

Counter-Terrorism Measures and Human Rights Protection in Kenya

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ABSTRACT

Many counter-terrorism measures enacted by states have been criticized for violating human rights. This study sought to assess the Kenya's counter-terrorism framework to ascertain whether the established counter-terrorism measures violate or adhere to the protection of human rights. The study adopted an exploratory research design to assess the counter-terrorism measures and alleged human rights violation in Kenya. The target population was the national security organs, counter-terrorism agencies, civil societies championing human rights protection, security enforcers and watchdog bodies. The sample of 200 respondents and informants was drawn from the National Assembly, Ministry of Interior and Coordination of National Government, the Kenya National Commission on Human Rights, the International Federation for Human Rights, UN Counter-Terrorism Centre and Amnesty International Kenya. A stratified and purposive sampling technique was employed in selecting the respondents and informants during the study. The findings of the study established various stick and carrot counter-terrorism strategies used by organizations, government, and security apparatus in Kenya. These strategies are faced by several challenges. A number of these measures violate human rights. There are however, some counter terrorism strategies that uphold human rights. The counter-terrorism strategies that the government can adopt in respect of human rights to include youth empowerment and employment, enhance surveillance and intelligence gathering, stop renditions and use of force, proper investigations, uphold human rights and rule of law and public education, awareness, and participation. The study recommends government to adopt counter-terrorism promote human rights protection. Further, the study recommends that the governments need to create public awareness and participation in counter-terrorism strategies and measures to build public confidence on its efforts to fight terrorism.

Key Words: Counter-terrorism, Human Right, International and regional cooperation, National Security, Terrorism

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1.0 Introduction

1.1 Background to the Study

Terrorism has existed over several centuries. It is considered that the term terrorism was first used during the French Revolution. Commonly flaunted causes or drivers of terrorism include issues revolving Western civilizations, ideologies and culture that seems to be at odd and clashing with other cultures especial the Islamic cultures (Huntington, 1992). Other causes include, advent of globalization, religious differences and the ending Israeli-Palestinian conflict. Further, the increasing competition among superpowers including the United States

of America (USA) and Russian especially in the invasion of Afghanistan. There are other more personal or individual-based reasons for terrorism. This includes: frustration and deprivation of goals, existence of negative ethnic or racial identity, narcissistic rage among communities and moral disengagement among the youth that feel disenfranchised. The following types of terrorism have emerged over ages. They include: first state-sponsored terrorism which is mostly enjoys state support of powerful government officials. It is usually practiced by government or quasi-government personnel against its own people, other people or in support of international terrorism. Secondly, there exist the so-called dissent terrorism which involves terrorist groups, which have rebelled agitations against the existing regime. Usually, the motivation or intention of such terror groups is to seek de-legitimization of the existing government and maintain status quo of state insecurity. There exist other types of terrorism. These include, Left and Right Wing where groups perpetuating it are rooted in certain political ideology and side or nit side with the government. Religious terrorism is yet another form of terrorism. This involves terrorist groups with extreme religious motivation. They are occasionally indoctrinated and radicalized along extreme religious beliefs such as jihadist and crusaders.

Although terrorism has occurred over ages, the most significant terror attack of the 21st century occurred in the USA on 11th September 2001. This attack on the world superpower brought worldwide attention to impact of terrorism. It raised the need for counter-terrorism in the world (Fisher, 2013). This culminated in global war on terror. The September 11 attack on the World trade center in New York ushered in a series of terrorism activities have occurred over the world, in Latin America, Europe and Asia. Africa is no exception to terrorism as the terror occurrences by extremist groups have made their presence felt in the region (Hills, 2006). Those terrorist groups operate both locally and regionally in more than 15 countries. Bachmann (2012) identifies Europe, USA, France, Afghanistan, Syria, Pakistan, Nigeria, Cameroon, Somalia and Kenya as some other countries that have experienced widespread terrorism.

To deal with increasing issues of terror attacks, governments all over the world have tried various strategies and approaches in an attempt to manage and deescalate acts of terrorism. According to Sederberg (2003), counter terrorism strategies can assume many different ways. One way is countering terrorism as equal of warfare done by military intervention as the case of Kenya Defence Forces (KDF) versus Al-Shabaab. The second way is considering terrorism as crime to be handled by the criminal justice system. Empirical studies point that the most trusted counter-terror stratagem is suppression. Other strategies which do not employ repression and are considered to be sensitive to human rights protection include: intelligence gathering and dissemination, improved physical security around individual and key installations, assault of terrorist sources of finances, enactment of law and international regimes on counter terrorism. Other strategies may involve state cooperation with groups that use force, reforms and concession of hardlines among many more (Lutz & Lutz, 2011). In recent years, the debate on counter-terrorism and human rights has been the subject matter for scholars, researchers and practitioners of international relations. UN Security Council mandate is to maintain international peace and security among its members. It has, therefore, formulated guidelines on how states are to implement counter-terrorism measures in a manner that respects human rights. On 28th September 2001, it adopted Resolution 1373 (2001) that confers obligations to member States to respect human rights on counter-terrorism measures (UNSC, 2013). UNSC resolutions (1998, 1999 and 2001) aims to mainstream counter-terrorism strategies such as intelligence-sharing and foreign and national policy are aligned to existing international conventions on terrorism. They also advocate for national laws and regulations that criminalizes terrorism with extreme sentences. It is aimed that such measure will promote human rights protection.

Many at times, government, military or police-led operations by any of their names or nature have involved the use of force. There have been numerous allegations levelled against counter terror activities under the cover of war on terror. The common acts of human rights violation reported include; forced disappearance, excessive use of force, extra-judicial killings, and exposing suspects to degraded human treatment, arbitrary arrests, holding in solitary confinement and torture. Some of these accusations of human rights violation have been reported by both local and international media stations. In addition, human rights organizations such as Human Rights Watch and Amnesty International and other civil society organizations have unswervingly accused the military and security apparatus for committing gross of human rights abuses in their reports. Although military and police authorities have strongly denied and disassociated with these claims, it is not clear if all counter terrorism measure violate human rights or there those that are human rights complaint.

In most cases, the counter-terrorism agencies denied any sort of wrong doing and absolve themselves from any allegation of human rights violation. Upholding of human rights is expected in any security operation. One of the pertinent and contemporary discourses in international affairs is the dichotomy between countering terrorism and respect for international human rights obligations as envisioned in the Office of the United Nations High Commission for Human Rights (OHCHR) and other subsequent human rights watch groups. Despite this debate, human rights protection while enforcing counter-terrorism measures ought to be subject not to violate the Right Against Discrimination based on either race, religion or ethnicity has trickled down from the UNSC body to the African Union's Peace and Security Council, IGAD and then to the Kenyan Parliament (Senate and National Assembly) all in one accord trying to find the definite definition to terrorism (Magogo, 2017). The Kenyan Parliament in 2014 passed the Security Laws (Amendment) Bill to counter increased terrorist attacks within its borders and neighbouring countries such as Somalia, Uganda, Tanzania and Ethiopia. Since 16th November 2011, when the Kenya Government begun the Linda Nchi Operation, there has been a spike in the number of terror attacks. In January 2016, Al-Shabaab claims to have killed more than one hundred KDF Soldiers in El-Adde, a military camp in Somali. Despite various failed attempts by the Kenyan Government to have terrorism legislation, it continuous to rely on existing legal regime envisioned in the 13 International Conventions and treaties on counter-terrorism. It is in this context, that this study investigated the extent to which counter-terrorism measures uphold the protection of human rights in Kenya.

1.2 Statement of the Problem

Amnesty International Report (2010) alleges that counter-terrorism measures in Kenya discriminate persons on basis of race, ethnicity and religion. Civil societies have also raised concern over the increased extra-judicial killings, use of force by uniformed personnel, ethnic profiling and the right to access judicial service by offenders. According to the Amnesty International's Revisioning and Repositioning Amnesty in Kenya Annual Report 2018, on the Waning Accountability for Justice and Human Rights, there has been illegal detention, enforced disappearance and deportation of individuals (Amnesty International, 2018). An indication that each year, at least, 100 individuals 'disappear' from their homes and never to be found on grounds of the implementation of the counter-terrorism measures in areas and regions suspected to host 'terrorists' as aforementioned. Many reports indicated that the Kenya Security Agencies had a direct hand in detentions after being suspected to be terrorists, a good case of arbitrary detention which violates the rights against torture and cruelty, human and dignity and access to judicial process. These are some of the obligations that Kenya still struggles to meet when implementing the counter-terrorism measures on the human rights protection. Therefore, it is with this spirit that this study seeks to assess the counter-terrorism

measures on the protection of human rights in Kenya, while focusing on the right against discrimination based on ethnicity, religion or race.

1.3 Purpose of the Study

The study purpose was to examine how counter-terrorism measures uphold human rights in Kenya.

The specific objectives of the research were:

- i. Evaluate counter-terrorism strategies used by Kenyan authorities to reduce the propensity of terrorism.
- ii. Investigate allegation of human rights violation committed during the implementation of Kenya's counter-terrorism measures.
- iii. Analyze counter-terrorism strategies that promote human rights in Kenya.

2.0 Literature Review

2.1 Theoretical Framework

The study identified regime theory and the theory of change approach to inform the study.

2.1.1 Regime Theory

Regime theory is part of the liberal tradition. The theory based its tenets on the fact that international institutions influence the behavior of States. It assumes that cooperation can be achieved when States are faced by a global problem such as terrorism, which forces international cooperation. Krasner and Stephen explain on how States have dealt with counter-terrorism measures through multilateral counter-terrorism cooperation. The theory offers analysis of counter-terrorism into three categories. These include the offensive and defensive, preventive and protective measures, elements of counter-terrorism policy and counter-terrorism instruments. The regime theory argues that institutional arrangements focus on both global and regional spectrum of counter-terrorism tools and instruments. The theory acknowledges that internal security (national) is affected by the transnational characteristic of terrorism thus counter-terrorism measures have to consider those external aspects. The theory suggests that global and regional counter-terrorism arrangements require the support of private and non-state actors. Finally, the Regime Theory becomes relevant to analyze this study for it identifies the role of multilateral counter-terrorism cooperation which is universally practiced by majority of the States. This study will focus on the Regime Theory to assess the counter-terrorism measures on the protection of human rights.

2.1.2 Theory of Change Approach

Theory of change framework advanced by Paul Lederach (2017) is based on a continuum of two counter terrorism strategies namely isolation and engagement. Isolation basically suggests an approach meant to identify terrorists, and target to eradicate all individuals associated with groups that espouse the use of force. This strategy is also called 'listing'. Engagement denotes to a approaches that call for enactment of contact, consultation and dialogue with groups listed as terrorists. Engagement intends to get to the root cause of terrorism. It aims at introducing radical shift on means of dealing with terrorism. the theory of change approach recommends for two-fold approach to terrorism where violent counter terrorism measures are interlaced with carrot measures in exchange of individual abstaining from terror activities. It is argued that military strength and power without psychology of the mind is not sufficient enough to defeat the motivation behind terrorism. isolation in itself is considered crude and short term. Yet defeating the psychological needs of terrorist requires more humble time. Disabling terrorists, confiscating their weapons does not automatically disrupt their networks. To allay fears that negotiation with the "enemy" may set a bad precedence and lead to burgeoning of similar

groups, régimes should utilize both carrot and stick measures in countering terrorism. Military intervention therefore necessary but not sufficient enough to end terrorism. engagement strategies can work without compromising their security. This theory is relevant to the study since engagement measure seem to be sensitive to human rights violation.

2.2 Empirical Review of Literature

2.2.1 Counter-Terrorism Measures in Kenya

According to the recent studies on international terrorism, most of the countries affected by terrorism have come together on platforms of regional organizations and programs. Kenya commitment is evident in the ratification of eleven international treaties and conventions. In 2002 and 2005, Kenya ratified two subsequent conventions in relation to counter-terrorism. Studies by Katabazi (2007), indicate that Kenya's counter-terrorism efforts were geared towards a creating a stable East African thus leading to its intervention in Somalia. *Operation Linda Nchi* is an operation intervention that begun in Southern Somalia in 2011 and saw regional forces join the operation under AMISOM later in 2012. The intervention in Somali was prompted by the increased Al Shabaab attacks that had intensified their threat on the territorial boundary of Kenya and regional and international peace and security on which the UN was founded on.

Consequently, Kenya to a certain degree had the responsibility to protect her citizens and sovereignty against any external attacks even if that invasion was met with debate on Kenya's justification on the use of force, which remains a prohibition under the UN Charter Article 2(4). This is a justified cause under the exception on self-defence as envisaged under Article 51 of the United Nations Charter. The study analyzed the stated justification for military intervention in counter terrorism. The Kenya's counter-terrorism agencies, since the ratification of the Security Laws (Amendment) Bill into law, formed the Joint Terrorism Task Force Kenya (JTTF-K) in 2018. It joined with the American based FBI in January 2019 in capacity building, counter-terrorism training and capacity building efforts. Regional cohesion has been a challenge in coming together to fight against terrorism (Botha 2014). The leaders of government and heads of states have not been able to embrace this ideology above their vested national interests. The study examine how the enacted laws promote human rights protection.

Since 2002, studies indicate that Kenya has complied with UNSC resolutions (1373) which provide international counter-terrorism framework in line with human rights. However, this counter-terrorism legislative has faced serious criticism from various factions in Kenya (Kituo Cha Sheria 2009). The UNSC Resolution 1373 which was formulate after 9/11 attack in the US had drastic counter-terrorism measures that informed other countries to follow suit to formulate counter-terrorism measures amid several concerns on human rights. In Africa, the East African Counter-terrorism Initiative (EACTI) and Joint Task Force-Horn of Africa goal is to fight terrorism. Lastly, studies have indicated that despite the lack of any legal framework in Kenya, the Government has taken various initiatives in counter-terrorism. It has seen the establishment of the National Intelligence Service (World Today, 2015), Anti-Terrorism Assistance (ATA) Program, Anti-Terrorism Police Unit (ATPU), Joint Terrorism Task Force (JTTF-K), National Counter-Terrorism Center (NCTC) and National Security Advisory Committee (NSAC). The Government also participates in the Terrorist Interdiction Program (TIP) that screens travelers and gathers intelligence at airports and border points.

2.2.2 Allegation of Human Rights Violation During Counter-Terrorism Measures

The enactment of Suppression of Terrorism Bill (2003) by the Kenyan government has been greatly opposed by the Law Society of Kenya as it targeted persons on race and religion. Amnesty International Annual Report (2018) highlights the detention of 21 different

nationalities totaling to 150 persons who were mostly fleeing the conflict in Somalia. Human Rights Watch (2016) acknowledges that majority of persons detained faced challenges such as denial to access a lawyer, assistance from consular, opportunity to challenge their detention or refugee status. Detainees alleged that they were tortured and conditions at detention were degrading and cruel. The detainees also purported to have been interrogated by foreign intelligence services, confined to host countries or deported.

In the hub of terror, human rights and counter-terrorism strategies should strive to work together as citizens have the right to protection by the State. Magogo (2017) posit that counter-terrorism measure should always have a provision for human rights standards and democracy. However, human rights and counter-terrorism is intertwined as human rights require counter-terrorism measures to uphold human rights standards for it to thrive (OSCE ODIHR 2008). In situations of terror, States focus on national interest rather than human security thus neglecting the link between human rights and counter-terrorism. The General Assembly Resolution 66/290 considers human security as an approach for States to consider the cross-cutting challenges that face the livelihoods and dignity to people (Botha 2008). In East Africa, Kenya has been considered as a democratic State due to its alignment to the West, best policies and international geographical location, but still remains one of the most affected States. Counter-terrorism in Kenya faces numerous challenges especially when the Government is criticized on un-democratic measures. Civil organisations have criticized Kenya's counter-terrorism strategy as being an ethnic-based profiling tool that targets an ethnic community. The strategy in most cases profile Somali nationals as key perpetrators of terror attacks (Botha 2000). The Operation Usalama Watch (2014) was fronted with several legal implications right from human rights violations, extra-judicial killings, arbitrary detentions and torture by security forces as reported by the World Today, (2015). The failure of the Kenyan Government to offer accountability for the security forces abuses and other serious rights violations undermined the rule of law and public confidence; hence led to the demise of the operation (World Today, 2015).

One major challenge for armed forces in internal security operations is ignorance of what law they are operating under (ICRC, 2002). It is the commander's responsibility to ensure troops adhere to laws governing conduct of hostilities during internal security operations. Unfortunately, these laws and rights are not set during counter terrorism. The study noted that LAOC and IHL are sometimes violated during counter terrorism operations. It touted that allegations of human rights violation associated with counter terrorism operation occur because of the challenge of military superiority complex associated with military. It is considered that the military is a noble profession compared to the police. According to Brown (2014), societal construction of state security organs is such that the military is viewed as a more powerful agent than paramilitary police or civil police. This mentality poses challenges during internal security operation. This study analyzed the allegations that when the military swing into action to counter terrorism they do so because since the police are overwhelmed (Brown, 2014). In addition, military personnel are habitually oriented to believe that they are licensed to kill. As such they use more lethal force in within their mandate. Human rights violations may also result from the failure of soldier to exercise restraint on use of minimum force (ICRC, 2002). In most cases the military or the paramilitary summarily deal with the enemy or criminals by shooting to dismember or kill. Their whole ethos of military training and equipment is based on inflicting maximum pain and damage as well as destroy the enemy. Enemy must therefore be defeated in the shortest possible time irrespective of the rules and the laws of engagement. Key features of internal security operations, on the other hand, is restraint and minimum use of force. Soldiers need proper training to adjust to this new way of operating.

2.2.3 Counter-Terrorism Upholding Human Rights

With the growing cognizance surrounding human rights violations, there is need to reassess counter terrorism strategies. The existing argument pose that military strategy employed in dealing with terrorism have tainted the public image of security organs as greatest violators of human rights. They argue that isolation tactics employed by the military alienate human rights. Thus, there is need to change the public perception of counter terrorism strategies. This will avert the public criticism over internal security employed on terrorism. Scholars like Lederach (2017), aver that adoption of engagement strategies of dealing with terrorism are more likely to increase the accuracy of counter terrorism since it addresses the root causes and key grievances of terrorist groups. Lederach further argues that engagement, provides alternative means of dealing with counter extremism. Engagement also goes into unearthing contested issues and history of terrorism opening the potential for reducing all instances of violent means of counter terrorism that are likely to infringe human rights. According to Lederach, proponents of isolation often opposed engagement strategies because it advocates for negotiation with terrorists. The concept of negotiating with terrorism is politically unpalatable to many governments. By promoting engagement, government risk to be seem as promoting terrorism rather countering it. It also serves to justify violence over innocent civilians (Lederach, 2012). This is however untrue. Engagement according Lederach engagement offers an avenue or the process of change. It advocates for trustworthy communication and dialogue.

Many argue that there is nothing as unpopular as the so called entering into talks with terrorists, time and again, governments and innocent civilians face the unpalatable reality from terrorist attacks. Under such circumstances, counterterrorism strategies such as military repression, policing, isolation, targeted killing, profiling and arrest may not work or may be insufficient to end terrorism. At worst they may worsen the problem. Furthermore, the violence to obliterate terrorism may be so bloody and indiscriminate killing innocent civilians and violate the international law, or destabilize the state while become morally repulsive as the initial terror attacks. Ironically the cure may be worse than the disease. When the military operation results in more damage than intended. In such condition, entering into talks with the perpetrator may be viable (USIP, 2010). As it limits excessive use of force. Ultimately harsh, aggressive policies in response to terrorism fail so often in their stated aims because they are so badly misunderstanding and ignore the psychology of the enemy and of observers (Silk, 2012). Force and power and supremacy alone are not sufficient to defeat terrorism. Aggression and force are too basic because they betray by attaining short term psychological success on the war on terror. Terrorist can endure military strikes. If past experiences are anything to go by. Considering military campaign cases such South Africa Apartheid rule against African National Congress (ANC), the British against Irish Republican Army (IRA) show that terrorism may not be defeated by aggression but through engagement (Silk, 2012). The study will assess how state aggression in eradicating terrorism ignores the psychology of the enemy and of observers such religious leaders, Nongovernmental organization involved in countering violent extremism.

According to Ichani (2014), having a proper complaint process over actions of security operations increases the accountability of security organs. Ichani (2014) argued that to improve military credibility, it is important to have a proper complaint process and that the military should guarantee a free and fair complaint process. An independent ombudsman- office offers feedback on citizens' complaints on alleged human rights violations. The creation of such office would assist in building self-assurance within the civil society that military does not commits such violations voluntarily. Ichani (2019) further argues that military Ombudsman's office employs civilian personnel who receive complaints from fellow civilians witnessing human rights violations. This study examined allegations of human right violations.

2.3 Conceptual Framework

The conceptual framework will be informed by the regime theory. This study identified three variables to include the independent, dependent and intervening variables. The independent variable in this study was counter-terrorism measures and the dependent variable was Human Rights and intervening variable will be external influencers. Independent variables were divided into three. First counter, terrorism measure which included organizational measures, government led measures, multiagency security approaches and military intervention. The second independent variable was alleged human rights violation including forced disappearance, force, extra-judicial killing and degrading treatment of citizens. The third and last independent variable was counter terrorism measures that respect human rights. This included, engagement, negotiation, youth empowerment, surveillance, intelligence gathering, rule of law and public awareness and education. The human rights to be protected were: personal liberty, due process of law, freedom of thought, right against discrimination and freedom of expression as shown by Figure 1.

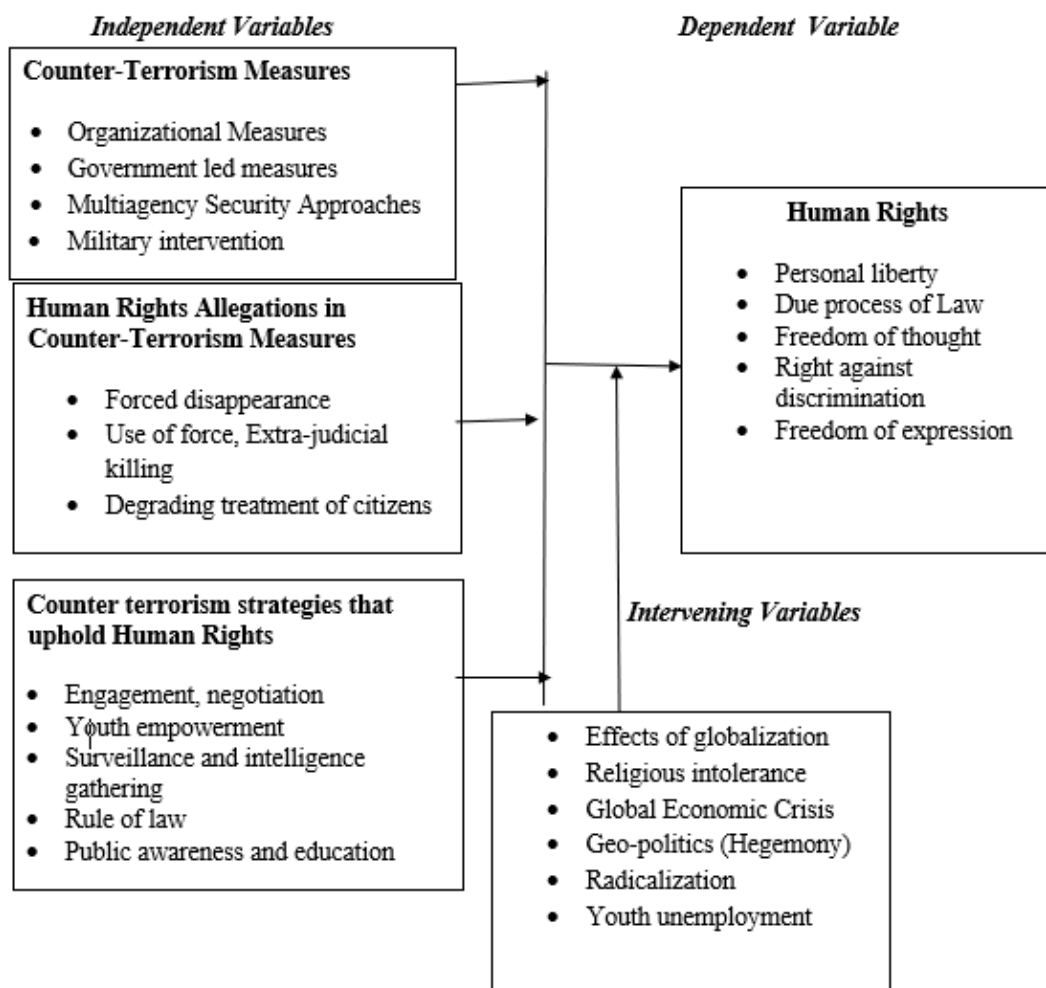


Figure 1: Conceptual Framework

Source: Researcher, (2021)

3.0 Research Methodology

The study adopted an exploratory research design. This study was carried out in Nairobi Metropolitan that plays host to a number of counter terrorism agencies including the military,

police, GSU, RDU, and ATPU. This study was also carried out in offices of human rights organizations in Kenya such as: The Kenya National Commission on Human Rights as well as Amnesty International Kenya to try and understand how the counter-terrorism actions by the Government have been used to protect or violate the human rights in Kenya. The study covered a period between 1998 and 2019. The target population of this study was both infinite and definite. The infinite population include the members of security organs and agencies whose total population was undisclosed for security purposes. These security organ and agencies include members of the Kenya Defence Forces (KDF), the National Police Service (NPS), National Intelligence Service (NIS), members of different multi-agency agencies including, General Service Unit (GSU), Rapid Deployment Unit (RDU), Anti-terrorism Police Unit (ATPU) and members of counter-terrorism and extremism control units. The definite target population included the 416 Members of both the National Assembly and the Senate in charge of legislation in Kenya. More specifically, the 28 Members who form the National Security, Defence and Foreign Relations Committee from both houses and those responsible in debating National Security Bills in the House. This study also targeted 108 members of the civil society from the Kenya National Commission on Human Rights (KNCHR), 65 officials from the International Federation for Human Rights (IFHR), approximately 45 officials from the UN Counter-Terrorism Centre-GCTF, as well as the 128 members from the Amnesty International Kenya.

To draw the sample for this study both non-probability and probability sampling techniques were used. The researcher begun by stratifying the population in the following strata. The first strata comprised of counter terrorism security agencies which included: Kenya Defence Forces (KDF), the National Police Service (NPS), National Intelligence Service (NIS), members of different multi-agency agencies including, General Service Unit (GSU), Rapid Deployment Unit (RDU), and Anti-terrorism Police Unit (ATPU). The second strata as made of 416 Members of both the National Assembly and the Senate in charge of legislation in Kenya. More specifically, the 28 Members who form the National Security, Defence and Foreign Relations Committee from both houses and those responsible in debating National Security Bills in the House. The third strata comprised the civil society. Categories included here were 108 members of the civil society from the Kenya National Commission on Human Rights (KNCHR), 65 officials from the International Federation for Human Rights (IFHR), approximately 45 officials from the UN Counter-Terrorism Centre-GCTF, as well as the 128 members from the Amnesty International Kenya.

After stratifying the different categories, simple random sampling technique was employed in selecting the respondents from each stratum during pre-testing and on the actual study. Finally, purposive sampling was used to draw key informants of the study. These techniques were chosen for convenience and to save time of data collection. A sample size that lies between the ranges of 10-50% in exploratory research will be suitable for this study using (Mugenda & Mugenda, 2003) determination. This was determined from infinite and definite target population of 798, which comprised of 416 Honourable Members of Parliament responsible for debating National Security and Defence Bills, the 28 Members from both houses of parliament who sit in the National Security, Defence and Foreign Relations Committees of Parliament in Kenya, the International Federation for Human Rights 65 officials, UN Counter-Terrorism Centre-GCTF, 45 officials, the 108 staff members of the KNCHR and the 128 members from Amnesty International in Kenya. The sample of approximately 200 respondents which was a tentative value to represents 20% of the target population was identified using purposive sampling.

The data collection instruments employed to collect data were structured and semi-structured questionnaires and interview schedules. The collected data was analyzed by the use of critical

qualitative data analysis and processed by the Statistical Package for the Social Sciences (SPSS) Version 24. The collected data was tabularized and categorized according to its shared features. Secondary data was acquired from an assortment and review of un-published and published materials, academic papers, periodicals and statistical reports. All was engaged through rigorous analysis and quantitative data and analyzed using critical content analysis. Then the data was presented in form of tables, graphs and diagrams.

4.0 Study Findings

4.1 Counter-Terrorism Measures

The study identified counter-terrorism measures in Kenya. It looked into the various counter-terrorism strategies used by organizations, Government and security apparatus. The study identified five major strategies that most organizations use in counter-terrorism. These strategies include use of intelligence, installation of protective measures, physical security and deployment of security and intelligence officers, sensitization and awareness among the employees. The study identified the strategies Government uses to include intelligence-sharing and gathering, degrading the capacities and capabilities of terrorist organizations, enhancing surveillance and capacity of security, increase in border control and screening and increase in cooperation with international security bodies e.g., INTERPOL. The study identified the strategies used by security apparatus to include use of intelligence and surveillance, deploying security personnel, use of force and invasion, renditions, illegal detentions and detainee abuse, investigations and infiltration into recruitment installations.

4.2 Counter-Terrorism Measures Uphold Human Rights

The study investigated whether the counter-terrorism strategies and measures uphold human rights in Kenya. The study also examined the level of awareness of citizens on counter-terrorism on human rights, the extent to which counter-terrorism measures violate human rights and the implications of Counter Terrorism Measures on Human Rights Protection in Kenya. The study identified that the counter-terrorism strategies do not uphold human rights and they violate human rights in Kenya. The study found that the violation of human rights by counter-terrorism was characterized by six implications of upholding human rights. These characteristics include the increase on human rights violations in the implementation of counter-terrorism measures, success in the fight against terrorism by counter-terrorism agencies; effectiveness of the counter-terrorism strategies is work in progress; the right against discrimination based on religion, race or ethnicity; perception that the Joint Terrorism Task Force (JTTF-K) agencies is an agent of extra-judicial killings; and security law (2014) used to terrorize, detain, arrest, search and kill innocent citizens.

4.3 Counter-Terrorism Strategies that Promote Human Rights

The study identified counter-terrorism strategies that promote human rights in Kenya. It examined the counter-terrorism strategies to be adopted in respect of human rights and human rights practices to be adopted in counter-terrorism. The study found the counter-terrorism strategies that the Government can adopt in respect of human rights to include youth empowerment and employment, enhance surveillance and intelligence-gathering, stop renditions and use of force, proper investigations, uphold human rights and rule of law and public education, awareness and participation. The study found the human rights practices the Government can adopt in counter-terrorism to include improved relations between the security agencies and the citizenry, respect for human rights, non-discrimination and community policing.

5.0 Conclusion and Recommendations

5.1 Conclusions

The study concludes that the counter-terrorism measures in Kenya used by organizations, government and security apparatus vary depending on the threat they are likely to face against terrorism. The counter-terrorism strategies and measures do not uphold human rights and they violate human rights in Kenya. There have been increased violations of human rights in the implementation of counter-terrorism measures, little success in the fight against terrorism by counter-terrorism agencies, effectiveness of the counter-terrorism strategies is work in progress, the right against discrimination based on religion, race or ethnicity, perception that the Joint Terrorism Task Force (JTTF-K) agencies are agents of extra-judicial killings and the Security Laws Amendment Act (2014) used to terrorize, detain, arrest, search and kill innocent citizens. The counter-terrorism strategies that the Government can adopt in respect of human rights to include youth empowerment and employment, enhance surveillance and intelligence gathering, stop renditions and use of force, proper investigations, uphold human rights and rule of law and public education, awareness and participation. The human rights practice the Government can adopt in counter-terrorism include improve relations between the security agencies and the citizenry, respect for human rights, non-discrimination and community policing.

5.2 Recommendations


The study recommends the government to create public awareness and participation on counter-terrorism strategies and measure to build public confidence on their efforts to fight terrorism and to encourage inter-agency cooperation in the implementation of counter-terrorism strategies and measures. The study also recommends that counter-terrorism strategies and measures need to uphold and respect human rights during their implementation. In addition, the government is recommended to make a policy on how counter terrorism strategies and measures are to be undertaken in respect to human rights as well as modernize and equip the security organs to enable them tackle terrorism.

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