations as a counterterrorism policy has been the subject of a fierce debate in Israel. The debate focuses on the impact the assassinations have on the capabilities and the motivation of terrorist organizations. The two sides to the debate seem to agree that the production of terrorism is positively related to both capabilities and motivation. There is disagreement, however, on the magnitude of the effects of assassinations on capabilities and motivations and therefore on the production of terrorism, is indeed a lesson for Kenya (Benny, 2013).

Steven (2016), says that policymakers from Israel’s experience with disobedient administrations in the Palestinian Authority (PA) and Lebanon are that sustained pressure is necessary. According to Steven, no one measure will force a regime to aggressively fight terrorism. Success against regimes that are passive in the face of terrorism will take years and
will often be partial (Eldor, 2014). This is because of administration non-committal to putting measure of combating terrorism with Palestine and Saudi Arabia being a perfect example.

Like the U.S., Israel has used targeted killings because in many circumstances key terrorists who are actively masterminding attacks are difficult to arrest without significant risk to the security forces (Boaz, 2014). Accurate, timely and actionable intelligence is necessary for targeted killings. Boaz posits that rapid intelligence sharing and avoidance of “stove piping” (when an agency retains information or intelligence and does not share it with other agencies) is essential.

According to Shlomo (2016), the United States must have high standards for targeted killings because, unlike Israel, it relies heavily on the cooperation of foreign governments to arrest terrorist suspects and to disrupt terrorist plots. If a targeted killing operation, particularly one that goes sideways, alienates allies, the strategic effect could prove disastrous. The bar for approving a targeted killing should therefore be set high.

Scientists remind us the plural of “anecdote” is not “data.” In the realm of national security, a similar axiom would hold the proliferation of counterterrorism measures do not necessarily mean we are any safer (Hoffman, 2013). Only if those measures guide us inevitably and measurably toward clearly articulated goals will they then secure our liberty and property against the threat of a new and dangerous era (Avi, 2012).
1.2 Statement of the Problem

In the field of counterterrorism, the primary question is not how many terrorists are eliminated, for instance by killing them or by sending them to prison, but whether their numbers have decreased through the policies and measures used (UNSC, 2015). Additionally, elimination of risks in certain places may cause substitution or waterbed effects (Ghayad, 2016). Effectiveness of a government’s measures in countering terrorism is hampered by the fact that the state is not the only external factor/actor that has an influence on the behaviour of terrorists (Lofgren, 2013).

According to Heymann (2014), Counter-terrorism requires extensive resources. There is a cost to individuals where citizens lose lives and suffer social, psychological and physical problems. These individual costs also involve fear, which in the long run curtails the citizens’ freedoms of movements, associations, worship and many other rights and freedoms associated with a secure environment. Global terrorism index has continued to increase with many countries experiencing terrorist attacks experiencing at least one terrorist attack.

In addition, since terrorism is constantly changing and shifting and attacks do not occur along a linear line with set intervals, it is hard to tell whether terrorist threats are on the increase or on a downward trend (Ghayad, 2016). Therefore this study sought to examine the effectiveness of counter-terrorism measures by comparing current counter-terrorism measures of Kenya, United States and Israel and how these measures sometimes infringe on civil liberties.
1.3 **Purpose of the Study**

The purpose of this study was to examine the effectiveness of counter-terrorism measures in Kenya and how are they different from those in Israel and the U.S.

Second to be able to adopt best practices in counter-terrorism from the three countries, i.e. Kenya, Israel and the U.S.

1.4 **Research Questions**

i. To what extent have counter-terrorism measures impacted civilians in Kenya?

ii. Is there a need to revise the counter-terrorism strategy undertaken by Kenya?

iii. When comparing counter-terrorism policies in the U.S. and Israel, is lack of coherent counter-terrorism policies impacting strategies in preventing terrorist attacks in Kenya?

1.5 **Specific Objectives**

The following specific objectives guided the study:

- To investigate on how effective counter-terrorism policies impact strategies in preventing terrorist attacks in Kenya;

- To establish whether incidents of terrorism have declined since the enactment of the Security Laws (Amendment) Act, 2014 in Kenya;

- To analyse the challenges facing counter-terrorism measures in Kenya.
1.6 Significance of the Study

1.6.1 Government

This study is of benefit especially to the Government of Kenya, U.S. and Israel as it contributes in the counter-terrorism literature in ensuring lawmakers outline clear legislation, which will distinguish and limit powers of officials in the security sector so as to reduce infringements on civil liberties. In future, other researchers and scholars will seek to extend further studies on the effectiveness of counter-terrorism measures in different countries other than Kenya, The U.S. and Israel.

1.6.2 Researchers

This study is therefore important to future researchers as it could be used as a source for future references and citations to improve the body of knowledge in this field of counter terrorism. This study tends to essential issues in connection to the impact of counter terrorism measures on a person's security, the effect of counter terrorism measures on individual personal space, and the effect of counter terrorism measures on individuals freedom of affiliation. These are issues that influence the general population space as the nation’s uphold counter terrorism measures.

1.7 Scope of the Study

This study participates in a content analysis examination of counter-terrorism measures and polices in the U.S., Israel and Kenya. The examination intends to research the counter-terrorism policies in the three jurisdictions in order to examine how Kenya can learn from the
other two jurisdictions of Israel and the U.S. on best practices in counter-terrorism strategies that could be a blueprint in manufacturing measures that deliver results.

Secondary data for empirical literature will be utilized. The data analysed will be accumulated from publications based on data from the World Values Surveys, government records, non-profit organisations (NGOs) records, media articles, and studies related to the current topic. Secondary data helped in generating insights from previous analyses. This is in accordance with (Fabregues, 2014) who affirmed that re-breaking down secondary data could prompt surprising new revelations.

The study will descriptively analyse the effect of counter terrorism on the right to privacy and other fundamental freedoms such as the freedom of association in Kenya. The study takes an inside out approach of the phenomenon and explores the various forms of privacy violations experienced with the implementation of counter terrorism strategies. The study will also work towards a literate analysis of the existing situation’s explanations. The effects of counter terrorism will be assessed from secondary data from documented findings and academic studies. The source of data will then be compared to come up with a comprehensive opinion of the effects of counter terrorism in privacy, personal security, and freedom of association. This approach will give practical analysis of the situation from a strong theoretical background.
1.8 Definitions of Key Terms

- **Terrorism**: the unlawful use of violence and intimidation, especially against civilians, in the pursuit of political aims (Ghobadian, 2015).

- **Counter-Terrorism**: political or military activities designed to prevent or thwart terrorism (Storey, 2014).

- **Strategy**: a plan of action designed to achieve a long-term or overall aim (Keynes, 2013).

- **Measures**: a plan or course of action taken to achieve a particular purpose (Honey, 2013).

- **Security**: the state of being free from danger or threat (Coulter, 2014).

- **Comparative**: involving the systematic observation of the similarities or dissimilarities between two or more branches of science or subjects of study (Coulter, 2014).

- **Violence**: behaviour involving physical force intended to hurt, damage, or kill someone or something (Goredama, 2012).

- **Unlawful**: not conforming to, permitted by, or recognized by law or rules (Blakesley, 2013).

- **Policies**: these are considered as principles that are used to guide decisions with the aim of achieving rational outcomes (Alexander & Kraft 2008).
1.9 Thesis Summary

Chapter 1 provides a brief overview to the research. Similarly it comprises the statement of the problem, research questions as well as objectives of the study, significance of the study and definitions of terms of key terms.

Chapter 2 reviews empirical literature on how the lack of coherent counter-terrorism policies impact strategies in preventing terrorist attacks; incidents of terrorism since the enactment of the Security Laws (Amendment) Act, 2014; and challenges facing counter-terrorism measures.

Chapter 3 outlines the methodology, research design, and analysis strategy. In addition, the methods for ensuring validity and reliability were discussed.

Chapter 4 presents the research findings on effectiveness of counter-terrorism measures. Chapter 5 discusses the results and show they relate to the existing literature. The chapter also presented answers to the research questions in the form of a set of guidelines and implications.
CHAPTER TWO

2.0 LITERATURE REVIEW

2.1 Introduction

The chapter critically examines the effectiveness of counter-terrorism measures based on the specific research objectives. The chapter presents theoretical literature based on the following variables: coherent counter-terrorism policies, incidents of terrorism, and challenges facing counter-terrorism measures. Lastly the theoretical framework.

2.2 Coherent Counter-Terrorism Policies and Terrorist Attacks

2.2.1 The United States

Charters (2014), in a study that assessed six nations (United Kingdom, Germany, Italy, France, Israel, and the United States) counter terrorism policies, found that the implication of counterterrorism policies on human rights have no comprehensive rush to restrict freedoms as is perceived and described by many authors. The study asserted that the gains in democracy are strong and resilient to several infringements in the face of counterterrorism measures. The author argues that governments will thus be able to balance the pressure to arrest terrorists and the need to uphold human rights.

2.2.1.1 Incentives and Massive Financial Support

Samer (2014), advances the preposition that the United States has sought to address the problem of Pakistan passivity with a policy of incentives, the provision of massive financial support to Pakistan as well as extensive U.S. official cooperation with Pakistan’s military and security services. A study done by Bruce (2014), argues that American proponents of this
approach claims that money is needed to augment Pakistan’s counterterrorism capabilities and to ensure that the Pakistani authorities continue to take action against Al-Qaeda. U.S. financial aid is therefore both a means of building up Pakistani counterterrorism capacity and a bribe in order to ensure good behaviour and continued counterterrorism efforts.

According to Walter (2014), countering terrorism has been U.S.’s top agenda having reviewed the laws that took into effect after the lethal September 11\textsuperscript{th} attack. From its laws on terrorism it is evident that the U.S. uses diplomacy, sanctions, covert operations, military options and law enforcement actions in the fight against terrorism (Federal Bureau of Investigations, FBI, 2014). The FBI was also tasked with the responsibility of protecting its citizens from terrorist attacks in their country as well as exercising their extraterritorial jurisdiction in instances where their citizens are abroad and are in a terrorist prone area (National Security Division, 2016).

\textbf{2.2.1.2 Drone War}

An Empirical review by Rineheart (2015), observed that counterterrorism strategy in the U.S. after 9/11 was also known as the Drone War. The U.S. has used this strategy in countering terrorism. Drones are unmanned Aerial vehicles or remotely Piloted Aerial Systems that are used in situations where manned flights or vehicles are considered difficult to be in positions providing troops with 24-hour surveillance (Rineheart, 2015). A report by Olson (2014) stated that the use of drones began with President Clinton who ordered a one off precision-guided cruise missile on Al–Qaeda bases in Afghanistan after the 1998 bombings in Kenya and Tanzania.
According to Ahmed (2012), the United States usually has two types of drones’ programmes, which are used in counterterrorism strategy. The first one is the military’s version drone programme which is well known publicly which is operates in well recognized war zones such as Afghanistan as well as Iraq, and usually used by the U.S to target its enemies. The second drone program is the C.I.A.’s program, which the United States usually uses by aiming terror suspects across the world especially where the United States troops are not present (Powell, 2016). The United States have utilized the CIA drones in the places such as Yemen targeting the Al Qaeda forces. In the recent past the United States used it drones in Somali targeting the al-shabaab militant, which have been lauded as an effective measure or tool in confronting the al-shabaab terror group in Somali, which has normally being carried out by the CIA Authorities (Williams, 2013).

2.2.1.3 Countering Violent Extremism (CVE)

According to the U.S. Department of Homeland Security (2015), Countering terrorism in the U.S. has also not been without countering violent extremism (CVE). This is an approach that began in the aftermath of 9/11, which was spurred by the changing nature of terrorism and the dawn of decentralized actors and self-radicalized small groups and lone wolves. A survey by Davis (2012) observed that this changed the way the international community worked to counter terrorist threats, but it also increased awareness that the pursuit of terrorists was taking a new different approach.

Holmer (2013), explains that Countering Violent Extremism (CVE) emerged and remained parked programmatically and conceptually in the international and national security policymaking community as part of a broader effort to counter terrorism. Among the various
U.S. government agencies involved in anti-terrorism efforts, there is currently no common set of criteria for measuring success.

Perl (2007), articulates that different types of terrorist threats may carry different risks and potential impacts, and strategies may need to adapt correspondingly. For instance, different strategies may be applicable to terrorism rooted in political or economic vs. cultural or theocratic pedigrees. Such differentiations in threats and our response strategies make measurement of progress more difficult.

2.2.2 Israel

Terrorism has been known as a major component in the Israel-Palestinian conflict. Mancur, (2013), averred that Palestinians tend not to agree that the conflict with Israel is terrorism and argue that it is just a legitimate political war. According to Mancur, Palestinians claim that the Israeli military are the true terrorists for the atrocities they commit against the Palestinians on the Gaza strip. On the other hand the Israelis and other countries or persons supporting Israel defend whatever the Israeli military and security services do as legitimate counter-terrorism measures ensuring that their country and their citizens are safe which can be challenged (Primoratz, 2015).

2.2.2.1 Pressure

In a study done by Justine (2014), it showed that Israel’s response to the failure of unmitigated financial flows to alter Palestinian Authority (PA) behaviour was to attempt to coerce the Palestinian Authority, with mixed results. According to Justine, some of the terrorists being protected or funded by the Palestinian Authority were politically influential,
enjoying sympathy both from leading Palestinian Authority figures and significant segments of the Palestinian population.

Moreover, according to Ehud (2016), as the Palestinian Authority repeatedly demonstrated, even when it regarded some terrorist groups as its enemies, it feared that it lacked the capacity to crack down on them. Palestinian leaders also often hesitated to be seen to act at the behest of a foreign power (particularly Israel, which it has long portrayed as an archenemy) for fear of damaging their nationalist credentials (Wolfers, 2014).

Surowiecki (2013), observed that such experiences with passive states, especially ones that are conflicted in their attitude to terrorism, are not new, as Israel discovered in over a decade of dealing with the Palestinian Authority (PA) and the Lebanese government. According to Surowiecki, Israel found that inducing other governments to fight terrorists, especially when these governments may sympathize with or support terrorists, requires different forms of pressure. Coercion, for example, had mixed results and applying financial pressure was diplomatically challenging (James, 2015).

Furthermore Zussman and Zussman (2006), articulated that the reaction of the Tel Aviv Stock Exchange to assassinations depends on the seniority and wing membership of the target. The market does not react to assassinations of low ranked members of Palestinian terrorist organizations. The market does react strongly, however, to the assassinations of senior leaders of terrorist organizations: it declines following assassinations targeting senior political leaders but rises following assassinations of senior military leaders. This implies that the market perceives the first type of assassinations as counterproductive, but the second as an effective counterterrorism policy. This study argues that pressure on the passive state’s
population did at times yield results, but was risky and diplomatically costly. International isolation, a tool used by the United States, has proven to be highly effective, but only if properly enforced.

2.2.2.2 Permit System Policy

Hanieh (2002), explains that Israel starting from the year 2000 have been using the permit system as a strategy to countering terrorism. This policy allows Israel determine who can travel in and out of the Gaza and Westbank as well as who many not. Israel uses this system as a defensive, measure against terrorist who have the intention to enter into Israel to train, planning, or implementation of terror attacks. The country is able to control the flow of people in and out of the Israel borders of Gaza and West Bank thereby controlling the Palestinian society. The country has special police namely the borders guard who are strategically placed on the border to monitor the Israel borders thereby evaluating who enter and leaves the border.

2.2.2.3 Closure Policy

Israel as a result of increased terror attacks form Palestine introduced the closure policy. This policy was implemented in order to enable Israel to seal its borders thereby limiting the movement. Closure in practice means that borders that usually separate Gaza and West bank from the Israel country mainland are completely sealed. The closures affects completely the travel between West bank and Gaza which generally leads to severe restriction of movement (Pedahzur, 2009).
According to Pedahzur (2009), Israel has indicated momentous resilience on war against terrorism. Israel has refused to be intimated or cowed on the ceaseless threat violence from terrorists. The people and the state have indicated the significance of innovation as well as creativity in developing as well as designing counterterrorism policies. Israel have shown that terrorism cannot be easily defeated but it is something that people and states can learn to live with.

2.2.2.4 Detention

Yahav, (1993), avers that the Israel authority uses the detention policy on terrorism as a way of countering terrorism. The state makes sure that after every terror attack arrest as well interrogations are conducted so as to acquire intelligence that will enable the Israel authority to determine who was responsible for the attacks. Usually the arrest leads to detention which the state of Israel normally classifies as an offensive action. The individual who have been put into detention are incarcerated for an unspecified period of time thereby this measure acts as preventive method of planning and staging attacks by the terror groups.

Israel claims that it employments regulatory detainment as it were as a security measure, intended to upgrade open arrange and security by evacuating an individual in address from a location in which he is anticipated or considered likely to commit acts harming thereto. In Israel, regulatory detainment is forced on individuals suspected of hurting the security of the state and of the open inside the Green Line, within the West Bank and in Gaza. The utilization of this strategy by the Israeli military specialists isn't an unused (Yahav, 1993).
2.2.2.5 Selective Killings

According to Omaar (1997), since the exceptionally establishment of Israel, the focusing on of people suspected of being responsible for the passing of Israelis has been executed as a preventative method. There have been a few cases of particular killings which have had unintended political ramifications. A determination of cases will be inspected to demonstrate the degree of the potential consequence. In any case of the political risks, Israel has proceeded to include selective killings as a strategy in its counter its counter terrorism policy (Omaar 1997).

For example, On September 25, 1997, Israel endeavored to murder Khaled Meshal who at that time was the head of Hamas’ political bureau in Amman. As he was walking in Amman, Mossad operators attempted to infuse a poison into his ear. However, Meshal’s bodyguards capturing the endeavor and chased the Mossad specialists into the hands of the Jordanian police.

2.2.3 Kenya

Mwazighe (2014), takes a critical look at the legal responses to terror in Kenya. According to Mwazighe, the Prevention of Terrorism Act, 2012 was drafted with a keen eye not to violate human rights. The Act was carefully drafted such that it did not address all the issues that should have been legally addressed with regards to terrorism crimes. It broadened the definition of terrorism to mass action, political protests, industrial actions, and other forms of violence.
The Prevention of Terrorism Act 2012 did not give adequate directions on counterterrorism measures leaving most of the issues to the existing legal frameworks. The Act was criticized for criminalization of innocent acts based on motive that was not clearly defined. It placed the burden of proof to proving innocence in contradiction to the provisions of the constitution. Mwazighe views the Act to have given authorities wide and intrusive powers that have been used for racial profiling, seizure, and confiscation of property that are suspected to be used in terror related attacks.

2.2.3.1 Security Operations

According to Jatin (2013), after the Westgate attack, the government of Kenya embarked on a mission to flush out illegal Somali immigrants. In an operation tagged; “Usalama Watch” security forces invaded various communities in refugee camps and in Nairobi’s Eastleigh, South C and South B estates targeting Kenyans of Somali origins and Somalis. Thousands of Somalis were rounded up in an operation that was claimed to be thwarted with theft and bribery (Moshe, 2013).

According to Jatin (2013), the ethnic profiling and inversion by security forces was a renewed personal security violation. A report by KNHRC (2015) indicated that The Government of Kenya (GoK) counterterrorism measures have been empathized on association as a front to fight terror. The report also argued that the Kenyan Police have been making raids into mosques and other places of association of people they view to be highly likely, terrorist associates.
2.2.3.2 Intelligence Services

Odula (2012), explains that the methods used to counter terrorism could result to extremism among the Muslim community. Most of the raids violate the freedoms of association among other rights. While targeting extremism and terrorism through their networks and linkages are viewed to be likely effective in fighting terror, it has the potential of creating an opposite effect. Eric (2014), speculates that the freedom of association among groups that are ethically profiled to be terrorists is compromised if not violated. A report by Human Rights Watch (2015) recorded a few thousand Muslim youths that were denied their freedom of association. The report based on interviews of youths following police raids in targeted areas highlight the abuses of the freedom of association for these groups. According to the report, these raids do not conform to the provisions of the constitution with regard to human rights principles and provisions.

Imanaya (2014), states that the systems and structures set up by the government to fight corruption are not sufficient to ensure strict regulation that would protect Kenyans from counterterrorism measures that are likely to compromise personal security and space. According to Imanaya, other than having a functioning police, service, a strong judicial mechanism should exist to protect Kenyans from the government forces that execute the anti-terror agenda. The concept of counterterrorism has been viewed by these forces to be rigorous with a comparable magnitude to the effect of terrorism. This misconception has given the forces leeway to exceed the boundaries of personal rights preservation (Jomo, 2014).
Omotola (2016), argues that African counterterrorism measures “compromise both human rights and national security, since human rights and national security are mutually reinforcing.” The violation of human rights through counterterrorism measures pushes national security to the margin. According to Omotola, (2016), it is better from a civil-liberties standpoint to pursue terrorism by tackling the source of violence such as asymmetrical power relations, global insecurity, and the rising poverty level through increased political tensions, human-rights activism, and more radicalized struggle. In the end, a state like Kenya could find itself more secure and more democratic in the process (Muasa, 2014).

### 2.2.3.3 Community Policing

According to Mogire and Agade (2011), community policing was initiated in the 2003 by the Kenyan government. This was a result of the increase of terror attacks within the country thereby making the government to come up with counterterrorism measures in order to ensure that the level of security within the country was harnessed. Miller, (2017) states that community policing involves the government, police, the community and other security stakeholder in maintaining security within the communities. This was done in order to enable the government bridge the gap between the community and the police through community policing (Kenya Police Report 2014).

Kithinji and Rotich (2016), explain that community policing resulted into the Nyumba Kumi initiative which was put in place in order to engage the community or the society in in curbing and preventing terrorist attacks within the country which has been a success with the rural areas as compared to the urban areas where the Nyumba Kumi initiative is still not vibrant. According to Davis, Henderson, and Merrick (2003), through community policing
the community members are expected to give information to the police regarding the security situation within the community thorough keeping track on any suspected individuals or planned invasion by unlawful groups such al-shabbab in order for the police to be able to know which strategies to use in minimizing the level of crime as well as the growth and development of gangs which end up being used by the terror groups to carryout terror attacks (Mogire & Agade 2011).

2.2.3.4 Random Searches

According to Chumba (2012), the Kenya police in conjunction with antiterrorism unit department usually conduct random searches in various areas or region and also in the urban areas. The reason behind the random search is to determine illegal migrants to the country who are like to be potential terrorists. The periodic search are usually carried out as a result of the perception that the terrorist who are usually from the neighbouring country Somalia would have gotten entry into the country and are hiding in certain areas as well as premises planning on how to carry out a terror attack (Chumba, 2012). These kinds of random searches are usually carried out in Eastleigh area where it is believed that the illegal group get refuge in these areas with the help with their relatives who reside in Eastleigh, which they facilitate their stay while the terror group with lump sum of money as a result of their work also rewards them (Mogire & Agade 2011)
2.3 Incidents of Terrorism versus Enactment of the Security Laws

2.3.1 United States of America

Chalk (2013), argues that there is always a danger of overreacting when liberal democracies confront terrorism using law. Chalk states that government officials typically make radical and unjustified departures from conventional judicial and law enforcement procedures. Chalk asserts that there is the danger of deliberately misinterpreting or disregarding the principles of due process.

According to Sandler (2014), the solution is for liberal democratic states to commit and “to uphold thus maintain constitutional systems of legal authority. Sandler continues that by undermining the very principles of liberal democracy, counter-terrorism loses its legitimacy.

Todd (2015), explains that, if counterterrorist measures are not well defined, controlled, and limited, institutionalized policies to counter terrorism might be worse than the acts themselves. It is therefore imperative for the state to ensure that strict control of anti-terrorism mechanisms adhere to a lucid structure of legal control otherwise blowback is almost certain.

Clutterbuck (2012), asserts that terrorists endeavour to make the system of law within a liberal state unworkable. The scholar argues that terrorists intimidate juries and witnesses as to accuse governments of repression (references). According to Clutterbuck, in 1973, in Northern Ireland, trials without jurists were introduced to try and curb jury and witness intimidation. In the case of witnesses, Clutterbuck argues that it is justifiable for informers to be offered incentives and protection when giving evidence against terrorists. In the fight
against the Red Brigade of Italy, these incentives helped prosecute terrorists in large numbers.

The United States entered the 21st century as a global power with nations, states, societies and regions facing the greatest terrorism threats ever coming in the wake of technological advancements (Brown, 2013). Indeed every socio-political and economic change will be accompanied by threats of terrorism at all. This kind of threat will not only target the U.S. and the west, but will affect its interests abroad directly or indirectly. Direct threats of terrorism to the U.S. are negligible given the difficulty to penetrate its security ring, it could be counter-productive politically or unnecessary to the traditional terrorists hence the option of hitting its allies in the third world which are favourable targets (Abadie, 2016).

According to Spector (2014), terrorists find U.S. citizens abroad as easy targets. This includes military personnel who can be considered as “hard targets”, as well as, diplomats, students, tourists and other U.S. nationals’ engaged indifferent activities could be considered “softer targets” for terrorists (Crenshaw, 2014). Sadly though, Non-Americans have suffered more in past terror attacks targeting U.S. citizens. In the same breath the United States entered the century in question with a mind-set to deal with terrorism as a problem both domestically and internationally (Gibbs, 2013).

According to Lum (2006), Counter-terrorism policy needs to be rational, effective, and produce as little harm as necessary. In order to establish the effectiveness of counter-terrorism strategies, we need to evaluate whether the intervention is associated to a quantifiable, desired outcome. Surveying individuals about whether they think a policy works, or subjectively determining what a effective strategy “looks like” is neither scientific
nor will it spawn the necessary data/information to allow for a determination to be made concerning the effectiveness of a particular strategy. The bombings of the U.S. embassies in Kenya and Tanzania are the consequence of engaging actively in world affairs. The U.S. has resorted to building their capacities in terms of pre-emption, deterrence and retaliation against terrorist groups and state sponsored terrorists in the 21st century with the U.S. taking the lead.

According to Resnick (2013), terror in the United States knows many origins. There are “home-grown” incidents such as the 1995 Oklahoma City bombing and the 1996 Atlanta Olympics bombing, in which anti-government extremists used violence to promote their cause, but there is also terrorism that comes from abroad that is unfortunately linked to Islam, which is a religion of peace although many individuals make the choice to misinterpret it. Galtung (2014), suggests that, in the U.S. there have been several U.S. section codes, which define the criminality of terrorism. These include; Acts of Terrorism Transcending National Boundaries and Rewards for Information Concerning Terrorist Acts and Espionage (National Security Division, 2012).

A report by CNN (2013) reported that in February 1993, Ramzi Yousef a member of Al-Qaeda bombed the World Trade Centre in York. The centre housed 20,000 people working and over 80,000 people visiting the centre. According to the report, the bombing was motivated by the desire to kill as many people as possible. Kaczynski (2015), indicates that over the last two decades, there have been many events that are considered acts of terrorism or potential acts of terrorism. The 2016 Global Terrorism Report (GTI) reinforces the fact terrorism is a highly concentrated form of violence, mostly committed by a small number of countries and by small number of groups in those countries. The five countries suffering the
highest impact from terrorism as measured by the GTI are; Iraq, Afghanistan, Nigeria, Pakistan and Syria, furthermore these countries accounted for 72 per cent of all deaths from terrorism in 2015.

Similarly, only four groups were responsible for 74 per cent of all these deaths, ISIL, Boko Haram, the Taliban and Al-Qaeda. Iraq, Nigeria, Afghanistan, Pakistan and Syria remain the five countries most affected by terrorism as measured by the GTI. The GTI scores the impact of terrorism based on the number of terrorist incidents in the past five years, fatalities from these attacks, injuries and damage to property. These five countries have been at the top of the index for the last three years. However, there have been substantial improvements in Iraq, Nigeria and Pakistan.

Dias (2013), argues that terrorists do not limit their attacks to institutions associated with the State, but seek to attract maximum publicity from high profile attacks, deliberately causing large numbers of civilian deaths. Together with their disregard for their own lives, this makes it much more difficult to put in place effective physical counter measures. Global Terrorism Database (2014), observed that the will of some of these terrorists to use chemical devices appears to be consistent; however, the most favoured method still relies on suicide bombers as demonstrated in a string of attacks in Russia in August 2004, which culminated with the Beslan hostage taking (Wallensteen, 2015). Wallensteen states intelligence shows a growing interest in chemical, biological, radiological and nuclear (CBRN) materials by Islamic terrorist groups.
The figure above indicates that the number of global deaths that were experienced from terrorism attacks continued to decrease by 22% from the peak that was in the year of 2014.

2.3.2 Israel

Erickson (2013), observed that an increase of violence occurred in the Israeli–Palestinian conflict starting early September 2015 and lasting into the first half of 2016, known as the "Wave of Terror". According to Erickson, in recent years there has been a significant increase in the number of terrorist attacks and attempted terrorist attacks in the West Bank and Jerusalem that have occurred on an ordinary, day-to-day basis.
These attacks, which have targeted both civilians and the security forces, have included cars running over individuals, shootings, stabbings, IEDs, rock throwing, molotov cocktails, and tire burnings (Global Terrorism Database, 2014). According to General Security Service’s (2016) figures, there were 683 attacks in 2012, 1,271 attacks in 2013, and 1,834 attacks in 2014. By the end of August 2015, there were already 972 attacks in 2015 (120 in June, 105 in July, and 168 in August).

The Israeli parliament adopted a new counter-terrorism law on June 15th, 2016. According to the Ministry of Justice’s summary (2017), the legislation provided law enforcement authorities with more effective tools to combat modern terrorist threats while incorporating additional checks and balances necessary to safeguard against unreasonable violations of individual human rights. The legislation revises and expands Israeli law in many areas, as Chacko (2017), discusses. The changes include provisions addressing the use of the Internet and social media for terrorist purposes (Chacko, 2017).

With terrorist activities online under scrutiny, the new Israeli law contributes to reduce the threats of terrorism in the cyberspace realm (Adan, 2014). According to Adan, Israel has seen cyberspace used to incite, support, and praise acts of politically and religiously motivated violence, including the so-called “Facebook intifada” of attacks by Palestinians against Israelis. A 2016 report from the Quartet (UN, European Union, Russia, and United States) observed that incitement of violence on social media has gained momentum, thus Hamas and other radical factions are responsible for the most explicit and widespread forms of incitement using social media to glorify terrorism and openly call for violence against Jews, including instructing viewers on how to carry out stabbings.
2.3.3 Kenya

Kenya continued to be a target for terrorist groups in the 21st century among other countries in the region (Ministry of Internal security, 2016). Coming just after the attack directed at the world trade centre was the missile attack against an Israeli plane that was taking off from Mombasa airport on November 28th, 2002 (GoK, 2013). A similar attack against the Kikambala hotel was carried out as Israeli tourists were checking into the hotel (GoT, 2012). According to Anderson and McKnight (2015), Al-Shabaab terror group became the most active in the region since the year 2011 following the invasion of Somalia by the Kenya defense forces (KDF) in pursuit of Al-Shabaab members.

Muasa (2013), observes that the military operation between the transitional federal government (TFG) soldiers and the KDF inside Somalia commenced in October 2011. In the outset, the war was perceived to be a Somalia military offensive against the Al-Shabaab insurgents with Kenya playing a supportive role. Intriguingly the war became a Kenyan affair as the Somali forces provided support (Wanjau, 2014). Historically, Somalia has known no peace and since the start of their civil war in 1991 the country, which is geographically placed at the horn of Africa, has posed a security threat to its neighbours (Krueger, 2014).

According to Krueger (2014), among key pointers to these threats is Somalia’s claim over Kenya’s northern frontier districts by the regime of President Siad Barre. Such threats coupled with other issues of national interests like increased cross border abduction of high profile tourists, foreigners and government officials from Kenya-Somalia border towns, triggered military action by the Kenyan government (GoK, 2013).
2.4 Challenges Facing Counter-Terrorism Measures

2.4.1 Extensive Resources

Heymann (2014), founded that counter-terrorism requires extensive resources; furthermore to deal with terrorism, costs arise. Payne (2016), categorises the costs associated with terrorism into five points. Firstly, he states there is a cost to individuals where citizens lose lives and suffer social, psychological and physical problems. These individual costs also involve fear, which in the long run curtails the citizens’ freedoms of movements, associations, worship and many other rights and freedoms associated with a secure environment. Payne argues that the second cost associated with terrorism is the economic cost. Calculating the economic cost of terrorism and the responses to it are difficult given the complexities.

A study by Branson (2015), revealed that the airline industry after the 9/11 attack suffered major financial losses and they still feel the impact to date. Cost to governments is another area that is identified in terrorism. This can be well explained by Kenya’s situation when it pursued Al-Shabaab to Somalia (Nzuki, 2015). The security checks experienced in today’s world, for instance when boarding airlines, when visiting private and public offices, social places and even churches is a clear indicator that governments have an expensive responsibility over its citizen’s security (Edward, 2014).

According to Schmid (2016), democratic countries are always in a dilemma when confronted by terrorism and are torn between laws that are effective or acceptable. Schmid argues that measures implemented by a democratic regime have to be accepted by society and effective against terrorists. Nihati (2013), states that the U.S. federal and local government spend money to guard or example: bridges, nuclear power plants, train stations and many other
areas. Reconstruction of Iraq is another example of how costly terrorism can be, but also shows how profitable it can be (Todd, 2015).

According to Rice (2014), alignments and re-alignments of states have been seen in the wake of terrorism, with many states cutting diplomatic ties with those that they differ with and strengthening relations with those that they agree with. Another cost is in terms of foreign policy. Finally, terrorism may cost democracy as Hobbes (2013), points out. Given that people may seek protection from forces that they perceive to be powerful hence compromise their other democratic rights and freedoms in order to feel safe.

2.4.2 Violation of Individuals Rights

Walter (2014), states that governments also often justify violating individuals’ rights by claiming to enforce national security. According to Walter, today’s Al-Qaeda is more decentralized, more dependent on its regional affiliates and likeminded groups, furthermore on its ability to inspire and activate home grown terrorists. Its historic core has been pounded. Its remaining operatives on the Afghan-Pakistan border must devote most of their attention on survival (David, 2013). David argues that their fate depends on the fortunes of the Afghan Taliban.

2.4.3 Politics

Kent (2014) argues that if the Taliban are able to expand their territorial control and political influence in Afghanistan, Al-Qaeda will find some measure of sanctuary, if not immunity from continued U.S. attacks. Kent states that, U.S. forces in Afghanistan should be significantly reduced to a level that is indefinitely sustainable. This will entail risks for
counterterrorist efforts. The Afghan national forces will be able to contain the Taliban as foreign forces remains uncertain. Thus far, the Taliban have shown no willingness to abandon their historic relationship with Al-Qaeda as part of a political settlement. It will be more difficult to continue the pursuit of Al-Qaeda in the area after U.S.’s withdrawal from Afghanistan (Jenkins, 2015).

Engene (2014), theorizes that in this context, large-scale military intervention and ambitious American efforts to fix “failing” states are likely to be counterproductive, hence the term blowback which is a term originating from within the American Intelligence community, denoting the unintended consequences, unwanted side-effects, or suffered repercussions of covert operations that have fallen back on those responsible for the aforementioned operations.

However, Hansen (2012) argues that military interventions are long, costly, and no matter how experienced and well-trained in counterinsurgency American forces are, their presence will be seen to confirm Al-Qaeda’s allegations of infidel aggression, while necessary military operations inevitably will provoke local resentment. The United States must develop counterterrorist strategies that enable it to avoid major commitments of American forces.

2.4.4 Terrorism Sponsorship

Dershowitz (2013), averred that in many occasions terror attacks have been majorly sponsored by foreign elements and investigations have revealed concealed identities of the sponsors of certain terror attacks. According to Hoffman (2014), a good example of such attempts to conceal the identity of those sponsoring terrorists is Libya’s case. In this case,
Libya commissioned the Japanese Red Army to attack the United States, as a revenge following the latter’s retaliatory air strikes on Libya in 1986.

Hoffman argues that the Japanese Red Army attempted to conceal their relationship with Libya by claiming that the terror attacks were the work of a Libyan sponsored operation citing a group calling itself the Anti-Imperialist International Brigade. According to Hoffman, the true position however, was that Libya was the sponsor and not the fictitious organization named by the Japanese group. The study found that in certain occasions states sponsor terrorism for political reasons. Government intelligence agents in this case control the terror groups. This type of terrorism makes efforts of countering terrorism more sophisticated and complicated for other governments. A clear demonstration of this was the 1988 Pan Am Flight 103 bomb attack whose outcome was traced back to Libya (Krueger, 2009).

2.4.5 Terrorism Change of Tact

The overview on the action of Kenya against Al-Shabaab brings the repercussions as to whether the country has made milestones in the fight against terrorism or has the problem been aggravated by Kenya’s direct military action (Aden, 2014). One major challenge experienced in the region after the operation conducted by the KDF and AMISOM is the change of tact by Al-Shabaab. While maintaining their main objective of intimidating governments and attempting to cause discontent among their populations, the terror group disengaged from its normal Modus Oparandi and adopted a hit and run attack strategy within and outside of Somalia. Kenya became the main casualty in the region with its major cities and towns bearing the brunt of terror attack.
2.4.6 Globalization

Furedi (2014) explains that the process of globalization has advanced terrorism and continues to do so in the 21st century. Despite the changing trends in which various terror groups carry out attacks, the fundamental facts advanced by terrorists that inform their actions remain the same. In other words, the actors, environment and lethal nature may have changed, but the driving force or ideology behind terrorism remains intact.

According to Institute for Economics and Peace (2014), the post September 11th, 2001 period saw an increase in the number of small scale terror attacks across the world and more so in Kenya as the opportunity for the terrorist groups to cause greater attacks presented itself. As a result of these the global terrorism index has continued to increase with many countries experiencing terrorist attacks experiencing at least one terrorist attack thereby leading to the establishment of measure of combating with terrorism.

2.4.7 Youth Radicalization

Lombardi (2015), argues that as a result of the increased number of unemployment in many developing countries the number of the youth that are desperate and idle are becoming culprit to joining terror group. The level of radicalization of the youth especially in the Islam speaking countries is very high with number of youth being radicalized being on the increase annually. According to Kihara (2007), many terror attack that have been experience din the recent pats especially in Kenya are as a result of the radicalized youth who have joined al-shabbab militants an ally of the al-qaeda which have continued to be a major threat of the Kenya and Somali security. Even though the government of Kenya has heightened the level of security within the country terror attacks have continued to be experienced now and then.
as a result of the increased number of terror group the al-shabbab from the youth which is now retaliating through the terror attacks as a result of the Kenya Defense Forces presence in Somali.

2.5 Theoretical Framework

2.5.1 The Crenshaw Model

The Crenshaw Model is one of the earliest theoretical perspectives of terrorism and counterterrorism measures (Mueller, 2013). The model was conceived in 1972 and has been adversely used as the theoretical bearing of most of the theoretical explanation of counterterrorism measures that explicitly defy human rights especially the right to privacy and the fundamental freedom of association. So far, this is the only widely acclaimed original model used to explain the phenomenon and other emerging models reverberate its position (Morag, 2015).

Crenshaw’s model is also appropriate for interpreting counter terror situations that involve an insurgency within a state (Sageman, 2013). This makes it more appropriate for the Kenyan situation where most of the recent terror attacks are perpetrated by locals or are planned and executed by foreigners who ‘localize’ themselves before the attack (Silke, 2015). The model is also appropriate because it addresses the social and political changes that emerge out of counter terrorism strategies. This study employs the model to the limit where terrorism is used to influence social structures, which is the case when it comes to the violation of rights and fundamental freedoms (Vedder, 2014).
According to Crenshaw (2014), terrorism is a weapon of the weak. However, it has the strong effect of being irrational to the targeted group, in this case, Kenya and its administration. Crenshaw provides guidelines for governments that are seeking to counter the active threat of terrorism. In her view, weak terror cells may be easy manage and destroy, however, with sustained repression, the idea may be strengthen and result to alienate the civilian population. Counter terrorism measures that are illegal and indiscriminate are tempting yet they should be avoided because they serve to foster the terrorists’ agenda.

This psychological effectiveness of terrorism, which seeks to withdraw rational results increases counter terrorism measures that are also irrational (Waldmann, 2013). According to Waldmann, the result of this is, breaking core values of the attacked and the crumbling of an organization, in this case the Kenyan community. The theory also asserts that the counter terrorism measures undermine the solidarity of a community and replaces the value of a normal relationship with insecurity and distrust (Vasu, 2016). What is viewed as privacy violation and denial of freedom of association is testament to the existing distrust within the affected community.

According to Crenshaw (2014), when a government and its organs are viewed to be violating the rights of its people and communities, people view each other with distrust and prejudice; furthermore the intention of terrorism is achieved through counter terrorism. Crenshaw provides guidelines for governments that are seeking to counter the active threat of terrorism. In her view, fragile terror cells may be easy to accomplish and terminate, however, with sustained repression, the idea may be to strengthen and the result to alienate the civilian population.
Richardson (2013), argues that, weak terror cells may be easy to manage and destroy, however, with sustained repression, the idea may be to strengthen and the result to alienate the civilian population. This is the case with Kenya through AMISOM’s success in removing Al-Shabaab from Somalia (Nzioka, 2014). This was a won war, but when Al-Shabaab decided to change its tactic and prolonged the war with sustained repression in the form of terror attacks, the result was different. Counter terrorism measures that are illegal and indiscriminate are tempting yet they should be avoided because they serve to foster terrorist’s agendas (Muli, 2014).

2.5.2 Terrorism as Political Communication

This approach suggests that terrorism is employed for communicative purposes (Silke, 2015). That terrorism is a set of actions that uses political violence for communicative aims. According to Crelinsten (2013), terrorism is a deliberate use of violence and threat of violence to evoke a state of fear (or terror) in a particular victim or audience. So, the ultimate aim of a terrorist organization in general is to spread political messages and make some segments of the society or state do something they want (Croin, 2014)

Moreover, the terror evoked is the driving vehicle by which allegiances or compliances are maintained or weakened (Krueger, 2009). In this line of literature, it is assumed that the terrorized group is not the real target to be communicated to, but the demands of compliance are directed towards another group. According to this model, for the allegiances, there are two possible ways this relationship works; by either weakening or strengthening the alliances (Lichbach, 2016).
According to Lichbach (2016), terrorism’s ends can vary. Lichbach argues that they can be a religious, leftist or right wing terrorist organization however; all these acts are designed to influence the relationships between individuals in societies and state’s (Kaplan, 2014). Terrorism as a communication approach is substantially different from organizational or instrumental approaches because their focus of inquiry is on the impact of terrorism according to the advocates of this approach (Ganor, 2015).

Causes of terrorism are not purely political ends or the organizational goals. The Oklahoma bombing in 1996, for example, in this case, the individual terrorist made this attack to protest against certain U.S. policies (Richardson, 2013). According to Richardson, most of the people killed during the Oklahoma bombing had no direct effect on these policies. By doing this, the terrorist used a way of political communication in which the individual terrorist sought an allegiance from the American people. That is, the terrorist tried to strengthen the allegiance between him and the rest of the society (Graaf, 2012).

On the other hand, by using violence and communication, the terrorist aimed to weaken the allegiance between the society and the American government (Gunaratn, 2015). This approach is successful in bringing the communication dimension into the theory building processes in studies of terrorism. It is really difficult to construct a comprehensive theory of terrorism without considering the terrorist action’s impact on intended and unintended audiences and how these actions change and define relationships in society. However, (Graaf, 2012) argues that this approach is not comprehensive itself. It is not capable of explaining the political ends of these organizations. It is insightful to suggest that action-reaction dynamics are to be understood, but why are these actions taken? On what grounds? With, which political aims? (Butler, 2015).
2.5.3 Policy Approach to Counter Terrorism

What are the policy implications of assuming that contemporary terrorism is entirely new (Blair, 2014). Blair states that if the demands of the “new” terrorists are considered to be non-negotiable from the start, then governments need not to make effort to bring such groups to the table or seek a compromise with them. According to Berrebi (2014), governments are not inclined to try and persuade such opponents to accept a democratic bargain or power share. (Lene, 2015) averred that if the enemy is undifferentiated, then there is no point in trying to piece off moderates from extremists. According to Lene, if the adversary is irrevocably hostile and implacably bent on destruction, then logically the only response is force. Defeat is the only solution (Sageman, 2014).

Reich (2013), hypothesizes those extraordinary measures against terrorism become acceptable, even though they may alienate the constituencies whose support is critical to ending terrorism. The idea that there was a fundamentally new terrorism began initially with the fear that terrorists would acquire weapons of mass destruction (WMD) (Albert, 2015). Tusher (2013) found that the Aum Shinrikyo sarin gas attacks on the Tokyo subway system in 1995 reinforced this fear. Apprehension led to an extraordinary focus on the specific risk of WMD terrorism, which was assumed to be the only form that catastrophic or mass casualty terrorism could take. While the danger is real, it is possible that its imminence was exaggerated and that preoccupation with it led to a neglect of possibilities that were more likely if less exotic (Spitz, 2016).
Paradoxically an emphasis on the threat of WMD’s can make the use of such weapons even more attractive to terrorists because they expect that their use is likely to cause extreme public fear. People’s exaggeration on WMD’s threat may thus increase the value of such an attack to terrorist groups (Ghosh, 2015). Another possible policy consequence is the stigmatization of Islam and the prejudicial stereotyping of all those who adhere to Islamic doctrines. As a result of this stigmatization people who follow Islam are defined as extremists or fundamentalists (Long, 2013).

**Figure 2: Ideologies That Motivate Terror Attacks between 2000 and 2013**

![Figure 2: Ideologies That Motivate Terror Attacks between 2000 and 2013](image)

Religion as a driving ideology for terrorism has dramatically increased since 2000. However, in 2000 Nationalist Separatist movements were more prominent. Political and National Separatist movements are still significant in 2013, but have seen little change in activity over the period. Although the United States government is clear that the war on terrorism is not a war against Islam, many Muslims feel on the contrary.

It is important that the public understands that terrorism is not automatically associated with religions (Edward, 2016). Moreover, according to Edward, focusing exclusively on terrorism inspired by Islamic doctrine may lead governments to neglect nationalist or other secular sources of terrorism at their peril. Reliance on the new terrorism model also leaves many anomalies and questions unanswered (Ali, 2013).

For example how are Western governments supposed to deal with the possibility that Hamas will gain significant power through democratic elections in Palestine? If they assume that Hamas is an example of new terrorism, and will thus never moderate its ambitions, then should they oppose the expressed will of Palestinian voters? How can the new terrorism model explain the political evolution of Hezbollah in Lebanon? If there are no lessons to be learned from policy toward “old” terrorism, then what guidelines should governments rely on? The Crenshaw model finds these questions critical in informing policy in counterterrorism measures not just globally, but within the local sphere.

2.6 Chapter Summary

Chapter two has successfully evaluated the counterterrorism measures that have been adopted by both the U.S. and Israel by first looking at the history of terrorism in these two countries. It is conclusive that the war on terror is complicated and sensitive. From the
discussions above both the U.S. and Israel have had their fair share of challenges with having to deal with terrorists of all kinds who use different tactics to strike. Both countries have a long history of terrorism and it is through this that has made these two countries invest heavily on counterterrorism measures to secure their country.

This research has identified that terrorism requires specialized management of military and civilian agencies with government, public and private elements working together in achieving victory on the war on terror. The investment of the right infrastructure and personnel is also a major factor on the war on terror (Walter, 2014). Existing literature has demonstrated that following the September 11th terrorist attacks; the United States began its “blowback” war on terrorism.

Suddenly, U.S. policymakers had to confront a daunting and often controversial array of counterterrorism issues. These ranged from the types of defenses needed to protect U.S. homeland from terrorist attacks to the use and scope of targeted killings of terrorist leaders abroad. Many aspects of U.S. counterterrorism policy have attracted strong criticism. Some have challenged the effectiveness of U.S. policy (Clutterbuck, 2015). Other critics have blasted the Bush Administration for failing to protect civil liberties. Studies have shown that as a result of the uncountable terrorist attacks on Israel, the country opted to counter terrorism measures to help them deal with terrorism targeting their civilians.

The country launched major operations in the fight against terror. These operations took place after the country had exhausted all options in terms of diplomacy with the terrorist group Hamas to stop launching rockets on their cities. The literature that has been reviewed reveals that fighting against terrorists, whose form of warfare targets civilians and so rejects
basic moral and legal norms, has always been inherently difficult for liberal democracies. The literature has stated that many of the issues in front of Kenya’s policymakers today have previously been faced by other liberal democratic states, in particular, Israel, a country that has always been under attack (Olson, 2014). U.S. policymakers and the Kenyan Government have much to learn from Israel as they grapple with the inherent difficulties of counterterrorism. Fighting terrorism has been a primary concern for Israel since its foundation as it has been for Palestine.
3.0 RESEARCH METHODOLOGY

3.1 Introduction

The study shall employ analysis of secondary data. The issue of violation of privacy, infringement of personal security, and of freedom of association has been largely contested with various quarters having opposing positions. There is a thin line between what is acceptable constitutionally and what the society needs to feel safe against terrorists. Secondary data in the form of documented findings from prior research and other recognized literature would be employed in providing essential academic and legislative perspectives of the gathered empirical information.

3.2 Research Design

This study used qualitative content analysis. According to Schreier (2012), qualitative content analysis is defined as a research method for the subjective interpretation of the content of text data through the systematic classification process of coding and identifying themes and patterns. The goal of content analysis is to provide knowledge and understanding of the phenomenon under study (Downe-Wamboldt, 1992).

3.3 Data Analysis

The study used secondary data for analysis. The data was gathered from publications based on data from government records, non-profit organisations (NGOs) records, media articles, journals, and studies related to the current topic. The first step in the data collection process was to enter an article’s name, year of publication, DOI/URL. The various article types were condensed into “research article,” “book review,” and “bibliography.” as well as...
outlining/identifying key words such as: Counter Terrorism, Policy, Human Rights, Due Process, Violations and a combination of them all. The goal of this thesis is to provide a contemporary overview of the field of terrorism studies that is detailed, extensive in its coverage, and able to articulate developments over time, furthermore by using a content analysis study design the researcher was able to answer the research questions.

A review of the literature on terrorist attacks and policy in the three countries was the first necessary step. This established what has been published on terrorist attacks and legislation in the U.S., Israel and Kenya, thus contributed towards identifying the contemporary issues. The wealth of electronic and paper information was utilized whilst also examining the related human rights. An analysis of the literature suggests that there is a lack of research on the relationship between terrorist attacks and legislation. Whilst there has been considerable commentary on how counter terrorism legislation impacts human rights, a discussion of how counter terrorism related laws affect human rights is insubstantial. This is particularly the case with regard to the right to a fair trial.

For purposes of validity and reliability of the secondary data, the researcher considered the following factors:

- Whether the site or publication is reputable, i.e. government, education or textbook.
- Whether the data was gathered using an appropriate methods
- Whether the data is current and/or relevant (by checking date of publication).
- Whether the information relates to the problem being investigated.
- The author of the article’s credentials (i.e. the author is qualified).
3.4 Chapter Summary

The chapter covered the methods used to carry out the study. The study used a qualitative content analysis study design to examine the effectiveness of counter-terrorism measures of Kenya, The United States and Israel. The study also eliminated all biases and limitations appropriately and accordingly by using content analysis thus considering five key issues: year of publication credentials of the author, relevance of the information and research methodology. The empirical literature on counterterrorism has up to date focused on measuring the direct effect of counterterrorism efforts on the production of terrorism. This has typically been done by comparing the number of terrorism incidents of certain types before and after the implementation of various counterterrorism policies.
CHAPTER FOUR

4.0 RESULTS AND FINDINGS

4.1 Introduction

The following chapter presents the primary findings. The chapter also presents the literature reviewed while interpreting the findings by comparing and contrasting with the literature reviewed. This chapter discusses research findings of the study, which was aimed to examine the effectiveness of counter-terrorism measures: a content analysis of Kenya, United States and Israel. The chapter presents the analysis of the findings guided by secondary data. The analyses was divided into the following sections: first section analysed coherent counter-terrorism policies versus terrorist attacks; the second section presented incidents of terrorism versus enactment of the security laws while the third section did a detailed analysis on challenges facing counter-terrorism measures.

4.2 Coherent Counter-Terrorism Policies versus Terrorists Attacks

The existing literature reveals that, timing is an essential element in the introduction or execution of counterterrorism policies, which are often overlooked. The study finds literature that points out on the various means through, which counterterrorism measures restrict the basic rights and fundamental freedoms. With a specific focus on the right to security, personal space and the freedom of association, the study concludes that the provisions of these basic rights and fundamental freedoms are suspended in the event of countering terrorism. The society has come to accept the violations of these basic rights and fundamental freedoms. The government has also acted to defy its very constitution in measures that are
viewed to be intended to reduce the level of terror attacks. This is consistent with the theories and descriptions asserted by Crenshaw. Crenshaw takes the position that terrorism itself is irrational to the authorities. In effect, it results to irrational measures to counter it.

The government of Kenya acts to restrict the freedoms enjoyed by Kenyans. Other than the government, the society has also accepted the violation of the basic rights and fundamental freedoms. The empirical findings show that most do not approve the actions taken by the Government and the society. However, they accept it in the name of preventing terror attacks. As per the results of the analysis, Israel’s response to the failure of unmitigated financial flows to alter Palestinian administration (PA) behaviour was to attempt to coerce the PA, with mixed results.

According to the analysis, some of the terrorists being protected or funded by the PA were politically influential, enjoying sympathy both from leading PA figures and significant segments of the Palestinian population. In addition, the literature review argued that as the PA repeatedly demonstrated, even when it regarded some terrorist groups as its enemies, it feared that it lacked the capacity to crack down on them (Kaczynski, 2015). PA leaders also often hesitated to be seen to act at the behest of a foreign power (particularly Israel, which it has long portrayed as an archenemy) for fear of damaging their nationalist credentials.

Existing literature has argued that U.S. counterterrorism policies after 9/11 have been a success, as the analysis shows no major terrorist operation has succeeded on U.S. soil since (Global Terrorism Database, 2014). But imagine that tomorrow-another attack of a similar or even larger magnitude of 9/11 would occur, would we then still label these same policies a success? Additionally, studies have stated that the moment of measuring effectiveness is also
important because in the short term repressive measures seem to work relatively better, whereas in the long run policies that show more consideration for radical and violent opponents and their complaints seem to be more successful (Wallensteen, 2015).

Analysis has confirmed that time is also essential because terrorist organisations are flexible, adaptable organisations that often learn better and faster than the more rigidly structured hierarchical government organisations that fight them. Terrorist organisations learn from each other’s previous mistakes; hence, which worked in the field of counterterrorism yesterday may no longer be effective today. Measures to counter terrorism took full force after the deadly terrorist attacks of September 11, 2001. George W. Bush who was the president at the time, declared a national emergency and issued Executive Order 13224, blocking property and prohibiting transactions with persons who commit, threaten to commit, or support terrorism (Global Terrorism Database, 2014).

The literature has explained that due to the expansiveness of the terrorist’s financial foundations that appropriate sanctions were necessary against any person that supports or is associated with the terrorists. Empirical literature has suggested that it was necessary for foreign institutions and the U.S. to share information to enable the U.S. to combat terrorism (Galtung, 2014). After the Issuance of the Executive order 13224, President George Bush directed the department of treasury to work with members of the Federal government and the International Community to develop a sustained campaign against the sources and channels of terrorist financing.
The existing literature revealed that terrorists were abusing charitable organizations in the U.S. and also worldwide to raise and move funds to provide logistical support, encourage terrorist recruitment and provide support for their organizations and their operations. According to Omotola (2016), this threatens to undermine donor confidence and jeopardizes the integrity of the charitable sector whose services are essential to both national and world communities. In response to the president’s request, the treasury came up with the Anti-Terrorist Financing Guidelines, which were known as the Voluntary Best Practices for U.S. Based Charities in November 2002. The public, private sector and interested parties later revised this document in 2005 after the review of comments.

4.3 Incidents of Terrorism versus Enactment of the Security Laws

Results of the analysis indicates that, although U.S. pressure for the adoption of counterterrorism legislation is largely through rhetoric rather than actual incentives, people in many developing countries clearly believe that such laws are required by the U.S. as part of its global 'war on terror' (Todd, 2015). In some cases ruling parties are happy to perpetuate that impression in order to deflect criticism and avoid blame (Jomo, 2014).

The literature has reported that the association of domestic anti-terrorism legislation with the U.S. is important because any effects of these laws especially negative ones are likely to be attributed to U.S. pressure (Clutterbuck, 2015). According to a study done by Samer (2014), The U.S. will not get substantial credit if the laws are used to infiltrate a terrorist cell and prevent a deadly bombing, but she will get blamed if the laws are used to violate human rights and restrict civil liberties.
The terrorists attacked the world trade centre since it was key to America’s economic prosperity and since they were not able and did not have the capacity to destroy their military they attacked the pentagon, which was the headquarters for the U.S Department of Defence (Victoroff, 2005). A report by CNN (2011) stated that the Al-Qaeda hoped that by attacking these buildings they would promote fear and this would weaken the U.S. standing in the world community and would also weaken their support in the Middle East (9/11 Memorial, 2006).

Wanjau (2014), found that in Kenya, ethnic tensions within the state might exacerbate this uneasiness with the government’s aims perhaps with reason. Gross (2009), in his paper, Security vs. Liberty: An Imbalanced Balancing, argues that counterterrorism measures are often directed toward a suspect community, whether foreigners or citizens, whom he deems “others.” Gross argues that the “others” are considered outsiders who bring or threaten harm to the society of “us.” Gross further argues that the clearer the distinction exists between ‘us’ and ‘them,’ the greater the threats they pose to the ‘us,’ the greater the powers assumed by governments and tolerated by the public.

4.4 Challenges Facing Counter-Terrorism Measures

The results of the analysis show that Israeli efforts to induce a change in PA behaviour during Arafat’s and Abbas’s time in power faced an additional problem: the lack of PA control over much of its own territory, in particular the Gaza Strip (Bruce, 2014). Studies have indicated that institutional weaknesses are compounded by a personal vulnerability; many PA leaders have family members living in the Gaza Strip. Walter (2014) argued that in the event that the PA were to crack down on Hamas on the West Bank, where the PA is
relatively strong and Hamas is relatively weaker, Hamas could then extract revenge by targeting PA leaders relatives in the Gaza Strip.

The analysis of the literature shows that unfortunately, the PA did not move family members of key officials to safety nor did it appoint individuals in their place who could act without fear of retribution (Rineheart, 2015). Indeed, the PA further weakened its ability to deter terrorists by failing to respond to Hamas attacks on high-ranking PA officers. Although the PA knew who was responsible for these attacks, it did nothing. As per the existing literature review, the lesson for Kenyan policymakers from Israel’s experience with noncompliant administrations in the PA and Lebanon is that no one measure will force a change in behaviour (Davis, 2012).

Studies have shown that finding a means of inducing foreign governments to stop tolerating terrorism is, however, at the heart of global counterterrorism (Holmer, 2013). Local partners are necessary for successful counterterrorism, as Israel found even with its physical proximity to the PA and its ability to carry out direct operations without PA cooperation. Results of this analysis indicate that for the United States, the problem is even more acute as in most places it must operate through others.

Existing literature has argued that the dilemma is higher in democratic governments than in autocratic regimes (Pokalova, 2015). Pokalova suggests that liberal democracies have a dual role of providing security and protecting the rights and liberties of the citizenry. Further results indicate that any anti-terrorist policy implemented must be in compliance with the democratic values held by the citizens. This tension is almost as old as the theory and practice of modern democracy itself. John Locke in his Second Treatise of Government
discusses the prerogative power vested in the executive branch of the government. Despite improvements in Kenya’s domestic legislation in recent years, legal gaps remain. The police reform process has also suffered from slow progress and, at the time of writing, there were proposed amendments to the National Police Service Act and National Police Service Commission Act that, if implemented, would erode important human rights gains. All three of these factors: gaps, delays, and potential erosions should be closed.

There is a need for legal gaps to be enforced to protect the ordinary Kenyan who is subjected to these counter terrorism measures. Without good legal provision, the counter terrorism measures can be easily abused and used to deny Kenyan’s their basic rights and freedoms. Without the right legal framework, Kenyans will not take counter terrorism measures that are necessary seriously, as they are prone to abuse. Tightening the gaps in the law will give the necessary measures to allow the upholding of human rights provisions and to make sure they are safeguarded, a case in point being torture.

In reaction to the terrorism threats, the government of Kenya and private security companies have put several measures in place. These measures include restricting some basic freedoms and fundamental rights. One of the biggest questions to ask however is whether these measures that have been put in place have achieved their objective (which is to act as safety measures against terrorist attacks) or have they instead brought about disgruntled citizens who feel like their basic human rights are being invaded.
Personal security, personal space, and freedom of association have been relinquished in a view to counter terrorism. The society has been convinced through the terror activities that these measures are not only necessary but also a step towards enhancing security. Privacy is a fundamental human right, enshrined in numerous international human rights instruments. It is central to the protection of human dignity and forms the basis of any democratic society. It also supports and reinforces other rights, such as freedom of expression, information and association.

The right to privacy embodies the presumption that individuals should have an area of autonomous development, interaction and liberty, a “private sphere” with or without interaction with others, free from arbitrary State intervention and from excessive unsolicited intervention by other uninvited individuals. Activities that restrict the right to privacy, such as surveillance and censorship, can only be justified when laws, necessary to achieve a legitimate aim, prescribes them and proportionate to the aim pursued. As innovations in information technology have enabled previously unimagined forms of collecting, storing and sharing personal data, the right to privacy has evolved to encapsulate State obligations related to the protection of personal data. A number of international instruments preserve data protection principles, and many domestic legislatures have incorporated such principles into national law.
Kenya is a signatory to the Universal Declaration of Human Rights (‘UDHR’) and has ratified the International Covenant on Civil and Political Rights (‘ICCPR’). Article 17 of the ICCPR, which reinforces Article 12 of the UDHR, provides that “no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation”. The Human Rights Committee has noted that states parties to the ICCPR have a positive obligation to “adopt legislative and other measures to give effect to the prohibition against such interferences and attacks as well as to the protection of this right.

Despite Kenya’s efforts to strengthen and embed protection of privacy both in its constitutional and legislative framework, there are increasing concerns over certain surveillance practices and policies, such as the adoption of the Prevention of Terrorism Act 2012, the Network and the Integrated Public Safety Communication and Surveillance System in May 2014. These measures are often framed within government strategies to combat terrorism, cyber criminality, fraud and corruption. A group of Kenyan and international organization which include Human Rights Watch, Amnesty International and Open Society Justice Initiative have expressed concerns over reports of human rights violations by the Kenyan security forces in the context of counterterrorism operations.

Based on all these gaps and legal deficiencies, passing stronger anti-torture legislation, ratifying the International Convention for the Protection of All Persons from Enforced Disappearance will help. Other measures should include amending or abolishing the Prevention of Terrorism Act, ratifying the optional protocols to the Convention against
Torture and the International Covenant on Civil and Political Rights, and declaring that Kenya recognizes the competence of the Committee against Torture would significantly contribute to protecting individuals from ATPU abuses.
CHAPTER FIVE

5.0 DISCUSSION, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This was the final chapter of the study. It summarized the findings of the study, drew conclusions based on the analysis of the literature reviewed, provided recommendations as well as insight in the areas for further research. The following specific objectives guided the chapter: to find out how lack of coherent counter-terrorism policies impact strategies in preventing terrorist attacks in Kenya; to establish whether incidents of terrorism have declined since the enactment of the Security Laws (Amendment) Act, 2014; and to analyse the challenges facing counter-terrorism measures in Kenya.

5.2 Summary of Findings

The chapter indicated that U.S. counterterrorism policies after 9/11 have been a step to alleviate the blowback caused by the U.S. As the analysis shows no major terrorist operation has succeeded on U.S. soil since 9/11 (Global Terrorism Database, 2014). The U.S.’s direct action in the Middle East created the problems in which the U.S. is in now and this is deemed blowback. Additionally, the results indicated that although U.S. pressure for the adoption of counterterrorism legislation is largely through rhetoric rather than actual incentives, people in many developing countries clearly believe that such laws are required by the U.S. as part of its global ‘war on terror’ (Todd, 2015).
5.3 Discussion

5.3.1 To Find Out How Lack of Coherent Counter-Terrorism Policies Impact Strategies In Preventing Terrorist Attacks In Kenya.

The findings of the data analysed and existing literature has argued that Israel has to prevent and respond to terrorism despite its geographical location. She has to capitalize on the advantages of having security forces close to where the terrorists live, which allows for rapid offensive measures, and neutralizing the disadvantages, for example using the security barrier to protect Israeli civilians from the terrorists who live just miles from them, which is a defensive measure (Gibbs, 2013). Having its troops deployed close to where the terrorists are based has been an important instrument for arresting terrorists.

Globally, the 9/11 attacks and the subsequent war on terrorism brought to light issues that have in the past lurked in a dark corner at the edge of the legal universe, such as how a constitutional regime should respond to violent challenges. Resnick (2013) argue that respecting liberty to the full extent will jeopardize the discretionary power which the government needs to guarantee security, and that sacrificing some of freedom rights would not have a much impact on security. As a result of this many governments, including Kenya, have been left in a dilemma on whether to trade human rights for security.

The analysis shows that a comparison between the Israeli position on the West Bank and that in the Gaza Strip is instructive (Kaczynski, 2015). After Operation Defensive Shield in April 2002, when the Israeli Defense Forces (IDF) entered West Bank population centres that they had previously evacuated in 1995, Israel in essence cut Palestinian areas on the West Bank into small and isolated segments.
Another important shift in tactics has been the construction of the security barrier separating much of the West Bank off from major Israeli population centers (Dias, 2013). The impact of the barrier has been particularly important in the Samaria administrative region of the northern West Bank as it is now far more difficult for Palestinians to enter Israel to conduct attacks (Global Terrorism Database, 2014).

Further analysis shows a marked shift in policy after the 2002 bombings, which saw the Kenyan government establish mechanisms to meet this growing terrorist threat. The country sought to formulate a national strategy to counter terrorism (Chacko, 2017). In mid-October 2011, Kenya deployed its defense force in Somalia in retaliation for the abduction and murder of two British tourists in the coastal town of Lamu by Al-Shabaab militia (GoK, 2014). The Al Qaeda-linked terrorist group has since launched a series of terror attacks in the country. In September 2012, the minister of justice and constitutional affairs introduced the Prevention of Terrorism bill, which was again met with stiff resistance from the same quarters before being passed hurriedly by the parliament (GoK, 2013).

Without warning, Kenyans were informed that Safaricom, Kenya's largest telecoms operator, had contracted with the government to provide a new communications and street-level surveillance system. This contract likely entails many forms of street-level surveillance including license plate readers, facial recognition technology, and real-time tracking across major cities like Nairobi and Mombasa. The arrangement between Safaricom and President Uhuru Kenyatta’s government has come under scrutiny by the Kenyan Legislature, but only for its bidding process, not human rights concerns. Evidently, Safaricom was the only bidder for the contract, however some lawmakers would have preferred an open bidding process.
The right to privacy of communications is guaranteed in the Kenyan Constitution, but Kenya lacks comprehensive data protection laws, so the government and Safaricom are operating this powerful new surveillance network effectively without checks or balances.

5.3.2 To Establish Whether Incidents of Terrorism Have Declined Since The Enactment of The Security Laws (Amendment) Act, 2014.

The findings of the literature have shown that terrorist attacks on the Kenyan soil have increased steadily from less than 20 at the end of 2011 to an average of 30 in 2012-2014 (Ministry of Interior Security, 2013). Nearly a thousand people have lost their lives in terrorism-related violence in the same period (KNHRC, 2015). The killing of 28 non-Muslim passengers on a bus on November 22, 2014, and the follow-up massacre of 36 quarry workers on December 2 in Mandera County brought the issue of terrorism to a tipping point. On December 11, the government took the Security Laws (Amendment) Bill, 2014, to the National Assembly (UNHRC, 2013).

The literature review established that for Israel, international opinion has shifted on the issue of counterterrorism tactics. After September 11th, the United States became far more aware of the danger of terrorism and far more willing to support assertive action against terrorists (Chacko, 2017). Further results of the study also established that Kenya has been on the vortex of terrorism. Yet, it has the most under-developed counter-terrorism architecture in the region (Muasa, 2013). Tanzania adopted its Prevention of Terrorism Act in 2002 and Uganda enacted the Anti-Terrorism Act in 2002. This vacuum has been costly. Although Kenya adopted the Prevention of Terrorism Act in October 2012, this was a classic too-little-too-late scenario (Muasa, 2013).
The analysis of this study contend that future terrorist threats to Kenya are as likely as they have been in the past, especially with the military involved in war in the failed state of Somalia (Krueger, 2013). Hence the need to put in place preventive and mitigate measures to counter the effects of terrorist activities and the need to examine the legal response to terrorism in the context of legislation and policies, to contribute to developing theoretical and practical approaches to understanding and dealing with terrorism in the horn of Africa (Krueger, 2014).

5.3.3 The Challenges Facing Counter-Terrorism Measures in Kenya

Human rights groups have routinely criticized anti-terrorism legislation that contains vague and broad language and permits states to engage in excessive investigatory, detention, confiscation, and punitive action. Kenya’s Prevention of Terrorism Act permits all four by allowing Kenya to attach the label of terrorism to a broad range of acts. Without defining its terms, the act criminalizes, as forms of terrorism, activities that, inter alia, create a serious risk to the health or safety of the public, result in serious damage to property, or that “prejudices national security or public safety. However, the act does not define any of these vague terms. The act is similarly vague in its definition of terrorism, defining it as an activity carried out with the intent of intimidating or causing fear amongst members of the public or a section of the public. In some cases it is intimidating or compelling the Government or international organization to do, or refrain from any act, or destabilizing the religious, political, Constitutional, economic or social institutions of a country, or an international organization.
5.4 Conclusions

5.4.1 How Lack of Coherent Counter-Terrorism Policies Impact Strategies In Preventing Terrorist Attacks In Kenya

The study established that Israel’s experience of combining offensive and defensive measures suggests that the Kenya and its local counterterrorism partners must recognize the interconnectedness of various counterterrorism methods (Nzuki, 2015). Israel’s electronic interception abilities have forced the Palestinians to use more couriers, who are more vulnerable to interception, interceptions that are now easier thanks to the Israeli deployment on the West Bank.

The study has confirmed that many Israeli policies for fighting terrorism are controversial (Schmid, 2016). Perhaps the most controversial of all has been Israel’s use of targeted killings of terrorists. While targeted killings can successfully eliminate key terrorist leaders, they can also cause the deaths of innocents and lead to significant international criticism. It is clear from the analysis of the existing literature that, while many governments are weak, they will almost always prove stronger than the terrorists in the event of an open confrontation and, in any event, should be encouraged to build their strength for a confrontation (Todd, 2015). Therefore, the argument that some governments want to crack down on terrorists but cannot is an argument that should not be accepted. It is also best to take action early rather than late, because the damage of the eventual contest between the state and the terrorists can be substantial (Todd, 2015). Below is a graph indicating fatalities per terrorist attack in conflict and non-conflict countries.
The above graph indicates that fatalities as a result of terror attacks are greater countries that are in conflict as compared to those that have no conflict. According to the graph the fatalities of attack were high between the years 1995-2000 in conflict countries with an average of 5-8 fatalities per attack thereby indicating that terrorism in the conflict countries was on the rise in those years as compared to those countries which had no conflict which recorded fatalities of between 1-2 fatalities per attack on the same period.

From the graph the trend of fatalities per attack continued to decrease between the years 2005-2015 in both conflict and non-conflict countries with average fatalities hitting a low mark of between 3-1 per attack. In the year 2016 there recorded an average of 2.4 fatalities per attack by terrorist in conflict countries. This indicates that as the countries continued to
put in place Counter-Terrorism Policies and strategies the number of fatalities from terror attacks in both conflict and non-conflict countries reduced. However, the fatalities in the non-conflict countries are usually low as a result of the countries being economically stable thereby being a position to spend more on intelligence thereby able enact policies on counterterrorism.

5.4.2 To Establish Whether Incidents Of Terrorism Have Declined Since The Enactment of The Security Laws (Amendment) Act, 2014.

The findings of the analysis have stated that given the current susceptibility of Kenya to terrorist attacks, it might be expected that a terrorism bill would be introduced, subjected to rigorous public debate, and passed without hesitation (Nihati, 2013). Instead, all attempts have been rejected by a broad cross-section of Kenyan society, civil-rights bodies, and religious organizations. In the face of deadly threat much of which is not, in the first instance, a home-grown matter, Kenya must find the right balance, implementing antiterrorism strategies amid fears of violating human rights and damaging Kenyan democracy (Hobbes, 2013).

5.4.3 To Analyse The Challenges Facing Counter-Terrorism Measures In Kenya.

Literature reviewed argued that counterterrorism measures do not always have the same effect, independent of time. Just like external military intervention in a conflict will have the largest effect at the early stages of a conflict or once the belligerents have become war-weary, the same holds true for countering terrorists (Caulkins, 2016). Since terrorism is constantly changing and shifting (Schmid, 2013) and attacks do not occur along a linear line with set intervals, it is hard to tell whether the terrorist threat is on the increase or on a downward trend. Below is a graph indicating global terrorism trends.
The above graph from the Routledge Handbook of Law and Terrorism shows that terrorism is in a continuous increase. The number of incidences across the globe has increased towards the 10,000 incidences mark. The increase in incidences has been comprehended for both the top five affected countries and the rest of the world. According to the statistics, the countries that are currently most affected had an almost zero number of incidences in 2000 while the global total in 2000 was at 1400 incidences. Within four years, the five most affected countries contributed the largest number of incidences in global terrorism.

Most Kenyans see most of the anti-terrorism measures taken by the government of Kenya as a breach of the country's constitution. In 2003, for instance, the U.S. and Britain pressed
Kenya to implement intrusive security measures before the two countries could lift their economically incapacitating travel advisories against Kenya.

These measures included:

1. Passing of a Terrorism Bill;
2. Cancellation of all airport staff passes and re-issuing them after careful screening of all staff members;
3. Introduction of a new electronic pass system;
4. Improving the borders at the airport (e.g. fencing and wall) and enforcing security patrol both inside and outside the fencing;
5. Increasing Kenya’s passenger screening equipment at the two international airports;
6. Increasing staff situated at the immigration arrival area.

5.5 Recommendations

The best way for the United States to put an end to the passive sponsorship of terrorism is to integrate its efforts against terrorist groups with its policies for pushing foreign governments to become more effective at counterterrorism. These two approaches of pressure and assistance are complementary and reinforce each other. Although the Israeli security forces have scored numerous successes against terrorist groups, they are still less effective against terrorists. Thus, the top priority of the United States should be to ensure both the continued commitment of existing reliable allies in the war against terrorism and pressure on other, less reliable governments to step up their efforts.

As importantly, the United States must continue its efforts to strengthen the security services of its partners, with financing, training and equipment, and must broaden the scope of this
policy, because it is the security services of U.S. allies that often do much of the heavy lifting in counterterrorism. Such integrated efforts will be hard and time consuming and for the United States will require assessing the multiple ways that it can have an impact on terrorist activity abroad, picking multiple complementary tools that compensate for specific shortcomings on the part of its local counterterrorism partners, and then structuring its plans and operations to take these constraints into account.

As Israel has found, it is important to think strategically about arrests. For both legal and operational reasons not all suspected terrorists could be arrested. In Israel, those arrested cannot be remanded in custody for more than seven days without a judge’s approval. There are also two operational reasons to carefully target arrests. First, when a suspect is arrested his or her accomplices often change their behaviour or go underground, fearing that they will be next to be pulled in by the authorities.

The Israeli services therefore often initially limit the number of arrests and wait until they have more a complete picture to hand, thereby allowing them to disrupt an entire terrorist cell. Such a tactic is risky as the suspects may plan and execute new terrorist plots in the interim. Second, Israel prioritizes arrests, with particular emphasis placed on those who organize the plots, the recruiters and the bomb makers.

The study recommends that, there are many ways that the United States can push such governments to change their attitude. In particular, the United States can build up international pressure in recital with close U.S. allies to demonstrate to such countries that there is no alternative to fighting terrorism and that incapacity is a poor excuse and a cover
for a lack of will. The study found that arrests, targeted killings, and defensive measures are means of managing a conflict, not means of solving it.

This study has focused on the measures of counterterrorism, but this study also recognizes that they are only part of a broader effort. A lasting settlement to the Israeli Palestinian conflict requires a political settlement. The study therefore recommends that it is far better that a local government’s forces are used to fight terrorism than to call on outside forces, no matter how skilled.

5.6 Recommendations for Future Research

The cause of terrorism is beyond economic or political factors although they both play an important role. Future research needs to include factors such as social conditions as well as psychological considerations. The lack of understanding as to what factors trigger terrorism has serious implications. A better understanding is needed to improve what policies and structures are put forth in the future. If this does not take place, the fight to stop terrorism will only waste more and more resources without solving any problems.

Future research on analyzing terrorist attacks in democratic nations is needed. Many incidents of terrorist attacks in democratic countries are reported more often in the media due to fewer restrictions (Li & Schaub, 2004). Media attention given to terror-violence encourages further incidents of terror-violence (Freedom & Alexander 1983). Press freedom increases the ability of terrorists to be heard and watched by a large audience and increases their ability to create widespread fear. Press freedom can create greater incentives for terrorist activities (Li, 2005). It will be important for future research to study the effects
media has on terrorism. This will help provide better details behind the motivation of terrorists and how the media is shaping the use of terrorism.

Understanding why democracies are more likely to higher frequencies of terrorist attacks will be important in the future. The continued push of democracy is unlikely to slow down in the future so a better grasp on the causes of terrorism in democratic states will be needed. This means better understanding of the media’s role, citizen satisfaction, electoral participation, and political efficacy to help improve counter-terrorism policies in democratic states.

An analysis of counter-terrorism policies is also needed to better understand what is and what is not working to help prevent terrorism. This will not only improve existing policies, but it will also help researchers gain a better understanding of what changes are most likely to deter terrorism. This insight will improve future research, as it will give a more focused look at what factors are causing terrorism.

Only a small fraction of terrorism research appears to be empirical in nature. We need more empirical research on terrorism, perhaps that goes beyond just examining numbers of events over time. More specifically, evaluations of interventions are necessary. Not only is more evaluation research needed, but researchers need to also explore ways in which terrorism strategies can be analyzed and different types of methodologies which may be useful. Evaluation research can serve as a moderating and rational effect on rash policy responses based on moral panic and fear. These types of policies often lead to other social negatives, including the violation of personal and human rights as well as further humiliation that can
lead to more terrorism. Scientists can provide this diminishing effect with more research that evaluates both the outcome effectiveness as well as the social, political, economic, or psychological effects of these interventions.

Finally, this thesis discourses that a balance must be achieved between civil liberty and security. The measures implemented in Kenya will have an effect on civil liberties, however miniature. While some measures would be deemed necessary to manage terrorism, they should be exercised with caution and with supervisory clauses. Necessary legislation and controls with checks and balances should be put in place.

The following should be key characteristics of the legislation, which should be implemented and enforced to the fullest because terrorism often thrives where human rights are violated, which adds to the need to strengthen action to combat violations of human rights. Terrorism itself should also be understood as an assault on basic rights. In all cases, the fight against terrorism must be respectful of international human rights obligations. This balance is hard to achieve, but with mechanisms in place to check and countercheck security and other government apparatuses, it is expected that civil-liberty concerns can be minimized. An area of future research in East Africa would be the viability of human rights courts considering how unsolidified politics are in Africa. The study also recommends more mixed research method designs for impact evaluations.
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