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Counter-terrorism in Kenya

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The terrorist attacks of 7 August 1998 raised serious questions about transnational and domestic terrorism in Kenya and the Horn of Africa. What motivated terrorists to target Kenya? Why Kenya? Could these attacks have been stopped? How did Kenya and the international community respond to the attacks? Not only did the attacks target Western (US and Israel) interests but also Kenyan interests. Later Kenya was designated an ‘anchor state’ and ‘frontline’ in the ‘Global War on Terror’ (GWOT) President George Bush declared in response to the 11 September 2001 attacks in New York. This article critically examines the counter-terrorism (CT) measures that have been taken in Kenya in response to the attacks and threats made on the country. It describes the measures, attempts to explain the rationale and motivations behind them and to assess their effectiveness. It is argued that while these measures are aimed at addressing the perceived main causes of terrorism in Kenya, the assumptions upon which they are based are often flawed, do not have domestic support and are externally imposed, primarily by US, and hence are often criticised as a tool of US imperialism. Further, the price of these measures has been high in terms of the negation of the civil and human rights and freedoms.

Keywords: terrorism; counter-terrorism; human rights; violence; Islamic fundamentalism

Terrorism is a contested concept (Laqueur 2004, 232) and has numerous definitions (Schmidt and Jongman 1988; Weinberg et al. 2004); yet defining the term is an essential element for any effective counter-terrorism (CT) strategy. Without an agreed definition ‘no coordinated fight against terrorism can ever really get anywhere’ (Ganor 7 October 2001) and individual states are left to define what is meant by the term. This leads to both unintended outcomes as well as to deliberate misuse of the term (Report of the Special Rapporteur in the Promotion and Protection of Human Rights and Fundamental Freedoms E/CN.4/2006/98, para. 27). In Kenya, the anti-terrorism law has defined ‘terrorism’ but its definition has been contested because of its vagueness. In practice the government has limited the term to anti-state violent activities undertaken by non-state entities which are motivated by religious (Islamic) goals. For our purpose, following Schmidt (2004), we define terrorism as the deliberate use or threat of violence by individuals, and non-state and state actors against targets that are chosen in order to manipulate a wider audience for political, ideological, religious or criminal goals.

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By this definition, terrorism in Kenya may be said to have involved various actors, targets, methods and motivations. The British colonial regime first used the term to refer to the *Mau Mau* (the militant nationalist movement) that had taken up arms to fight for land rights and political freedoms. *Mau Mau* employed what can reasonably be described as terrorist violence while equally the British employed terror tactics and violence in response (Elkins 2005). The post-independence period also witnessed cases of state terrorism by the administrations of President Jomo Kenyatta (1963–1978) and his successor, Daniel Arap Moi (1978–2002). Both used terror against political opponents, dissidents and the public in an attempt to cling to power (Kenya Human Rights Commission 1998; Akiwumi Report 1999; Citizens for Justice 2003). A number of non-state actors also perpetrated terrorist violence. In the 1970s, the Maskini Liberation Front (MLF), which the government claimed was associated with radical politician J.M. Kariuki, was accused of carrying out three bomb attacks including an attack on a bus killing 27 people and injuring 10 others, as well as an unsuccessful attack on Kenyatta at his summer house in Mombasa (START 2010). According to some, the MLF was a fictitious movement created by the government and the bus bombing was actually carried out by government agents who wanted to kill the group's alleged leader who was expected to be on the bus (Wamwere 2002, 182). This assertion is supported by the assassination of J.M. Kariuki in 1975 by the government. Other groups that have perpetrated terrorist violence are the February Eighteen Movement (FEM), which operated in the 1980s and early 1990s, and carried out a number of terrorist attacks in Western Kenya from its bases in Uganda (START 2010); the Sabaot Land Defence Force (SLDF) which conducted a campaign of terror against civilians and government administrators (Human Rights Watch 2008, 19–20); and *Mungiki*, the politico-religious and criminal organisation, which employed terrorist tactics that 'were inspired by Iraqi jihadists' (Kagwanja 2006, 77–8) such as kidnappings, murder, beheadings and targeted assassination of police officers (Kail 2008).

The most significant terrorist incidents, however, stem from transnational terrorist groups albeit operating in conjunction with local collaborators that are associated with Islamic fundamentalism and the struggle against Zionism and US interests (Otenyo 2004). Several incidents, successful and unsuccessful, can be identified. The first was the 28 January 1976 plot by the Popular Front for the Liberation of Palestine (PFLP) and the Baader–Meinhof group to shoot down an EL AL passenger plane during a scheduled stopover in Nairobi. The plot was disrupted after Kenyan security acting on Israeli intelligence arrested the plotters (National Memorial Institute for the Prevention of Terrorism (MIPT) 2005). The second was the 31 December 1980 bombing of the Norfolk Hotel in Nairobi, owned at the time by a Jewish family. This attack was carried by the PFLP, killing 15 and wounding 87, and was viewed as a revenge attack for Kenya's assistance to Israel's rescue operation to free hostages from a hijacked Air France plane at Entebbe airport in July 1976 (MIPT 2005). The third notorious incident was the al-Qaeda attack on the US Embassy in Nairobi on 7 August 1998 in which more than 200 people died and over 5,000 were injured (The 9-11 Commission Report 2004). In addition, the attack destroyed surrounding buildings and severely disrupted the tourist industry. The fourth attack was the 28 November 2002 bombing of the Paradise Hotel in Mombasa, which was owned by Israeli nationals (13 died and 80 others were wounded). A simultaneous attack on an Israeli passenger jet was

unsuccessful when two missiles missed their target (BBC 28 November 2002). Although an unknown group calling itself 'The Government of Universal Palestine in Exile, and the Army of Palestine' claimed responsibility, Palestinian officials denied the claim and the evidence pointed at an al-Qaeda network, specifically Al-Ittihad-Al-Islami (AIAI), the Somalia-based radical Islamic group (Rosenberg 2002; The 9-11 Commission Report 2004; Carson 2005).

There have been other smaller terrorist incidents such as the killing of a policeman in August 2003 (Muiruri 2003); a bomb explosion at a bus stop in Nairobi killing two people, and injuring 35 in June 2007 (Gettleman 2007); a bomb blast at a bus stop which killed three passengers and injured 39 in December 2010 (BBC 21 December 2010) and grenade attacks on police on patrol during the same month that were linked to al-Shabaab, the radical Islamic Somalia group (Wabala 2010). Kenyan authorities also claim that they have disrupted terrorist plots against Western interests (West 2006) and, together with their Western counterparts, assert that the country faces a continuing terrorist threat. Indeed, the West has on various occasions issued warnings of 'imminent' terrorist attacks, temporarily closed their embassies and suspended flights to and from their countries (Carson 2005; Wycoff 2004; Brown 2003; BBC 2003b). It is noteworthy, however, that the Kenyan government and Western countries exaggerate the severity of the terrorist threat to put pressure on Kenya to take desired actions (Barigaba 2010, 1), and are sometimes based on flawed intelligence.

It is in response to these attacks and perceived threats that Kenya, in cooperation with the US and a number of Western European states, has put together a number of CT measures. Our analysis of such measures is conducted on the basis of their ability to prevent terrorist attacks, to pursue terrorist suspects, to protect vulnerable targets and to respond to attacks.

Responses

The need to develop a counter-terrorism strategy only received systematic attention after the US Embassy bombing and the later designation by the US government of Kenya as 'an anchor state' in the Horn of Africa and a 'frontline' in the 'Global War on Terror' GWOT. The US government perception of the Horn of Africa as a new front for al-Qaeda also raised the profile of Kenya as a staging point for combating al-Qaeda and allied groups in the region. The prior lack of Western interest in CT in Kenya was perhaps due to the perception that the earlier terrorist incidents were too isolated and minor to warrant any serious attention, and in any case did not seriously threaten Western interests.

Measures to address institutional weaknesses

One of the conditions precipitating terrorism is an inability or unwillingness of a government to prevent it (Crenshaw 1981, 381). As Karl Wycoff, the State Department Associate Coordinator for Counter-Terrorism, told a Congressional Hearing,

We cannot expect countries to be effective in deterring, detecting and capturing terrorists if their security guards and policemen are barely literate, poorly paid and

susceptible to bribes, if the investigators, prosecutors and judges are poorly trained, and if the basic communications infrastructure is weak or virtually non-existent We must do what we can to strengthen the institutions of our partners and thereby move less developed countries closer toward their full potential in combating terrorism. (Wycoff 2004)

The lack of CT capacity due to institutional weakness is often mentioned as one the main reason why Kenya was targeted and continues to be threatened by terrorism (Carson 2003; Menkhaus 2003; Shinn 2004). Thus the core of CT strategy in Kenya, which has been driven by the US, has been institutional development in order to improve government counter-terrorist capacity.

One of the key institutional measures has focused on providing CT training and equipment to the country's law enforcement and other security agencies including the military. The US Department of State's Anti-Terrorist Assistance (ATA) has equipped and trained the police, immigration and customs officers in better border control, airport safety and security, urban counter-insurgency, detection and investigation of terrorist incidents, and tracking of suspect financial flows. From 1989 to 2004 it trained 594 personnel and expended over \$4.05-million (US Department of State 2003; Wycoff 2004; Pope 2005). Kenya has also introduced anti-terrorism training into the police curriculum. The US offered CT training to special units of the armed forces through bilateral¹ and multi-lateral training programmes² (Barkan and Cooke 2001; Volman 2003) and joint military exercises. France has also signed a joint military training agreement with Kenya (*The Standard*, 5 October 2004). According to a government official, 'joint military exercises are a key element of Kenya's CT strategy' (Mwongo 2004). Similarly, the UK has given training to military officers in crisis management, command and control (UK Government 2005, 16) while Israel has offered training in preparedness for medical emergencies and disasters (Chandler, Gachago et al. 2002).

Other capacity building measures have entailed the establishment of well trained and equipped anti-terrorism organisations. These are the National Security Intelligence Service (NSIS), created to identify threats, collect and analyse intelligence (Library of Congress 2005, 19); the National Counter Terrorism Centre (NCTC), established to develop a long-term CT strategy, collect intelligence and coordinate regional CT efforts; the **Anti-Terrorism Police Unit (ATPU)**, set up to plan and execute anti-terrorism operations; the Tourist Police Unit (TPU) to protect tourists; the Maritime Interdiction Unit to prevent arms trafficking, movement of terrorist suspects and contraband along the East African coast; the Joint Terrorism Task Force (JTTF) to control, coordinate, and command the various government agencies involved in combating terrorism; and the Special Prosecution Unit (SPU) in the attorney general's office to prosecute terrorist offences. The US was behind the creation of these different agencies (Pope 2005). These organisations have not only enhanced Kenya's CT capacity but also displayed its commitment to fighting terrorism. The ATPU, for example, has conducted a number of CT operations that, according to the government, have resulted in the arrest of terrorist suspects, discovery of terrorist cells and disruption of plots. Furthermore, the military, which in 1998 was ill prepared to prevent or respond to the terrorist attacks, now plays a major CT role including border control and surveillance, intelligence gathering and threat assessment. These 'successes' have however come at a cost.

CT raids are carried out indiscriminately and often target Muslims and foreigners (especially Somalis and Arabs) based on unproven assertions that they sympathise with and support terrorism (Amnesty International 2005). This suggestion appears to be validated by the fact that the various anti-terrorist agencies did not take any action against domestic militias (likely to be associated with members of the Kenyan political elite) that perpetrated the post 2007 election violence, even though such violence fits well with the government's own definition of terrorism (Kimathi and Butt 2008, 37). The ATPU and FBI are also accused of engaging in the torture of suspects, arbitrary arrest and detention of suspects without charge, holding suspects incommunicado, detaining suspects' relatives and rendition of suspects (Amnesty International 2003). Consequently, Muslims have held a number of violent demonstrations to protest against these operations and to demand the disbandment of ATPU (Barkan 2004).

Kenya has also enacted various anti-terrorism laws with varying degrees of success. These laws criminalise terrorism, the funding of terrorist groups and the pursuit of terrorist suspects, and are aimed at preventing the country from becoming a sanctuary for terrorists. They also have a symbolic value of showing the country's support of the fight against terrorism. Although Kenyan authorities were reluctant to enact a national anti-terrorism law because of concerns about the reaction of Muslims, pressure from the West, especially the US, forced them to rethink their position (Barkan 2004). Thus almost five years after the bombing of the US Embassy, the government published the 'The Suppression of Terrorism Bill, 2003'. However, the government was forced to shelve this bill after it came under stiff opposition for being unconstitutional, incompatible with international human rights standards, discriminatory towards Muslims, a threat to democracy and national harmony and was externally imposed by the West (East African Law Society 2003; Mutunga 2003; Amnesty International 2004; Barkan 2004). Political party interests also played a major role in its rejection as politicians jostled to demonstrate their support for Muslims, who constitute a significant voting bloc, by opposing the bill. Even KANU (Kenya African National Union), the former ruling party, came out against the 'harassment' of Muslims and demanded that the proposed anti-terrorist legislation be withdrawn (McCormack 2005).

After a two year hiatus, the government published 'The Anti-Terrorism Bill, 2006' which, according to the attorney general, addressed the issues raised in the earlier bill. Nonetheless, it was rejected on the same grounds as its predecessor. Additionally, politicians argued that enacting an anti-terrorism law was a US and not a Kenyan priority, and declared that they would only support it if Washington agreed to compensate Kenyan victims of the 1998 Embassy bombings, which it had refused to do.

The failure to enact an anti-terrorism law is viewed as a major obstacle to Kenya's CT strategy. As members of the UN Counter-Terrorism Committee Executive Directorate pointed out, 'One of the pitfalls in Kenya's counter-terrorism strategy was the lack of legislation criminalising terrorism and the funding of terror activities' (cited in Reuters 2005). The failure to enact an anti-terrorism law has meant that the international anti-terrorism conventions that Kenya has ratified cannot be enforced locally. It is also blamed for Kenya's failure to successfully prosecute any terrorist offence (Carson 2005) and also underpins its decisions to extradite,³ deport,⁴ and to participate in the rendition of terrorist suspects. A senior police officer explained that

the police had sought deportation orders for five Somali refugees suspected of having terrorist ties because 'Kenya does not have anti-terrorism laws that would enable prosecutors to directly charge them with terrorism activities' (News24.Com SA 10 April 2004). According to Carson (2005), the extradition of suspects is due to the government's unwillingness to be embroiled in long, complex and sensitive legal procedures and fear of terrorist reprisals if suspects are prosecuted locally.

There have been various problems with the deportation, extradition and rendition of alleged terrorists. All three procedures have been carried out unlawfully. This has been the judgement of the high court. In a ruling regarding the extradition of a suspect to Uganda to face charges connected to the July 2010 Kampala bombing, the *Daily Nation* of 30 September 2010 quoted Justice Aggrey Muchelule as follows:

The arrest, detention and removal of the subject from Kenya to Uganda were illegal and transgressed his fundamental rights and liberties. These rights and liberties cannot be given up for expedience's sake, I find no exceptional circumstances, whether state of war or terrorism actions, which can be invoked to justify the treatment handed down to the subject herein by the respondents: the Police commissioner and the anti-terrorism unit boss.

Commenting on the rendition of 13 Kenyans to Uganda suspected of participating in the Kampala attacks, Mutula Kilonzo, the Minister for Justice, also told Muslim leaders that rendition was illegal. 'I have assured the Muslim leadership firmly, very clearly and quite professionally, that rendition is illegal in Kenya. It is in violation of our laws' (Reuters 21 October 2010).

The importance of anti-terrorism laws cannot be underestimated in the pursuit of terrorists. Nonetheless, it does not appear to be the main reason for Kenya's failure to pursue terrorists or engage in illegal deportations and renditions. Existing laws⁵ are sufficient to prosecute terrorism as they criminalise several terrorist offences. In fact one reason for opposition to the proposed anti-terrorism law is that the existing laws were deemed adequate for prosecuting terrorist crimes (East African Law Society 2003; Mutunga 2003). Thus, the failure to successfully prosecute terrorist activity should be viewed in the context of the disappointing government record in law enforcement. Many serious and indeed common crimes go unresolved not because of the lack of laws but due to incompetence by investigators and prosecutors, lack of resources and equipment, corruption and political interference. As George Kegoro, the Executive Director of International Commission of Jurists' argues:

The existence of the legislation is not sufficient to deter the vice neither are the stiff penalties that are recommended in the bill. There is need for genuine support from the government to enact this law. We need a good set of people to be put in place to interpret the legislation. (Cited in Anyangu-Amu 2009)

Furthermore, the extradition and rendition of terrorist suspects is blamed on US pressure.

Hitherto, only two laws with direct bearing on terrorism have been enacted. The first is the Proceeds of Crime and Anti-Money Laundering Act, first published in 2004 as the 'The Crime and Money Laundering Prevention Bill' and in 2006 as the 'Anti-Money Laundering (AML) Bill, 2006'. During the debate on this measure, several members argued that it was being forced on parliament by the West through

economic conditionality and that it was being used to sneak in the rejected anti-terrorism bill. The Act criminalises terrorist funding and provides a framework for identifying, tracing, freezing, seizing and confiscating the proceeds of crime, including terrorism.⁶ The second is the Witness Protection Act, first published in 2004 and passed into law in December 2006. Among other things, this could be used to protect witnesses who testify in terrorism and corruption cases (Ndegwa 2007). There is no publically available information showing that, in practice, either of these laws has been applied in the fight against terrorism.

Furthermore, corruption is viewed as an explanatory factor of institutional weakness. According to the then US Ambassador to Kenya, it was because of corruption in the law enforcement agencies themselves that terrorists were able to establish networks and smuggle arms and bomb making materials into the country and that foreigners who turned out to be terrorists were able to obtain Kenyan identity and travel documents (Carson 2003, 2005). Police corruption was also blamed for terrorist suspects 'escaping' from custody, the 'loss' of files of terrorist suspects, and suspects managing to avoid police dragnets (Roggio 2008; Teyie and Maina 2009). Kenyan officials themselves informed a UN study that they had observed links between terrorism and incidents of corruption by public officials (Dandurand and Chin 2004, 16). There is no question that official corruption is endemic and has infiltrated every facet of life (Kibwana et al. 1996; Mullei 2000; Wong 2009). What is debatable is the extent to which it can explain the occurrence of terrorism. This is apparent given that terrorists have developed networks and carried out attacks in countries with insignificant levels of corruption.

Finally, steps have been taken to address the lack of capacity to gather, analyse and interpret CT intelligence. With an inadequate indigenous capability, Kenya initially sought international help and entered in to anti-terrorism intelligence sharing with friendly governments. Accordingly it allowed US, Israeli and British intelligence agencies not only to lead investigations into the terrorist attacks but also to use its territory to pursue terrorists operating there and in neighbouring countries. It also signed up to a regional information and intelligence sharing agreement (FBI 1998; Harman 2002). Intelligence cooperation resulted in a number of terrorist suspects being arrested and terrorist plots and cells being discovered and disrupted (Freeh 1998; Muiruri 2003). However, it appears that intelligence cooperation was skewed in favour of the West. Questions were raised when it was reported that a number of Western states with intelligence sharing agreements with Kenya had prior knowledge about the 2002 terrorist plot which they did not share (*BBC* 3 December 2002; *CNN* 30 November 2002) and when Kenyan authorities claimed that they learnt only from media reports about US warnings of planned suicide attacks by Somali extremists (*The Standard* 4 November 2006). Furthermore, the tactics employed by the FBI have tended to undermine this cooperation as they are they have become the subject of resentment and opposition from Muslims (Barigaba 2010, 4). Muslims have demonstrated against the FBI presence in the Coast and have demanded that it be withdrawn (Barkan and Cooke 2001; Amnesty International 2005). In an interview, the head of the Supreme Council of Kenya Muslims (SUPKEM) stated that 'They marched through the streets of Nairobi to protest the mistreatment of Muslims in Kenya by the foreign agencies' (Interview, Nairobi 6 June 2009).

Measures against transnational terrorist networks

A number of Kenya's CT measures have been addressed to curb the country being used as host for terrorist organisations. Al-Qaeda is one such group. The group established its first known cells in the country in 1992 to facilitate the transfer of weapons and trainers to the Somali warlords that were battling US forces. By December 1993, a team of al-Qaeda operatives began casing targets in Nairobi for future attacks and in 1994 it established a sleeper cell. The cells, which carried out the 1998 US Embassy bombing, were established in 1996 (The 9/11 Commission Report 2004). The group, according to intelligence reports, still maintains at least one or two cells in the country (Carson 2005, 183–4; Marindany and Wabala 2003). Al-Qaeda also works through a network of Islamic charities that combine legitimate aid work and covert activities (Levitt 2003; The 9-11 Commission Report 2004; Comras 2005) and regional militant organisations that have aligned themselves to its 'global jihad ideology' (UK Government 2006). Al-Qaeda regional affiliates also have cells in Kenya. The defunct AIAI was one such group. It was created by al-Qaeda in the early 1990s in Somalia but then branched out to Kenya where it maintained strong ties to Somali refugees, ethnic Kenyan Somalis and the Muslim community (Prendergast and Bryden 1999; Morrison 2001; Quinn and Quinn 2003; Austin 2002; Juma and Kagwanja 2003). Al-Shabaab, the successor of AIAI, is the other group. It has declared its allegiance to al-Qaeda, has been praised by the groups second in command (Hanson 2009), and has supporters in Kenya where it also conducts recruitment and fundraising among the Somali diaspora (Human Rights Watch 2010; UN Security Council 2010a; Council 2010b).

A number of CT measures were taken to disrupt these networks. In response to the US Embassy attacks, the government deregistered six Islamic charities,⁷ threatened to deregister 11 others that it accused of having terrorist ties (UK Government Home Office 1999) and also suspended funding of NGOs by Arab states. As expected, Muslim leaders opposed this ban as anti-Islamic and successfully petitioned the government to allow the affected charities to challenge their bans in court. In the ensuing petitions, the High Court suspended the ban on five pending appeal and allowed the International Islamic Relief Organisation (IIRO) continue its operations. The National Council of NGOs, the body responsible for registering non-governmental organisations, also rejected a government request to deregister Muhtada Al-Islam, another Islamic charity. The government took the decision to deport a number of foreigners working for Islamic charities that it suspected of having terrorist links (Amnesty International 2003; Waller 1998).

Measures to address domestic terrorism

It is widely held that several terrorist networks exist in Kenya and that some sections of the Muslim population support and sympathise with al-Qaeda. The US government was very vocal about this with its ambassador to Kenya stating, 'Kenyan citizens have been involved in the planning and execution of some terrorist acts' (Carson 2003). Kenyan authorities were initially disinclined to acknowledge the domestic dimension because they viewed Kenya as a victim of external terrorism, and because of concerns that such an acknowledgement would lead to a backlash from Muslims, undermine the country's reputation and damage the tourist industry. Their

attitude, however, changed after investigators linked Kenya's terrorist attacks to a number of Kenyan families (Carson 2005, 183–4). Thus Chris Murungaru, the Internal Security Minister, stated that 'al-Qaeda had supporters and sympathisers living among Muslims along the coast' (AFP 2003). This statement was, however, made on the heels of an anti-terrorism raid targeting Muslims in Nairobi and the coast, and could thus be seen as an attempt to justify the operation. According to Khadiagala (2004), the local cell consists of citizens of the Gulf States, Somalia, Pakistan, and the Comoros Islands who had assimilated into local cultures along the Indian Ocean and have in turn recruited local Kenyans, particularly from the coast. In April 2011, after the discovery of suspected Al Shabaab militants operating on the Kenya-Somalia border, the head of Anti-Terror Police Unit, Nicholas Kamwende, publically noted that many young Kenyans are joining Al Shabaab (*East African Standard*, 25 April 2011).

There is, however, insufficient credible evidence to support claims of widespread local support for al-Qaeda. The only 'evidence' appears to be secret intelligence, a statement by the Secretary-General of SUPKEM that many Kenyans support the Taliban (Shinn 2004), the arrest of Kenyan nationals as terror suspects (though none have been convicted of terrorist offences) and a survey by the conservative Pew Research Centre, which found that 29% of Muslims and 30% of Christians in Kenya believe that many, most, or all Muslims support al-Qaeda or other violent Islamist groups (Pew Forum on Religion & Public Life 2010).

Secondly, since the US Embassy bombing there has been growing international concern about 'increasing levels of radicalisation' of the Kenyan Muslim population (Shinn 2004; Rosenau 2005; Rabasa 2009; Raghavan 2010), which is said to underpin the local support and sympathy for al-Qaeda and allied groups (Walsh 2003; Khadiagala 2004; McCormack 2005). Hence, the government under pressure from the West was obliged to address the issue as a way of showing its anti-terrorism credentials. In this regard, it attacked what it saw, or what was presented to it, as the root cause of radicalisation (by instituting investigations on madrassas Islamic schools) that were suspected of harbouring terrorists, teaching extremism and spreading anti-Western propaganda; deporting foreign clerics accused of preaching extremism; and trying to control the madrassas by asking their heads to provide details about their location, number of enrolled pupils and sources of funding (Amnesty International 2005). Additionally, in 2003 the US through the Combined Joint Task Force for the Horn of Africa (CJTF-HOA) initiated a project to the 'win hearts and minds' of Muslim communities in North Eastern and Coast provinces who the US believed to be potential sources of political instability by providing them with humanitarian and development assistance. The stated objectives of the project were: to change the recipients' perceptions about the USs, mitigate violent extremism, and promote stability and governance (Bradbury and Kleinman 2010, 8–9).

These measures were based on an exaggerated if not wholly mistaken belief that there is widespread local support and sympathy for al-Qaeda because of growing Islamic radicalisation and extremism in the country. In fact, there is little firm evidence to support such claims (Mwakimako 2005; Moller 2006). Rather, the majority of Kenyan Muslims follow moderate rather than extremist forms of Islam (Oded 1996; Rosenau 2005): a fact acknowledged even by those who promote the thesis about the surge of Islamic radicalism (Shinn 2004; Rabasa 2009). Furthermore,

there is no widespread or successful al-Qaeda recruitment among Muslims (Rosenau 2005); no local groups are becoming deeply entrenched in the al-Qaeda network since their primary loyalty is to their clans and ethnic tribes and is not always compatible with al-Qaeda's transnational agenda (Gunaratna 2002; ICG 2002; Piombo 2007); and Kenyan Muslims take different and sometimes contradictory positions on various local and international issues (Oded 2000).

'Evidence' of a growing Islamic radicalism does not stand up to scrutiny. For example, opposition to government anti-terrorism operations and its cooperation with the US is provided as evidence of a growing Islamic extremism (Shinn 2004; Rabasa 2009; Quinn and Quinn 2003; Walsh 2003; McCormack 2005), yet this is far from being limited to Muslims alone (Oded 1996; Barkan 2004; Amnesty International 2005). Neither is the Muslim clamour for Khadi courts in the new constitution adopted (following a referendum in August 2010) a precursor to the introduction of Shar'ia law, for such courts already existed under the old constitution. The practice by Muslims of sending their children to madrassas is not evidence of their preference for religious as opposed to formal education but rather a reaction to the government's failure to provide them with adequate schools (Mwakimako and Willis 2009). Finally, there is no evidence of systematic anti-Americanism among Muslims (Bradbury and Kleinman 2010). It would thus appear that concern about 'Islamic radicalisation' is basically informed by the official perception of terrorism as essentially an issue of Islamic extremism. This is not surprising given the tendency by the West, which is behind the country's anti-terrorism strategy, to simplistically categorise Muslims as moderates and extremists, with the latter being viewed as supporters of terrorism. Meanwhile, that the government's understanding of terrorism is intrinsically linked to Islamic extremism is illustrated by its failure to deal with *Mungiki* violence as terrorist violence. Further, concern with Islamism may be seen as part of government strategy to control Muslims because, as Oded (2000) argues, successive Kenyan regimes have viewed that community with suspicion and have taken measures to prevent the growth of Islamism.

The Somalia threat

CT in Kenya has also focused on stabilising Somalia. As President Kibaki stated at a joint press conference with President Bush during a state visit to the US, 'stabilising Somalia is essential in sustaining the war against terrorism' (États-Unis 2003, 1257). President Bush concurred when stating that 'the establishment of an effective representative government in Somalia will help stabilise the region and dispel the hopelessness that feeds terrorism' (États-Unis 2003, 1256). Although Kenya had made a number of previous attempts to mediate the Somalia conflict, the terrorist threat increased its urgency in addressing the Somalia imbroglio, and led to the Intergovernmental Authority on Development (IGAD) mediation efforts that resulted in the creation of the Transitional Federal Government (TFG) in 2004. According to the ICG (2002), the desire to combat terrorism underpins the regional impetus to stabilise Somalia. Additionally, Kenya has trained Somali government security forces and allowed the TFG to recruit fighters from the Somali refugee camps (Human Rights Watch 2010). Furthermore, Kenya lobbied for and supported the African Union military intervention in Somalia in support of the TFG and the Ethiopian invasion. It also deployed two military battalions and introduced joint

border patrols with US and British forces along the border with Somalia and the Indian Ocean in order to prevent the infiltration of terrorists and terrorist arms (Kariuki 2003; West 2006).

The focus on Somalia is based on the commonly held belief that terrorism in Kenya was linked to its proximity to, and presence of terrorists, in Somalia (Shinn 2003; Rabasa 2009). In the words of Dave Mwangi, the former Permanent Secretary in the Ministry of Internal Security, '[o]ur most serious vulnerability is that we are neighbouring the Somali Republic, a land with no government' (cited in Butler 2003). The US views Somalia as a potential breeding ground, safe haven and transit point for terrorists (US Department of State 2002; Bryden 2003; Martin 2004; Tambi et al. 2005; Lyman and Morrison 2009). Susan Rice, the Clinton administration's Africa policymaker, described Somalia as 'the continent's proverbial black hole: an ungoverned, lawless, radicalised, heavily armed country with one of the longest undefended coastlines in the region'.⁸ This situation is attributed to state failure (Piombo 2007). As Brig. Gen. Samuel Helland, the Task Force Commander of the CJTF-HA stated, '[t]errorists need a sanctuary They will look for places with chaos, lawlessness, a lack of government control' (cited in Martin 2004). Chris Muranguru, the former Minister for Internal Security, also noted that Somalia has home-grown terror cells and as a country with no central authority, can also be refuge to terrorists (Carter 2004).

There is ample evidence that the terrorists who planned and carried out the Mombasa attacks transited from and returned to Somalia after the attacks and that weapons used in the attacks were smuggled into the country from Somalia (Peleman et al. 2003, 30; Clayton 2002; Loescher and Milner 2005). Furthermore, Somalia-based groups such as AIAI and more recently al-Shabaab have threatened to carry or have carried out terrorist attacks in the country as well as continuing to recruit local Somalis and refugees for jihad (West 2006; Human Rights Watch 2009; Baldauf 2009). What is debatable is whether this can be linked to state failure. Several studies have argued that, contrary to popular belief, failed or failing states are unlikely to be sites for terrorist networks (von Hippel 2002; Menkhaus 2003; Piazza 2008). In fact, according to Menkhaus (2004), terrorist networks appear to flourish in weak states such as Kenya rather than in failed states. Besides, Kenya seems to be a transit point for would be jihadists recruited abroad heading to Somalia for terrorist training or operations (Townsend 2010).

Questions can also be raised about the efficacy of Kenya's measures. The TFG has remained ineffective in leading Somalia to normality. Further, the destruction of the ICU by the Ethiopian invasion created a power vacuum, which was filled by more militant groups such as al-Shabaab, and, as noted, have stated their admiration of al-Qaeda. Support for the TFG has also been counterproductive in the sense that al-Shabaab has on a number of occasions threatened to carry terrorist attacks against Kenya in response.

Protecting vulnerable targets

CT strategy should focus on the protection of vulnerable targets. In Kenya, airlines, tourist facilities and embassies are considered particularly vulnerable. Indeed, there have been several warnings by the West of terrorist plots to attack airlines, foreign embassies and Western tourists leading them to issue adverse travel warnings,

close their embassies temporary and to suspend flights to and from Kenya (Brown 2003; Wax 2003; BBC 2003a; Wycoff 2004). To address such concerns, Kenya introduced 24-hour surveillance of flight approach paths at all airports; initiated joint security patrols of the airports with UK forces; created a no stopping zone on a 4-km stretch of road around, and constructed a perimeter wall around Jomo Kenyatta International Airport; introduced a new requirement for all non-commercial private flights coming into or flying over Kenya to obtain written clearance at least 72 hours in advance; introduced baggage and passenger screening machines and CCTV cameras at airports; introduced the PISCES system in select airports and withdrew all airport security passes and issued new ones to a reduced number of people after stringent security screening (Kenya Government 2003). The US also donated US \$1 million under the 'Safe Skies for Africa' programme to improve aviation safety. While these measures can be seen as responding to target vulnerability, they were also in response to US and UK demands for such measures to be taken as a condition for lifting their adverse travel advice to Kenya (Mbogo 2003).

Support for the GWOT

Kenya views international cooperation as an important aspect in the fight against terrorism. Following 9/11, President Moi offered to join the US in the fight against terrorism, an offer he repeated during an official visit to the US (Onyango 2001; Ghirmazion 2004). Similarly, President Mwai Kibaki, who succeeded Moi in 2002, reiterated Kenya's commitment to the GWOT (États-Unis 2003). In this regard, Kenya participated in the US-led international 'coalition of the willing'⁹ by sending a liaison officer to central command (Centcom) and granting fly over and basing rights to coalition forces involved in Operation Enduring Freedom and Maritime Interception Operations (MIO) (US Department of Defence 2002; Library of Congress 2005) as well as in the CJTF-HOA and East Africa Counterterrorism Initiative (EACTI) operations. It also allowed US Special Forces to use its territory for CT operations in Somalia (Guevara 2007; Bradbury and Kleinman 2010) and, during the 2006 US-backed Ethiopian invasion of Somalia, it deployed forces along the border to prevent the infiltration of Islamist and suspected al-Qaeda fighters who were fleeing the Ethiopian onslaught (US Department of State 2007).

Kenya lacks the resources and military capacity to fight terrorism on its own. As Job Jalang'o, then Kenya's ambassador to the UN told the General Assembly, 'Many small countries have neither the means nor the ability to effectively respond to terrorism', hence they require 'international support' (UN 2001). The options available for such weak states are to seek the help of a powerful patron or join an alliance. As Walt (1985) has pointed out, weak states will 'bandwagon' or join a stronger power or coalition in order to be protected. This might have been the case for Kenya. Yet there were wider strategic considerations that we argue were more significant.

Kenya supported the GWOT in the hope of attracting international economic, military assistance and CT assistance especially from the US. Kenya was acutely aware that in the post 9/11 period, US assistance was dependent on the country's support of the GWOT. Kenya was also aware that the chances of increased support from the US were slim if Kenya did not cooperate and that cooperation would result in the US backing it in its relations with the Bretton Wood institutions (Barkan and

Cooke 2001, 2–3). Additionally, Kenya wanted the US to resume its military assistance, which it had suspended in 1991 to protest the human rights abuses and suppression of democracy by the Moi regime. Kenya was not wrong in its analysis as the US not only resumed but also increased its military assistance (Garcia 2003; Garcia et al. 2007). All this was against the background of Kenya's long tradition of cooperating with the US and the West on strategic and security matters besides having a military agreement, signed in 1980, with terms allowing the US military unrestricted access to Kenya's military facilities in exchange for military assistance (Volman 2003).

Critics argue that Kenya's support of GWOT is counterproductive as a CT strategy because of the very fact that its close friendships with the West and Israel¹⁰ have rendered it a terrorist target (Otenyo 2004). Kenyan officials have said as much. For example, Raphael Tuju, then Minister for Foreign Affairs, stated during an official visit to Israel that 'our friendship with Israel and the United States has been responsible for our being targeted' (cited in Keinon 2007). It is this belief which led Sheikh Ali Shee, then Chairman of the Kenyan Council of Imams, to warn that 'the government's pledge to support American military operations against the terrorists might put our country into a precarious situation Kenyans will be an easy target for the terrorists again' (cited in Barkan and Cooke 2001, 2). Additionally, by supporting the GWOT, Kenya appears to disregard US policy towards the Middle East, particularly with regard to the Israeli–Palestinian question in creating terrorism. While it is naïve to think that Kenya can do much about US policy, it is not unreasonable to expect it to take a moral and critical stand in its dealing with Washington.

Conclusion

After examining the serious terrorist threat faced by Kenya, this analysis has demonstrated that the scholarly and policy focus on terrorism in Kenya began only after the US Embassy bombing and more significantly, when it became apparent that the country had a major role to play in the GWOT. What is evident from our examination of CT in Kenya is the overarching role of the US, which has been the driving force behind Kenya adopting CT measures, and this in turn is a reflection of Kenya's dependence on the US and the West. There is, accordingly, recognition within official circles that cooperation with the US has been pivotal (Wax 2003). Inevitably, such cooperation has come at much cost. The 'cooperation' is skewed in favour of the US, an expected outcome in unequal relationships. As Walt (1988, 282) argues, bandwagoning involves unequal exchange whereby the vulnerable state makes asymmetrical concessions to the dominant power and accepts a subordinate role. It is for this reason that critics argue that Kenyan CT policy serves as a cover for US imperialism.

Our analysis also shows that with the government and its partners defining the terrorist threat as basically Islamic, CT in Kenya has targeted local Muslims who it and the West accuse, often without credible evidence, of supporting or sympathising with al-Qaeda. This focus has not only elicited criticism and opposition but, paradoxically, has alienated the Muslim community whose support and cooperation the government badly needs if it is to be effective in fighting terrorism. Furthermore, the inability of the government to engage and obtain public support has meant that

many CT measures lack popular support and legitimacy and are viewed as operating in service of external interests.

In the ultimate analysis, therefore, CT policy as it is presently pursued in Kenya is unable to provide the framework for fighting terrorism, which remains a real threat.

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Notes

1. The bilateral arrangements through which the US provide CT training to the military include the International Military Education and Training Program (IMET), the Foreign Military Financing Program (FMF), the Africa Contingency Operations Training Assistance (ACOTA) and Africa Regional Peacekeeping Program (ARP).
2. These are the Combined Joint Task Force for the Horn of Africa (CJTF-HOA) and the East Africa Counter-terrorism Initiative (EACTI).
3. For example it extradited two suspects connected to the US Embassy bombing to the United States. See US Department of State 2001.
4. Kenya deported several Arab nationals working for Islamic charities and Somali refugees for allegedly having ties to terrorism (see Daily Nation 2004; SAPA/IPS 2001; News24.Com SA 2004).
5. Such laws include the Penal Code, the Banking Law, the Anti-Money-Laundering and Proceeds of Crime law, the Narcotics Drugs and Psychotropic Substances control Act No. 4 of 1994, the Protection of Aircraft and the Official Secrets Act Cap (487). These laws criminalise murder, conspiracy to kill, use of explosives, money laundering, funding from criminal activities, assisting a person or an organisation to commit a felony, hijacking, harbouring criminals or refusing to prevent or report a crime which is about to be committed.
6. Parliament passed the bill in December 2009. President Kibaki assented to it in the same month.
7. These were the International Islamic Relief Organisation (IIRO), Mercy Relief International, the Al-Haramain Foundation, Help African People and the Al Ibrahim Foundation.
8. Susan Rice, Statement before the House International Relations Committee Subcommittee on Africa 15 November 2001.
9. In reality this was not a coalition of the willing. The US employed economic and political conditionality as well as offers of or threat to withdrawal military support to buy support or prevent opposition to the global war on terror.
10. There is a general consensus that Kenya, despite its professed policy of non-alignment, has always been and continues to be firmly within the Western bloc politically, ideologically and economically (Makinda 1983; Volman 2003) and is one of the closest allies of Israel in the region (Naim 2005; Nadelman 1981; Oded 2000).

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