THE USE OF INTELLIGENCE GATHERING AND SHARING IN THE MANAGEMENT OF TRANSNATIONAL TERRORISM IN KENYA; 1975 – 2018

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DECLARATION

I declare that this is my original work and has not been submitted for any other degree award in any other university.

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DEDICATION

To my loving mum Gathoni Wanderi who ignited the drive for success within me, my dear wife Caroline Wangui whose confidence in my ability and continuous encouragement has been a great motivation to me, and my lovely children Bernard Kinyua and Tiffany Wanjiru who have been a major inspiration to me.

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ABSTRACT

Intelligence gathering and sharing (IG & S) crosscuts all other approaches whether political, economic, legislative or ideological employed to curb transnational terrorism (TT). However, despite Kenya's efforts to IG & S, transnational terrorism remains a major security threat. This raises the question, is the problem in the institutions, the system or the methods used in IG & S? The central objective of this study therefore was to assess the use of IG & S in the management of TT in Kenya. The research was anchored on four theories: liberalism, realism, constructivism and securitization theories. The research covered diverse categories of informants from various institutions and agencies cross cut by intelligence gathering and sharing in Kenya. These included: security officers from the national police service, members of civil society organizations working in areas of security and human rights, academicians and members of the public. Government officers, members of community policing department and former police reservists were also included. Exploratory research design was applied. An exploratory research design was applied to carry out this study due to its strength in addressing the study problem through an in-depth analysis of issues over time. Based on the design, a historical interrogation approach was applied to interrogate various facets of IG & S and terrorism in Kenya whereby they were chronologically documented, and the changes that have occurred over time analyzed. Purposive sampling and snowballing sampling techniques were used to select a sample size of 113 respondents. Primary data was collected using open and close-ended questionnaires, and interview guide. Data analysis done through mixed analysis method whereby quantitative data was analyzed through descriptive statistics of percentage, mean, standard deviations and frequency. Qualitative data was analyzed through content analysis where themes and or trends were extracted and interpreted in line with the study objectives. The findings revealed that TT has morphed overtime in terms of actors, motives and targets. Initial TT attacks in the country were indirect attacks on U. S and Israel interest but most subsequent attacks have been direct targets to Kenya. The study found that diverse security reforms that have been implemented in the country since independence which have helped to improve IG & S. Major improvements were highlighted to have been streamlined in technology used, training and the information shared. Among the different forms of intelligence, human intelligence and signals intelligence were found to have played the greatest role in containing TT. The study concludes that the question of intelligence being effective or ineffective in curbing transnational terrorism is dependent on the reaction of all security agencies who receive it. Therefore, although TT is still high, effectiveness of IG & S in the country has improved overtime but more needs to be done especially on precision of the target of anticipated attack and timeliness of the intelligence gathered and shared to other security agencies. This is evidenced by numerous incidents of TT thwarted. The study recommends that the ability of terrorists to morph should be met with equal efforts by security forces changing their strategies in gathering and sharing information on terrorism from members of the public. All agencies should continuously go through retooling and capacity building on early warnings. Furthermore, there is need for interagency cooperation in sharing intelligence. Both domestic and foreign agencies involved in intelligence sharing should work together to boost their confidence with each other to enhance their readiness and commitment to share security intelligence.

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OPERATIONAL DEFINITION OF TERMS

Terrorism: Unlawful action committed with the intent of killing or harming civilians or non-combatants to intimidate the public or a section of the public or coerce a state or international institution to do or abstain from a certain thing.

Transnational terrorism: Terrorism activities perpetrated by culprits from a country different from their victims' country.

Counterterrorism: Various activities or measures taken to prevent and foil terrorist acts.

Intelligence: Any secret information, together with the associated activities involved in its collection, designed to support or enhance state(s) security.

Intelligence gathering: The collection of information and its analysis in order to proactively and tactively inform decisions in security related policy and operations.

Intelligence Operations: The collection and evaluation of information to discover capabilities and intentions of an enemy in order to inform appropriate actions for protection against the enemy and exploit the enemy's weaknesses to defeat them.

Intelligence Sharing: This refers to exchanging of data/information/knowledge and or intelligence between states, or between public or private institutions.

War on terror: This refers to the direct and continuous holistic actions against terrorist groups with the goal of disrupting, degrading, and ultimately destroying terrorist organizations.

LIST OF ABBREVIATIONS AND ACRONYMS

AFIC: Africa-Frontex Intelligence Community

APA American Psychological Association

ATPU: Anti-Terror Police Unit

CIA: Central Intelligence Agency

CID: Criminal Investigations Department

DCI: Directorate of Criminal Investigations

EA: East Africa (n)

FBI: Federal Bureau of Investigation

GCHQ: Government Communications Headquarters

GCSB: Government Communications Security Bureau

HUMINT: Human Intelligence

IG & S: Intelligence Gathering and Sharing

KDF: Kenya Defence Forces

MPS: Ministry of Public Security

MSS: Ministry of State Security

NACOSTI: National Council for Science, Technology and Innovation

NCC National Communication Centre

NIA: Nigeria Intelligence Agency

NIS: National Intelligence Service

NSA: National Security Agency

OIC: Office of Interception Centres

OSINT: Open-Source Intelligence

2PLA: General Staff Department Second Department

3PLA: General Staff Department Third Department

4PLA: General Staff Department Fourth Department

PFLP: Popular Front for the Liberation of Palestine

SIGINT: Signals Intelligence

SSA: State Security Agency

TT: Transnational Terrorism

U.K: United Kingdom

UN: United Nations

U.S: United States of America

CHAPTER ONE: INTRODUCTION

This chapter sets off the study by developing background to the study and stating the study problem. In addition, the chapter presents the study objectives; research questions; research premises; justification and significance of the study; as well as the study's scope and limitation. Furthermore, it presents a review of existing literature on the subject under study and the theoretical framework. Finally the chapter explains the methodologies applied in this study.

1.1 Background of the Study

Globally, relations between and among states have been characterized by both conflict and cooperation. One of the areas where states continue to experience major challenges is in dealing with transnational terrorism (TT). Terrorism is among the major security issues in the current international political order. According to Enders and Sandler (2012), terrorism refers to predetermined use or intimidation to use violence by persons or sub-national groups to intimidate more people than the immediate noncombatant victims, so as to achieve a certain social or political motive. There is however no consensus on definition of terrorism as it means different thing to different people in different geographical locations and times. Sometimes it's a matter of perception and ideological stand hence differences in definitions. This reflects the complexity and convolution of the matter from the onset. IG & S strategy therefore takes a pivotal role in curbing TT as it crosscuts other strategies employed which are economic deprivation, ideological change, legislative and political interventions among others.

Terrorism is in two broad categories; domestic and transnational terrorism. The former is homegrown where perpetrators, target and the venue are all from the same nation while TT involves terrorists transiting an international border to perpetrate the attack (Enders, Sandler & Gaibulloev, 2011). Terrorism, especially transnational terrorism is a major security issue that traverses the whole world. Developed and developing countries have been victims of terrorist attacks albeit with different measure, intensity and frequency. No state is safe from terrorism. Notable attacks include the September 2001 attack in U. S. (Pleschinger, 2006); the March 2004 bombings in Madrid, Spain; the July 2005 bombings in London, England (Carsten, 2012); the November 2015 Paris attack (MacAskill, 2015). In Africa, terror attacks involving abductions, beheadings and bombings by *Boko Haram* in West Africa and *al-shabaab* in East Africa region have been frequent (Ankomah, 2014; Lowenthal, 2016). Terrorist attacks have devastating impact in the victim nations including loss of lives, destruction on property, deterring growth-promoting foreign direct investment among others.

Kenya has been a victim of transnational terrorism since the 1970s when the first terrorist attack (i.e. the attack at the OTC bus stop in Nairobi on March 1975) was experienced. However, according to Atellah (2019), the earliest transnational terrorist attack in the country was in December 1980 where the Palestine Liberation Organization attacked the Fairmont Norfolk Hotel in Nairobi. Since then, transnational terrorist attacks have been frequent in the country with Njoku et al (2018) indicating that Kenya experienced 15 incidents of terror attacks in 2010, which increased to 70 by 2012. Nyongesa (2017) adds that between 2012 and 2015, terror attacks significantly increased further with a change in targets which resulted to more devastating effects than before from some of the worst

terror attacks experienced including the 1998 attack on the U. S. embassy in Nairobi, the 2013 Westgate mall attack in Nairobi, the 2014 Mpeketoni attack in Lamu and the 2015 Garissa University attack

It is thus evident that no country is immune to terrorism and as such, countries are under pressure to deal with the terrorism. Consequently, states individually or collectively have developed various strategies as counterterrorism measures. Some of these strategies include inter alia, the use of diplomatic power, economic and financial power, information, law enforcement and military power. Each of these strategies is faulted for one reason or the other. For instance, the United Nations (UN) has made efforts to develop legal and normative means to fight transnational terrorism, yet differing views on terrorism threats among member states' undermine the efforts (Chumba, Okoth & Were, 2016). Rosand (2006) highlight that actions taken independent of the UN such as the Financial Action Task Force, the Proliferation Security Initiative among others, are quite promising but most of them are voluntary and not legally binding. Failure to comply and enforce existing frameworks as well as inadequate resources and poor expertise are also major setbacks (Chenoweth, 2013). Effectiveness of diplomacy is also undermined by inefficient regional and institutional structures and unclear foreign policy objectives and poor coordination (Kwesi, 2012).

A major counterterrorism measure that is widely applied in most states in the fight against terrorism is the use of security intelligence service. Intelligence gathering involves any secret information, together with the activities involved in producing or procuring it, designed to ensure and or enhance national and global security (Martin, 2016). The fact that security problems that intelligence services address are transnational

has created the necessity for cooperation among intelligence service agencies in different states with other intelligence services in the respective region and abroad to share intelligence. For instance, after the Norfolk hotel attack in Nairobi in 1980, activities of the intelligence service in the country were reinterpreted into international matter as opposed to a national matter. Consequently, collaboration with foreign countries like the United States of America and Israel were initiated where they offered assistance in intelligence services given that at the root of the terror attacks were the interests of the two countries (Agbala 2009). The Westgate mall attack in 2013 and the Garissa University attack in 2015 prompted the strengthening of intelligence sharing between Kenya and the U. S. including more funding by the U.S. to facilitate the same (Nkala, 2015). The collaboration continues to be expanded with different intelligence services in different states including the Central Intelligence Agency (CIA) of the U.S, M16 of the U.K., Mossad of Israel and Tanzanian Intelligence Security Service to help the country in detecting imminent terror threats to Kenya.

Intelligence sharing contributes significantly to other counterterrorism strategies where according to Nte (2011), it contributes significantly to both defensive and offensive strategies making it fundamental in collective strategies in the fight against transnational terrorism. Its main advantages include its strong ability in uncertainty reduction, provision of early warning as well as provide insight to policy making in fighting terrorist attacks (Martin, 2016). Therefore, IG & S serves two purposes: informing policy and supporting police, military or covert operations directed towards enhancing state security (Nte, 2011).

Intelligence sharing is grounded on the assumptions that security is best achieved when there are common values, goals, and interest among the community of states on the global stage. This notion dates back to the works of ancient philosophers like Immanuel Kant. According to Doyle and Recchia (2011), Kant in his second definitive article of Perpetual Peace, expresses a liberal assumption that states can progressively promote world peace through international cooperation which reduces uncertainty and improves trust among states, hence attenuating the security dilemma. This has also been supported by contemporary liberalists like Francis Fukuyama. Fukuyama (1992) state that the focus on liberal thought is appropriate because the collapse of communism and the end of the Cold War marked the triumph of liberalism as the philosophy for the future which forms the core of collective security that deters aggression and enhances cooperation and peace between states. Intelligence sharing falls within this notion of interdependence and cooperation between states. The fundamental question however is, do states cooperate adequately in intelligence gathering and sharing in the fight against transnational terrorism?

International cooperation and collective efforts in the fight against global terrorism makes sense within the framework of liberal internationalism. This is because, as mentioned earlier**,** of the dynamic, complex, and perverse character of global terrorism. Accordingly states across the world have adopted and enhanced their IG & S mechanisms geared towards fighting transnational terrorism. This has seen different countries establish multiple IG & S agencies all in bid to enhance intelligence gathering and sharing within and between the states. The question therefore is, has this promoted IG & S and what are the implications on the fight against terrorism? The U.S has one the

complex IG & S system comprising of three major agencies: the Federal Bureau of Investigations (FBI), the Central Intelligence Agency (CIA) and the National Security Agency (NSA) (Dailey, 2017). United Kingdom (UK) also has a highly recognized IG & S system with three major agencies: the Security Service also called "M15"; the Secret Intelligence Service (SIS) popularly called "M16"; and the Government Communications Headquarters (GCHQ) (Chalk & Rosenau, 2004). China uses less understood IG & S system which Costello (2016) classifies into civilian and the military side intelligence. The civilian intelligence system comprises of the Ministry of Public Service (MPS) and the Ministry of State Security (MSS). The military side comprises three major branches known as General Staff Departments including the Second Department (2PLA); the Third Department (3PLA) and the Fourth Department (4PLA).

To streamline their intelligence sharing developed states collaborate with other developed states and with the developing states too. This is manifested in various bilateral and multilateral intelligence sharing arrangements among them. For instance, the Five Eyes comprises a coalition of surveillance agencies from different countries including NSA (U.S); GCHQ (U.K); Australian Signals Directorate (ASD); Communications Security Establishment (CSE) from Canada; and Government Communications Security Bureau (GCSB) from New Zealand (Dailey, 2017). Another one is *the Club de Berne,* an IG & S alliance for the European Union (EU) member states. Moreover, EUROPOL – EU's law enforcement agency further facilitates IG & S among members of EU (Walsh, 2010). Another notable intelligence sharing arrangement is the Shanghai Cooperation Organization (SCO), an IG & S alliance comprising of Uzbekistan, Kazakhstan, Tajikistan, Kyrgyzstan, Russia and China (Albert, 2015).

In Africa, different states have also established different intelligence sharing mechanisms. For instance, in Nigeria, Nte (2011) explains that IG & S is attached to several institutions in charge of the country's internal and external security including the Nigeria Police; Nigerian Armed Forces; Nigeria Intelligence Agency (NIA); Security and Criminal Intelligence Bureau of Nigerian Police; Nigeria Immigration Services; Directorate of State Security Services; among others. Nte (2011) adds that each institution has rules and regulations designed to ensure the security of intelligence, which makes information classification to restricted, confidential, secret and top secret to remain a permanent feature within the system. Unlike Nigeria, South Africa has a more defined IG & S sector. In South Africa, Swart (2016) explains that intelligence gathering is the responsibility of the South African Police Service Crime Intelligence Division and the State Security Agency (SSA). Swart (2016) elaborates that with regard to the SSA, four main agencies are at the core of intelligence gathering: the Domestic Branch of the SSA (Formerly known as the National Intelligence Agency); the Foreign Branch of the SSA (Formerly known as the South African Secret Service); the National Communication Centre (NCC), and the Office of Interception Centres (OIC).

African countries have also engaged in various intelligence sharing arrangements including the 2010 establishment of African-Frontex Intelligence Community (AFIC) that facilitates the sharing of knowledge and IG & S pertaining to border security between African states and Frontex which is a European Agency (Frontex, 2016). There is also the Great Lakes Regions Intelligence Fusion Center that enabling intelligence sharing among several states including Kenya, Uganda, Tanzania, Rwanda, Burundi, Sudan, Zambia, Angola, Democratic Republic of Congo, and the Central African

Republic (Addamah, 2012). In the East African (EA) region, the main EA regional bodies supporting counterterrorism in the region that entails enhancement of intelligence sharing include the International Conference on the Great Lakes Region (ICGLR), East African Community (EAC) and the Intergovernmental Authority on Development (IGAD) (Rosand et al, 2009). The states also collaborate with international partners especially the U.S (in Kenya, Uganda, Tanzania and Rwanda) and France (in Burundi) to enhance their intelligence sharing in combating terrorism. Yet, despite the efforts, transnational terrorism has persistently remained a major threat in the different regions in Africa especially in West Africa where the attacks are mainly orchestrated by the *Boko Haram,* and in East Africa where the *Al-shabaab* has orchestrated most of the attacks. This raises the question, with all the intelligence sharing arrangements, why is transnational terrorism still persistent? Is there adequate sharing of intelligence between the states? Does the intelligence sharing work against some actors' strategic goals or interests? These questions are part of the core motivation for this research whose focus is on the Kenyan case.

In Kenya, the National Intelligence Service (NIS) is the main institution charged with the responsibility of intelligence gathering under Article 242 of Kenya's constitution. The Criminal Intelligence Unit of the CID also contributes greatly in intelligence gathering under its mandate as stipulated under the National Police service Act, 2011 (Directorate of Criminal Investigations, 2015). To enhance its intelligence in its efforts to curb transnational terrorism, Kenya has also engaged in various intelligence sharing partnerships with other states. In addition to being a member of the Great Lakes Region Intelligence Fusion Centre, Kenya has often partnered with U.S and Israel in sharing

intelligence in efforts to curb transnational terrorism (Otiso, 2009). Kenya and the Dutch (Netherlands) Government also signed an agreement to partner in counterterrorism through intelligence sharing among other measures (Muraya, 2017).

In spite of the continuous streamlining of IG & S, transnational terrorism has persistently remained a major security threat in many countries including Kenya. There are instances that successful intelligence sharing thwarted transnational terrorist attacks including the plot to attack an Israel aircraft (*El Al* airline) in 1976 that was prevented through effectively coordinated IG & S between Kenya and Israel (Mogire & Agade, 2011). However, several transnational terrorism attacks that have been successfully executed in Kenya resulting to huge losses in human life as well as properties are clear indication that, transnational terrorism remains a major threat to the country's security. This raises the issue on the effectiveness of IG&S and the need to interrogate the effectiveness of IG & S in the fight against transnational terrorism in the country. Curiously, do some actors have some priori information on the attacks before they happen yet withhold it and why? Does it have anything to do with the principles of IG & S? Interestingly when developing countries are hit, superpowers claim they had prior intelligence of the attack and due to the sensitivity of the matter, the sharing was restricted. If the sharing is shrouded in secrecy and state-centric interests, how effective is it?

In its nature, IG & S is underpinned by various principles. First is the principle of secrecy. Intelligence is one of the highly guarded state secret and states seek to keep their intelligence as much as possible (Wippl, 2012). Thus, whereas there are clear advantages of IG & S, states withhold information from their security strategic partners. This raises questions on free and adequate sharing of intelligence. Does IG & S destroy the very

fundamental of security intelligence? The conundrum is, how can states effectively share intelligence whereas they tend to conceal it for their self-interest and survival? How can intelligence be shared while retaining its very fundamental of secrecy? This portrays the nature of IG & S arena as full of dilemmas.

Cooperation is another principle connected to the secrecy principle. The dilemma caused by the secrecy principle creates a mutual suspicion which affects inter-state cooperation in IG & S. Sandler and Arce (2003) use a game-theoretic model to demonstrate the benefits of cooperating using two states and a terrorist group, and shows "a prisoner's dilemma" (from the game theory) in which countries find themselves in IG & S arrangements. In the model by Sandler and Arce (2003), the two states opts to prevent the terrorists without cooperating (each seeking to maximize its self interest without caring what action the other one takes), despite the best alternative being the two states cooperating and preempting. In another scenario, Sandler and Arce (2005) demonstrate the very optimal option for two states to work together. They cite a scenario that includes IG & S. Two states infiltrating one same terrorist group is being redundant and aggravates chances of their discovery (Sandler & Arce, 2005). Thus, even where states have entered into bilateral or multilateral intelligence sharing arrangements, the tendency for an individual state to defect and prefer to conceal its information for its own interest is high. How can a state share out its intelligence in the fight against terror without exposing its own security? Yet, lack of sharing its intelligence undermines the fight against global terror. How do states then handle this conundrum in their use of IG & S to fight transnational terrorism? All these questions reflect the need for the very principles of IG

& S to be interrogated as to whether they promote or undermine the effectiveness of its application by states worldwide in the fight against transnational terrorism.

States enter into agreements as a way of ensuring integrity of shared information. But in a world of mutual distrust and suspicion, are pacts strong enough to guarantee parties that IG & S safeguards their own security integrity? What implications does the distrust and suspicion in the process cause in the application of IG & S in the fight against terrorism? These were investigated in this research by interrogating the role of IG & S in curbing transnational terrorism in Kenya. Kenya has attracted a major global interest both as a trading and security partner as well as an investment hub. This coupled with its close proximity to Somali which is believed to be a major terrorist ground, makes Kenya a major target of transnational terrorism. Thus, Kenya provides a critical context for examining the complexities of IG & S in curbing transnational terrorism.

There are several studies on terrorism but majority of them have mainly focused on terrorism and its effects as well as counterterrorism strategies but almost none of them have emphasized on investigating in details the application of IG & S in the fight against transnational terrorism. Studies like Demeke and Gebru (2014), Chome (2016), Van Metre (2016) and Ochieng' (2016) have been conducted on terrorism but they have scarcely investigated the effectiveness of IG & S amidst the complexities involved in its application in the fight against terrorism, to shed light on the areas that demand attention for streamlining IG & S.

Demeke and Gebru (2014) assessed the role of IGAD in fighting terrorism. They revealed that IGAD was over relying on foreign help and hard power in fighting terrorism in the

region. However, it did not examine the use IG & S by Kenya as member state of IGAD in the fight against terrorism. Chome (2016) explored the relationships between resilience and risk to clan violence and to violent extremism in northeastern Kenya. This study demonstrated the contribution of various factors to clan conflict and how this ends up promoting violent extremism. However the study provided no insight pertaining to the use of IG & S in combating violent extremism and terrorism.

Van Metre (2016) assessed community resilience to violent extremism in Kenya. The study described the various ways in which local violent extremism has been thwarted and countered through resilience but did not consider the role of IG & S in the process. Ochieng' (2016) explored security sector reforms and their implication in fighting terrorism in Kenya between 1998 and 2015. This study acknowledged the critical role played by intelligence in fighting terrorism and highlighted some of the reforms and challenges therein. However, the study does not explore international politics associated with IG & S and its implication on Kenya's fight against terrorism. Thus, it did not give adequate insights regarding the use of IG & S in the country and how the specific issues undermining the effectiveness in IG & S should be addressed.

Therefore, there are scarce international and local studies assessing the use of IG & S in the fight against transnational terrorism. Journalists and politicians only express a perceived failure of IG & S through innuendos in aftermath of the attacks which lacks empirical grounds to guide any reforms. Thus, very scarce empirical evidence exists regarding application of IG & S in the fight against transnational terrorism in Kenya. Consequently, there is inadequate information to guide on necessary policy reforms, strategies and programmes of action to enhance the effectiveness of IG & S in curbing

transnational terrorism in Kenya. These studies have not focused on IG & S in Kenya and more significantly. This observation is particularly relevant because Kenya has been a centre of terrorist attacks, Somme of these attacks happened when allegedly intelligence was in the hands of our strategic intelligence partners. That is why the politics of IG & S become critical. Research is thus necessary to interrogate in depth, the developments in use of IG & S over time in the fight against transnational terrorism in Kenya with a view to explore the international politics of IG & S and identify the issues affecting its effectiveness, so as to inform on the necessary improvements that are needed. In view of the above, this study focuses on the international politics of IG & S an interrogation on the role played by IG & S to curb transnational terrorism in the country.

1.2 Statement of the Problem

Transnational terrorism has been a major security problem in Kenya. One of the major areas that the government has been striving to streamline over time to address TT is in the security intelligence. Given the complex, dynamic and perverse nature of TT, Kenya has had to even adopt a collective approach characterized by partnering with other states in bilateral and multilateral IG & S arrangements to counter the problem. Nonetheless, TT has continued to prevail in the country as evidenced by persistent attacks over time. This raises fundamental questions that need to be interrogated which motivated this study: how far do the states in IG & S arrangements go in sharing information to abate TT in Kenya? Do these attacks get all the security intelligence agencies involved by surprise? Is the problem in the institutions, the system or the methods used by the actors in IG & S?

The concerns relate to pertinent issues around the principles underpinning IG & S which reflect a major dilemma. For instance, intelligence sharing though crucial in global

counterterrorism may at the same time affect other. Again, IG & S is sometimes perceived as violating some human rights, yet intelligence information is necessary for counterterrorism as transnational terrorism itself continues to violate the very rights. There are further complexities arising from state sovereignty (and national interests) including national security, political and even economic interests that might largely undermine cooperation. What if sharing intelligence might undermine the very self-interest? Could this be the reason for states often hiding behind sovereignty to withhold some of the vital information? Behind the scenes, concealment of the very information needed contravenes the very essence of IG & S in the fight against transnational terrorism. Despite a lot been written on terrorism in literature, little has been done to interrogate the effectiveness of IG & S in the management of terrorism particularly within the Kenyan context. Therefore, with specific focus on Kenya's use of intelligence gathering and sharing in the management of TT in Kenya, this work therefore interrogates how far states can go in sharing crucial intelligence critical to counterterrorism when doing the same might expose their own national security systems and affect their interests.

1.3 Objectives of the Study

1.3.1 General Objective

The general objective of the study was to interrogate the use of IG & S in the management of transnational terrorism in Kenya.

1.3.2 Specific Objectives

The research sought to achieve four specific objectives:

(i) To interrogate the emergence and evolution of transnational terrorism in Kenya.

(ii) To appraise the security sector reforms in the fight against terrorism in Kenya.

(iii) To interrogate the integration of intelligence gathering and sharing in the fight against terrorism in Kenya.

(iv) To identify the major issues and dilemmas in intelligence gathering and sharing as a counterterrorism strategy

(v) To explore appropriate measures for strengthening IG & S in Kenya

1.4 Research Questions

The research sought to answer the following queries:

(i) To what extent has transnational terrorism in Kenya changed since 1975?

(ii) What are the reforms that have been implemented in the security sector in the fight against terrorism in Kenya?

(iii) How is intelligence gathering and sharing being integrated in Kenya as a counterterrorism strategy?

(iv) What are the major issues and dilemmas in intelligence gathering and sharing as a counterterrorism strategy?

(v) How can IG & S be strengthened in Kenya?

1.5 Research Premises

These premises anchored the study:

(i) Transnational terrorism in Kenya has significantly changed since 1975.

(ii) Several security sector reforms have been undertaken in Kenya since 1975.

(iii) Different forms of intelligence gathering and sharing have been applied in Kenya in the fight against terrorism.

(iv) There are major issues and dilemmas in intelligence gathering and sharing as a counterterrorism strategy

(v) Strengthening intelligence gathering and sharing would tremendously reduce terror related acts in Kenya

1.6 Justification and Significance of the Study

While quite several researchers (Klein, 2017; Ibrahim, 2010) have studied terrorism, they do not adequately and holistically analyze the link between transnational terrorism and IG & S in Kenya. Klein (2017) and Ibrahim (2010) have investigated the factors that promote terrorism and their implications on the victims. Moreover, these scholars emphasize on how the US has responded to terrorism after the 9/11 attacks, and how it has dealt with the al-Qaeda and their activities; without getting deeper into the implications and effects of the 9/11 attack on IG & S in other countries particularly in the case of Kenya.

Another set of past studies (Botha, 2013; Shinn, 2007) have focused on regional level in the fight against terrorism and radicalization without making significant interrogation on the issue of intelligence gathering and sharing in a holistic approach. There are also some studies (Aronson, 2013; Mogire & Agade, 2011) focusing on counterterrorism measures in Kenya without detailed investigation on the intelligence docket. The studies only provide a broad framework on the war on terror without providing a deep critical assessment into IG & S in the fight against transnational terrorism. As such they provide little insight regarding the developments in IG & S and the implications in the fight

against transnational terrorism in Kenya. Lapses in the IG & S system in curbing transnational terrorism have therefore not been studied in depth. Moreover, the discourse in literature is largely focused on curbing terrorism with little focus on IG & S. Moreover, there is not much that has been written in Kenya on IG & S yet it is marred by transnational terrorism orchestrated by al-Shabaab (affiliate to al-Qaeda). This study therefore fills this academic lacuna by analyzing the evolution, growth and prospects of IG & S in curbing transnational terrorism in Kenya.

This study focused on Kenya due to increased cases of terror in the country over the recent past. Between 2010 and 2012 for instance, Njoku et al (2018) indicate that terror attacks increased from 15 to 70. From 2012 to 2015, Nyongesa (2017) indicates that the number of attacks further increased with a change in targets too causing more devastating effects from the attacks – some of these major fatal attacks include the 2013 Westgate mall attack in Nairobi, the 2014 Mpeketoni attack in Lamu (Coast region) and the 2015 Garissa University attack in Garissa (North Eastern region). Moreover, proximity of the country to Somalia and the association with the U.S increases the country's vulnerability to transnational terrorism.

The study largely focused on the period 1975 to 2018 because according to Atellah (2019), the first terror attack in Kenya occurred in 1975 at the OTC bus stop in Nairobi. Since then, Kenya has been experiencing terror attacks despite the various security measures that have been taken in the fight against terrorism. Therefore, it is important that while interrogating the strategies undertaken to fight against terrorism, the trend be reviewed from when it began for a comprehensive analysis and understanding of the transformation in both the strategies and terrorism threat. To this end therefore,

considering the period 1975-2018 in this study helps to yield comprehensive insights that informs on the most appropriate measures in strengthening IG & S to address the various operational gaps in the fight against terrorism. To achieve this, the study explores the following: Does IG & S destroy the very fundamental of security intelligence? The conundrum is, how can states effectively share intelligence whereas they tend to conceal it for their self-interest and survival? How can intelligence be shared while retaining its very fundamental of secrecy?

The study is significant to several stakeholders. First, the findings may benefit academia by advancing research and knowledge about the fight against terrorism. It extends the body of literature on intelligence gathering and sharing in curbing terrorism. As such, scholars who may want to advance research in this arena may use the study findings for reference. The study may also be valuable to the policy makers in the security sector in different countries including Kenya. In particular, the findings may be useful to organs in charge of security for the country together with its citizens as well in different countries.

By analyzing the international politics of IG & S, this study provides empirical evidence on the dilemmas in the application of IG & S in the fight against transnational terrorism and how they affect the effectiveness of IG & S. This provides insights to the national security agencies of different states that can enable them to make more informed policies designed to ensure that IG & S is streamlined to enhance its effectiveness. Kenya in particular, through the Ministry of Interior and Coordination of National Government, can obtain useful insights from this study and use them to formulate new policies as well as streamline the existing ones on intelligence gathering and sharing.

Many countries have been victims of transnational terrorism even as IG & S is being intensified. This study is therefore useful to the different states' agencies engaged in intelligence sharing agreements by providing insights in identifying the critical issues to be addressed as far as sharing of intelligence between different states is concerned so that going forward, their practice of sharing intelligence may be more productive and effective in fighting global terrorism.

1.7 Scope and Limitations of the Study

While there are various measures involved in the fight against transnational terrorism, this study only focused on the use of intelligence gathering and sharing. This is because it crosscuts the many other strategies used by informing their implementation. As Flavius-Cristian and Andreea (2013) indicated, intelligence gathering and sharing is at the core in the fight against terrorism.

Although the subject of terrorism is a transnational issue, the study was conducted in Kenya since the insecurity from terrorism threat in the country is largely connected to international factors. Kenya's cooperation with other states especially the United States of America and Israel is one such case (Otiso, 2009). In addition, majority of the terrorist attacks are largely propagated by terrorists based in other countries especially the al-Shabaab in Somalia and al-Qaeda in the Middle East (Nzes, 2014). The period under focus was from 1975 when the first terror attack was experienced in the country to 2018. However, the research also covered the period before 1975 dating back to the pre-colonial period for the purpose of interrogating the development of IG & S and how its

integration a counterterrorism strategy began in the country. The period after 2018 was also interrogated where the researcher deemed necessary.

The major limitation encountered was the high sensitivity of the topic which resulted into denial of authority to carry out the research in some departments in some of the agencies at first. The high sensitivity of the topic also made some respondents decline to be interviewed. To mitigate this, the researcher assured the respondents that their anonymity was to be maintained and that any information they would give would be treated as confidential; and would be used strictly for academic purpose only. Moreover, the researcher's occupation as part of the security intelligence system in the country enabled access to classified information, and enabled the establishment of good rapport with many key informants that won their trust and willingness to disclose the information needed.

1.8 Literature Review and Theoretical Framework

This section presents review of relevant literature to the research problem. In this regard, the review is organized into the major themes in literature based on the key variables of the study. That is, terrorism and intelligence gathering and sharing. The subject matter is a complex subject that has occupied the attention of scholars. Broadly speaking it falls within security and international relations. It is a critical subject matter. In this case, scholars have divergent perspectives predominantly focusing on CT strategies. In particular, the study focuses on the international politics of IG & S in its application in the security sphere as a counterterrorism strategy. The aim is to analyze and bring out the issues to answer the question, why does transnational terrorism still persist despite the developments in IG & S including state partnerships in intelligence sharing agreements?

To this end therefore, a critical review of the literature on the definition and nature of terrorism as put across by different scholars and the emerging gaps in the arguments raised. Moreover, a critical review of the literature on intelligence gathering and intelligence sharing is presented. Major themes explored on these include the categorization of security intelligence, its nature and the principles involved, nature of intelligence sharing, the dilemmas involved and the challenges encountered when using IG & S in the fight against transnational terrorism. The section also describes the theories that were used in the study and demonstrate how the different concepts in the theories were applied.

1.8.1 Transnational Terrorism

As mentioned earlier, terrorism is not a single country problem but a global security problem. To this end therefore, the importance of a universal definition cannot be overstated. This however is still a major problem because there is no universal definition of terrorism. In Kenya, the Prevention of Terrorism Act (2012) which is the major antiterrorism legislation lacks a clear definition of 'terrorism' and 'terrorist'. Instead, the Act only contains a vague definition of 'terrorist act' and 'terrorist group'. The Act defines a terrorist act as an act or threat of action which involves the use violence used against someone; endangering of another person's life; a major risk to the safety or health of the public or a section of the public; major property damage; use of explosives or firearms; release of any hazardous, poisonous, or radioactive substance to the environment; tampering with electronic system causing communication, transport, financial and emergency services, as well as prejudicing national security, which is aimed at intimidating the citizenry or a section of the citizenry, compel the government or an

international organization to perform or refrain from a particular action, and destabilize religious, political, constitutional, social and economic institutions in the country. The Act then defines a terrorist group as an entity whose one of its purposes and activities is committing or facilitating the commission of terrorist act; or a specified entity.

Even in the academia, the definition of terrorism is highlighted as a contentious issue with Jackson et al. (2011) indicating that the definition is subject to the perspective of the one defining it. This poses the question, how then can states purport to engage in collective counterterrorism strategies such as sharing of intelligence when a universal definition of the very vice they purport to fight does not exist? How then do various states find themselves coming together to fight what has not been universally defined? Do they agree to disagree on what is terrorism or do they define it within their interest and fight it based on this very interest? Have there been attempts to define terrorism and what is the missing ingredient in such attempted definitions that renders them unfit for universal acceptance? To understand these, it is important to begin the interrogation from the origin of the term 'terrorism' and traverse through some of the definitions that scholars have attempted to put across for the term.

In its root, the word "terrorism" originated from a Latin word "*terrre*" which means to "frighten" (Online Entymology Dictionary, 2018). This could probably explain why most authors seem to incorporate in their definitions of terrorism, a dimension of the intent to create fear. For instance, Grimland, Apter and Kerkhof (2006) broadly conceive it as irregular usage of violence directed to intimidate civilians to achieve a political motive. However, this definition conceives terrorism as only anchored on political agenda which is not necessarily the case as there are terrorists whose agenda is based on religious and

other social ideologies. Knight (2007) gives a general definition of terrorism as any action that involves unconventional use of violence against civilians for political gain. However, this definition perceives terrorism as only anchored on political agenda which is not necessarily the case as there are terrorists whose agenda is based on religious and other social ideologies. Loza (2007) perceive terrorism as an action designed to intimidate non-combatants, innocent bystanders, with the aim to change public policy or give up something of value. This definition however, is rather ambiguous since "something of value" as captured in it could draw the conventional violent crimes that are squarely about the forceful acquisition of tangible things or properties.

Enders and Sandler (2012) define terrorism as the premeditated use or threat to use violence by individuals or sub-national groups to obtain a political or social objective through the intimidation of a large audience beyond that of the immediate noncombatant victims. However, the term 'large' is relative and its inclusion in the definition of terrorism creates ambiguity on what should be the size of the victims involved for the violent act to be categorized as an act of terrorism? Again, if only few members feel intimidated by the violent act, among the audience apart from the immediate noncombatant victims, does this disqualify the act from being labeled as terrorism? Establishing a ratio of the size of the immediate non-combatant victims to the size of the intimidated audience beyond so as to decide what is terrorism or not, is also irrational.

Schmid (2011) made efforts to capture diverse dimensions after a review of several definitions, and proposed what he termed as "the academic consensus definition of terrorism". He defined terrorism as a special form or tactic of fear-generating, coercive political violence on one hand, and on the other hand, a conspiratorial practice of

calculated, demonstrative, direct violent action without legal or moral restraints, targeting mainly civilians and non-combatants, performed for its propagandistic and psychological effects on various audiences and conflict parties. Nevertheless, it still lacks validity in international law given that the General Assembly of the United Nations is yet to give a legally universal definition of what constitutes terrorism. Thus, the controversy on what exactly amounts to terrorism remains a controversy even as the fight against it continues worldwide.

It is therefore evident in the review above that the various definitions proposed by scholars on terrorism are quite wanting and cannot be universally applied. However, it emerges from the definitions that there are two common components that characterize terrorism – use of violence to intimidate and a goal to accomplish through the intimidation. This concurs with what Sandler (2015) identified as the distinguishing components of terrorism including: use of violence and social or political goal which the militants seek to further through dreadful acts of violence to intimidate an audience. However, the transnational nature of terrorism is distinguished by the following features according to Enders, Sandler and Gaibulloev (2018): perpetrators being from a country different from the victims' country; terrorists trespassing international territorial boundaries to execute attacks or directing attacks at foreign envoys; terrorism events commencing in a particular state and ending in a different state; and terrorists targeting international peacekeeping missions or international organizations. In this regard, for the purpose of this study, the research adopted the definition postulated by the United Nations in 2001 as cited by Bruce (2013), which defines terrorism as acts of violence that results or likely to result into an economic loss that by nature or context are aimed at

intimidating a government, or an international organization to do or desist from doing a particular action. It is however important to emphasize that this is still not a universally accepted definition of terrorism. Bruce (2013) asserts that the U. N has not been able to come up with a definition that is universally accepted among member states, with the Head of counterterrorism committee executive directorate in 2010 confessing that the lack of a universal definition of terrorism was a major challenge in counterterrorism. So, the fundamental question then is, how have the states been dealing with terrorism without a clear definition on what it is exactly? What strategies have they been applying apart from IG & S? It is important to understand these strategies before exploring the application of IG & S since they are the very strategies cross cut by IG & S in its application as a counterterrorism strategy.

Despite the lack of a universal definition on terrorism, it is evident in literature that states have been applying various strategies in the fight against terrorism. One of the strategies is the formulation and implementation of antiterrorism policies. For instance, according to Wensik et al. (2017), the European Council in their meeting of 15 December 2016, emphasized the need for political consensus on directives and proposed legislations in counter-terrorism; the necessity for swift adoption of proposals regulating firearms and combating money-laundering, together with the importance of implementing the new passenger name record (PNR) legislation. Another strategy is the use of regional bodies. Kenya for instance is a member of various initiatives designed to enhance the fight against transnational terrorism in the EA region which according to Ploch (2010) include the East African Regional Strategic Initiative (EARSI) and the Combined Joint Task Force-Horn of Africa (CJTF-HOA); the Anti-Terrorism Assistance (ATA) program by

the US Department of State (Aronson, 2013); as well as the counterterrorism efforts by IGAD (Rosand et al., 2009).

Training of special forces is another strategy used in fighting TT. For instance, according to Aronson (2013), Kenya through the assistance of the U.S (under the ATA program) invests in high level training of special security forces to fight terrorism which has led to the establishment of the Anti-Terror Police Unit (ATPU). Aronson (2013) indicates that more than five hundred Kenyan security officers have undergone special training in the U.S and other U.S designated training grounds in East Africa, under the ATA program since 2002. Moreover, Gisesa (2020) further indicates that Kenya also works with the U.S, Britain and Israel in training and equipping special paramilitary units specifically dedicated to hunt down terrorists. According to Gisesa (2020), the CIA in the U.S and Israel's Mossad assists in training and providing weapons to the Special Anti-Terror Team (SATT) of the Recce squad. The paramilitary team's raids against terrorists are coordinated by the CIA and Kenya's NIS.

Doubtless therefore, as evident in the above paragraphs, states continue to engage different counterterrorism strategies. However, these do not seem to have succeeded in fighting terrorism since terrorist attacks continues to be experienced in different parts of the world. Some of the terror attacks executed by terrorists worldwide include the simultaneous attacks on US embassies in Kenya and Tanzania in 1998 (Kagwanja, 2006; Otiso, 2009); the 2001 attacks in the US which killed around 3,000 people (Rourke, 2011); the 2004 Madrid train station attack and the London subway terrorist attack in 2005 (Mingst, 2008) among others. The question is, what motivates the terrorists to carry

out the attacks? To understand this, it is important to assess the various forms of terrorism.

According to Grothaus (2018), with the changes experienced in the nature, motives and targets of what has been considered as terror attacks, terrorism has been categorized differently overtime. Traditionally, it has often been categorized into state and non-state terrorism whereby according to Grothaus (2018), state terrorism is where the regime in power in given country controls the citizenry by using terror, while non-state terrorism is orchestrated by sub-groups within a given state seeking to accomplish a particular motive through terror. Grothaus (2018) further demonstrates that non-state terrorism has been further split into different categories including among others:

Religious terrorism: This is mainly orchestrated by groups that seek to further religious ideologies. For instance, the *Al-Qaeda* terrorist groups based in the Middle East is more of a religious terrorist group.

Right wing terrorism: This is characterized by militias who fight liberal governments to preserve traditional social orders and are often racially motivated hence seek to marginalize minorities. These include terrorist groups include the Klu Klux Klan and Neo-Fascists.

Left wing terrorism: In this type of terrorism, the motive is mainly to overthrow capitalist democracies and replace them with socialist or communist governments. This was common during the cold war era. The Revolutionary People's Liberation Party-Front in Turkey and The Revolutionary Armed Forces of Columbia (FARC) are good examples of left wing terrorist groups.

Separatist terrorism: The motive in this type of terrorism is to fragment a country and establish a new state and is often orchestrated by the minorities within a state who perceive they are being discriminated from the majority. Prominent examples are the ETA Basque separatists in Spain, the Chechen terrorists in Chechnya, the Tamil Tigers in Sri Lanka, the Kurdish PKK in Turkey, and the Quebec Liberation Front in Canada.

There has been a shift in categorization of terrorism where recently, scholars like Enders, Sandler and Gaibulloev (2011) have categorized it into domestic and transnational terrorism. The former is homegrown where orchestrators, target and the venue are all from the same nation. On the other hand, transnational terrorism (TT) involves terrorists transiting an international border to perpetrate the attack (Enders, Sandler & Gaibulloev, 2011).

Irrespective of the form of terrorism, the aim of counterterrorism strategies is to stop terrorist attacks. In this regard, the effectiveness of the various antiterrorism policies, protocols and treaties that have been introduced in Kenya and the East African region at large is questionable given that terrorism in the region is still high. On the basis of the Plan

Given that the various counterterrorism strategies are crosscut by IG & S, the question therefore is what are the gaps in IG & S that makes the attacks to persist despite the various counterterrorism strategies put in place? Do some actors have priori knowledge on the attacks but withhold it and why do they withhold it? To gain some insights on

these dilemmas, the next sections (1.8.2, 1.8.3 and 1.8.4) reviews intelligence gathering and sharing to understand the issues.

1.8.2 Intelligence Gathering

Like in the case of terrorism, it is important to have a universal definition of intelligence for a common understanding on what states that are in intelligence sharing agreements are expected to share with one another in fighting terrorism. However, according to Martin (2016), there is yet to be established a consensus on the definition of intelligence due to the diverse understanding across states and agencies on what constitutes intelligence, as well as the fact that it continues to evolve with the dynamism in the security environment varies across states and agencies. As a result, the term precisely varies in meaning among peoples and governments. The question then is, how do the definitions differ and how does this affect its application in the fight against terrorism? This necessitates a critical review of some of the definitions by scholars on intelligence gathering.

The term "Intelligence" is derived from the Latin word "*Intellectio*" which means "knowledge capacity" (Flavius-Cristian & Andreea, 2013). According to Flavius-Cristian and Andreea (2013), intelligence is information that has been processed so that it contains a particular meaning for a given recipient. This definition however ignores the fact that if the meaning does not address national security interest, it cannot suffice in the state security arena. A more elaborate definition by Martin (2016) states that intelligence is any secret information, together with the activities conducted to produce or procure it, designed to maintain or improve national and international security. This definition however excludes open sources which are also sources of information that may be of

national or international security interest. According to Walsh (2010), intelligence gathering entails collecting both secret information and information in the public domain, protecting and analyzing it to minimize decision makers' uncertainty regarding a foreign policy issue. This definition is limited because it does not take into account that intelligence gathering is not a question of foreign policy issue only but domestic security problems as well.

The common idea from the various definitions of intelligence and intelligence gathering is that it entails the collection of information to aid in protecting a national security interest. Nevertheless, there is still no consensus on the definition of intelligence. However, for the purpose of this research, since it was carried out in Kenya, the term has been used as defined by the Kenya National Intelligence Service Act of 2012. In line with the Act therefore, intelligence in this study refers to information that has been collated, evaluated and analyzed and which is relevant to a government's decision making formulation or implementation of policy in relation to any internal or external threat or potential threat to national security as well as opportunities relevant to the protection and promotion of national security and national interests (Republic of Kenya, 2012).

Intelligence gathering is done for a state by agencies set by the government, where the government's executive arm is the principal recipient and user of the intelligence. Dailey (2017) highlights different forms of intelligence including: "Signals Intelligence (SIGINT); Human Intelligence (HUMINT); Geospatial Intelligence (GEOINT); Measurement and Signatures Intelligence (MASINT); and Open-Source Intelligence (OSINT)." Signals intelligence entail information collected from communications interception; human intelligence entails information obtained through direct personal

involvement of officers with persons; while open source intelligence includes information obtained from publically available materials (Cornall & Black, 2011). There has been a significant evolution of intelligence gathering over the past years that reflect the dynamism in the nature of threats as well as the changes in opinion among the public and political divide.

During the cold war, HUMINT was dominant (Martin, 2016). However, with the advances in technology, focus diverted to SIGINT in the 1950s and 60s. That is, technology being considered more reliable was preferred to human factor, hence interception of communications became common (Bellaby, 2014). Emphasis on technology went on with less controversy until the 9/11 attacks happened. The attacks depicted a failure in understanding the emerging terrorist threats and hence stirred the necessity for refocusing on HUMINT and advancing SIGINT to deter more attacks. As a result, since then, there has been an increment in technical capabilities available to intelligence agencies and an expansion in collecting of signals to exceptional levels (Andrews & Lindeman, 2013). However, the fact that terrorism has also continuously prevailed questions the effectiveness of the reforms that has taken place. There is therefore a necessity for an interrogation on what reforms have taken place in intelligence gathering in different contexts and what have been the implications of these reforms on the trends in transnational terrorism?

Intelligence gathering is done within a context characterized by high secrecy. Nonetheless, the degree of the requisite secrecy for effectiveness poses a major dilemma. Best and Cumming (2007) posit that analysis of intelligence is highly dependent on open sources, but the information is turned into ‘a secret’ upon getting into the IG & S system.

Nonetheless, as Martin (2016) highlights, the importance of secrecy applies not only to the information alone, but also the methods applied in gathering it as well as the sources from which it was obtained. Thus, though the basis for intelligence goes beyond classified materials, it is critical to observe secrecy in order to have adequate knowledge required for prevention and forewarning against possible attacks. If the information is meant to help prevent attack, the question therefore is how is intelligence gathering still effective if the information has to remain under cover?

Forcese (2011) also points out that intelligence gathering could prompt the need to apply the norms in international human rights. In his argument, Forcese asserts that HUMINT may entail interrogations, which raise concern on how these interrogations are conducted. On the other hand, SIGINT especially through electronic surveillance usually entails covert scrutiny on communications and behavior, which prompts privacy rights issues (Forcese, 2011). Thus, overlapping certain human rights in intelligence gathering is inevitable. However, the implication of this overlap on the effectiveness of IG & S has seldom been interrogated. Yet, human rights activists continue to fight its justification which again raises the need to explore, how can IG & S overcome this overlap to win the fight against terrorism?

1.8.3 Intelligence Sharing

Intelligence sharing according to Oluwafemi, Balogun and Layefa (2019) is the exchanging of intelligence information among federal, state, local and private sector entities on diverse issues that may adversely affect national security, and is often done among security agencies. Intelligence sharing was largely emphasized and adopted among nations worldwide after the 9/11 attacks in the U. S (Gill, 2010). Thus,

intelligence gathering especially in the war on terror is not sufficient without proper intelligence sharing.

Intelligence sharing can be in diverse forms based on the intelligence sharing agreement. The first one is where collection of intelligence can be shared among and by partners in an intelligence sharing agreement. According to McGruddy (2013), it is an arduous and impossible task for any single country to effectively handle all critical areas of attention that their intelligence collection demands. Therefore, states work together in intelligence sharing arrangements through a division of responsibilities among the partner states to enable them to expand their scope of coverage and get deeper in unraveling more issues than when working independently, as well as share the economic bill for the expansive intelligence collection.

There is also the form of intelligence sharing where states enter into agreements to share intelligence purely for mutual benefits without sharing in the collection aspects. According to Stephane (2003), states enter into such arrangements when both parties see the potential gains such as reduced need for costly surveillance in other states, obtaining information that helps to address gaps in information gathered by the individual states' and or less developed states gaining valuable support from countries with more intelligence gathering capacity.

States also enter into intelligence gathering and sharing arrangements where although they share in collecting the intelligence with partner states in the agreement, they may still share the intelligence collected with other non-member states. This is primarily driven by the ancient notion that "enemy of my enemy is my friend" (Reveron, 2008). As

McGruddy (2013) explains, in the globalized world, democratic states share enemies and this has 'shifted' the boundaries of collaboration among other nations. However, while the various forms of intelligence sharing approaches among nations have been documented in literature as documented above, little has been done to investigate the effectiveness of intelligence sharing in these different approaches.

Even so, issues evident in literature on intelligence sharing raises question on whether sharing of intelligence is effectively implemented in the fight against transnational terrorism. For intelligence sharing to be successful, Rickards (2016) asserts that, it extends past information gathering and dissemination alone. Rather, it must depict "the ability to identify and draw upon a broad base of experts, to work together across jurisdictional boundaries, to bring together a combination of different skills, knowledge and expertise" (Rickards, 2016, p.90). States mostly share intelligence due to their common perceived threat regarding a 'shared' enemy (in this case terrorism) and they believe through working together, they can gain deeper understanding of their imminent threat (although their information analysis may not be wholly congruent) (Moravej & Diaz, 2007). Nonetheless, this may not be the case per se since countries in intelligence sharing agreements have been known to still conceal some information from their partners.

Wippl (2012) explains that countries together with their intelligence agencies are often hesitant in sharing sensitive and classified intelligence with many partners but they prefer to share in a controlled, bi-lateral case by case manner. Therefore, states/agencies will not trust every other state/agencies to share intelligence with them, rather they are selective. Den Boer (2015) asserts that states only share information in instances of mutual

perceived threat, trust, evident value addition and right diplomatic bonds or mixture of several advantages. Are many bi-lateral and multilateral intelligence sharing arrangements hypocritical then? When the fight against terrorism is considered a fight against a common enemy, mistrust within the 'proponents' defeats the possibility of winning the fight. The question that lingers then and which needs interrogation is, how do states share intelligence within the constraints of limited mutual trust and benefits? How does this affect the fight against terrorism?

The dilemma in the question of trust is well captured by Walsh (2010). Walsh conceptualizes intelligence as a commodity by arguing that the secrecy in intelligence activities causes two predicaments: Those who 'sell' intelligence cannot have any guarantee that those who 'buy' it will adequately secure it; and those who 'buy' lack any guarantee on the authenticity of what they 'buy' as intelligence. He applies relational contracting (from economics of transactions) to articulate the clammy dilemmas in bargaining and enforcing intelligence sharing due to the uncertainty that you may be swindled by your partner. This implies that the trust-mistrust dilemma negates the very essence of intelligence sharing to combat transnational terrorism. Headayetullah and Pradhan (2010) actually notes that, majority of the terrorist attacks that have happened across the world may have been thwarted through honest intelligence sharing. This raises the need for an in-depth interrogation of whether intelligence sharing alliances are really effective in the fight against terrorism or they give the terrorists an upper hand. However, with the limited research on the effectiveness of security intelligence sharing in the management of terrorism, there is little empirical insight to explain it.

1.8.4 Intelligence Gathering and Sharing in Fighting Transnational Terrorism

Although intelligence alone may not thwart a possible attack, it is fundamentally the primary step to identification and prevention of an attack (Flavius-Cristian & Andreea, 2013). There are two fundamental purposes served by intelligence gathering in the War on Terror: the primary one is informing policies and the secondary one is supporting military and or police operations that aim at guarding the country against terrorists and preventing their proliferation (Nte, 2011). However, existing literature has made little efforts to connect the dots on how these shapes in particular, the intelligence operations framework in combating terrorism. This study will thus explore both the policy and logistics in intelligence pertaining to intelligence operations framework in combating terrorism. Literature broadly categorizes intelligence in the context of terrorism into two: strategic and tactical intelligence.

Strategic Intelligence: This pertains to the intelligence meant to inform long term plans (Lowenthal, 2016). Through meticulous analysis and usage of computers for producing understandable estimations alongside succinct evaluations, law enforcers locally can get a basic instrument that may be used effectively in identifying possible terrorist activities and targets in the society (Nisbett, 2010). This capacity to "predict" where and when terrorism attacks are likely to happen and the probable targets for the terrorists, by using intelligence, gives the local security agencies an upper hand in executing offensive and or defensive strategies to frustrate possible attacks (Hughbank & Githens, 2010).

Tactical Intelligence: This is the intelligence whose use is mainly limited to operational units (Hughbank & Githens, 2010). Collection of this intelligence calls for skilled and committed ground officers, able to think fast and trace the very simple patterns in culture

and changes in behavior for those within their designated areas. Surprises and initiatives are only attained when there is effective tactical intelligence (Walsh, 2015). Every potential assessed source needs to be used to its maximum potential inclusive of the ones often ignored (Bruneau, 2008). This calls for the establishment of a centre clearing house for gathering and exploiting the gathered information, then dispatch the collected intelligence to the commandants in charge, to pass on to an incoming shift or within the shift as considered appropriate. The ground officers are then required to relay the information obtained from their area of designation to their assigned intelligence collector within the required time. It is only in this manner that an intelligence system is able to operate at the requisite level for identifying and thwarting potential attacks (Hughbank & Githens, 2010). This will be investigated in this study to identify where there are failures that constitutes to the inability of intelligence to combat transnational terrorism.

1.8.5 Challenges in the Use of IG & S in Fighting Transnational Terrorism

Existing literature points out at various challenges experienced in the use of intelligence in combating terrorism. Majority of the key challenges facing the use of IG & S in curbing terrorism has been a concern for quite long (Pillar, 2017). First is the pressure to comply with many legal frameworks with no single agency being in charge of the various frameworks. There is the requisite to adhere to the specific states' laws and being restricted to their territories. This affects the ability of the agencies to exchange intelligence freely in addition to hindering effective investigations (Rickards, 2016). According to Walsh (2015), while there has been a great enhancement in the capacity for collecting intelligence, collating the information remains a significant challenge. Most

law enforcers have a myriad of technological challenges. For instance, use of obsolete ICT makes it hard to store, retrieve and share intelligence effectively. Walsh (2015) indicates that, agencies experience these challenges internally as well as across different territories. These assertions are however too general and needs to be empirically investigated. The prevalence of terrorism differs from one state to another and from one region to another, the assertions cannot be generalized to every country situation in combating transnational terrorism.

Another major challenge highlighted in literature is the intrinsic challenge to discover plots involving few persons whose plans and preparations for attacks are highly secretive and they are very informed of security operations (Pillar, 2017). Tension around security strategies adopted to fight against terrorism is also a major challenge, as well as the norms of democracy on issues like surveillance and personal rights and freedoms (Pollock, 2008). There is also the challenge of high unrealistic expectations from the public, particularly the notion that there are always enough IG & S skills and intelligence collating expertise to discover every secret plot. Additionally, the public usually perceive that counterterrorism IG & S is exclusively about plot-discovering, and expects unattainable standard of zero-tolerance imposed on counterterrorism which is also echoed by their elected politicians (Pillar, 2017). While these assertions may be valid, there is need to interrogate how the intelligence agencies have responded to such challenges and how this has helped in combating terrorism. If there has been no response to these challenges then, it is critical to unearth the reasons why no measures have been taken to address these challenges despite their being brought to the limelight tin research.

Moreover, lack of co-operation amongst the various agents involved in intelligence gathering as well as poor exchange of intelligence among agents and law enforcers and law enforcement forces has also being pointed out as a major challenge in curbing terrorism. In addition to involvement of multiple institutions in IG & S, there is a tendency among different agencies to withhold "their" information being reluctant to share it (Catano & Gauger, 2017). States create hierarchical IG & S relationships after perceiving their probability to gain substantially from the relationship, but being very cautious of their partner's trustworthiness (Walsh, 2008). However, political discrepancies usually turn out to be major hindrances to effective co-operation. As Walsh (2008) explains, governments involved in IG & S alliance could experience different political pressures that may cause them to double-cross, evade and or depart from their cooperation agreements. To detect such issues is hard particularly in IG & S because states have various "good" self-reasons to hide most of their intelligence operations in information, with most of them basing their reasons on state sovereignty and national interests. Therefore, states seek cooperation from other states in IG & S in their fight against terrorism, but they will hold some information. The fundamental question then is, how will IG & S be used successfully to fight terrorism if some partners in an IG & S alliance withhold some of their intelligence?

Sometimes also, institutions that collect and analyze intelligence perceive little gain in intelligence sharing while they have more reasons to conceal regardless of the consequence (Clark, 2013). Connable (2012) noted that persons concerned with information fusion pay more attention to interpretation of information using their individual subjective opinions, instead of objectively incorporating the information in the

system to be holistically analyzed. A report on United States' capability on Weapons of Mass Destruction (WMD) revealed that those who were collecting and analyzing intelligence did not work in teamwork and there was no effective information sharing (Catano & Gauger, 2017). Poor coordination in intelligence sharing has also been blamed for failed intelligence in 1982 when Great Britain invaded the Falkland Islands as well as during the 1973 Israel's Yom Kippur war (Clark, 2013).

The fundamental question therefore is how states deal with all these challenges to ensure their IG & S is effective in fighting transnational terrorism. While the broader picture published portrays successful terrorist attacks due to failed IG & S, behind the scene are other would-be attacks that were thwarted through successful intelligence. For instance, through successful IG & S where the United States' FBI played a major role, after the 1993 World Trade Center bombing, another bigger plan to attack the Lincoln Tunnel and UN building in New York was foiled, as well as new attempted attacks in Jordan, Israel and Pakistan, eventually resulting to several terrorists who were involved being arrested (Karmon, 2002). In Kenya, on 28 January 1976, a plot to shoot down and Israel aircraft by the PLFP and the Baade-Meinhof in its Nairobi stopover was thwarted through effective sharing of intelligence between Kenya and Israel (Mogire & Agade, 2011). In 2009, successful intelligence sharing between CIA and NIS was able to thwart a plot to execute simultaneous attacks on three Nairobi-based hotels (one of which Hilary Clinton, the former U.S Secretary of State was to visit. Working together, CIA and NIS were able to pinpoint the suspects' location and they were subsequently apprehended by the Rapid Response Team (RRT) of the Recce squad of the General Service Unit (Shabibi, 2020).

1.8.6 Summary of Literature Gaps

The literature review indicates that scholars are yet to get into a consensus on the definition of terrorism. Nevertheless, it is unanimously recognized as a major security threat worldwide. To this end, several strategies applied to address terrorism threat are documented in literature including: use of regional bodies, use of policies, training of special forces, and intelligence gathering and sharing. However, there is limited research interrogating the effectiveness of the strategies. Intelligence gathering and sharing is identified as fundamental in the fight against terrorism particularly in the primary step to identification and prevention of terror attacks. There have been major transformations in IG & S in terms of the methods used and actors involved in efforts to streamline it as a strategy in efforts to curb terrorism. Even so, despite the IG & S undergoing major transformations in efforts to improve it, it is still evident in literature that terrorism has persistently been a major security threat. As such, effectiveness of IG & S remains a question for debate. Nonetheless, there is dearth of literature interrogating the effectiveness of IG & S in the fight against terrorism. Therefore, this study endeavors to interrogate IG & S as a strategy in the fight against terrorism, with the intent to generate relevant insights informing on the best ways to make IG & S more effective in curbing terrorism in the country.

1.8.7 Theoretical Framework

The subject matter of this research is rooted in international relations. Consequently, various theories on international relations were considered in the building up of the theoretical framework of this study where they were triangulated to anchor the study from different perspectives. These include: liberalism, realism, constructivism theory and

the securitization theory. As explained in the review, liberalism and realism cannot adequately explain the subject matter due to its complexities. Therefore, the study was largely informed by the constructivism theory and the securitization theory while liberalism and realism helped to enhance the understanding of the issues involved.

1.8.7.1 Liberalism

Liberalism has its roots in the ideas of Paine (1776) and Kant (1795). Liberalism emphasizes how 'individual freedom, political participation, private property, and equality of opportunity' contribute to political stability (Doyle, 1997). In International Relations, liberalism focuses on how human reason, progress, freedom, and individual rights can contribute to peace and security. Born of the Enlightenment, liberalism 'strives for, and believes in, improvement of the human condition and provides a rationale for building cooperative institutions that can facilitate better lives for human beings' (Keohane, 2012).

Most liberal theorists posit that international peace and security will increase with democracy, free trade, and membership in international organizations. Liberalism provides a coherent set of principles and propositions that explain and predict inter-state relations (Walker & Morton 2005). In this regard therefore, within the context of intelligence sharing, liberalism seems to consider intelligence cooperation as being conducted on a super-state level in a globalised, not state-centric world. Liberals believe in cooperation among states hence informing on the need to establish IG & S agencies to share intelligence. The theory posits that democracies do not go to war with one another therefore inter-state war will be reduced. No state would therefore sponsor TT against

one of their own thereby realizing long-lasting tranquility and cooperation in global relations.

In this research, liberalism is relevant because it is based on independence and cooperation among states while taking cognizance of other non-state actors. This is because it advocates interdependence among sates and IG & S falls within this framework. Therefore, the theory helped to analyze and understand the drive for states partnering together in bilateral and multilateral intelligence sharing agreements. However, the theory is not adequate because it does not explain why states would control or withhold some security information and refuse to share with other states that they are in intelligence sharing agreements with. Cooperation among sovereign states is characterized by shared interests, values and tenets. Nevertheless, liberalism does not explain why states would control information flow mirrored by suspicion among states hence rendering the theory inadequate for holistically analyzing intelligence sharing between states.

1.8.7.2 Realism

The origin of Realism is in the ideas of Thucydides in his work '*History of the Peloponnesian War'* (431-404 B.C.E) (Thucydides, trans. Warner, 1972). According to Korab-Karpowicz (2017), realism (also referred to as political realism), is a view of international politics that stresses its competitive and conflictual side. Realism is often contrasted with liberalism but unlike realism it emphasizes on the necessity for cooperation. Korab-Karpowicz (2017) underscores that realists consider the principal actors in the international arena to be states, which are concerned with their own security,

act in pursuit of their own national interests, and struggle for power. In this regard, the negative of realism is the emphasis on power and self-interest while sacrificing the relevance of ethical norms in cooperation between states. This theory since the end of World War II has dominated international relations as it underscores the role of the state, national interest, and military supremacy in the new world order.

According to Svendsen (2009), intelligence liaison is explained in basic Realist terms by the maxim 'knowledge is power. Realists argue that states cooperate with other states in order to fulfill their self-interest in augmenting their power and overcoming threats to their survival (Munton, 2009). Realism considers the intelligence arena to be one of a permanent war, governed by a zero-sum calculus of risk and loss against opponents (Richelson, 1990). This means that intelligence gathering sharing in the realism perspective is 'a game' whose target goal is how to maximize self-interests of individual states.

From review of this theory, it is evident that realism holds state as the primary actor in international system. Accordingly, its application in this study helps to understand why states withhold their intelligence from other state actors. However, some states do share intelligence. Realism largely holds on self interest to explain the defection of some states in intelligence sharing agreements which results to their withholding of some information. Self-interest alone however cannot adequately explain the dilemmas involved in the relationship between states in intelligence sharing and the complexities involved the fight against terrorism. Therefore, the theory is insufficient to independently anchor this research whose purpose is to interrogate intelligence gathering and sharing as a strategy in the fight against transnational terrorism. In the global arena, competitive

politics for advantage among states is punctuated by cooperation and formation of global, continental and regional bodies hence the inadequacy of the theory.

1.8.7.3 Constructivism Theory

Although the origin of social constructivism in international relations (IR) is not linked to any particular individual, Onuf (1989) is mostly regarded to be among its "fathers". Kratochwil (1991) is also recognized to have made a major contribution. The phrase "constructivism" was coined in Onuf's work "*World of Our Making*" and transformed the field by scrutinizing the rules in international relations and social theory (Onuf, 1989). In constructivism, he posits that at first was and there is a deed. Facts should not be the beginning since they are not facets of knowledge that is objective since in some way, they reflect an intrinsic connection to reality. Instead, facts no matter natural or social are construed. Once they hit a level that their deconstruction is very expensive, they are ignored or assumed. Therefore, considering facts as a wrong starting point, Onuf starts with deed – persons and society make one another (Onuf, 1989).

Constructivism circumvents the preference between the word and the world. It identifies the differences between material and social realities together with their importance, but to Onuf (1989), they "contaminate" one another with none having any privilege. Exemplifying this, Onuf asserts that one is constantly in their constructions, even when they opt to depart from the constructions. In this case, emphasizing on the deed attempts to bypass any privilege over the world or the word, because a deed only becomes clear as a naturally and socially joint event, originating from the mind but phenomenal in its individual rights (Onuf, 1989). Kratochwil (1991) in his book "*Rules, Norms and*

Decisions" demonstrates how rules and norms shape activities which as a result foster meaning; they serve as "guidance devices." According to Kratochwil (1991), rules and norms helps to define a particular situation and how certain actions and choices should be understood. Therefore, emphasis in Kratochwil's constructivism is on the method of reason as opposed to logical proof. This implies that on its own, logic may be of little help since one is unable to forecast every context and situation that a particular rule/norm may be applied.

Constructivism may be used to explain terrorism and intelligence sharing. A constructivist approach provides highly reasonable insights concerning how context, norms, time and ideas shape the interplay between terrorism as "non-state" actor and states. On terrorism, as Martin (2004) argues, the decision to become a terrorist may be triggered by perceived uneven sharing of social rights, power, health, goods or resources, which ends up creating disorder and causing radicalization. Constructivists would therefore argue that, as a result of the perceived disparities, the values, norms and constructed ideas of terrorists differ from those of their states of birth. The word terrorism is thus a subjective judgement. On this basis, one very group may be easily considered freedom fighters, terrorists or insurgents, or guerillas by different countries (Alex, 2004). This in turn justifies the constructivist theory as suitable in exploring terrorism in this study. Terrorism from this aspect is ideologically a construction of the mind hence the varied definitions.

Similarly, constructivism can also explain the success or failure of intelligence sharing in curbing terrorism especially given that, terrorism is not a single country problem but calls for cooperation between states to win the fight against terrorism (Martin, 2004).

Cooperation in intelligence sharing in efforts to curb terrorism may not easily occur continuously. This to a constructivist is explained by the subjective construction of terrorism that creates the terrorist-freedom fighter dilemma that emerges over time. Consequently, the probability of cooperation internationally is weakened as a result of the difference in understanding of who is a terrorist in a given period and context. In constructivism therefore, cooperation in IG & S goes beyond common benefits and humanitarian objectives, to shared identities/norms. It is shared identity that will make agencies responsible for intelligence gathering in the different states to work jointly. For instance, members of the Five Eyes alliance have a shared interest – protection and extension of their liberal democratic identity (Kiraly, 2014).

The understanding of self-interest alongside its modifications in line with the emerging threats corresponds to constructivism, with respect to its dynamic nature and the state-non state actors relation. To the constructivists, the motivation for cooperating in intelligence sharing is not just self-interest. Constructivism demonstrates how the "Prisoner's dilemma" (Myerson, 1991) is a suitable example for justifying the pursuit of Realism that is characterized by self-interest. States often find themselves in this reality of deciding to cooperate or not due to history of relationship and rivalry governing their interactions. To this extent, they will most likely opt to cooperate rather than defect, given that the actors have established trust and are aware that cooperation will benefit them in their future dealings, where the very dilemma is likely to occur once more. From the long-term cooperation, decision making by states will not be grounded on Realism, rather, states will prefer sharing intelligence, to establish an identity society that is founded on trust and shared norms (Nutchey & Cooper, 2016).

From a review of the constructivism theory as described herein, the theory has significantly tried to explain the concepts of IG & S, state partnerships and terrorism all which are major concepts around which this study revolves. The theory was therefore considered the most appropriate for this study. It was used to analyze and understand how social construction of norms has shaped the conceptualization of 'terrorism' and how shared identities shapes inter-states relations in intelligence sharing agreements. This in turn also helped show the implications that this has had on Kenya's security in the use of IG & S in the fight against transnational terrorism in the country. It however cannot explain why states at times employ secrecy and are often suspicious of diverse actors in dealing with security. The theory also cannot explain complexities of extraordinary measures in IG & S and the fight against TT. Therefore, to deal with this weakness of the theory, the realist approach of securitization further complimented the social constructivism approach.

1.8.7.4 The Securitization Theory

The Securitization Theory (ST) is believed to have been initiated by the Copenhagen School of International Relations (Buzan, Weaver, & de Wilde, 1998). This school has served a major role in expanding the conceptualizing security as well as provision of a frame for analyzing the securitization or de-securitization of an issue. It further widens the study on security through the inclusion of non-state actors. It represents a shift from old school security studies and focuses on non-state actors as well as non-military matters. Many regards "non-traditional security" (NTS) agenda as going past conflicts between states and geopolitics, hence the emphasis of the theory on non-military issues

on security as well as incorporation of non-state actors together with the states (Emmers, 2004).

Security agenda according to the Copenhagen school is defined from five major areas where issues may be securitized: environment, political, society, economic or the military. To some scholars, NTS matters should be grounded on the insecurity's origin. For example, Zabyelina (2009) suggests that NTS agenda should include "terrorism, drug traffic, international crimes, shortage of water and food, economic crisis, environmental damage, hacker, illegal immigrants, ethnic conflicts, overgrowth of population" among others. Copenhagen's critical amendment in securitization theory asserts that "a successful process of securitization results in an issue being framed in such a way that 'special or emergency measures' are deemed acceptable and necessary to deal with the threat in question" (Buzan et al., 1998:27). In order not to confuse it with other security matters, three levels are identified to securitize an issue: "(1) identification of existential threat; (2) emergency action; and (3) effects on inter-unit relations by breaking free of rules" (Buzan et al., 1998:6). Moreover, the Copenhagen School identifies two distinguishing requirements that an issue must fulfill for its securitization: it should first proof to be an existing threat and then, it should be such a threat that invokes the use of extraordinary/extralegal measures.

The securitization theory posits that when an issue poses an existing threat to a particular object of reference, it qualifies for securitization, which justifies extralegal measures to be applied. Consequently, the need to address it surpasses the ordinary political logic of balancing the threat and the strategy used to address it. This according to Buzan et al., (1998) permits an officer to handle the threat even by deviating from the normal rules

that may be legally binding. In particular, when an issue is securitized, it shifts past any public debate and allows the application of emergency tactics including restraining citizen's rights and reallocation of resources. The particular state in this case also becomes an object of security reference. Other possible reference objects may entail the economy and the environment among others. Parties of interest could include elite civil servants, politicians, military personnel or the public at large. Moreover, the Copenhagen School asserts that "the whether the key decision-makers like politicians or the media, succeed in convincing a specific target group through a discursive 'speech act', that is speeches, declarations, articles, and concrete political measures (Anthony, Emmers & Acharya, 2006), that a certain danger posed an existential threat to a specific referent object" (Buzan et al., 1998).

Based on the principles put forward in the securitization theory, the theory is well suited to this research. This is because transnational terrorism as an issue fulfills the two requisite characteristics that Buzan et al (1998) highlight as the requisites for any issue to be securitized. To begin with, terrorism being a proof of existing threat and the threat being of such nature that calls for extraordinary, if not extralegal measures to be taken. Given that transnational terrorism is a contemporary threat in most countries in the world, it then calls for state involvement in providing security to vulnerable citizens. No wonder Zabyelina (2009) recommends terrorism in general to be considered a "non-traditional security" matter.

Securitization of transnational terrorism therefore draws the issue of intelligence gathering and sharing in the debate. This is because the intelligence gathering practices directed towards combating transnational terrorism sometimes involve extraordinary

measures which are perceived extralegal. For instance, intelligence gathering at times could entail trespassing certain right of individuals but which is necessary to combat the threat. This theory was applied in this study to assess whether the issue of transnational terrorism in Kenya has been successfully securitized. The theory was also used to help identify whether there are intelligence gathering methods that are used in the country that reflects the issue as being securitized, and how this has affected the overall fight against transnational terrorism. The theory therefore helped to analyze and understand the involvement of extraordinary measures in use of IG & S as a strategy in the fight against terrorism.

1.9 Research Methodology

This section describes the methodology that was applied in conducting this research. It explains the research design that was used, location and population of the study. It also describes the sampling technique, research instruments and the data analysis method that were used. Lastly, the section explains the ethical and logical considerations that were taken into account in the course of the study.

1.9.1 Research Design

An exploratory research design was applied to carry out this study due to its strength in addressing the study problem through an in-depth analysis of issues over time. This research design investigates the problem of transnational terrorism since the phenomena is variedly defined to have a better understanding of the existing problem, This is because it is not limited to one specific paradigm of data collection and analysis but may use either qualitative or quantitative approaches from primary and secondary sources. This grounded theory approach or interpretive research is preferred to answer questions like

what, why and how of transnational terrorism. Based on the design, a historical interrogation approach was applied to interrogate various facets of IG & S and terrorism in Kenya whereby they were chronologically documented, and the changes that have occurred over time analyzed. This was accomplished through a mixed methodology approach where both qualitative and quantitative methods were applied for a comprehensive interrogation of the issues under investigation.

1.9.2 Research Locale

The research was practically conducted in Kenya for an in-depth understanding of the problems or issues in their natural settings. In particular, there was a special focus on three major counties in the country including Nairobi, Mombasa and Mandera where terrorist acts are prevalent. However, the investigation was not confined to geographical boundaries since a single incident of transnational terrorism may happen in several states due to the complex nature of transnational terrorism. As with all international problem-oriented researches, restricting the research locale to scenes of TT is misrepresenting. For instance recruitment, radicalization, planning and execution may take place in different states very far apart. The fact that these are the major spots of terrorism does not make them right place for intelligence gathering and sharing. These are only point of execution but the information about the whole plan spans across continents.

Kenya is located on the Eastern coast of Africa. It is among the countries cross-cut by the equator. It is bordered by Somalia on the East, Sudan on the North, Uganda on the West, and Tanzania on the South (Appendix I).

1.9.3 Target Population

The study targeted people from national government security agencies in the security sector and non-governmental agencies as well as the common citizenry (above 18 years). Governmental agencies are instrumental in the formulation and design of policies related to IG & S while non-governmental agencies are pivotal in lobbying and advocacy of the same. The common citizenry were targeted because they are the main subjects upon whom the policies are applied and are direct targets of the terrorism activities too both in terms of being recruited into terrorism and been attacked by terrorists. These were targeted within the following specific areas because of the high prevalence of terrorism in the areas: Nairobi, Mombasa and Mandera. However, the focus of the study was not confined to these areas only but how different actors interact in intelligence gathering and sharing in Kenya and between Kenya and other states, towards the collective purpose of fighting transnational terrorism.

1.9.4 Sampling Technique

Due to the sensitive nature of this study, the researcher relied on snowballing and purposive sampling. Conveniently, the researcher had to rely on a small number of knowledgeable and reliable informants from the national government security agencies in the security sector, non-governmental agencies as well as the general public that were considered to have vital information on IG & S and terrorism. In this regard, the inclusion criteria entailed: key security officers dealing with intelligence from the various national government security agencies, members of civil society organizations working in areas of security and human rights, former civil servants in provincial administration, members of community policing department and former police reservists, academicians, religious

leaders and de-radicalized youths. On the basis of the inclusion criteria, a total of 150 respondents were targeted out of which the study covered 113 respondents (further elaborated in section 1.9.6 on data analysis) distributed as follows: 43 respondents from national government security agencies; 20 respondents from non-governmental agencies, and 50 respondents from the general public. This is illustrated in Table 1.1.

Table 1.1: Sample size distribution

Category	**Specific Institution**	**Total**
National government security agencies	NIS	15
	NCTC	9
	ATPU	13
	KDF military intelligence	6
Non-governmental agencies	Transparency International Kenya	7
	KHRC	7
	Amnesty International Kenya	6
General Public (Common Citizenry)	Former civil servants in provincial administration	9
	Members of community policing	10
	Former police reservists	6
	Academicians	9
	Religious leaders	9
	De-radicalized youths	7

The background information of the respondents was as illustrated in table 1.2 below.

Table 1.2: Respondents distribution by their background information

Aspect	Percent (%)
Gender	
Male	65.5
Female	34.5
Age bracket	
18-25 years	9.8
26-35 years	29.4
36-45 years	35.3
Above 45 years	25.5
Highest level of education	
Secondary level	51.0
College level	26.5
Bachelor's degree	14.3
Postgraduate	8.2

As is evidence in the table above, majority of the respondents were male (65.5%) while females comprised only 34.5%. The field of security is therefore male-dominated. According to Graue, Hildie and Weatherby (2016), this trend is common in most cultures mainly as a result of the unjustifiable assumption that female officers are not adequately competent for effectiveness in policing affairs, which often result to their underrepresentation and or being left out in most policing services.

With regard to age bracket, 35.3% of them were aged 36-45 years while 29.4% were aged 26-35 years. This implies that most of the officers in IG & S are aged from 26 to 45 years old. Concerning their education level, most of them had secondary level education with 26.5% having college level education and 14.3% having bachelor’s degrees. This indicates relatively low academic qualifications among most of the officers in IG & S. Although there is no significant correlation between high educational qualification and an

officer's effectiveness in investigations (Rydberg & Terrill, 2010), it has been found to improve an officers professionalism, international legitimacy and reduce their likelihood of abusing authority (Rydberg, Nalla & Mesko, 2012). It is thus important for officers to advance their educational qualifications.

1.9.5 Data Collection Methods and Instrument

The research used primary data but it was largely supplemented by secondary data where necessary. The primary data was collected using different research instruments. A questionnaire was used to collect data from junior security officers (Appendix II). An interview guide was used to collect data from key national and regional security officers through oral interviews (Appendix III). Selected community leaders and members of the public from the general population, academicians, local community mobilisers and '*Nyumba Kumi*' leaders, and members of civil society and human rights organizations were formed into focus groups for in-depth discussions.

Key Informant interviews were conducted from two categories; senior security officers and local Nyumba Kumi leaders drawn from Nairobi, Mombasa and Mandera. Moreover, some community leaders and members of the public, academicians, local community leaders/mobilizers and members of civil society organizations were selected and formed into focus groups for in-depth discussions. All the informants were selected based on their knowledge of the subject matter.

While many studies involve the collection of primary data, there are cases where the researcher has to largely use secondary data (data collected for other purposes) compared to primary data. These are cases where: a historical approach is used in the study, the

study covers an extended period where developments over the period are analyzed, the units studied are difficult to study directly and a particular organization or area is being studied for which it is critical to look at relevant documents (Emerald Publishing, 2021). In this regard, given that this research had all these characteristics, secondary data was largely applied in the study. The secondary data was extracted from existing literature from archival records, books, journals, newspapers, conference proceedings, theses, and online libraries visited. However, some secondary sources are regarded as primary sources. These include secondary sources created in a more informal way such as documentation of people's activities such as letters, organization records among others which at times may have been compiled and organized into archives (Emerald Publishing, 2021). In this regard therefore, some of the secondary data used in this study may be regarded as primary sources.

1.9.6 Data Analysis

The mixed analyses method was applied to analyze both qualitative and quantitative data. Mixed analysis entails the joint application of qualitative and quantitative analysis techniques that is driven by decisions made before and or during the study.

Quantitative data was analyzed through descriptive statistics of percentages, means, standard deviations and frequencies. This was facilitated by use of the Statistical Program for Social Sciences (SPSS). Quantitative findings were presented in bar charts, graphs, pie charts as well as tables, then described and interpreted according to the study objectives. Qualitative data which constituted the largest part of the data was analyzed through content analysis – an analytical technique used to subjectively interpret text data by systematically classifying it and extracting the themes or trends. In this regard,

classification of qualitative data was done in line with the research objectives the study objectives.

Data saturation was reached after collecting and analyzing 113 responses out of the target sample of 150 (see Table 1.1 in section 1.9.4). Data saturation is the point in data collection and analysis when new incoming data does not produce significant new information to answer the research question(s) (Guest, Bunce & Johnson, 2006). In other words, no new/different themes emerge from interviewing more respondents from the themes already extracted from the data collected from respondents who have been interviewed to that point. As a result, there are diminishing returns on resources (including money and time) invested in carrying out additional interviews.

The Consensus theory by Romney, Batchelder and Weller (1986) justifies the use of data saturation point if the participants possess a particular level of expertise in the subject of inquiry, which Guest, Bunce and Johnson (2006) recommends as relevant for open-ended inquiry dealing with experiences, perceptions and beliefs. In this study, the data saturation point approach was applied because the participants selected had expertise in security intelligence and it was relatively difficult to access them. Nevertheless, the 113 respondents covered out of the targeted 150 is approximately 76% response rate which surpasses the threshold of 50% recommended by Mugenda and Mugenda (2003) as adequate response rate for a research. Therefore, the response rate was sufficient for data analysis. After classifying the data, it was discussed with reference to the study problem where the themes extracted were interpreted in line with the study objectives. Moreover, primary and secondary data were corroborated.

1.9.7 Ethical Considerations

Prior to collecting primary data, permit was obtained from the various authorities. This entailed obtaining letter of authorization from Kenyatta University (Appendix IV) as well as approval from National Council for Science, Technology and Innovation (NACOSTI) (Appendix V). Moreover, informed consent was sought from respondents before engaging them in the study, on the basis that anonymity and confidentiality was to be ensured. No respondent was coerced to participate in the study. The informants were free to withdraw at any stage before completion of the exercise.

The researcher also explained the advantages of the study to the participants. Therefore, consent of the participants was voluntary; without any compulsion or promises of benefits. To ensure confidentiality, all the materials collected were restricted from any access by any third party whatsoever by storing the hard copies of the questionnaire under lock and key and fortifying the soft copy of the data with a password. Moreover, the hard copies of the filled questionnaires were also destroyed immediately after storing the data in soft copy form in a personal computer.

To ensure anonymity of the participants, the researcher ensured that names of the respondents were not encrypted anywhere in the materials used during the study. To ensure confidentiality, the soft copy of the data was then stored electronically by use of a computer fortified with a password to avoid unauthorized access. All the external sources of information from which secondary data was obtained, were fully referenced as per the APA style.

Presentation of the findings begins in the next chapter. In the chapter, the findings on emergence and growth of transnational terrorism as per the first objective of the study. In this regard, the findings on various issues assessed pertaining to the emergence, scope and nature of transnational terrorism are presented and discussed. The findings are based on both secondary data analysis and primary data analysis.

CHAPTER TWO: TRANSNATIONAL TERRORISM IN KENYA

2.1 Introduction

The focus of this research is to interrogate the application of intelligence gathering and sharing in the fight against terrorism. Given that terrorism is a transnational issue, the study was interested in exploring, how do states interact by sharing intelligence to fight terrorism while at the same time, sharing the very information could expose their own national security systems and affect their interests? This chapter addresses the first objective which was: to trace the emergence and evolution of transnational terrorism in Kenya. In this regard, the chapter analyzes the dynamics of terrorism including its transnational nature and its effects that have implications beyond national borders, issues of interests and actors which are central to acts of terrorism, to understand how these have evolved and how this has eventually affected Kenya. This analysis of terrorism is important because it justifies the thinking about intelligence sharing. The chapter therefore begins by reviewing transnational terrorism from a global and regional perspective; motives, aggravating factors and how this has transformed overtime. The trends, changes and actors are also analyzed.

While the above is not so much the gist of the work, this section helps to lay the foundation on our understanding of the nexus between transnational terrorism and the increased use of intelligence sharing in dealing with the former. It is however important to underscore that in the discussion in this chapter, the researcher is cognizant of the fluid concept of terrorism which has made its definition to remain an issue of controversy worldwide. Therefore, in tracing the emergence and evolution of transnational terrorism in line with the first objective of the study, terrorism was reviewed based on what was

considered as terrorism in the eyes of the respective nations where the attacks occurred. In this regard, a historical review of manifestations of terrorism on a global, regional and local perspective is done in this chapter. This is necessary because, analyzing the changes in the trend helps understand how it influenced paradigm shifts in intelligence gathering and sharing to confront the same.

2.2 Global and Regional Perspectives on Terrorism

According to Nasser-Eddine et al (2011), terrorism has evolved overtime globally. They explain that, it all began in the rise of liberation ideologies for democracy including those that were being advocated for through early social movements like the French revolution, nationalism and Marxism. A major shift in motives further developed in the twentieth century when state terrorism came into the limelight with the Russian revolution and violent state dictatorship of Hitler, Stalin and Mussolini regimes. Duyvesteyn (2007) adds that the anti-colonial movements also marked a major stage in the evolution of terrorism. These would later evolve into the contemporary global terrorism largely characterized by fundamentalism and fanaticism perceived to emanate from Muslim dominated countries. Botha (2013) traces the development of this contemporary terrorism to the rise of Iranian revolution and Afghan-Soviet conflict of 1978.

Currently, terrorism has turned out to be one of the major contemporary threats to global security. With the increased accessibility of destructive tools of terror; the instantaneous global media coverage; and the means of communication available to the terrorists (directly or indirectly), terrorism is more pronounced in the modern times in compared to the past (Nasser-Eddine et al., 2011). Terrorists have targeted different countries worldwide with terrorist attacks being executed in different countries by different

terrorist groups over time. The most notable ones is the attack in the U.S on 11th September 2001. This is commonly referred to as the 'September 11 attack or the 9/11 attack' which was a series of four terrorist attacks organized by the *Al-Qaeda*. The attack involved four passenger planes that were crushed by the Al-Qaeda in New York's World Trade Center building; the Pentagon in Virginia; and the Stonycreek Township. In the attack, over 2, 900 people were killed (WorldAtlas, 2017).

In Africa, attacks by terrorist groups became pronounced after the 9/11 attack (Lyman, 2009). In West Africa; *Boko Haram* (BH) has been abducting school children while al-Qaeda activities and attacks have been rampant in the Maghreb and Sahel countries. In the East African region, the Somali based *Harakat Al-Shabaab AL Mujahedeen* (Mujahidin Youth Movement), better known as *al-Shabaab* has been responsible for several attacks in the region (Ankomah, 2014). In 2016, *Boko Haram* executed an attack in Dalori Nigeria on January 30 where at least 85 people were killed. The same group beheaded five villagers in Sandawadjiri in Cameroon on April 3 the same year (United States Department of State Publication, 2017).

East Africa (EA) is the most vulnerable to terrorism of all regions in sub-Saharan Africa (Lowenthal, 2016). Nearly all countries in EA have been victims of terrorist acts. These acts have either been carried out by and against a country's nationals for a domestic cause or they have focused on "extra-national" or "extra-regional" targets, such as Western targets located in the region (Awan & Blakemore, 2016). Examples include: the 1980 terrorist attacks on the Norfolk Hotel in Kenya, the August 1998 simultaneous attacks on the US embassies in Nairobi, and Dar-es-Salaam, Tanzania; the November 2002 simultaneous attacks in Mombasa, Kenya, on another Paradise Hotel and on an Israel-

bound aircraft at take-off from the Mombasa International Airport, Kenya; the July 2010 attacks in Kampala, Uganda and the December 2010 bombing of a Kampala-bound bus in Nairobi (Neumann, 2013).

The review above demonstrates that terrorism has been manifesting in the global and regional arena irrespective of the counterterrorism strategies that have been put in place in different states. Since the focus of this study was to analyze the complexities in IG & S as applied in the fight against transnational terrorism in Kenya, the study examined the different perspectives on terrorism in Kenya.

2.3 Terrorism in Kenya

Interestingly, pertaining to their understanding on the definition of terrorism, some consensus emerged with informants generally indicating that terrorism comprises any of the unlawful use of violence to threaten civilians. A senior security officer defined it as:

> "…The unlawful use of force and violence against persons and property to intimidate or coerce a government, civilian population, or any segment thereof in furtherance of political or social objective according to US federal regulation code."

This was echoed by an academician who defined terrorism as

> "…An act of using violence, aggression, and threat as a way of achieving a goal that may be social, political or economical."

While supporting the view, a worker with a civil society institution defined it as;

> "….Unlawful use of violence and intimidation against civilians and institutions with the view of instilling fear and personal gains. It however depends on the countries affected."

The informants' understanding on what is terrorism tends to concur with the definition of terrorism by some scholars. They concur with Sandler (2015) who identified several

elements that define terrorism which include: violence and social and or political motive. The violence according to Sandler (2015) entails shocking violent acts of such a nature that intimidates the public. The definitions also greatly reflect aspects contained in the definition by Grimland, Apter and Kerkhof (2006), as well one by Enders and Sandler (2012). Grimland, Apter and Kerkhof (2006) broadly construe it as irregular usage of violence directed to civilians to achieve a political motive, while according to Enders and Sandler (2012), it refers to predetermined use or intimidation to use violence by persons or sub-national groups to intimidate more people than the immediate noncombatant victims, so as to achieve a certain social or political motive. To this end therefore, terrorism can be defined as the totality of unlawful acts characterized by violence that destroys lives and property, which are perpetuated by a person, a group of persons, or the state to demonstrate their dissatisfaction with a particular social, political or economic ideology or event, or to further their own social, political or economic ideologies by intimidating the civilians through the violent acts.

While this definition would suffice, Ochieng,' (2016) however indicates that the fluidity and subjectivity of both actors and motives of terrorism. They therefore add that depending on the reason and the author, terrorism would and actually denotes many other things. Informants were also of the same opinion. A senior security officer based in Mandera described it as follows:

> "…How I may understand it may not be the same as how others from a different country may understand it. I mean, the one I take to be a terrorist in a given country may actually be considered as one fighting for a just course for his people by a segment of the populace including some within the security sphere and in that case, it becomes difficult to subdue such terrorists."

A similar observation was noted by a community leader in Mombasa. She categorically stated that;

> "…There are some people who believe that what we consider terrorism are merely people expressing their anger to be granted their due rights. To them, terrorism is not terrorism but a fight for liberation."

This implies that terrorism may be defined differently within different context. This concurs with Alex (2004) further notes that the conceptualization of "terrorism" is likely to remain subjective to the interest of a particular state. He elaborated that one who is defined as a 'terrorist' in one state may be considered a 'freedom fighter' in another state. Moreover, majority of the definitions do not take into account that terrorism may also be grouped in two broad categories – state terrorism and non-state terrorism. In their conceptualization of terrorism, they largely tend to ignore the aspects of state terrorism which according to Grothaus (2018) denotes acts of terrorism systematically perpetuated by the government in power in a particular state to control the population. Therefore, as long as there is no universal legal definition jointly 'approved' by an international body such as the United Nations, definition of terrorism is likely to remain contested due to lack of any legal backing. Most of what individual states or agencies define as terrorism remains non-binding and lacks legal authority under the international law.

As emphasized by Gordon (2004), one ought to be cognizant that most of the modern definitions of the word "terrorism"/"terrorist" are mostly grounded on the satisfaction of the interests of those in power in a given state. In this regard, the word 'terrorist' is sometimes applied to describe "a member of a clandestine or expatriate organization aiming to coerce an established government by acts of violence against it or its subjects" (Gordon, 2004, p. 106). This however reflects only one side of the coin. For instance, if a

government is oppressive towards the citizenry abusing their basic human rights, and a segment of the citizenry arises to oppose the government through violence and the state retaliates by using violence (force) to suppress the group so that they can advance their oppressive rule, the opposing citizenry would be labeled terrorists in the ensuing hysteria.

The non-binding conceptualization of terrorism is one-sided and propagates the idea that a government cannot be a terrorist. Yet, the state can and sometimes becomes a terrorist in the eyes of its citizens. During the colonial era for instance, the Mau Mau movement (in Kenya), the African National Congress (in South Africa) and other such movements in Africa were at one time considered terrorists due to their use of violence to resist the oppressive colonial governments which was not necessarily the case per se. As Mythen and Walklate (2006) underscores, one who is labeled a terrorist is somebody else's freedom fighter. Indeed, terrorists like al-shabaab do not define themselves as terrorists.

It is no surprise then that in the fight against terrorism, some 'loyalists' at times defect to the 'terrorists' in the game. For instance, Manuel Noriega of Panama, Saddam Hussein, and Osama Bin Laden (the 9/11 mastermind) were at one time strategic allies of the U.S (Chehade, 2007). To this end therefore, with the lack of a binding consensus on what constitutes terrorism, question is, can states adequately cooperate in the war against terror as a fight against a common enemy as construed in bilateral and multilateral alliances?

A further interrogation reviewed that, there is a nexus between transnational crime and transnational terrorism. During the in-depth interviews, a senior security intelligence officer articulated that,

> "..Although with distinctly different conduct in their activities and their aims, there are areas that give rise to their mutual cooperation."

This was further elaborated by a security expert in Mombasa who stated that

> "…Groups in transnational crimes form alliances with transnational terrorists. For instance, they form alliances to perpetuate crimes such as money laundering, bomb-making and weapon smuggling."

Thus, there seems to be criminal networking between groups in transnational crimes and groups in transnational terrorism especially in financing the criminal activities and moving of weapons from one place to the other. A former police reservist and currently a member of the community policing department in Mandera highlighted human trafficking as a major crime that also contributes to the association of transnational crimes and transnational terrorism. He asserted that there is a connection between the two;

> "…Because of the involvement of human trafficking and money laundering activities involved for transnational terrorism to succeed."

In more general terms, an academician in the field of security studies in Nairobi described such a relationship as follows:

> "…Transnational crime and transnational terrorism share similar characteristics, tactics and techniques in three parts: shared methods, transforming one group to the other over time, and long term and short term transaction between the groups."

Therefore, transnational crimes and transnational terrorism supplement one another with each of the group benefiting from the criminal activities of the other. Transnational terrorism receives major boost from transnational crimes for the furtherance of terrorist attacks across national boundaries. This means that transnational terrorism in its broader system is connected to transnational crime. Therefore in analyzing transnational terrorism, elements of transnational crime should not be overlooked. According to the United States Directorate of National Intelligence, the increasing linkage between transnational crimes and transnational terrorism should be considered among the U.S

major contemporary national security threats. They argued that terrorists will often commit other crimes and work with transnational organized criminal groups especially to acquire financing and logistical support (Alda & Sala, 2014). The United Nations Office of Drugs and Crime (UNODC) also noted that the networks between transnational crimes and terrorism are responsible for the security crisis in the Sahel region (UNODC, 2013).

It emerges from the foregoing discussion is that the notion of terrorism is a complex one. This observation is relevant in analyzing strategies applied in the fight against terrorism and more particularly the use of IG&S. This is because a clear understanding of the nature and causes of a phenomenon is a necessary element in relevant counterterrorism policy formulation and executing.

Terrorism has been a security threat in Kenya since 1975 when the first terror attack occurred. From then, acts of terror by diverse groups have proliferated as illustrated in Table 2.2:

Table 2.1: Some of the major successful terrorist attacks in Kenya since 1975

Date	Target	Casualties	Terrorists responsible
01 Mar 1975	OTC Bus stop in Nairobi	27 lives lost and 100 injured	No group claimed responsibility
31 Dec. 1980	Fairmont Norfolk Hotel in Nairobi	20 lives lost and 80 people injured	Palestine Liberation Organization
7 Aug. 1998	U.S Embassy in Nairobi	212 lives lost and over 4500 injured	Al-Qaeda
22 Nov. 2002	Paradise Hotel in Mombasa	15 lives lost and 80 people injured	Army of Palestine
21 Oct. 2010	Kenya-Somali border	30 lives lost	Al-Shabaab and pro-government Somali militia
21 Sep. 2013	Westgate Shopping Mall in Nairobi	68 lives lost and over 150 people injured	Al-Shabaab
23 Nov. 2013	Nairobi bound bus in Arabiya, Mandera County	28 people lost their lives	Al-Shabaab
15-17 June 2014	Mpeketoni in Lamu County, Coast region	More than 60 people lost their lives	Al-Shabaab
21 Nov. 2014	Nairobi bound bus in Omar Jilo, Mandera County	28 lives were lost (majority were teachers)	Al-Shabaab
01 Dec. 2014	Quarry in Koromei near Mandera	36 people died	Al-Shabaab
02 April 2015	Garissa University in Garissa County	148 people died (142 being students)	Al-Shabaab
25 Oct. 2016	Boshari Guest house in Mandera County	12 lives lost	Al-Shabaab
06 Nov. 2017	Two police vehicles in Mandera County escorting a passenger bus	12 lives lost and several injured	Al-Shabaab
25 Sep. 2018	A military base in Lamu County	10 soldiers killed	Al-Shabaab
15 Jan. 2019	DusitD2 Hotel in Nairobi	21 lives lost and several injured	Al-Shabaab

Source: Atellah (2019)

From table 2.2, it is evident that the first attack in 1975 which may not have been due to external interests, all the other attacks were transnational in nature. After, this first attack, the next three attacks that followed were transnational attacks which according to Woldemichael (2006) are believed to have been indirect attacks on the U.S and Israel interests. That is, the 1980 Norfolk Hotel attack in Nairobi, the 1998 attack in the U.S Embassy in Nairobi and the 2002 attack in Paradise Hotel in Mombasa were not directly targeted to Kenya's interest but were indirectly targeting U. S and Israel interest. Quoting an interview with a U. S. official in Naiorbi, Woldemichael (2006) articulated that al-Qaeda (the terrorists behind the 1998 attack on the U.S Embassy in Nairobi) looked for a soft target to depict it as an attack on U.S interest in Kenya. This implies that transnational terrorists often study state centric interests especially for the superior states and carry out their activities with that knowledge in their mind.

However, although transnational terrorist attacks appeared to decrease after the 2002 attack in the Paradise hotel in Mombasa, the trend began to rise from 2010. Njoku et al (2018) notes that Kenya experienced 15 incidents of terror attacks in 2010, which increased to 70 by 2012. Nyongesa (2017) adds that between 2012 and 2015, terror attacks significantly increased further with a change in targets which resulted to more devastating effects than before – for instance, the 2013 Westgate mall attack in Nairobi, the 2014 Mpeketoni attack in Lamu (Coast region) and the 2015 Garissa University attack in Garissa (North Eastern region).

Different terror groups as shown in the table above have also emerged including the Al-Qaeda and the Al-Shabaab. The Al-Qaeda (which means the base) is a terrorist group that is believed to have been established by Osama bin Laden, the mastermind of the 9/11

attack who was killed in 2011 by the U. S special forces. Their primary motive is to fight the dominance of the U.S in the Islamic states (Matseketsa & Mapolisa, 2013). The Al-Shabaab (which means the youth) is a terror group that began as a military force of the Islamic Courts Union, opposing the Somali Transitional Federal Government for its alleged corruption and heinous acts. Their primary agenda was to instill fear of death to establish their dominance and control in Somalia. However, with time the group began executing transnational attacks to advance their extremism ideologies in the name of Islam, and to counter Western influence and intervention in Somalia (Pitts, 2015).

McLuhan (2016) adds that the severity of the diverse terrorist groups continues to be felt with increased magnitude. From the chronological record of the terror attacks by Atellah (2019) illustrated in table 2.1, the 1998 attack on the U.S Embassy in Nairobi stands as the worst terror attack ever experienced in the country based on the number of casualties. This ought to have quickened the various actors in the war on terror in the country to streamline anti-terrorism measures. However, as mentioned earlier, from 2010, the frequency of terror attacks increased where all the attacks have been masterminded by al-shabaab. This concurs with Nasser-Eddine et al. (2011 who stated that the threat of transnational terrorism globally has generally increased in the present age compared to the past. This increasing trend was also reflected in the Global Terrorism Index report 2017 which indicated that with an exception of North America, terrorism has been increasing in all the world regions since 2002 (Institute for Economics and Peace, 2017). With this trend of increasing frequency and severity of attacks, this raises the fundamental question, apart from Kenya's relation with the U.S and Israel that was

blamed for the first transnational terrorist attacks in the country, why has terrorism increased exponentially since 2010?

As part of this work therefore, the view of the security stakeholders' concerning the increasing frequency and severity of terror attacks in the country was investigated. A survey was therefore conducted among the security officers inquiring on the reasons for the increased terrorism in the country. Several issues emerged as the reasons for increased cases of terrorism as shown in Figure 2.1.

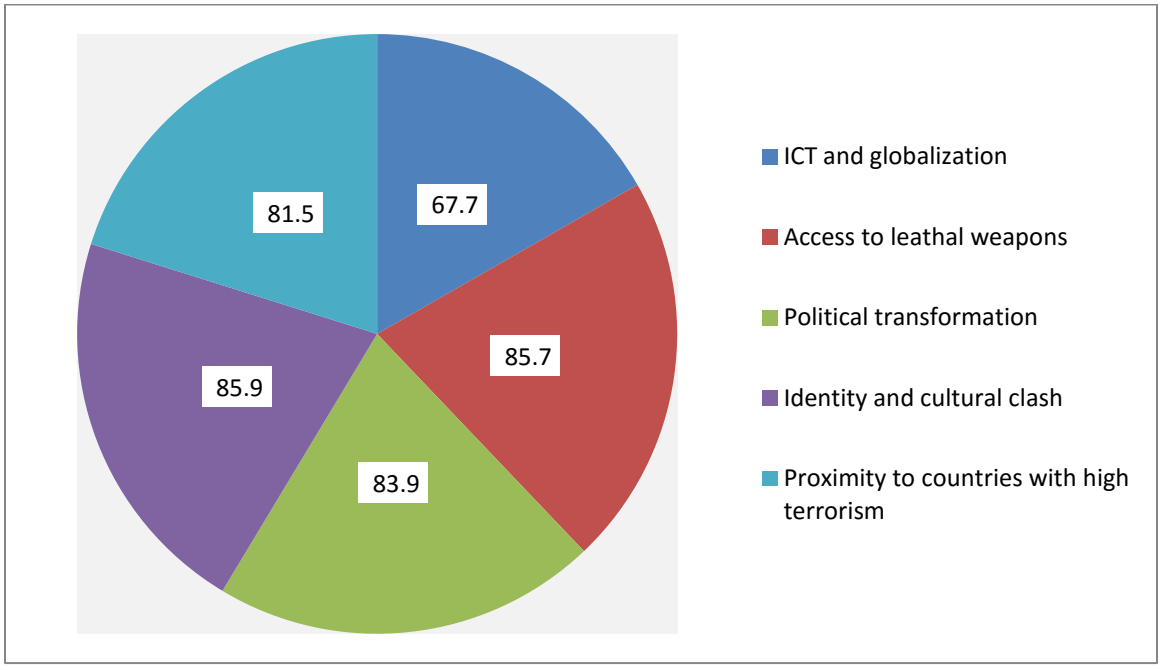

Figure 2.1: Reasons for increased cases of terrorism

A vast majority (85.9%) of the informants indicated identity and cultural clash as a major reason for increased terrorism in the country while 83.9% indicated political transformation. This means that antagonism often anchored on different religious, ethnic or even political identities catalyzes terrorism. Elaborating on this, Bernholz (2006) indicated that terrorist groups take advantage of antagonism within different cultural or

religious identity groups which makes it cheaper and effective for them to further their terrorist activities. This is because the group perceived as inferior is more likely to opt to terrorism to express their stand and attempt to influence the outcome of any resolution efforts to their favour.

Many of the informants (85.7%) also mentioned access to lethal weapons as having increased terrorism. Okoro and Oluka (2019) asserted that currently, nearly all renowned terrorist organizations can access weapons of mass destruction (WMD) and use them to cause devastating damage. This is worsened by the commercial use of modern technologies which has opened up easy access to extraction and use of materials used to produce WMD.

Informants further mentioned proximity to countries with high terrorism (83.9%), and ICT and globalization (67.7%) as major reason for increased terrorism in the country. Aronson (2013) underscores Kenya's proximity to Somalia, a country with high terrorism, as a major reason for increased terrorism in the country. He argues that with lack of proper border security, terrorists easily transit from Somalia to Kenya and this has been amplified by KDF invasion into Somalia. The above information is significant because it helps to explain the exponential increase of transnational terrorism. This is important in justifying the need for enhancement of IG & S as a counterterrorism strategy. A fundamental question that lingers is, what are the motives behind terrorism that may have contributed to the exponential increase in terrorism in the country?

To understand the motives behind engaging in terrorism, the researcher investigated the notions of the security officers on the motives behind engagement in terrorism.

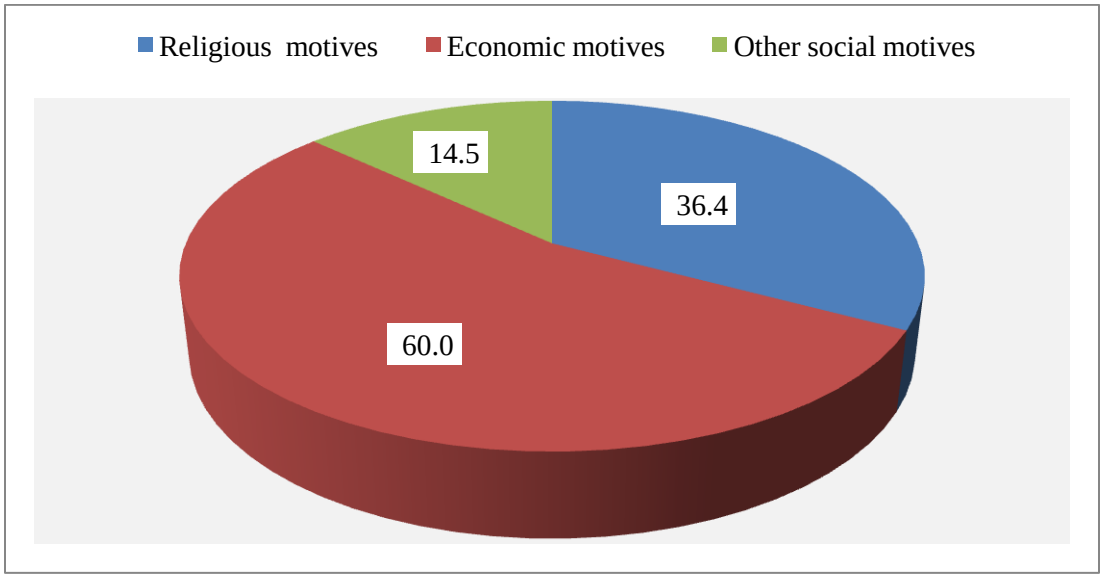

Figure 2.2: The motives of perpetrators of transnational terrorism

As evident in Figure 2.2 above, 60% of the informants considered economic situations as the major motive that inform those who join extremist groups. The youth in Mandera, Nairobi and Mombasa asserted that poverty as the major reason for the radicalization and joining terror groups. A de-radicalized youth from Mombasa for instance asserted that:

> "…When as a youth you have no job and the cost of living is so high here, you end up pursuing any means available to come out of poverty including terrorism as long as it earns money. By then, you don't think much about the dangers involved."

This was noted by Mukinda (2015) who consider under-development and poverty as major push factors contributing to engagement in terrorism, noting that youth are often lured to join extremist groups purely on assurance of money, shelter and food by the terrorist groups. This according to Devine (2017) is further complicated by youth unemployment and lack of economic opportunities that makes it easy to lure the youth

into the terrorist groups. Therefore, where poverty is high and youth unemployment is high too, it is very easy for terrorism to proliferate.

According to 36.4% of those interviewed, religion is the driving force behind those who get radicalized and join violent extremism. While probed further, one religious leader in Mombasa had this to say;

> "…Terrorists try to use religious separation where they have extreme belief that their group is superior and anyone who has not allegiance to them is an enemy and should face the full wrath of their god without mercy. But while they do this they always promise youth a job."

This concurs with Hoffman (2006) who argued that terrorists often justify their violent acts on religious motivations. Articulating the role of religion as a push factor for engagement in terrorism, Devine (2011) indicates that it is common where religion is powered by increased quantitative membership driven by a quest for the furtherance of an extremist religious ideology as opposed to positive spiritual transformation. Thus, any religious grouping whose agenda is any social or cultural goal without the primary intent of positive spiritual transformation can easily mutate into terrorism. This was reflected by Botha (2014) who indicated that several Muslim youth in Kenya were influenced to join terror groups to express their dissatisfaction with the government's perceived discriminatory law enforcement policy that they considered as punishing their religious leaders.

However, another religious leader from Nairobi had a different opinion arguing that religious extremism in Kenya is just a scheme that terrorists try to lure and manipulate the unemployed youth asserting that,

> "…this ideology in Kenya is not popular because Kenyans refused this separative aspect and profiling based on religion, but terrorists have been trying hard to use it but have not succeeded in any way. It is only in countable cases but not popular."

This concurs with Pape (2005) who argued that religion is a mere incidental factor to terrorists, and there is very little connection between religious fundamentalism and terrorism. In this regard therefore, where there is diverse religious groups, terrorists may hide behind religious motivation to further other social, political or economic goals, while portraying religious ideologies as their reason for terrorism.

While religious and economic factors appear to be the most prevalent factors promoting engagement into terrorism, 14.5% of the respondents noted that other social factors motivate engagement in terror terrorism. Peer pressure and media influence were for instance common themes in the social factors that respondents highlighted. For instance, a youth in Mombasa articulated that;

> "…Sometimes it all comes with peer pressure where your friends will push you into joining them on the basis of what they consider as gain or discrimination and if you don't have your standards, you will easily fall into the pressure."

This according to Piquero, Tibbetts and Blakenship (2005) is common among adolescents who spend time with their friends that are in aggressive behavior. They tend to be easily influenced by their peers to adopt socially destructive behavior including violent extremism. The peer pressure may be based on a subjective opinion and interest of one or few among the group who may influence the rest to support the view and engage in violent acts to achieve their interest or goal. This according to Graff (2010) may be driven by issues such as perceived discrimination in law enforcement especially in failed states majority of which are underdeveloped countries. Therefore, where grievances of

discrimination by the state against a particular sub-group are prevalent, terrorism can easily be furthered through peer pressure within the sub-group.

A de-radicalized young lady from Nairobi further explained that;

> "…Sometimes, most youths are easily deceived by what they read in the media. They absorb false information propagated through the social media which negatively influences their perspectives against the government and as a result they end up joining terrorists to fight the government."

The concern about the media influence has also been highlighted by Devine (2017) who noted that with the growing accessibility to voluminous information and ideas through the internet, fake news and prejudiced reporting that have no objectivity, vulnerable groups easily fall prey into hands of terrorists. As a result, they end up being radicalized into positions of intolerance eventually turning into terrorism. It is no surprise that terrorist groups are currently venturing into the use of social media to spread propaganda and recruit the youth into terrorism. Osaherumwen (2017) asserted that terrorists are highly using social media to influence, recruit and guide global terror strategies through their well orchestrated infusion of social media, where they spread call-to-action messages and propaganda videos via platforms like: You Tube, Facebook, Instagram, blogs, and Twitter.

In order to further understand why within the Kenyan context, AL-Shabaab has exponentially continued to unleash terror on the Kenyan masses, the study investigated the pull factors aggravating terrorism in the country. In this regard, the researcher posed the question to security officers, what factors in your opinion do you think have aggravated terrorism in the country? The respondents gave the following as factors:

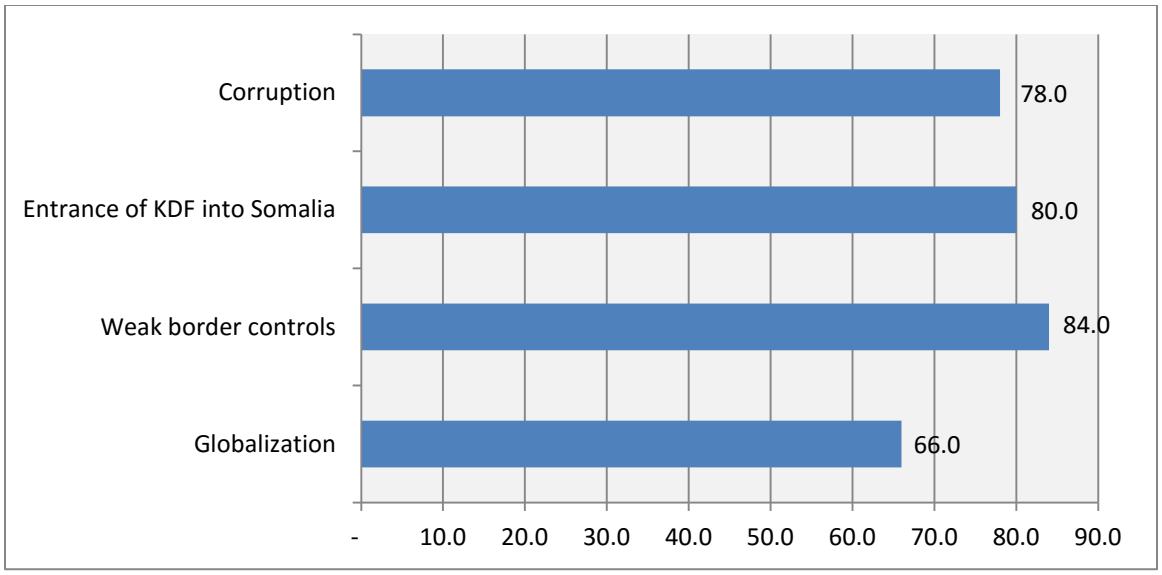

Figure 2.3: Factors aggravating terrorism in Kenya

Weak border controls was indicated by 84% of the respondents as a major catalyst of transnational terrorism in Kenya. The informants emphasized that weak border controls was a major push factor for the increased terrorism by mainly facilitating the entry and escape of the terrorists. One of the security experts was categorical that;

> "…Kenya not once or twice has been hit by this problem specifically through the Kenya-Somalia border. The border has been used as entry and exit by terrorists after and before conducting an attack on Kenyan soil."

This indicates that weak border controls have caused high porosity in the Kenya-Somalia border which exacerbates the terror threat by Al-shabaab militants from Somalia. Aronson (2013) asserted that the porosity of the Kenya-Somalia border has greatly promoted the proliferation of terrorism in Kenya by enabling the terrorist to easily transit between the two countries. Chumba, Okoth and Were (2016) also underscored that porosity in the borders is to be blamed for the increased terror attacks in the country. This means that, Kenya should respond to the instability in the neighbouring countries by first streamlining the border controls to protect the security of her citizenry. The state's first

priority is to ensure the security of her citizens. Instability in the neighbouring countries should not in itself qualify Kenya to be a victim of terrorism if Kenyan security agencies fulfill their obligations effectively.

Another major pull factor aggravating terrorism is corruption as indicated by 78% of the informants. A lady working with one of the civil society organizations complained that;

> "…The security agencies are among the most corrupt and as a result, terrorists can easily buy their passage and visas from the officials."

This means terrorists can easily bribe border security officers and immigration officers to gain entry into the Kenyan territory which makes it easy for them to plan and successfully execute attacks. Moreover, a local *Nyumba kumi* leader added that,

> "…because of corruption, terrorists are able to smuggle weapons into the country."

Thus, corruption in the borders not only enables transit of terrorists, but also illegal movement of weapons that may be used in the terror attacks. This largely facilitate transnational terrorist activities in the country.

Furthermore, participants revealed that the corruption further enables terrorists to disguise themselves as refugees and make their way into the country. A key security officer based in Nairobi elaborated that;

> "…Terror cells often migrate to the stable neighbor therefore becoming a safe haven of the terror groups. For example, two unstable neighbours, that is, Somalia and South Sudan brings an aspect of refugees' migration and asylum seeking and in this migration, terrorists through corruption find their routes into the country thus causing threat."

This means that because of corruption, terrorists take advantage of refugees' movement from conflict hit states neighbouring Kenya particularly Somalia and South-Sudan to

bribe their way into the country and execute terror attacks in the country. This concurs with the findings by Chumba, Okoth and Were (2016) that corruption leads to issuance of passports and national identity cards to terrorists, and inadequate cooperation from Somalia. Githinji (2017) further states that in the Kenya-Somalia border, there is high corruption among police and immigration officers, who allow Al-Shabaab militias access into the Kenyan territory where they execute terror attacks..

Another factor that emerged to have caused the upsurge in terrorism is the entry of the Kenya Defense Forces (KDF) in Somalia. This was indicated by 80% of the participants. KDF invasion in Somalia in mid October 2011 dubbed "*Operation Linda Nchi*" (Operation protect the nation) was a decision made by the Kenyan government after a series of attacks purportedly by Al-Shabaab militants in the Coast, Nairobi and North Eastern regions. These included the June 2010 attack in a political rally in Uhuru Park that killed 6 people, and the killing of three police officers in separate grenade attacks in Nairobi on 4th December 2010 (Botha, 2013). In early October 2011, Al-Shabaab gunmen furthered their attacks by kidnapping and killing of tourists and foreign aid workers in the Kenyan territory. This was the trigger reason that motivated Kenya's military intervention in Somalia besides other reasons including high refugee influx from Somalia, economic and political interests (Throup, 2012).

Although *operation linda nchi* intervention aimed at enhancing domestic security, the scope and scale of *Al-Shabaab* attacks within the Kenyan territory increased after the invasion. They unleashed some of the worst terror attacks in the Kenyan history including the Westgate mall attack in Nairobi in September 2013, Mpeketoni massacre in Lamu in June 2014, and the Garissa University attack in 2015 (Lind, Mutahi & Oosterom, 2017).

Describing how the invasion of KDF in Somalia has caused the upsurge in terrorism, a senior security officer in Mandera described it as,

> "…invasion of Kenyan soldiers to the terrorist territory in Somalia has been hampering their (terrorists) activities in Somalia. The result has been retaliatory attacks which are now visible in the increased terror attacks since the invasion took place."

Adding to this, a member of the civil society noted that

> "…the main motive is to intimidate the government of Kenya to withdraw KDF soldiers from Somalia."

The presence of KDF in Somalia is greatly aggravating the terrorists drive to attack Kenya. This may explain the sudden increment in the frequency of terror attacks in the country since KDF invaded Somali in 2011 up to date as reflected in Table 2.1 in section 2.3. This concurs with Williams (2018) who indicated that al-shabaab attacks became more severe in Kenya, after the 2011 KDF's intervention in Somalia. According to Williams (2018) however, the heightened terror attacks after the KDF invasion is not squarely attributed to the presence of KDF in Somalia but the opportunistic recruitment strategies used by *al-shabaab* coupled with the Kenyan local politics. This means that these findings should be interpreted with caution. That is, while the presence of KDF in Somalia may be motivating transnational terrorism in the country, it is just a tip of the ice-berg that is not sufficient ground to inform the withdrawal of Kenyan forces from Somalia. Two things should be considered. First, terrorist attacks that were initially furthered by *al-shabaab* within the Kenyan territories triggered the deployment of KDF in Somalia. Secondly, withdrawal of KDF from Somalia is but a gamble on the terrorists' withdrawal from attacking the country.

According to 66% of the respondents, globalization is also responsible for the increased terrorism. The effect of globalization was also mentioned in the Focus group discussion been largely explained as increased interconnectivity that has facilitated the terrorists to plan their heinous activities. Explaining it, an academician stated that;

> "…Globalization has brought interdependence and a lot of connectivity but on the other hand, it has brought an aspect of vulnerability. You find that terrorist groups like *Al-Shabaab* and its affiliates have used this advantage to evade conventional military power. It provides them with counter strategies thus making them stronger."

A senior security officer added that,

> "…This has made it easier for terrorists to plan their activities whereby the planner of terrorism acts stays in one country and the actor lives in a different country."

It therefore means that globalization heightens the threat of transnational terrorism by enabling easier coordination of the terrorists among themselves while they are still in different state territories. This supports the findings by Asongu and Biekpe (2017) who revealed that globalization, especially in the political and social sphere increases transnational terrorism. However, Younas (2015) revealed that when globalization reaches certain critical levels characterized by high level openness, the positive effects of openness offset the negative effects of both domestic and transnational terrorism. Therefore, the impact of globalization in war on terror is subject to level of openness that is achieved among the interconnected states. This means that whether states benefit or not from various bilateral and multilateral relationships in the fight against terrorism is subject to the level openness by the states in the alliance. This implies that if there is high openness in Kenya's bilateral and multilateral alliances centered on IG & S, then there will be a great positive impact as opposed to when there is high secrecy.

The study further sought to find out how transnational terrorism poses a great challenge to development in Kenya. This was done by carrying out a survey among security experts on the threat of transnational terrorism in the country and its implication on development.

Table 2.2: The current threat of transnational terrorism in Kenya

Duration in national security service	Percent (%)						
	Very little(1)	Little(2)	Moderate(3)	Great(4)	Very great(5)	Mean	Std. Dev.
Less than 1 year	-	-	-	-	100.0	5.00	0.00
1-5 years	-	11.8	52.9	35.3	-	3.24	0.64
6-10 years	8.7	-	47.8	17.4	26.1	3.52	1.14
11-15 years	-	-	44.4	55.6	-	3.56	0.50
Over 15 years	-	-	33.3	66.7	-	3.67	0.47
Overall	**3.6**	**3.6**	**45.5**	**32.7**	**14.5**	**3.51**	**0.83**

Table 2.3 shows that overall, the threat of transnational terrorism in the country was rated at a mean of 3.51 with a standard deviation of 0.83. All the security experts (100%) who had been engaged in the national security service for less than 1 year considered the threat as very great (mean = 5.00; Std. Dev. = 0.00). However, those who had served for over 15 years rated the threat at a mean of 3.67. Respondents who had served for 11-15 years and 6-10 years rated the threat at a mean of 3.56 and 3.52 respectively. The threats are manifested in terms of the frequency of the attacks and their resultant effects. This indicates that the threat of transnational terrorism is considered quite high at present. This supports the findings by Kiarie and Mogambi (2017) that indicated that transnational terrorism still stands as a major security threat in the country.

In a focus discussion group, an informant articulated that;

> "…Transnational terrorism is a major threat to security as its effect can still be felt across important spheres such as the education sector where the youth opt for easy paying missions offered by terrorists as alternatives to studying."

This was seconded by a community leader in Mandera who added that

> "…Radicalized individuals have the mistaken notion that they would benefit by receiving military training and huge monetary donations from terrorist networks for their own welfare and that of their dependants."

Another senior security officer added that,

> "…being that they have critical targets like churches, malls, schools and other places of public interests which is very dangerous."

The current perceived high threat of transnational terrorism is mostly attributed to the current targets of terror attacks which make them to cause more devastating effects across diverse sectors than in the past. This means that the quantitative reduction in the number of terror attacks experienced at present as indicated by Njoku et al (2018) has not reduced the perceived threat of terrorism in the light of their targets. The persistent high threat posed by transnational terrorism in the country is largely attributed to its effects that trickle across diverse significant sectors. This is worsened by the targets of the terror attacks. Key security officers unanimously indicated that the fight against transnational terrorism warrants the use of extralegal measures. A senior security officer asserted the need to use of such measures stating that, "…the effect is very significant." Zabyelina (2009) recommends terrorism in general to be securitized mainly on the grounds of its major effect and threat. Thus, use of extralegal measures has been common in the fight against terrorism. This gained a major thrust worldwide after the 9/11 attacks in the U. S. when President Bush administration expressed their intent to use extraordinary measures within and outside the U.S territory. These measures include invasion and occupation of

foreign spaces, detention of terror suspects without trial, use of torture, and intensive surveillance among citizens (Mazrui, Njogu & Goldsmith, 2018).

With several reasons been given for the increased terrorism, this raises the questions what have been the motives of the terrorists and what factors aggravate the attacks? Again, it also necessitates the need to interrogate the effectiveness of the different counterterrorism strategies been applied. This study assessed the perspectives of the informants on these concerns. Motives of terrorism have been evolving with time (Nasser- Eddine et al., 2011). In Kenya, the situation is not different. According to Aronson (2013), no one reason can be conclusively attributed to people who join terror groups. Thus, reasons for engagement in terrorism are context specific and bound to vary with among different people.

The significance of this information is that transnational terrorism has far reaching implications. IG &S is based on the experience and assumption terrorism affects beyond boarders and similarly its sources are also transnational, hence a collective global security issue.

2.4 Conclusion

This chapter sought to assess transnational terrorism in Kenya. The analysis reveals that transnational terrorism remains a major threat to the national security. It has morphed overtime in terms of actors, motives and targets. Moreover, the analysis indicates that several reasons and motives are responsible for the increased cases of terrorism.

CHAPTER THREE: SECURITY SECTOR REFORMS IN CURBING OF TERRORISM IN KENYA

3.1 Introduction

This chapter addresses the second objective of the study which was to examine the security sector reforms in the fight against terrorism in Kenya. This is informed by the fact that although the core of the research was to interrogate the application of intelligence gathering and sharing in the fight against terrorism, IG & S crosscuts the various strategies that are applied to curb terrorism. As such, while IG & S has a critical role to play in curbing terrorism, it cannot do so independently but rather it supports and is also supported by other security strategies. This chapter therefore interrogates the various security sector reforms that have been undertaken in the country over time, with a view to understand the extent to which they have mainstreamed IG & S in efforts to curb transnational terrorism. The security sector reforms interrogated include the general reforms that have been implemented targeting the national security system generally as well as those that have been implemented to specifically contain terrorism. For a better understanding of the reforms, conceptualization of security sector reforms is first explained before interrogating the specific reforms that have been undertaken.

3.2 Conceptualization of Security Sector Reforms

In understanding security sector reforms, it is important to first understand the conceptualization of security and security sector at large. The conceptualization of security was largely revisited by scholars after the termination of the cold war, hoping to make it more applicable and relevant in the wake of the newly emerging threats. The newly conceptualized security according to Mutave (2005) broadened the spectrum of

threats such that national security became a concern beyond the traditional realist perspective of focusing on military threats, to the inclusion of many non-military threats. This shift recognizes emerging security threats which are greater threat than interstate wars including terrorism as very critical with the decrease in the prevalence of interstate wars after the end of Cold War. Thus, as Wairgu, Kamenju and Singo (2004) asserts, security is no longer a states concern only, but individuals and communities at large.

However, as indicated by Jonyo and Bucheere (2011), the shift in conceptualization of security has contributed to the lack of consensus on the definition of security with the contentions between authors based on their motivation and orientation. The contention is tied on what should be the focus – whether international community, the state or the individual. As a result, Jonyo and Bucheere (2011) articulate that two perspectives have emerged on security namely: the narrow and the broad perspective of security. The narrow perspective of security is anchored on the realist approach whose focus is on the state-centric nature of security which perceives other states as the major threat to national security. In contrast, the broad perspective of security shifts from a state-centric conceptualization of security and focuses on individual security. The latter is vital to SSR because it traces security at its basic level (Jonyo & Buchere, 2011). In this regard, the broad perspective of security was thus applied in this study because although TT is also directed towards states, the terrorists also target individuals often and personal properties directly making it a major individual security threat. Again, IG & S begins at an individual level before traversing across institutions.

The concept of security sector is a broad term often used to describe the structures, institutions and personnel responsible for the management, provision and oversight of

security in a country (United Nations, 2012). According to Sedra (2010), the diverse institutions that constitute the security sector include those that have been formally mandated to use force or authorize its use for the protection of individuals, community and the state against violent acts and coercion that undermines peaceful coexistence. This means that the sector includes structures and institutions of defense, law enforcement, corrections, intelligence services, border management and control, as well as customs and civil emergencies, and in some instance, even elements of the judicial may also included.

According to the United Nations (2008), the security sector actors includes actors that play a role in managing and overseeing the design and implementation of security, such as ministries, legislative bodies and civil society groups. Other non-state actors that could also be considered as part of the security sector include customary or informal authorities and private security services (Hendrickson, 2010). In their perspective, Bendix and Ruth (2008) explain that statutory actors in security sector includes intelligence services, the military, border security services and the police, while non-statutory actors includes government bodies monitoring the statutory actors together with institutions that have a responsibility in upholding the rule of law like the judiciary, private security services among others.

The above mentioned institutions and actors in the security sector have been used by scholars like Hanggi (2004) to categorize the scope of security sector into two perspectives namely: the narrow and the broad scope of security sector. The narrow scope perspective according to Hanggi (2004) emphasizes on statutory actors including intelligence services, the military, border security services and the police. In contrast,

Hanggi (2004) notes that the broad scope conceptualization of security sector entails not only statutory actors but also the non-statutory actors. In this research, the broad perspective was applied since the war on terror involves both statutory and non-statutory actors including the citizenry in sharing intelligence among other mandated functions. The manner in which there security sector is structured or constituted may have implication on the provisions security within a country. In a number of instances the malformation of the security sector may itself be a source of insecurity. Accordingly, critical security situations call for rethinking security system, a process known as security sector reforms.

Security sector reforms (SSR) according to Kivoi and Mbae (2013) refers to the transformation of both statutory and non-statutory security actors resulting to alteration of their duties and actions to comply to the norms of democracy including obedience to the rule of law, service to the people and adhering to good governance. This is aimed at creating a security system that is properly functioning for the provision of the broadest form of human security. Transformation in this case according to Brandon (2003) is a continuous aspirational progression; which is a multi-level phenomenon that is dependent on different levels of structural change, stability and equitable social delivery as well as the relationship that ordinary citizens have with structural changes.

According to Sedra (2010), the concept of SSR emerged after the Cold War period in the 1990s which according to Sherman (2010) was a narrow entrance into the beginning of the war on terror. Mwagiru (2008) highlights that many things were shut down with the ending of the Cold War including the arms race and the West and East ideological divide, while at the same time, new dimensions were introduced including transnational

terrorism driven by religious fundamentalism and the concept of security was redefined. Thus, as Sherman (2010) explains, there was a radical shift of national security priorities from protecting against invasion from foreign armies to prevention against terror attacks, natural calamities like floods, drought and global warming which were considered a threat to individuals.

According to Sherman (2010), the collapse of contentions and confrontations between the East and the West SSR was a major driver for the emergence of SSR because of the shift of focus to human security as opposed to state-centric security. The relationship between security and development was greatly recognized. Emphasizing the existence of this relationship, scholars like Hermsmeyer (2010) underscores that citizens and the state must both have a safe and secure environment for development to take place. This according to Sherman (2010) is critical for development projects which make it necessary to review security strategies and structures which is only achievable through proper reforms and establishment of security institutions for development. As such, as Bendix and Ruth (2008) indicates, SSR occupies a central place on the agenda of institutions active in the areas of development, conflict resolution and peace building.

Chitiyo (2009) emphasize that security sector reforms must be a fundamental component in stabilization and reconstruction which are important aspects of which aims to help states enhance the security of their citizens (Chitiyo, 2009). According to Wulf (2004), security sector reform is driven towards instilling a sense of responsibility and accountability in the security force, hence minimizing the risk of conflicts for the attainment of a holistic sustainable development. To be effective and for the members of the public to appreciate the security sector reforms, there must be a positive security

sector transformation. The reforms if well managed leads to feeling of security conducive in sharing intelligence in the fight against TT.

Jonyo and Buchere (2011) articulate that SSR programs usually seek to deal with the security problem by attempting to implement improvements of institutions through the reforms. According to Ball (2010), implementation of the reforms is often as a pre-requisite for the achievement of stability and sustainable development in states that are still in their recovery process from conflicts, collapsed states or those that are transiting from authoritarianism to sovereign and developing countries. Therefore, security sector reforms are largely based on the interplay between security and development. As Hermsmeyer (2010) indicates, SSR programs seek to enhance the capacity of the security sector to ensure that individuals get justice, safety and security; corruption is minimized and terrorists and criminals networks are cracked and neutralized. This implies that SSR needs to be people-centered and should focus on individual citizens' security as opposed to regime security. This means that SSR ought to be in such a way that they promote upholding of the rule of law and should be harmonized with internationally accepted norms, standards and human rights.

Sendra (2010) underscores that governance is a major facet in SSR where accountability to the citizens should be involved in security sector alongside institutional reforms for promoting justice. These are only attainable by reviewing security sector policies and programs with a view to enhance professionalism and effectiveness. Effectiveness and professionalism in this case should not be measured by the security forces' capacity, rather it should be in terms of their management, monitoring and accountability. As Jonyo and Buchere (2011) explains, SSR should aim

at improving the security sector in terms of meeting policing policies needs effectively, improving civilian control, and putting in place a security sector of the right size so that resources allocation can be done on the basis of the society's priority and conflict prevention. When undertaking SSR therefore, all actors should be engaged including the civil society who normally helps a lot in watching over policies and actions by governments (Sedra, 2010).

The concept of SSR is politically innate since in most cases it marks a political paradigm shift from a politicized security sector to a politically neutral security sector. That is, depoliticizing the security sector. The political element in SSR causes a situation that demands a sense of ownership among the locals so that they willingly support the reforms. According to Hermsmeyer (2010), since SSR is long-term focused process to deal with issues in the security strategies and structures, sustainability of SSR is anchored on self-sufficiency of both fiscal and political realities in the long-run. Even so, this is only possible or can only be realized when certain conditions are on ground including the basic security level, and at least stable institutions (Sedra, 2010).

Therefore, taking the above aspects into consideration, SSR programs crosscuts diverse sectors in the society. Ball (2010) indicates that SSR cuts across legal frameworks, judicial services, correctional services, government oversight bodies among others. This may be the reason that Hanggi (2004) recommended that SSR be looked into as a holistic process so that they culminate into provision of improved security and democratic governance as well. The concept of SSR should therefore be considered not as a means to tackle the direct security threat, but as a process directed towards dealing with structural causes of insecurity. This is well demonstrated in Kenya's war on terror. Most of the

reforms in Kenya's security sector as reviewed in details in sections 3.4 to 3.9 are geared towards addressing structural limitations in security institutions. For instance, the establishment of special institutions such as the National Counterterrorism Centre (NCTC) and the Anti-terrorism Police Unit (ATPU) to deal with terrorism. The reforms are aimed at addressing terrorism threat not just in the short run but in the long-run as well.

According to Sherman (2010), although SSR is often linked with professionalization of security service in countries recovering from conflicts and or failed states, the intent is usually to improve operational effectiveness for effectively countering threats as terror attacks. This was echoed through the argument by Moller (2007) that so long as SSR is a major transition process from war to peace, it can also help to prevent, curb or neutralize terrorism. This understanding was adopted in this research for analyzing how Kenya has responded to the threat of transnational terrorism. Since IG & S crosscuts these diverse security institutions where the SSR takes place thereby affecting the role of the various actors, a need arises to interrogate how the reforms have impacted especially on sharing and the level of complementarity as opposed to institutional competition amongst them. The next section therefore assesses the different security sector reforms that have been undertaken in the Kenya.

3.3 Kenya's Security Sector Reforms

Kenyan government has been responding to terror attacks and the future threat posed by terrorism through various security sector reforms that have been undertaken over time. The SSR have been aimed at improving the capacity of state institutions mandated to confront insecurity. It is however important to note that SSR in Kenya did not originally

focus on addressing transnational terrorism since it was not a major security threat immediately after independence. For instance, upon independence, the focus of SSR upon independence was to consolidate the control of police power in the hands of the President and the national executive at large. Therefore, major initial changes as highlighted by Ndeda (2006) included the 1964 placement of the police force under a Commissioner of Police appointed by the President, and the Kenya Police been established as a national force under the Office of the Vice President and the Ministry of Home Affairs both headed by the vice president appointed by the President as his principal assistant.

Executive control was also through the provincial and district commissioners who were representatives of the president in their respective areas. They were in charge of maintaining law and order and the general control of the police within their areas of jurisdiction. In 1971, the vice president then Daniel Moi placed the minister of Home Affairs in charge of internal security with provincial commissioners as the chairpersons of the provincial security committees responsible for security cases arising in their areas of jurisdiction in liaison with the police (CA/44/24 KNA). In 1975, new instructions were passed to provincial and district internal security committees where the minutes of all the committees' meetings had to be sent to the police headquarters and the ministry of Home Affairs (CA/34/1). The nature of the reforms indicates they were mostly geared towards protecting the interests of the regime in power. However, this study was primarily concentrated on the security sector reforms that in one way or the other focused on addressing terrorism threat in the country.

In analyzing Kenya's SSR therefore, this study focused on SSR geared towards preventing terror attacks, apprehending and prosecuting suspects of terrorism, protecting the civilians against terrorists, and addressing the country's future terrorism. Moreover, the broad perspective of security sector was applied in analyzing the SSR undertaken by the Kenyan government in its effort to curb terrorism. As Ochieng' (2016) articulates, Kenya did not have a formal comprehensive program for SSR prior to the promulgation of the 2010 constitution. Even so, this does not mean that the government had not been undertaking SSR before the promulgation of the constitution. Terrorism was still a major threat to national security before the 2010 constitution which forced the government to carry out SSR to deal with the threat and curb future terrorist attacks. As terrorist attacks and terrorism activities have been growing in the country, there has been continuous SSR driven towards addressing the mutating terrorism dynamics which dates back before the 2010 constitution.

Security sector reforms in the country to curb transnational terrorism gained a major thrust after the 1998 and 2002 attacks which expressly revealed the reality of the high transnational terrorism threat in the nation. As articulated in Adan (2005), the government began putting up some mechanisms to address future terrorism threat after the attack on the U.S. embassy in Nairobi in 1998. However, this was done to a little extent without the seriousness it deserves because according to Adan (2005), there was a notion that it was just few attacks in the country targeting the West who were at war with the terrorist and that Kenya just happened to be a victim of circumstances. According to Muhula (2007) the notion that Kenya was a victim and not a target was also attributed to the fact that it was foreigners (*al-Qaeda*) who were masterminds of the 1998 attacks. The

government also seemed to fear that SSR could tend to alienate the Muslim minority in Kenya who had frequently complained of marginalization. According to Adan (2005), this was because majority of terrorist suspects were Muslims and therefore, the government feared to be perceived as fighting the Muslims.

Mutave (2005) adds that the denial was also because the government did not want to acknowledge the broad contextual issues that were responsible for the growing terrorism threat including poor structures in the government especially weak security institutions. To this end therefore, the dilemma was the challenge of coming up with the best strategy and system for fighting terrorism without worsening the Muslim community complaints. This as noted by Karanja (2011) gave *al-Qaeda* the opportunity to further their activities in Kenya. However, the 2002 attacks in the Paradise Hotel in Mombasa and the 2003 attempted attack on U.S. embassy that had just been newly established in Gigiri made the government drop the notion that Kenya was just a victim and acknowledge that it was a target of transnational terrorists and hence a serious threat to Kenya's national security. Thus, the government embarked on more objective SSR geared towards dealing with terrorist threat including reorganization, re-bureaucratization and establishment of different security institutions, more partnerships with different states in the fight against TT as well as adoption of different legal frameworks for dealing with terrorism.

In response to the attacks therefore, several security sector reforms were undertaken. These reforms largely entailed: institutional reforms which entailed establishment of various security institutions, and legal framework reforms that entailed enactment of various legislations on terrorism. The primary intent of the reforms was identifying terrorists, thwarting planned terrorist attacks, and apprehending and prosecuting

terrorists. Specifically, the major reforms included the establishment of the National Intelligence Service (NIS), the Anti-Terrorism Police Unit (ATPU), and the National Counterterrorism Centre (NCTC); new legislations; community based policing and increased engagement of regional and international bodies.

3.4 The National Intelligence Service (NIS); 1998

Intelligence has been in existence from time immemorial and serves as the gatekeeper and watchdog of states (Boinett, 2009). Despite the critical role played by intelligence, majority of the African countries after gaining independence from colonial governments focused on using intelligence to protect the regime in power even where the regimes had no legitimacy and had to apply dictatorship to survive (Agaba et al., 2009). This triggered the pressing necessity for reforms in intelligence services.

Moreover, due to the emerging new security threats like terrorism, drug and human trafficking, cybercrime and weapons smuggling, intelligence became more necessary to deal with the new dynamics of these crimes whose operations were largely carried out in high secrecy. Even so, demands for intelligence are getting more complicated which makes it an arduous task to identify requirements, set priorities, collect, analyze and share information effectively (Boinett, 2009). However, intelligence remains pivotal as effective mitigation operations are taken in addressing security threats.

Like in most African countries, the origin of intelligence services in Kenya according to Agbala and Pulkol (2009) is traceable to the colonial era and to some extent the Cold War period. They indicate that in the colonial era, intelligence was largely used in protecting the colonial regime's interests while during the Cold War era, it was mainly used for

reordering to influence alignment in political ideologies of the period. However, of significance is that intelligence continued to concentrate on defending the continuity of regimes and in particular, the immediate post-independence regimes.

Kenya's National Intelligence Service (NIS) according to Chau (2007) has its history rooted in the Special Branch (SB) department of the national police service established by the British government when they were colonizing the country. The SB was mandated to handle intelligence and related security matters. The Special Brach headed by a special Director in 1945 who was given the responsibility to handle government matters relating to security, intelligence and control of immigration (Corfield, 1960). During that time, intelligence remained poorly organized until 1963 when according to Boinnet (2009), it acquired clarity in its identity and its mandate extended from collecting criminal activities intelligence to investigating individuals stirring up calls for freedom among the people as well as trade union movements. In the immediate post-colonial regimes, Agbala and Pulkol (2009) asserts that the SB became a state machinery to spy on political dissents and neighbouring countries and were allegedly used for political assassinations.

However, with newly emerging threats demanding the attention of the security forces such as terror attacks, organized crimes, money laundering and related economic crimes and drug trafficking, reforms in intelligence services were inevitable. Major reforms in intelligence service in Kenya occurred after the attack at the U.S. embassy on 7th August 1998. The NIS, formerly known as National Security Intelligence Service (NSIS) was established through NSIS Act 1998. Its functions according to Boinett (2009) entailed investigation, gathering, evaluation, collating, interpretation and dissemination as well as storage of domestic and foreign intelligence that would help to detect, identify and

prevent potential national security threats. According to Chau (2007), the NSIS was formed to primarily be a civilian oriented intelligence institution as one of the security sector reforms. This according to Jonyo and Buchere (2011) was because the former institution's structure was not able to tackle the emerging security threats effectively.

Nevertheless, despite its establishment, terrorism threat prevailed. Consequently, NSIS needed to be strengthened. It is in this cognition that in 2003, the president by then (H.E Mwai Kibaki) streamlined NSIS by expanding its responsibility to include providing early warning on security, terrorism and corruption (Boinett, 2009). With the growing demand for security intelligence, the promulgation of Kenya's new constitution 2010 brought in further reforms in NSIS. As Jonyo and Buchere (2011) elaborates, it is the new constitution that renamed NSIS to NIS under Article 242 (1) which was actualized through the NIS Act 2012. Under the NIS Act, most of the functions of NSIS were maintained. Under Article 14(1) of the NIS Act, the structure was streamlined further into three divisions – external intelligence (to focus on foreign intelligence), internal intelligence (to focus on domestic intelligence) and counter intelligence (to focus on counterintelligence). However, in the very Article 14(1), NIS was given the flexibility to have other divisions that would be considered important for their efficiency (Republic of Kenya, 2012).

Kenya's NIS is recognized as one of the best intelligence institutions within East Africa capable of confronting the newly emerging security threats including terrorism (Agbala & Pulkol, 2009). Nevertheless, they note that the institution is confronted by notable challenges including: intelligence been politicized, inadequate capacity in terms of skilled personnel, insufficient capacity for analyzing and disseminating right

intelligence, evolving nature of threats, overemphasis on political intelligence while neglecting more important national security matters, poor cooperation with other security agencies, inadequate regional sharing of information, inadequate funding and lack of political goodwill due to the perception that intelligence is an instrument of power capable of manipulation to achieve the interest of politicians. These challenges may undermine the effectiveness of IG & S as a counterterrorism strategy in Kenya.

However, in spite of the challenges, NIS has continued to play a vital role through its provision of information on imminent security threats and thus helping the authorities to utilize the information to address security threats. As such, the intelligence service assists in provision of information that contains useful insights relevant in prosecuting suspects and making critical security decisions. This can greatly help in ensuring successful prosecution of terrorist suspects who are often acquitted in courts on the ground that there is no evidence or it is inadequate. Thus, proper intelligence gathering and sharing remains fundamental in the war on terror.

3.5 Special Forces Formation

The prompt to have a special unit in the police service to tackle terrorism in the country gained momentum in 2002. This was after the 1998 attack on the U.S embassy in Nairobi and the subsequent attack on an Israeli-owned hotel in Mombasa in 2002 which was a clear indication that transnational terrorism had penetrated the country and was a critical security problem. As a result, the government came under pressure to put up measures to respond to transnational terrorism threat in future. Consequently, the ATPU was created as a specialized Kenya Police Unit within the Criminal Investigations Department (CID) comprising of 450 officers from all the security agencies in the country (Chau, 2007).

McGregor (2009) notes that establishment of the ATPU was in line with the 1988 Police Act that gave the police commissioner as a presidential appointee powers to establish specialized units to address specific crimes. ATPU is under the office of the president and is responsible for preventing suppressing terrorism financing. Thus, the ATPU reinforces IG & S in curbing terrorism. Through the establishment of ATPU, intelligence gathering especially on terrorism financing gained a major boost because ATPU has intelligence officers within the unit who handle various facets of financial forensics needed in tracking money channeled towards terrorism its related activities (Chau, 2007). Regional offices for the unit were strategically established in Nairobi, Mombasa and Garissa to serve as centers for holding terrorist suspects and terrorist sympathizers. More regional units of the SB were established in Kisumu, Eldoret and Lokichogio (Adan, 2005).

Apart from the ATPU, the Recce company (usually known as the Recce Squad) is another special unit within the General Service Unit (GSU) formation of the Kenya Police Service. However, due to the highly secretive nature of the unit and its operations, not much is known about the Recce company and as David (2015) indicates, the group first came to the public light in their operation during the Westgate mall attack. According to Adam (2015), the Recce company is composed of 3 units: Sky Marshal Unit, Crisis Response Team and the Rendition Operations Team. The Sky Marshal Unit majors on averting and countering plane hijackings by terrorists while the Crisis Response Team serves as a standby team to swiftly intervene in situations that threaten to turn volatile or unpredictable. The Rendition Operations Team is exclusively trained in U. S and Israel on tactical counter-terror operations. The operations by the unit are driven by the United States CIA and Kenya's NIS (Gisesa, 2020).

Use of special forces according to Johansen (2015) is an effective counterterrorism strategy, due to their high level training and skills which is critical in curbing terrorism. The special forces therefore complements the IG & S strategy in curbing terrorism by playing a major role in acting on the intelligence from the mainstream intelligence agencies like the NIS to foil terrorist attacks or launch offensive attacks to neutralize terrorists. According to Johansen (2015), special forces usually acquire high level training and skills in applying unconventional and unorthodox techniques that are often unexpected by their enemies, which enable them to apply force with extreme precision against the enemy's critical vulnerabilities. This could explain the deployment of special forces during recent terror attacks in the country. For instance, during the Garissa University attack in April 2015, the deployment of the *Recce squad*, one of the special forces, to the scene of the attack ended a day long siege in less than thirty minutes, with their late deployment bringing huge criticism to security leadership in the country (Mukinda, 2015). Their late deployment was highly blamed for the massive casualties that resulted from the attack with many believing that had they been deployed in time, casualties would have been less. During the attack in the Dusit D_2 complex in Nairobi on 15th January 2019, a more swift response from multi-agencies in which the special forces were deployed shortly after the attack started helped to neutralize the terrorists and end the siege within a short time and with relatively few casualties (Ombati, 2019). Therefore, this indicates that effectiveness of special forces is largely realized when it is applied as an offensive strategy against terrorism. However, they must have information on the terrorists which makes them a great complement to IG & S in the war on terror.

3.6 The National Counterterrorism Centre (NCTC); 2004

The NCTC was created in 2004 by a cabinet decision as part of the response to the national counterterrorism strategy that had been developed in April 2003. It was however established in law by the Security Laws (Amendment) Act 2014. The NCTC was created as a multi-agency initiative seeking to facilitate effective coordination of counterterrorism work, while serving as a national counterterrorism focal point to engage with foreign partners. Since its establishment, it was an organ of the National Security Advisory Committee under the office of the president. The mission of NCTC is to coordinate national counterterrorism efforts for detecting, deterring and disrupting terrorism acts (NCTC, 2016).

The creation of NCTC was part of the security sector reforms within the intelligence gathering and sharing system in the country, in order to streamline the system to be more effective in addressing terrorism threats. Therefore, NCTC is required to ensure the provision of factual and timely intelligence relevant in curbing terrorism (NCTC, 2016). Staffs in the NCTC include representatives seconded to it from various institutions including: the Ministry of Defence, National Intelligence Service, the National Police Service and the Immigration and Customs department.

The National Counterterrorism Centre in their fight against terrorism can operate in liaison with regional organizations that have the mandate of counterterrorism. For example, they can partner with institutions like the IGAD, and Africa Centre for Study and Research on Terrorism (ACSRT). These partnerships enhance the NCTC institutional capacity to execute its mandate which include developing strategies to counter radicalization and promote de-radicalization, facilitate capacity building in prevention of

terrorism and counterterrorism as well as coordinating with other state agencies to provide security certification for aviation schools (NCTC, 2016). When different agencies involved in the fight against terrorism share information, the possibility of enhanced effectiveness in monitoring and responding to terrorism activities increases. This improves the ability to thwart terror attacks before they are executed.

However, according to Fulgence (2015), partnerships between NCTC and regional bodies like IGAD are yet accomplish the anticipated common goal of curbing terrorism. This according to Ansaaku (2017) is due to limited cooperation between member states in these regional bodies. Fulgence (2015) blames the lack of cooperation on competing national interests and the urge to safeguard national sovereignty which often makes the intervention of one state in another difficult or cause major negative effects on the specific country that invades the other in the fight against terrorism. As a result, Fulgence (2015) explains that how the individual members define and value terrorism is different and consequently, cooperation in these regional bodies in the fight against terrorism is just theoretical. Therefore, whenever two or more states come together as one body and agree to confront terrorism as a common enemy, they are bound to fail as long as their resolve to curb terrorism does not supersede their individual national interests. This will be revisited in analyzing the dynamics and complexities of IG & S in the next chapter.

3.7 Legislative Framework; 2003-2012

After the 2002 attack in the Paradise Hotel in Mombasa, as part of the concerted efforts to confront the terrorism threat in the country there was a major need to provide a suitable legal framework to enhance the investigation and prosecution of terror suspects. Consequently, in efforts streamline the legal framework to address terrorism, Kamau

(2006) notes that in April 2003, the minister for Justice and Constitutional Affairs tabled a bill in parliament dubbed the Suppression of Terrorism Bill 2003 whose purpose was to provide measures for detecting and preventing terrorist activities and for related purposes. The Bill was divided into 9 parts and had a total of 44 sections and 4 schedules. The 9 parts of the Bill covered the following consecutively: the preliminaries, terrorist offenses, declared terrorist organizations, terrorist property, terrorist investigations, exclusion orders, mutual assistance and extradition, amendments and miscellaneous provisions. The bill was highly criticized on grounds of policy and human rights by the public, the civil society, national politicians and religious leaders including the Muslim organizations. According to Amnesty International, Kenya (2004), part of the areas that attracted critics include among other: its vague definition of 'terrorism' and 'terrorist acts' which could encompass legitimate actions like peaceful protests; Clause 26 which gave extensive stop, search and seize powers to a police officer of or above the rank of an inspector without any warrant from a Judge of the High Court, Clause 30 that proposed a 36 hour incommunicado detention of suspects by a police officer of or above the rank of an inspector which was feared to be a reintroduction of human right violations like the ones meted out to Kenyan citizens in Nyayo House (the human right violations that took place in Nyayo house have been revisited in chapter 4). In the light of the criticism, the clauses that had largely been criticized were reviewed and a revised version of Anti-Terrorism Bill was tabled in parliament in 2006. However, it was also highly criticized by politicians and the civil society being alleged to be an American sponsored project. As a result, the legislative efforts to enact anti-terrorism law were halted until 2012. Hence, the very legislative gap that the Bill was seeking to address still remained until 2012.

After Kenya's military invasion in Somalia in October 2011, the increment in terrorism threat in the country from Al-Shabaab pushed the government to securitize terrorism threat in the country. The need for counterterrorism legislation increased as the militants continuously began to unleash retaliatory attacks across the country. Mohochi (2011) indicated that Kenya was yet to establish specific effective counterterrorism legislation despite the legislation reforms undertaken. Consequently, as part of the efforts to confront the increased threat, the Prevention of Terrorism Bill 2012 was tabled in Parliament by the Minister for Provincial Administration and Internal Security in July 2012. Most of the issues that had attracted criticism in the 2003 and 2006 versions of the anti-terrorism bill had been addressed in the Prevention of Terrorism Bill 2012 (Mwazighe, 2012). Parliament passed the Bill and it received the presidential assent on 12th October 2012, thereby becoming the Prevention of Terrorist Act 2012. According to Ochieng' (2016), the Act was expected to help address institutional gaps that had weakened the judiciary in effectively dealing with terrorists.

The Act provides that any person or individual who engages in terrorism which causes the death of another is liable for life imprisonment. Mwazighe (2012) argues that the basis for the life imprisonment as opposed to death sentence is that the latter would grant the terrorists the very martyrdom status that most of them seek to achieve. This may therefore be considered as a legal tool to hinder the terrorists' goal of dying as a martyr in order to deter others that may want to engage in terrorism with such a mindset.

From Article 5 to Article 10, the Act stipulates that people who are guilty of directly or indirectly perpetrating terrorism by recruiting, financing, membership to terror groups, and or providing weapons or logistics support (like leaking security intelligence or

housing terrorists), should be jailed for not more than 20 years. These provisions were aimed at curtailing the locals from supporting terrorists to propagate their evil in the country. This is because some resident citizens as indicated by Adan (2005) facilitate terrorists by providing them with forged documents like national identification cards, marriage certificates among others. Therefore security measures put in place can help to minimize the recruitment of locals into terrorist groups and minimize the problem of local groups seeking to be affiliated with terrorists.

However, the act scrapped off the incommunicado detention of terrorism suspects by police officers. Under Article 32(1), any apprehended terrorist suspect is not supposed to remain in police custody for more than 24 hours without been presented in a court of law for prosecution. Moreover, the arrest of terrorist suspects under the Act should be under justifiable basis. However, as Mwazighe (2012) elaborates, all modes of punishment provided under the Act for terrorist crimes are by imprisonment without the alternative of any fine. The strict sentence is also to further deter those who may want to engage in terrorism.

Apart from the Prevention of Terrorism law, other Acts have been enacted to further enhance the legislative framework for curbing terrorism and particularly those which seek to deal with the factors which perpetuate insecurity. These include the Prevention of Organized Crime Act 2010 which further strengthened the state's capacity in monitoring and intercepting the channeling of funds to terrorism activities. Under Article 15(1) of the Act, the state can demand for information from any financial institution, trustees, and or any custodian of business transactions conducted on behalf of individuals implicated in criminal activities.

These legislations discussed above alongside the Proceeds of Crime and Anti-Money Laundering Act (POCAMLA) of 2010 reflect the efforts by the legislature arm of the government in supporting the efforts by the executive arm in the fighting terrorism, as well as providing necessary checks and balances. As Karanja (2011) indicates, the Act comprehensively aimed at sealing loopholes to prevent organized crime. It demands the monitoring and reporting of money laundering activities by banks, and obliges them to verify identity of the customers, establish and keep track of their records and set up procedures to report internal transactions that may be suspicious.

The legislations as reviewed above jointly provides the office of the Director of Public Prosecutions with a diversity of mechanisms for successfully prosecuting terrorist suspects and hold them culpable for terrorist attacks and terrorism related activities. In addition, they facilitate cooperation at the international arena including Kenya and other countries mutually assisting each other on legal issues involved in bringing terrorists to justice.

3.8 The Constitution; 2010

In 2010, Kenya adopted a new constitution, commonly referred to as the 'Constitution 2010.' When the Constitution 2010 came into force, it brought new agendas for SSR especially in the police service. However, the agendas were not directly connected to the war on terror but instead, they largely sought to improve professionalism in various security institutions in performing their duties. This in turn contributes to the curbing of terrorism as well as other crimes in Kenya. The issues in the reforms brought by the

Constitution were more of a formalization of a process of reforms that began after the violence experienced in the country after the 2007/2008 elections.

A commission that was formed to investigate the 2007/2008 post-election violence led by Justice Phillip Waki outlined several allegations of police misconduct at the time of the violence. The Commission recommended many diverse reforms in the police service and recommended that officers implicated in crimes committed during the violence be investigated and prosecuted (Waki Report, 2008). Kawira (2014) adds that for the purpose of fast tracking the recommendations, a Task Force on police reforms lead by Judge Philip Ransley was established in 2009. The Task Force according to Osse (2014) aimed at transforming the Kenya Police Service (KPS) and the Administration Police Service (APS) to enhance their effectiveness, efficiency, professionalism and accountability, and hence improve Kenyans' trust in the agencies for security services. According to Kawira (2014), it suggested more that 200 recommendations which among others were: the establishment of National Police Service Commission, establishing a Police Reforms Implementation Committee to oversee reforms in the police, enacting a robust legal framework for the police, the police service to be restructured and community policing to be streamlined.

Some of the proposed recommendations according to Osse (2014) were integrated in the Constitution 2010 while others were instituted in Acts of Parliament. The police capabilities were improved significantly by the Constitution in different ways. For instance, it restructured the hierarchy by establishing the office of the Inspector General (IG) to head both the KPS and APS. This move was meant to enhance the effectiveness

and accountability of the police service which further required particular legislation to be developed for facilitating the reforms.

As was required under Article 243 of the Constitution, Parliament enacted the National Police Service Commission Act (2011) which established the National Police Service Commission (NPSC). The Commission's primary mandate was to alleviate interference of police personnel management processes by politicians, and under Article 246 (3) of the Constitution, it was given the responsibility of recruiting, promoting, transferring and sanctioning disciplinary actions on officers in the police service. Kawira (2014) adds that the move was aimed at promoting equality when officers were been recruited, promoted or disciplined which means it was to serve as the oversight body overseeing the performance of these duties.

Therefore, with the establishment of the NPSC, it means that personnel management in the police service was detached from the Public Service Commission. As Kawira (2014) indicates, NPSC thus became the institution specifically handling human resource issues in the police service. The NPSC was also mandated to vet the existing members of the police service. Under the National Police Service Act (2011), every officer in the National Police Service had to be vetted in order to determine how suitable and competent they were. The Commission was given the authority to discontinue any officer who fails to meet the standards checked in the vetting.

The vetting process for the police officers began in November 2013 where officers in the senior ranks were the first to be vetted. Vetting of police officers is a common practice in justice-sensitive approaches to security sector reforms that if combined with

other reforms in the security sector can greatly help to build and enhance security institutions' integrity (Ochieng', 2016). The vetting of the officers according to Kawira (2014) was to ensure compliance with chapter six of the Constitution and public service principles,

In chapter six of the Constitution (2010), the conduct, leadership and integrity standards for state officers (of which NPS is part of) are stipulated. State officers are required to be suitable and competent enough to serve, serve without partiality, demonstrated discipline and commitment in service, be respectful to people, and ensure accountability to the public. Therefore, as articulated by Osse (2014), vetting is vital in aligning the police service with requirements set in the constitution whose agenda behind the reforms was to ensure that individuals with questionable conduct are not allowed to serve. The vetting was thus critical in revealing incompetent officers as far as police service is concerned.

Another notable aspect of the reforms brought by the Constitution 2010 was the establishment of a clear oversight of the powers and functions of KPS, APS and NIS as well as the command structure for the same under Articles 243, 244 and 245 of the constitution effected through the enactment of the National Police Service Act (2011). The NPS Act (2011) established the Directorate of Criminal Investigations (DCI) that is independently funded to improve the quality of criminal investigations and their management. The directorate is vital in investigating criminal activities including terrorism, hence helps to thwart terror attacks and uncover as well as intercept terrorism financing.

Another major reform that was also introduced in effecting reforms in the police service envisaged in the Constitution was the enactment of the Independent Policing Oversight Authority Act (2011) which established the Independent Police Oversight Authority (IPOA), thus giving effect to Article 244 of the Constitution. The Authority was given the responsibility of providing oversight on the NPS activities. Under section 6 of the Act, IPOA exercises their oversight role on NPS by among others, investigating complaints raised against any officer in NPS and recommending any disciplinary actions necessary to the appropriate authorities including recommendations to prosecute or compensate. It also receives and investigates complaints by officers in NPS. By implementing this reform, the NPS is placed under the oversight of a civilian oriented authority which is vital in enhancing accountability in the service especially in the wake of allegations that police have been abusing their powers, where they have been even accused of carrying out extra-judicial killings.

For a long time, the police carried out policing activities with no civilian oversight which was responsible for many instances of alleged human rights abuse by the police in the course of their duties. Therefore, implementing the above reforms has promoted the transformation of police service and instilled in the officers a sense of accountability to the public in addition to professionalizing the service. This is a fundamental step in improving effectiveness and efficiency of security services in confronting security problems in the country including terrorism.

Although the constitution 2010 as reviewed triggered critical reforms in the security sector, the process of operationalizing the reforms has been confronted by various

challenges. Osse (2014) highlights some of the challenges including inadequate funding, lack of political goodwill, and inadequacy of staffs. The government unwillingness to do away with the Provincial Administration that was in the old constitution and fully embrace the administration stipulated in the new constitution further complicates the challenge. In what looked like reinstatement of the old constitution's provincial commissioners (only named differently), appointed 47 County Commissioners to represent the national government in the counties created by the new constitution. However, there is no provision in the constitution establishing the office of county commissioners which resulted into the High Court nullifying their appointment but they still remained in office despite the ruling (Standard Team, 2012). The Court of Appeal however overturned the ruling by the High Court and upheld the appointments on the basis that their appointment was done during the country's transition period (Lucheli, 2013). This has resulted to power wrangles challenge. Nevertheless, despite the challenges, the reforms have and continue to enhance the effectiveness of security service in the country.

3.9 Community Policing; 2005-2013

There has been ambiguity in conceptualizing community-based policing (CBP) which has caused the term to be interpreted and implemented in different ways in different circumstances and among different actors (Cossyleon, 2019). For instance, Ruteere and Pommerolle (2003) indicate that when the Nairobi Central Business District Association adopted CBP, it was specifically for dealing with crimes that were threatening the continuity of businesses within the Nairobi CBD environs while on the other hand, the Kenya Human Rights Commission (KHRC) adopted it as a strategy to

curb human right abuses and crimes. This research however applies the broad perspective of CBP as a security approach that deals with both human rights abuses and crimes to holistically address the insecurity problem by increasing the community participation.

Saferworld (2008) considers CBP as a philosophy (a logical reasoning) and a strategy (a way to execute the philosophy) that brings the community and the police in a collaboration for solving issues on crime and disorder to ensure individuals in the community enjoy safety and peace. According to Gill et al. (2014), CBP is simply an emphasis on involving the community in efforts to prevent crime and enforce law and order. Holmer and Van Deventer (2014) indicate that by emphasizing on the involvement o the community, a sense of mutual ownership is instilled in both the state and the community through CBP. In Kenya, CBP has specifically been considered as a philosophy promoting organizational strategies supporting the systematic partnering between the communities and the state policing institutions for proactively addressing issues that cause public security problems like crimes and social disorder (Republic of Kenya, 2015).

Based on the reviewed definitions and conceptualization of CBP, it can be perceived as a security sector reform that leads to the deconstruction of the dispensation of security services from being exclusively a responsibility of the state security agencies, and promoting the ideology that maintaining security is everyone's responsibility. This provides the citizenry with an opportunity to be actively involved in the public security matters affecting them. As a result, it helps in professionalizing the delivery of security

services by improving security agencies' accountability to the public. CBP according to Weisburd and Eck (2004) has been found to increase the public trust and satisfaction with the police service.

In Kenya, CBP as part of SSR was initially introduced in 2005 by the former President Mwai Kibaki as a proactive and preventive strategy seeking to minimize criminal activities and the fear of crime in the society (Saferworld, 2008). However, it did not fully succeed (National Police Service, 2017). A pilot test for the program was done in Kibera and Isiolo where it showed some success in terms of how the police were relating with the community members to deal with crime (Saferworld, 2008). However, as indicated by Kawira (2014), various challenges undermined its success including the absence of a national legal framework and guideline, blame games and complains by both the communities and the police against each other.

When the Constitution 2010 came into force, it revived CBP by introducing the paradigm shift from police force to police service and setting a platform for the establishment of a national legal framework for CBP. Article 244 (e) stipulates that promoting and fostering of relationships with the community is one of the functions of NPS. Furthermore, the Constitution 2010 created NPSC which in turn as noted by Kawira (2014) revised NPS training program and introduced community policing in its training modules together with other new modules on other issues like service delivery and public relations. These aspects contributed to the transformation of the security sector into a more inclusive one that was people-centric; involving the community members in policing issues to help curb security threats like terrorism.

The establishment of legal framework and guideline for CBP was further streamlined when the National Police Service Act (2011) was enacted. The Act define community policing as

> "…the approach to policing that recognizes the voluntary participation of the local community in the maintenance of peace and which recognizes that the police need to be responsive to the communities and their needs, its key element being joint problem identification and problem solving, while respecting the different responsibilities the police and the public have in the field of crime prevention and maintaining order" (NPS Act 2011, p. 9).

Under sections 96, 97, 98, 99 and 100 in Part XI of the Act, legal provisions to operationalize community policing are detailed including the structure. The Act is aimed at promoting cooperation between the community and the police and to boost the trust among them for the effective combating of crimes. Moreover, the Act sought to make the police more accountable to the community. The Act established community-policing committees as the oversight organizations overseeing how CBP was being implemented in their localities. By introducing inclusivity, the Act therefore provided the procedure of bringing together police and the community as major players in security. Even so, most of what was formulated concerning CBP still remained just on policy documents and little was done to have it implemented on the ground until 2013 after the Westgate Mall terrorist attack when there were increased calls for the implementation of CBP dubbed *Nyumba Kumi* (which means ten households).

The attack on Westgate Mall evoked strong feelings across the country that people were highly vulnerable to unsuspected attacks from terrorists. The attack was conducted in a manner that indicated the existence of support to the terrorists by locals. Regional intelligence sources indicated that the terrorists involved in the attack were supported

by a network of locals (Manson, 2013). Moreover, there was an increasing trend of locals been accused of perpetrating terrorist activities which had increased the fear that terrorist threat was not just from foreign terrorists, but also radicalization of individuals among the locals who could unleash terror attacks in the country. Thus, President Uhuru Kenyatta launched the *Nyumba Kumi* CBP program after the Westgate Mall attack (PSCU, 2013). It was clear that the enemy was living in the midst of the locals thus necessitating the need for the citizens to help in providing information about suspects which was considered as best achievable by applying CBP.

Therefore, the introduction of *Nyumba Kumi* program by the government was aimed at improving security basing on the notion that the threat of terrorism was continuously increasing, but in a broad conceptual perspective, it was determined to address the diverse aspects of insecurity the country was facing. Similarly, it was driven towards dealing with the real causes of insecurity including environmental degradation, economic and public health issues. Moreover, the manner in which people responded to the Westgate attack may have also prompted the need to promote community policing noting that, civilians with licensed fire arms were the first to respond at the mall. This demonstrates the importance of the informal sector in preventing and responding to crimes.

As part of SSR, formalizing the process of involving local communities in providing security has thus been fundamental in demystifying the notion that curbing terrorism is a responsibility of the state security agencies alone. CBP is based on the principle of "say what you see, hear or feel that is suspicious" and this places communities at the

center in the fight against insecurity. Furthermore, by enabling partnering with security agencies, CBP can greatly help in disrupting terrorist activities as well as foiling attacks. Therefore, while CBP brought the *Nyumba Kumi* system, the greater agenda is not literally ten households but to have a basic unit of security arrangement establishing the foundation of the larger national security.

3.10 Operational and Ideological Counterterrorism Strategies

Operational and ideological counterterrorism strategies have largely to do with countering violent extremism (CVE). Countering violent extremism is simply an umbrella term referring to the collective efforts for the prevention and destruction of radicalization that often lead to terrorism (Badurdeen & Goldsmith, 2018). Radicalization in this case refers to the process through which a person or a group of people are influenced to adopt a violent form of action which is directly related to a social, political or religious extremist ideology undermining the existing political, social or cultural order (Khosrokhavar, 2014).

The operational and ideological counterterrorism gained a major thrust after KDF military intervention in Somalia in October 2011 which resulted to high youth radicalization by the *Al-Shabaab* in Kenya. According to the International Crisis Group (2014), the original intent of the military intervention was to establish a buffer to prevent *Al-Shabaab* extremism from spreading to Kenya but the occupation of Jubaland region instead stirred increased radicalization and recruitment into *Al-Shabaab*. The militants succeeded in furthering the radicalization standing on what Badurdeen (2012) refers to as the long-standing grievances linked to poverty and ‘neglect’ of the marginal

Coast and North Eastern regions in the post-independence era. These grievances constitute the push and pull factors including lack of socio-economic opportunities, alleged discrimination from marginalization, bad governance abetting the deteriorated state-citizens relationship, human rights abuse, and discriminative application of rule of law (Badurdeen, 2012; Botha, 2013). According to Badurdeen (2016), Al-Shabaab capitalized on these grievances to carry out radicalization by crafting ideological narratives portraying the state (Kenya) and Western government partners as their common enemy, emphasizing on the plight of the individuals and the community at large.

In response to increased homegrown radicalization facilitated by *Al-Shabaab*, Kenya undertook various counter radicalization initiatives. This included the state security agencies and development partners coming together and formulating policies specifically targeting to counter radicalization and violent extremism. These included the Security Laws (Amendment) Act 2014 and the 2015 National Strategy to Counter Violent Extremism. The Security Laws (Amendment) Act 2014 under Article 62 (12D) criminalized the adoption and promotion of extreme belief systems that facilitates ideologically based violence for advancing political, social or religious change. Under the very Article, anybody convicted of this crime is liable to an imprisonment of not more than thirty years. Moreover, Article 63 of the Act made it a criminal offence for a person in Kenya to conspire with another in or outside Kenya to carry out a terrorist attack. Article 64 further criminalized the publishing of statements that encourages others (directly or indirectly) to commit or prepare to commit terrorism acts, with offenders liable for an imprisonment of not more than fourteen years. Receiving of

training and or instructions within or outside the country on using or handling of weapons, with the intent or connected to the preparation or execution of terrorist acts was also criminalized under Article 64 and is punishable by an imprisonment of not more than ten years (Republic of Kenya, 2014).

The national Strategy to Counter Violent Extremism was officially launched in September 2016. The strategy introduced collaborative CVE approaches which brought together the international community, government, communities, civil society and the private sector, subsequently decentralizing CVE plans by introducing county-level CVE plans in several counties in the Coast and Northern Kenya regions (Oganda, 2017). The interventions primarily entailed addressing the grievances that acted as the push and pull factors for radicalization. These according to Kessels and Nemr (2016) included measures to create job opportunities and promoting social engagement, cultural awareness and youth development programs. These were primarily to cushion the youth from been radicalized.

3.11 Conclusion

This chapter set out to explore the various security sector reforms that have been implemented in Kenya in efforts to curb transnational terrorism and how they have mainstreamed IG & S as a counterterrorism strategy. It emerges that Kenya has implemented diverse security sector reforms including measures such as new legislations, establishment of special forces, NIS and NCTC, a new constitution, and establishment of community policing as well as the operational and ideological counterterrorism strategies. Each of these measures has played an important role in mainstreaming IG & S

in efforts to curb terrorism. This includes streamlining the legal framework for investigating and prosecuting terror suspects; and strengthening the agencies to which intelligence gathered is relayed to be acted upon for the purpose of intercepting terrorists and foiling planned attacks as well as neutralize terrorist during attacks. The chapter demonstrates that IG & S as aforementioned earlier cross cuts other strategies in the fight against transnational terrorism. Therefore, with IG & S at the core of efforts to curb terrorism, it is critical that its application be interrogated given that despite the various security sector reforms (discussed in this chapter) that have helped to complement IG & S, terrorism still remains a major security issue. In this regard, the next chapter is an in-depth interrogation of IG & S including its evolution, nature, gaps and strengths in curbing TT in the country.

CHAPTER FOUR: INTELLIGENCE GATHERING AND SHARING IN FIGHTING TT IN KENYA AND ITS IMPACT

4.1 Introduction

This chapter marks the beginning of the core area of interest of this research whose overarching purpose was to interrogate the application of IG & S in the fight against terrorism. In this regard, the chapter forms the foundation for achieving the third objective of the study which was to interrogate the integration of intelligence gathering and sharing as a counter terrorism strategy in Kenya. The chapter therefore focuses on how intelligence gathering and sharing has evolved in Kenya to become a major strategy in efforts to curb terrorism. This is done by interrogating the development of intelligence gathering and sharing over time, and the implications of these developments in the fight against transnational terrorism. For a deeper understanding of the issues in the IG & S development process, the review is presented from global, regional and national perspectives. In order to understand how intelligence gathering and sharing has changed with time in the country and its dynamics under different regimes, the preview in the Kenyan context has further been grouped into IG & S during the pre-colonial period, colonial period and in the post independence Kenya.

4.2 Why is IG & S Important?

Intelligence has been identified as one of the critical components that should constitute a major part in the war on terror (Rosand et al., 2008). In the context of the fight against terror, Martin (2016) asserts that the role of intelligence is emphasized on reducing uncertainty, providing early warning and informing policy decisions in fighting terrorist attacks. As Flavius-Cristian and Andreea (2013) puts it, while intelligence gathering

alone cannot stop the next terrorist attack, it is the critical first step in identifying and possibly preventing one. In the war on terror, intelligence gathering has played a critical role in both offensive and defensive operations. According to Nte (2011), there are two fundamental purposes served by intelligence gathering in the War on Terror: first and foremost is to inform policy and second, is to support operations, be they military or police with the aim of guarding the state against the terrorists and preventing their proliferation. The fundamental role of intelligence gathering is therefore in its contribution towards security decision making in terms of formulating antiterrorism rules and regulations, as well as provide insights to other security forces in executing offensive attacks against the terrorists. This makes IG & S core in intelligence led-policing.

Intelligence-led policing is a business model and managerial philosophy for policing where analysis of data and crime intelligence plays a fundamental role in objective decision making framework to facilitate reduction, disruption and prevention of crime and related problems (Ratcliffe, 2008). It accomplishes this through strategic and tactical management, deployment and enforcement where priorities are on crime hotspots, criminal groups, repeat victims and prolific offenders (Ratcliffe, 2016). Intelligence led policing enables a proactive approach to policing management and is successfully been applied to deal with major and transnational security threats. According to the Organization for Security and Cooperation in Europe (OSCE), it has developed into a more strategic model of dealing with a myriad of security problems at the local, regional and national levels. One of these problems is transnational terrorism (OSCE, 2017).

However, it is when intelligence is properly shared with the right security stakeholders that all the above merits of intelligence can be achieved. Therefore, especially in this era

when security issues have become transnational in nature, the importance of intelligence sharing cannot be overstated. This has been asserted by Barger (2005) who underscored that the global nature of security issues and increased foreign threat has led to the increased need for intelligence sharing among states. Globally, shared security threats like money laundering, human trafficking, drug trafficking, weapons smuggling, political extremism and transnational terrorism have made intelligence sharing between states very critical (Africa & Kwadjo, 2009). Emphasizing the importance of intelligence sharing in the fight against transnational terrorism, Lowenthal (2016) asserts that states partnerships in intelligence sharing are widely being adopted in combating terrorism.

Shared security threats like transnational terrorism according to Africa and Kwadjo (2009) can rarely be contained by states independently within their national borders which necessitate regional and international cooperation of intelligence services. This means that in the question of applying intelligence in fighting transnational terrorism, intelligence sharing is inevitable. Although, states primarily gather intelligence for their own state centric interests, in the fight against transnational terrorism, intelligence sharing takes the center stage. Therefore, intelligence gathering and intelligence sharing cannot be separated, rather they are combined as one strategy since as aforementioned, TT being a shared security threats calls for sharing of intelligence between states. In this study therefore, intelligence gathering and sharing is interrogated as one strategy although the elements of intelligence gathering and elements of intelligence sharing are discussed. The fundamental question however is, amidst the conflicts of interests between different states, is their collaboration between states per se? Are the states able to rise above their state centric interests to collectively abate their shared global security threats?

In this study, the researcher attempts to answer these questions with a focus on the case of transnational terrorism. In this regard, in the next sections of this chapter, the dynamics of intelligence gathering and sharing in the fight against transnational terrorism are interrogated.

4.3 Global Perspective on IG & S

Intelligence gathering is often related with espionage but the two are different concepts. Fischer, Halibozek and Walters (2019) elaborates that although both entails information gathering, intelligence gathering involves obtaining data by legal means, ranging from analysis of documents in the public domain, contacting representatives of organizations to analyzing news reports. On the other hand, they indicate that in espionage, information is obtained by illegal means often by spies secretly sneaking undetected into another territory's secret information and leaking or passing the same to the territory they are working for, to achieve the organization's subjective interest. However, due to the secrecy principle involved in intelligence gathering, there is usually a very thin line between espionage and intelligence gathering and this often results to elements of espionage been manifest among intelligence services. As indicated by Fischer, Halibozek and Walters (2019), intelligence gathering sometimes becomes a form of espionage when not properly conducted.

The history of intelligence gathering for strategic and tactical purpose can be traced to the ancient world in the biblical times of the Old Testament, in chapter thirteen of the book of Numbers where Moses, God's servant leading Israelites sent selected people to spy the city of Canaan. Joshua, his successor also did it as documented in chapter 2 of the book of Joshua, by sending selected people also to spy Jericho which they were about to attack.

This spying mission would later enable them to successfully attack Jericho (Powell, 2014). This therefore indicates that intelligence gathering has been recognized as an important strategy to any nation in its pursuit for victory against its adversaries since ancient times. To this end, states worldwide have intelligence gathering among their security strategies to confront national security threats. However, there have been major changes in the methods used over time.

A major drastic change in intelligence gathering occurred in the nineteenth and twentieth centuries with the advances in technological including the invention of the radio and the airplane. These were largely applied in World War I where although traditional human intelligence (HUMINT) operations were still being applied, military organizations collected information about their enemies by using radio technology to intercept communications. Also, airplanes carrying intelligence collection agents and or cameras were largely used to monitor troop movements during the war. These largely helped to spy on cases of new troops arriving. A more dramatic change occurred in intelligence gathering during World War II whereby intelligence pertaining to various aspects of the rival nation's life including social, political, economic aspects as well as domestic leadership and military capabilities. To this end, agents also largely ventured into collecting open source intelligence (OSINT) on top of the HUMINT and signals intelligence (SIGINT). When the World War transited into Cold War, the super-powers by then especially the United States of America and the Soviet Union further stimulated more advances in intelligence gathering activities. This culminated into development of satellites seeking to continuously monitor military activities for each other and the ones happening elsewhere in the world (Ndeda, 2006).

Thus, globally, until the late nineteenth and early twentieth century, intelligence gathering was largely done via human sources, with the strength of the information according to Catano and Gauger (2017) being based on the credibility of the source. Aerial reconnaissance and satellite technology were largely applied during Cold War advances in intelligence gathering. However, the information and sources of information were limited but they were able to portray a picture of the adversary's social, political, and economic strengths and weaknesses (Whitfield, 2012). However, the era of globalization and the internet created an environment highly conducive to information collection and analysis and hence the various systems of intelligence gathering in different worldwide (Dailey, 2017).

Although intelligence sharing among states gained a major recognition as a necessity after the 11 September 2001 (9/11) attacks in the U.S. (McGruddy, 2013), intelligence sharing existed long before the 9/11 attacks. Western security intelligence service agencies according to Lefebvre (2003) had bilateral and multilateral intelligence arrangements although he describes their 'cooperation' as "sometimes difficult, uneven, and haphazard' until when lives were believed to be at stake. Evidence of intelligence sharing arrangements prior to 9/11 attacks include the UKUSA (bilateral) agreement between the U.S and the U. K. The basis of UKUSA agreement was in World War II during which the U.S and the U.K had worked closely in collecting SIGINT to intercept the axis powers' communications and this lead to institutionalizing the agreement after the war in 1946 (Dailey, 2017). This bilateral intelligence sharing agreement according to Dailey (2017) later expanded into the multi-lateral agreement named "Five Eyes" after three other states joined the alliance over time including: Canada (1948), Australia and

New Zealand (1956). This indicates that intelligence sharing arrangements were there before 9/11 attack but as Lefebvre (2003) explains, the 9/11 attack only made intelligence sharing to take a more enhanced and operational turn where "new, vigorous and strange" alliances had to be established (Aldrich, 2003).

Particularly after the 9/11 attacks, the emergence of counterterrorism (CT) and non-state actors have dominated sphere of global intelligence management (Walsh & Miller, 2016). The new developments have heightened the need for shared access to and management of security intelligence as a way of responding to common security threats on the global stage. Accordingly, a number of countries have taken relevant initiatives. For instance, establishment of the Office of the Director of National Intelligence (ODNI) in the United States, and target-oriented intelligence fusion centers, such as the Joint Terrorism Analysis Center (JTAC) in the UK (Gentry, 2015; Nicander, 2011). On 20th September 2001, member states of the European Union in cognition of the need for improved intelligence sharing between them, agreed to establish a counterterrorism Task Force within Europol for an initial period of 6 months whereby, member states were to appoint liaison officers from the police and intelligence service department to specialize in fighting terrorism (Lefebvre, 2003). The Club of Berne (a forum for the heads of the separate national European Union security services) mandated to provide guidance to Europol's counterterrorism experts, formed a consultation group of directors of counterterrorism departments to that effect. On 14 March, 2003, the European Union and the North Atlantic Treaty (NATO) signed an agreement on the security of information, a prerequisite for the exchange of intelligence between the two organizations (Lefebvre, 2003).

As reviewed above, with the changing dynamics of terrorism especially its transnational nature, intelligence services in the global arena has advanced from just intelligence gathering to pursue intelligence sharing. This has culminated to the establishment of diverse bilateral and multilateral intelligence sharing agreements. However, as Musa (2010) indicates, the operations of these intelligence sharing arrangements in reality have been constrained by lack of cooperation between the very states that entered into the agreement to cooperate in intelligence sharing. This is largely attributed to a myriad of factors associated with international politics of intelligence sharing, some of which according to Lefebvre (2003) include: different perceptions on threat and foreign policy objectives across states, power relations asymmetry between states, abuse and misuse of intelligence and fears of defection among others. Therefore, with subsequent transnational terrorist attacks being experienced across the world, cooperation in intelligence sharing becomes even more critical in the global arena but whether this is attainable remains questionable.

4.4 Intelligence Gathering and Sharing in Africa

African states have also been making efforts to streamline their intelligence services in efforts to curb terrorism. This is manifest in both the regional and individual country efforts to improve intelligence gathering and sharing overtime. In most African countries especially the sub-Saharan Africa, intelligence services originally mirrored the ones that colonial governments had when they colonized them, after when the intelligence services were transformed upon the independence of these nations. For example, intelligence services in most countries that were colonized by Britain began in the form of “Special Branch” in the police service (Dehez, 2010). Hutchful (2009) concurs that the formation

of intelligence services in Africa date back to the colonial period and were created mostly to protect colonial interests. But even with the attainment of independence, many European intelligence officers continued to serve in African intelligence services as expatriates, and so the same colonial attitude towards the civilian populations continued (Pitcher & Askew, 2006). The political elite in Africa also adopted the same tactics as the colonial governments and used the intelligence services to gain and retain political power (Dehez, 2010). This means that in most African states, intelligence services were often burdened with the responsibility to protect the ruling class from losing their power, in addition to the ultimate goal of protecting the public from security threats.

National security services in Africa including intelligence services especially during the Cold War period were largely involved in protecting ruling regimes, and they usually received help from their Cold War friends to accomplish this. Most African countries at some time attempted establishing socialist systems in the name of African or scientific socialism. At the beginning of decolonization era through the 1980s, more than 35 countries referred to themselves as socialists in different times (Pitcher & Askew, 2006). This has given rise to a chaotic legacy because socialists largely emphasize on security of regimes even greater than other dictatorial regimes, usually by the ruling party taking charge of national security matters instead of the state.

Over time, most Sub-Saharan countries reflected this emphasize on the security of regimes in making major decisions, with no civilian oversight whatsoever. Consequently, national security services in most of them were poorly managed with high corruption. Due to these problems, most of the security forces of Sub-Saharan states including their intelligence services have been described as lacking proper preparation to deal with

emerging security threats like increased trading of narcotics in West Africa to Islamic radicalization in the Horn of Africa (Zwede, 1998).

This has caused security weaknesses in major security institutions especially the army and intelligence departments because the two have significant similar features. While their existence is primarily for protecting the state, they still have the potential to be the biggest threat to the state. Therefore, security sector reforms have largely indicated the need for strengthening civil oversight over the institutions but they are confronted by the challenge on how to boost their operational effectiveness. Dealing with bad legacies of Cold War has also been a challenge. For example, the dominance of the ethnic majority in power constituting the largest part in intelligence services even if it is a small ethnic group in that nation.

Although intelligence services in African nation originally adopted the structure and strategies of their colonial administrations, they have been transformed over time since their independence. With frequent coups by the military or presidential security in most African states, there has been a dramatic change in intelligence services in terms of their structure and functions (Belkin & Schofer, 2003). In most cases, the coups culminated to new regimes seizing power and rapidly reorganizing intelligence services to suit their security interests, hence resulting to high politicization and militarization of the intelligence services whose interest is exclusively the security of the ruling regime.

Usually, the newly established regimes or stratocracies that established their rule after coups in most African countries either established either new or competitor intelligence services that primarily sought to maintain the security of the regimes. These services

emerged fully after the particular forces seized power and subsequently, their interest to consolidate power grew. An example is the Gambian case where Yahya Jammeh orchestrated a coup in 1994 which at the beginning only had a weak possession of power. However, the new regime quickly established the Armed Forces Provisional Ruling Council that lead Gambia for the next 2 years after which Yahya Jammeh ran on a civilian platform for re-election (Saine, 2008).

It is no surprise that intelligence services have historically been weak particularly in dealing with international security threats. During the Cold War era, neither the Western countries nor the Soviet Union and their allies could compensate for the weaknesses. For instance, during the Congo crisis in the 1960s, the U. S. had to largely depend on the intelligence of Belgium since they had long stopped developing their own capacity in Sub-Sahara based on the belief that the former colonial governments could greatly cooperate with the newly independent African countries to push the Soviet Union out of the region. Even when it later established intelligence mechanism, they still could not easily capture the whole picture (Cogan & May, 2006). When the Cold War came to an end, intelligence services in most countries in Sub-Sahara Africa were deteriorated and Western countries have slowly been making efforts to rebuild that capability. This means that without strongly partnering with African countries' intelligence services, the West might never be able to fully strengthen the operational capacity of intelligence services in Africa as they would desire.

Another notable aspect in most African intelligence services is that like in most other states across the world, they are excessively secretive. This makes it very hard for the public to have a clear understanding of intelligence, hold the intelligence services

accountable and assess objectively how effective the services are or how they generally perform. It is no surprise that intelligence services are still perceived to focus on regime security as opposed to promoting human security and development. However, most African countries have been undertaking reforms in their intelligence services to enhance accountability and effectiveness of IG & S.

For post colonial and transitional democratic states like Nigeria, the situation is more appalling as the intelligence community to a great extent is essentially an executive repressive tool. Colonial Nigeria for instance was a pure British colony completely under British control and surveillance. Intelligence activities were those that could ensure Nigeria's subservience to the economic interest of Britain (Smith, 2004). Nigeria incidentally inherited this arrangement as a post-colonial state and created a repressive intelligence community that collaborated with the executive to sustain state oppression of her citizenry (Nte, 2011). The intelligence community in Nigeria including the Nigeria Police; Nigerian Armed Forces; Nigeria Intelligence Agency (NIA); Directorate of State Security Services; Security and criminal intelligence Bureau of the Nigeria Police; Nigeria Immigration Services; Nigeria Prison Service; Nigeria Customs Service; National Drug Law Enforcement Agency; National Economic Intelligence Agency; Economic and Financial Crimes Commission and any such Committees that may be charged with intelligence gathering and management in Nigeria (Nte, 2011). In South Africa, intelligence gathering is the responsibility of the South African Police Service Crime Intelligence Division and the State Security Agency (SSA). With regard to the SSA, four main entities are at the core of intelligence gathering. These include: the Domestic Branch of the SSA (Formerly known as the National Intelligence Agency); the

Foreign Branch of the SSA (Formerly known as the South African Secret Service); the National Communication Centre (NCC), and the Office of Interception Centres (OIC) (Swart, 2016).

African Arab countries, like most Arab countries worldwide, view intelligence a little differently from the rest of the World, and rely heavily on their intelligence and security establishment mainly for "coup-proofing," regime security, and preserving the status quo (Black & Alhenaki, 2015). Their main goal, even more important than preventing or conducting foreign espionage, is to avoid coups and keep their current rulers in power (Sirrs, 2010). Egyptian intelligence service is the oldest-running Arab intelligence agency, and started even before the British colonization in 1882 (Black & Alhenaki, 2015). When President Muhammad Hosni Mubarak came to power in 1982, he helped develop the Egyptian intelligence community, which is built around three agencies: the Egyptian General Intelligence Service (EGIS), State Security Investigations Service (SSIS), and Egyptian Homeland Security (EHS) (Sirrs, 2010). Currently rising in influence and power after the military coup of 2013, is the Military Intelligence Department (MID) (Black & Alhenaki, 2015). The recent Arab Spring that caught most of these countries off guard questions the effectives of their intelligence gathering even in their own self interest of protecting the ruling class.

African countries have also adopted intelligence sharing and streamlined it over time. This can be traced in the deliberations in the 1999 OAU Convention on the Prevention and Combating of Terrorism (also referred to as the Algiers Convention of 1999). In this convention, state parties to OAU (currently AU) agreed to co-operate by promoting the sharing of information and expertise on terrorist acts and establish data bases for the

collection and analysis of information and data on terrorist elements, groups, movements and organizations (Organization of African Union, 1999). This in other words is basically states partnerships in sharing of intelligence (among member states). The convention also agreed that member states were supposed to establish effective co-operation between relevant domestic security officials and services and their citizens so as to enhance public awareness of the scourge of terrorist acts and the need to combat such acts, through guarantees and incentives that would encourage the citizens to give information on terrorist acts or other acts which may help to uncover such acts and arrest their perpetrators (Organization of African Union, 1999). This reflects the aspect of involving non-state actors in intelligence gathering to combat terrorism. This indicates that Africa was also cognizant of the critical role of intelligence sharing in the fight against terrorism quite a long time ago.

It was however in the aftermath of the 9/11 terrorist attacks that OAU Member States collectively woke up to realize the need for the implementation of the Algiers Convention. In this regard, with OAU evolving into African Union (AU), the AU Peace and Security Council (PSC) was established and among other powers vested on it, the organ is supposed to ensure implementation of key conventions and instruments to combat international terrorism (African Union, 2018). Consequently, pertaining to intelligence, in Article 4 of the Protocol to the OAU Convention on the Prevention and Combating of Terrorism, PSC was mandated to: establish operating procedures for information gathering, processing and dissemination; establish mechanisms to facilitate the exchange of information among States Parties on patterns and trends in terrorist acts and the activities of terrorist groups and on successful practices on combating terrorism;

and to establish an information network with national, regional and international focal points on terrorism (African Union, 2004). Whether these proposals of the convention were adequately implemented by the member states is still subject to debate given the persistence of terrorist attacks in different countries even after the convention.

In streamlining their intelligence sharing, African countries have also engaged in intelligence sharing arrangement including the Africa-Frontex Intelligence Community (AFIC) that was set up in 2010 to provide a framework for regular knowledge and intelligence sharing in the field of border security between Frontex (the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union) and African countries (Frontex, 2016). The AFIC has also gained more visibility outside its immediate members by sharing its knowledge with external stakeholders, such as ECOWAS, the European Commission, the European External Action Service, and regional initiatives such the Rabat and Khartoum Processes and the G5 Sahel (Mauritania, Mali, Burkina Faso, Niger and Chad) (Frontex, 2016). There is also the Great Lakes Regions Intelligence Fusion Centre facilitates intelligence sharing between 11 countries (Angola, Burundi, the Central African Republic, Congo, the Democratic Republic of Congo, Kenya, Rwanda, Sudan, Tanzania, Uganda, and Zambia) in the region (Addamah, 2012). As indicated in this review therefore, different African countries have had their intelligence services undergo major transformation over time. It is therefore important to interrogate these transformations in detail in different contexts. This was assessed within the Kenyan context in this research as presented in section 4.5.

4.5 Intelligence Gathering and Sharing in Kenya: A Historical Appraisal

The centrality of intelligence as an element of national security is critical to every state. Historically, intelligence gathering and sharing has been a fundamental practice in Kenya. This section examines the changing trends in IG & S in the country over time noting the emerging trends and trajectories.

4.5.1 IG & S in Kenya in the Pre-Colonial Period

Intelligence gathering and sharing in Kenya existed before the colonial period. According to Ndeda (2006), Kenya's intelligence originally emerged in relation to the traditional geopolitical conditions. Espionage and spying was common in different communities in their pursuit to gain understanding on how strong or weak their neighbors were, in order to decide on how to co-exist with each other. An aged *Nyumba kumi* elder articulated that;

> "My grandfather used to tell us that before the white man came to rule Kenya, they used to engage in spying which was mostly done by one community on their neighbouring communities. It is from him I learnt that our community used to send their warriors to spy on their neighbours so that they could get insights on how to fight them or how to raid from them. But I never experienced it myself. During my youthful age, the white man had already come and disorganized the traditional ways of life."

Thus, communities engaged in espionage prior to the colonial rule. In most of the communities, persons aged 40-45 years were largely used to gather information on neighbouring communities through espionage where spies disguised themselves as cattle herdsmen, beggars, actors, or visitors seeking treatment or some other help, and gathered information on their opponents security; weapons and warriors (Boinnett, 2009). With the high porosity of the community borders then, it was easy to obtain information.

Diviners were also mentioned as having contributed to intelligence gathering during the pre-colonial period. An aged mother to a *Nyumba Kumi* elder noted that;

> "Traditional diviners helped to give information on enemies to the community. They would predict when the community was about to be raided so that the warriors would be kept alert to push back the enemy when they attempt to invade the community. Even with the coming of the whitemen to rule us, there were those who predicted their coming but the whiteman was still able to cunningly 'buy' some of us and rule us."

Thus, religion was a source of intelligence by then where diviners and medicine men would divulge information that forecasted about future moves of neighbours, enemies and even strangers to the respective community. Ndeda (2006) also asserts that prior to the colonial rule, there was information on dangerous whites (Europeans) with the capacity to kill many with dangerous weapons.

From communities' perspective, intelligence gathering was not specified in the different communities given that various categories of people in one community offered information in different times. In most of the communities, they were generally referred to as spies, scouts, council of elders or war leaders. In the Kikuyu community for instance, Muriuki (1974) revealed that the council of war (known as *Njama ya ita*) was responsible for seeking information from medicine men, scouting, spying and reconnaissance on the enemy. The members of this council had people among them who in consultation with medicine men would spy out a territory that the community was intending to raid and determine based on the information garnered whether the raid would succeed or fail, and what to do for it to be successful.

The Babukusu, a Luhya sub-ethnic group had a group called '*bayooti*' which comprised of men perceived to have exceptional intelligence, who were also capable of speaking

more than one foreign language. This group was also renowned for their high athletic ability, powerful memory and they were keen observers. This group was responsible for collecting information about the location and disposition of the enemies. Within this group were scouts who were sent to gather information about the enemy's drinking and sleeping habit as well as how they guarded and herded their livestock (Wesonga, 1982).

The Akamba community majored in long distance trade, often passing through the Coast and Central regions in their trade. By maintaining their travel paths in their trade, as well as interactions with diverse people in the process, they were able to collect information that kept them abreast with what was happening in the neighbours' territories. However, later in the 19th century, Arab and Swahili traders overthrew them in matters of controlling the trade routes in the region (Ndeda, 2006).

Thus, intelligence gathering in the pre-colonial period was largely driven by economic and political interests among the different communities. Relationship and coexistence between neighbor communities was significantly determined by this information garnered. It was these very systems of intelligence collection that the European settlers in Kenya depended upon to establish their control. This was especially where some communities largely collaborated with the British to inform on the activities of other communities. These networks helped the Europeans to develop new networks for intelligence gathering to further their colonial agenda.

The foregoing is an indication of centrality of intelligence in the well-being of the community. As it emerges even the less structured polities in pre-independent Africa already incorporate intelligence in the social systems. Indeed intelligence might have

been even more critical at this point of the absence of the Westphalia state system which protected communities under international law. Security (without international rule of law) was so critical as the groups of people often experienced regular attacks and raids. This information on impending threat was of paramount importance. Every stranger was always considered a threat and communities would use every means to gather intelligence from other communities. Like the Nandi's would give their daughters to their neigbouring community.

4.5.2 Intelligence Gathering in Kenya in the Colonial Period; 1895-1963

Intelligence gathering and sharing during the colonial period was largely for colonial needs. Shaffer (2019) indicates that the primary purpose of intelligence gathering and sharing during the colonial period was to guard against threats to the rule of the British colonial government. At the onset of the colonial period in Kenya, the colonial government first depended on the traditional systems of intelligence gathering that were largely comprised of traditional leaders and institutions networks within the communities. These were largely from communities that collaborated with the British colonists (Ndeda, 2006). Therefore, human intelligence dominated the intelligence gathering and sharing service. An aged man who served as a community chief in the colonial era asserted that:

> "Most of us were in trade and the white people realized that we were in contact with many people. They recruited us to replace the traditional elders where our job was mostly to keep our eyes and ears open to what people are saying or doing to detect those speaking against the whites' rule."

This was echoed by a *nyumba kumi* elder who served as an informer during the colonial period who said that.

> "Our job was mostly to protect the white peoples' administration by collecting information on what people are saying in the markets, ceremonial events and

> other gatherings. Any information that indicated a possible threat to the administration was forwarded to the D.C as fast as possible."

Therefore, all the members of the British colonial administration generally played one role or the other in policing and intelligence gathering. Boinett (2009) revealed that there was also a secret IG & S system instituted by the colonial government comprising of tourists, explorers, missionaries among others. This group had minimal natives within it and very few Africans knew of its existence. The colonial government largely recruited its own informants in this group, deemed secretive enough not to easily leak information to the natives about what they were planning. This group was responsible for collecting intelligence on the people or communities to colonize, the possibility of administrating over them peacefully or the necessity to use force in administrating over them.

After occupying the East African Protectorate, the British administration also adopted a local-level oriented IG & S system where they appointed officials including the District Commissioners (D.C) and Provincial Commissioners (P.C), retainers, recruited missionaries and other whites and African collaborators and allies into the system (Boinett, 2009). This was also highlighted by another elderly woman who used to work with the missionaries in the colonial period. She indicated that;

> "I think the missionaries were also involved apart from the formal colonial administration officers. Sometimes they (the missionaries) would get to some homes during their missionary work and you find them asking the residents many questions pertaining to political issues, how they felt about it, what they are doing about it etc. And sometimes you find the chief and the home guards conducting a raid few days after the missionaries have left and arrest some people considered to be inciting resistance among the natives."

The primary focus for the intelligence gathering and sharing therefore was to collect information about the African people generally. As Boinett (2009) further elaborates, intelligence reports were prepared monthly and annually at the sub-commissioners offices

discussing the general society issues, administrative problems, political issues, public works, communications, agriculture among other matters and events considered important. These reports according to Ndeda (2006) were submitted to the office of the Commissioner in charge of the East African Protectorate in Nairobi. Since security was critical to the advancing of the colonial administration, the British East African Police was also instituted and the police also participated in intelligence gathering in addition to their sundry duties.

When World War I started in 1914, there was a major paradigm shift in IG & S system. The focus of intelligence gathering changed from the locals to Britain's enemies and their operations in neighboring countries (Africa & Kwadjo, 2009). This resulted to a hasty institution of an intelligence department in Nairobi with its core being the Game department that by then already had native spies. They appointed Delamere, one of the earliest British settlers who had also ventured into farming, to be the spymaster along the border of the Maasai. He was given the responsibility of keeping the intelligence headquarters in Nairobi informed about enemy troops' movement. Delamere sent information using trained carrier pigeons and runners or motorcyclists (Ndeda, 2006). The game department functioned until September 1915 when the war council was formed, and the department was reformed to an intelligence division. It mainly focused on HUMINT gathered through recruited intelligence officers, local chiefs, reliable headmen, scouts, trade guides, ex-police and missionaries among others.

After the war in 1918, a major reorganization was done in the security apparatus. This largely targeted the police force – the British East African Police. Its title was renamed as Kenya Police in 1920. The force was expanded and new police stations constructed to

enhance surveillance and meet the growing security needs. The Criminal Investigations Department (CID) was also formally instituted in 1926. The Special Branch (SB), the Director of Intelligence and Security (formerly called the Director of Civil Intelligence) was instituted which had the responsibility of analyzing as well as sorting all intelligence information emanating from the police stations. In 1945, with the increased international and local security concerns, there was a major reorganization in the SB and it was charged with the responsibility of handling all matters relating to intelligence and security control. The main goal of intelligence by then was to notify the national headquarters in Nairobi about any change of situation in non-British territories, and reporting even a slightest sign of developing hostility against 'the British territory' (Africa & Kwadjo, 2009).

In 1952, with the uprising of Mau Mau rebellion, the SB expanded its mandate to address the growing internal security concerns more thoroughly. Its activities then diversified to collecting intelligence on criminal activities, investigating the citizens advocating for independence, actions of trade union movements and the growing independent churches, which were all considered major internal security concerns (Africa & Kwadjo, 2009). With the increment in scope of work for the SB and the CID, these critical departments were faced with shortage of staffs and they were unable to adequately assess the danger posed by the Mau Mau uprising. This resulted to the Director of General Security Services in the U.K moving to Kenya in the company of A. M Macdonald of the Security Service, purposely to review intelligence gathering and processing mechanism. Macdonald recommended the establishment of the Kenya Intelligence Committee (KIC)

as a direct advisory organ to the governor on political security intelligence, and the establishment of district and provincial intelligence committees (Boinett, 2009).

The reorganization in the IG & S mechanism to feature KIC, and the provincial and district intelligence committees conquered the strain of the Mau Mau emergency. The responsibility of the SB was then expanded to cover new provincial-level responsibility of giving advice to the government in vetting of members of staff in order to maintain secrecy. During the struggle for independence, intelligence function was also expanded to the monitoring of key African personalities' movements in their advocacy for independence. Use of excessive force was acceptable to enforce compliance (Boinett, 2009).

4.5.3 IG & S in the Post-Independence Kenya; 1963-2002

A change of regime in a nation often results to changes in its IG & S system. Since Kenya became independent in 1963, there have been four major regimes under four different presidents. Consequently, many changes have taken place in the IG & S systems, structures and strategies as different regimes of government took over leadership. This section explores these changes in IG & S system in Kenya under the different regimes since 1963.

4.5.3.1 Intelligence Gathering in Kenya; 1963 – 1978

Soon after independence in 1963, Jomo Kenyatta who had been elected the first president of Kenya then, and his KANU regime started Africanizing IG & S mechanisms. As Boinett (2009) highlights, officers in the senior ranks of the IG & S structure were being

replaced with Africans. Explaining the changes, a retired civil servant who served in the ministry of home affairs during the reign of President Jomo Kenyatta indicated that;

> "What Kenyatta and his regime did was that they maintained everything from the former colonial mechanisms that they perceived to be very critical by then, especially vital aspects of law and order. I think Kenyatta wanted the institutions in charge of the security of the people and the state administration to remain intact."

This concurs with Ochieng' (1995) who revealed that during the first KANU regime under President Jomo Kenyatta, major administrative institutions including provincial administration, the army and the police were adopted intact from the colonial mechanism, with many European officers even being retained. However, some European officers in the intelligence docket (the Special Branch then) were uncomfortable working under African bosses and as a result, they sought for compensation by the British government and relocated to their country. To this end, several African officers were promoted to the ranks of District Special Branch Officers, Provincial Special Branch Officers, Deputy Director of Intelligence, and even Director of Intelligence. Bernard Hinga was the first to be appointed as the Director of Intelligence (which was popularly known as the spy chief). His major role then was to head the intelligence service (the Special Branch) and transform its colonial focus of suppressing Africa nationalism, to one that focused on addressing the challenges of a newly independent nation. After a year of leading the spy service, Hinga was appointed as a commissioner of police and was succeeded by James Kanyotu in 1965 (Ndeda, 2006).

Upon his appointment as the spy chief, Kanyotu received immediate training and he headed the intelligence department with a deputy director of intelligence under him and

other officers deployed across the different districts. A retired intelligence officer who served during the reign of Kanyotu described Kanyotu as;

> "…a man that very few knew about him yet feared by the elites and commons since he was almost synonymous with Special Branch and this was not a group anybody wanted to find himself in their hands. The major interest of the Special Branch under the command of Kanyotu was to protect the administration of the KANU regime and Kanyotu did it so smart that both Kenyatta and Moi trusted him for long."

Thus, the SB was largely a political instrument whose major focus was largely to protect the interest of the executive branch of the government. According to Shaffer (2019) there were intelligence officers focusing on domestic matters while others focused on foreigners' activities. Africa and Kwadjo (2009) assert that the intelligence department was engaged in overseas intelligence gathering activities. In 1975, new executive instructions were issued to the district and provincial internal security committees, which established the procedures for the committees, and put the responsibility of the country's internal security under the Vice President's office and the Minister for Home Affairs. The P.Cs and D.Cs continued to submit monthly intelligence reports at all levels. These reports were marked as classified. In certain cases, the reports contained information about neighbouring states, individuals and their activities among other matters and the recommendations on the appropriate measures to be taken by the security committee. There were also fortnight reports submitted from various divisions by the District Officers (D.Os) to the D.Cs after patrols. These contained people's opinion on critical matters, reactions to government plans and speeches or statements by politicians. Chiefs were also critical in the system as they served as the state eyes and ears at the location level and hence, they also submitted weekly intelligence reports to the D.Os. The P.C or the D.C would then often respond to some of the matters that called for action. These

assessments however had no effect on the transmission of intelligence to the SB headquarters on daily basis.

The role of IG & S after independence in Kenya was mainly for general security purpose and to protect the constitutionally elected president. It had a complex structure that comprised of informers at the lowest level. The next level had agents that were supposed to give what was perceived as true or accurate information on various issues since they were placed in strategic positions to enable them obtain such information. Nevertheless, they could be compromised easily which made their credibility a vital requirement to establish before their placement. They could be placed in major institutions including parliament, universities, trade unions and even government departments, where they could be employees in their organization/institution of placement. Depending on the information sought and from which location, different categories of people including farmers, politician, shoe shiners, lecturers, and maize roasters served as informers. An aged man who served as an informer during the period in the guise of a shoe shiner explained that;

> "We were first trained on the job we were to be engaged into. It was a very secretive activity and we would easily mingle with the people without anybody detecting that we were informers. Even among ourselves, we didn't fully know each other because as you know, we were not based in an office. Again, you were submitting information to the chief's office or D.C's office individually, receive your payment and some briefing, and then go back to your work. So, as you continue with your job, others would be recruited and engaged without you knowing."

Therefore, the focus was on securing the governing regime as opposed to the core duty of ensuring the security of the citizenry. The IG & S structure was working with the provincial and district administration. The assistant chief was responsible for collecting

information at the sub-location level. The assistant chief collected information through ordinary people in his sub-location who were his informers. The assistant chief would then brief the chief. However, chiefs also maintained their own informers within their locations, who would brief them daily. All the chiefs from a particular division would then pass the information gathered to the D.O in charge, who then would pass it to the D. C. At the district level, there was a District Intelligence Committee and a district Special Branch Officer (SPBO). Apart from the information they obtained through this administrative channel, the D.O and the district SPBO had their own network of informers too. At the province level, the P.C had a provincial intelligence committee and the provincial SPBO was a member of the committee. The P. C. and the provincial SPBO had their own agents who furnished them with independent information. The P. C had to be briefed thoroughly to enable him brief the president. In addition to these was the Kenya Intelligence Committee that apart from obtaining information from the provinces, they had their personal network of informers too that ran parallel to the official network. Jonyo and Butere (2011) criticize this structure on the basis that it lacked sufficient oversight which made it to be full of mismanagement, corruption and subjectivity.

Within the SPBO structures, there was clear allocation of responsibilities to the informers who were divided into two: those serving in the field and those who served in the office. SPBOs could be very lethal and still get away with it easily by destroying all the possible indicators on their trail. Consequently they could be easily abused. As Boinett (2009) reports, intelligence services under the Special Branch were largely politicized and associated with specific individuals, and this resulted into many despicable activities including political assassinations and imprisonment and detention of defiant opponents

and challengers of the ruling regime. Ndeda (2006) highlights some of the political assassinations such as the assassination of Argwings Kodhek in 1962, Pio Gama Pinto in 1965, Tom Mboya in 1969 and J.M Kariuki in 1975 in which the SB with Kanyotu as its overseer were alleged to have played a role in them. Thus, the period 1963 to 1978 may be considered as a period when IG & S was largely characterized by espionage activities that sought to protect the interest of the president and the ruling regime and punish those who dissent. Even so, Karume (2009) note that intelligence service by the SB during Kenyatta's administration was inefficient and failed to provide accurate intelligence.

4.5.3.2 Intelligence Gathering and Sharing in Kenya; 1979-2002

When President Moi took over the presidency after Kenyatta's death in 1978, he inherited the Kenyatta regime system introducing his *Nyayo* philosophy, which was an expression of his readiness to follow Kenyatta's footsteps pertaining to local and foreign policies. The main forms of intelligence used were human intelligence and open source intelligence. The focus of the intelligence service during the early years of the Moi regime was to ensure that potential threats to Kenya's political equilibrium were addressed. These included the heightened confrontational politics that were emerging in the universities in the early 1980s. After an attempted coup in 1982, the SB was blamed for laxity and as a result, major changes were done in the department. As Boinett (2009) indicates, several officers in SB were transferred to non-police duties while others were deployed to other departments. President Moi became more concerned with the state security than before. Describing Moi's handling of intelligence, a retired officer who was working in the intelligence service during reign of President Moi stated that;

> "Moi was intelligence and intelligence was Moi. He made sure that agents infiltrated every system. Informers were everywhere, from educational institutions, media, business circles etc. Just to make sure that he was abreast with whatever was happening especially anything considered as a threat to his political reign."

Consequently, intelligence gathering was heightened with human agents who could not be easily recognized positioned in nearly every segment of the society. Ndeda (2006) elaborates that agents included: university students and lecturers, journalists, members of trade unions, government ministers, and even office messengers. Therefore, collecting intelligence even from open sources in different institutions was relatively easy.

By early 1982, the SB as part of the police force had become an oppression tool. They used torture to extract information, ruthlessly dealing with people that seemed to confront the *Nyayo* regime including academics, politicians, lawyers and journalists. A retired civil servant alleged that;

> "The Special Branch was a machinery to deal with those opposed to the KANU reign. They would just show up when you are least expecting and arrest you sometimes on allegations of what you never did after which they would torture you until you confess that you did it even if you did not. It was just terrible."

An aged lady who also served in the civil service during the period added that;

> "Special Branch was the government's crude mechanism to have its way in whatever it wanted. Their purpose was to deal with whoever was a barrier in any mission that the government wanted to accomplish including the critics of the KANU government. You couldn't just wake up one day and start criticizing the government and go free like today."

Thus, many were taken to court with no lawyer to represent them and charged on the basis of information or evidence extracted through torture. The SB as an IG & S agency was bent on subverting any network of people or individuals who were perceived to pose a security threat to the stability of the government. Explaining the torture unleashed on

victims of the SB crackdowns to extract information, a journalist who survived the torture articulated that;

> "It was not intelligence collection but political surveillance on real and perceived enemies of the KANU regime. They (SB) would take you to Nyayo house where James Opiyo and the brown lady alongside their colleagues would subject you to all sort unfathomable torture until you bow and 'confess' to the accusations alleged against you. That's actually how most of us who were lucky to come out of the torture cells alive escaped death."

To this end, SB conducted major crackdowns on networks that they perceived were behind what were considered seditious publications such as *Mpatanishi* (Reconciler), *Pambana* (Fight) and *Mwakenya* – an acronym for *Muungano Wa Wazalendo Wa Kukomboa Kenya* (The Union of Patriots to Liberate Kenya) (Sheila, 1986; Amnesty International, 1990). A report published by Nation (2009) revealed that SB tortured people considered as dissents to Moi's administration seeking to collect information from them. These people included authors like Maina wa Kinyatti, politicians such as the former Runyejes M. P. Njeru Kathangu, journalists like Kamau Munene, business men like the late Peter Njenga Karanja who succumbed to the torture, lecturers among others (Nation, 2009). Thus, intelligence gathering was not objective but subjective, being largely focused on safeguarding political interest.

There was a major difference in how Moi used intelligence compared to Kenyatta his predecessor. According to Shaffer (2019), Kenyatta received intelligence briefings from the director of SB (James Kanyotu) only while Moi supplemented the briefs from Kanyotu with other intelligence briefs from provincial heads as well as a diverse network of non-official informers from all sectors of the society. However, under both Kenyatta and Moi, provincial administration was crucial in running their agendas.

In 1986, the political face of IG & S changed with the appointment of Hezekiah Oyugi as the permanent secretary for provincial administration to the office of the president. Upon winning the confidence of President Moi, Oyugi dismantled the SB system during his tenure and established his own intelligence service network resembling official security forces operations. He built an intelligence communications network that kept him updated on Kenya-related security matters within and outside the country at any time from diverse sources. The sources were from regular police, SB and the CID. It is believed that Oyugi had a secret network of 'special' D.Os directly answerable to him, who were assigned the responsibility of spying on their colleagues including their seniors (D.Cs and P.Cs) and passing on information to him (Boinett, 2009). Further changes continued in the intelligence department in the 1990s where Kanyotu retired as the director of SB in 1991 after 27 years as the head of the SB. It was uncertain why he retired but one of the most alleged reasons was his failure to warn Moi of the resignation of his health minister Mwai Kibaki who later became president after Moi. Kanyotu was succeeded by William Kivuvani, a long serving SB officer in 1992. However, despite his long experience in SB, Moi was not comfortable with Kivuvani especially due to his friendship with Phillip Mbithi, the then head of civil service who was advocating for political pluralism. Consequently, Kivuvani's tenure as the head of SB lasted just for few years and was replaced in 1995 by Brigadier Wilson Boinnet (Shaffer, 2019).

When Section 2(A) of the Kenya Constitution then was abolished in 1991 thus allowing multi-party democracy, there were expectations that there would be an instant and immense reduction in surveillance on politicians opposing the KANU regime. However, the strict surveillance continued. A former politician recalling the events articulated that;

> "When Moi bowed to the pressure to have a multiparty system allowed, people and especially politicians, felt like they had finally obtained their freedom from constant monitoring and unexpected arrests by the special branch. But this did not stop because people perceived as enemies of the autocratic KANU regime were still being arrested by the Special Branch and tortured in Nyayo house."

The Directorate of Intelligence still had their focus on several political leaders in opposition. Further, the dismantling of the SB system by Oyugi to what Ndeda (2006) terms as personalizing IG & S apparatus to his own interest during his tenure made the government to lack sufficient and accurate intelligence from the ground. There was need to replace SB and improve the IG & S service based on democratic principles. It is for this reason as Africa and Kwadjo (2009) indicates that the National Security Intelligence Service (NSIS) was created through the NSIS Act of 1998. However, in his opinion, a senior officer in the NIS explained that;

> "After the 1998 terror attacks on the U.S embassy, there was a shift in the focus of intelligence. The need to focus on emerging security threats as opposed to political threats became more real and this marked the beginning of objective reforms in the intelligence service."

Therefore, new threats from transnational terrorism also triggered reforms in the intelligence docket. According to Shaffer (2019), Kenyan intelligence shifted their attention to emerging threats which entailed transnational terrorism after the August 1998 terror attacks. Under the leadership of Brigadier (Rtd) Wilson Boinett as its Director General, NSIS kick-started its operations in 1998 (Africa & Kwadjo, 2009). The NSIS replaced the SB (which was also called the DSI) which had been associated with torture and brutality. NSIS was also separated from the police. Several officers who used to serve in SB were rendered unfit to serve in NSIS and were consequently relocated to the police (Boinett, 2009). NSIS became the central security intelligence agency responsible for gathering information, investigating and disseminating intelligence to government

bodies, with the Director General as the chief advisor to the president and the government on national security matters. The agency was also responsible for informing the government about any security threat to Kenya emanating from acts of sabotage, espionage, foreign interference, terrorism among others.

Unlike its predecessor, NSIS had to be a "civil service intelligence" having advisory but no powers for arresting, detaining or prosecuting suspects. Unlike in the SB where intelligence agents would exclusively be hired from the police department, officers in NSIS were hired from public and private sectors. Under the leadership of Boinett, NSIS started enhancing its managerial and intellectual capacity whereby, they started recruiting university graduates. The graduates upon recruitment underwent training by British and American trainers and the training included Sociology and Psychology (Shaffer, 2019). Officers in the service were required to desist from using force and torture on suspects to gather information. The agency also shifted focus from the old SB focus on political intelligence, and vested more on collection and assessment of industrial and economic intelligence. They were to focus on foreign intelligence gathering too in order to address any existing or potential external threat to Kenya's national security interest in the global arena. This called for assessment of threats to the national security in any sector, consequently resulting to major investments in the department in terms of human resource and information technology. This sought to capacity-build them to investigate and unravel complex crimes like money laundering, high-tech fraud and sabotage.

Another major paradigm shift that occurred in intelligence gathering was that emphasis was to be no longer on individuals per se as it used to be in the SB, but rather investigating, assessing and reporting on matters of national interest. This saw a new

ethics code being set as a requirement for the officers in the service whereby they were required to disengage from any private business, be politically neutral (not supporting any political party), and refrain from providing any logistical support whatsoever to affiliate groups to political parties (Ndeda, 2006). NSIS continued to reorient and establish itself throughout the era of Moi regime which ended in 2002 and after President Kibaki and the NARC (National Rainbow Coalition) regime took over power in 2003, the restructuring and reorientation of the IG & S apparatus intensified.

4.6 Intelligence Gathering and Sharing in Kenya; 2003 – 2013

In 2003, President Kibaki took over the presidency from Moi, he further streamlined NSIS with the intent to enhance its firmness and efficiency in responding to the existing security threats (Africa & Kwadjo, 2009). The president introduced new priorities for IG & S and NSIS was required to provide early warning on issues of national security interests particularly on terrorism and corruption. A retired officer from the intelligence had this to say about the changes:

> "What I remember about the changes in the intelligence docket during the Kibaki administration is that there was a lot of restructuring to change both the image of NSIS and improve their efficiency and effectiveness in addressing the increasing internal and external security threats. These were primarily from increased international terrorism threat due to our relationship with the U.S.; there was also a lot of weapons smuggling and drug trafficking which required to be dealt with."

The consumers of intelligence were therefore diversified into national leaders, armed forces, law makers and law enforcement agencies. With the increased capacity-building, NSIS ventured into different forms of intelligence gathering including SIGINT, HUMINT, OSINT among other technical intelligence. This indicates there was strong

intent in this case to unravel other threats apart from the normal political threats that used to be the focus. A senior lady officer in NIS who also served in NSIS added that;

> "During the NARC government, it was no longer business as usual. Intelligence gathering was no longer just a question of serving a political goal. You see, the reality of both domestic and international terrorism menace in the country had become stronger than before. So we had to advance both in terms of capacity and strategies to deal with the increased threat to national security."

Thus, IG & S became more objective under NSIS to deal with new threats to national security including transnational terrorism. For these security threats to be effectively addressed, intelligence sharing became very critical. In particular, the heightened transnational threat especially from Al-Qaeda who were determined to fight the allies of U. S by all means, required critical strategies to be deal with them especially after they had successfully attacked U.S embassies in Kenya and Tanzania in August 1998. This also made the U. S. more determined to work with Kenya in addressing the transnational terrorism threat especially in IG & S. According to Shabibi (2020), when William Bellamy, former U.S ambassador to Kenya from 2003 to 2006 came to the country, he pushed for the collaboration between Kenya and the U.S in counterterrorism. The result was the liaison between NSIS and CIA which involved not only intelligence sharing but integrated operations as well. Part of the results of this collaboration was the extension of a secret CIA programme of training and managing local paramilitaries worldwide into the country. This saw the establishment of a paramilitary unit called the Rapid Response Team (RRT) comprising of officers from the NSIS and the Kenya Police who were trained by the CIA in the U.S under very high secrecy. The recruits were flown to U.S based training facilities where they were moved in buses with blacked-out windows so that they would never know the exact location they were trained. The unit would become

the first paramilitary police squad in the country primarily dedicated to counterterrorism operations.

With democracy having taken its root by 2003, the responsibilities of NSIS in political matters was therefore significantly reduced during the NARC regime. Their duties were mainly to investigate political matters during politically turbulent times. A former intelligence officer explained that;

> "When Kibaki came into power (became the president), politics was no longer part of the core mandate in NSIS. He was not very much into protecting personal political interests although the old constitution gave him opportunity to do so. Except for watching against an outbreak of politically orchestrated violence, politicians had a lot of freedom. Even the political department in NSIS was abolished and replaced with the democratic department."

Thus, NSIS during the NARC regime seemed more focused on addressing threats to national security interest as opposed to individualized political security interests. The initial three departments of NSIS – Political, Economic and Security and Diplomacy were reorganized into Democratic, Economic and Foreign and Diplomacy departments with each been headed by an Assistant Director (Boinett, 2009). Its division was also dismantled and an analysis and production division established which was responsible for conducting research, analyzing, producing and disseminating information from the operational division (Ndeda, 2006). After a decade of serving as the director of intelligence service and overseeing some of the major changes in the docket, Brigadier Wilson Boinett retired in January 2006 and Michael Gichangi replaced him. Under the leadership of Gichangi, intelligence sharing was further deepened between NSIS and other intelligence agencies. By 2006, NSIS had liaison cells exclusively committed to work with foreign intelligence agencies in intelligence sharing including America's CIA,

Britain's M16 and Israel's Mossad. They help NIS in collecting and analyzing intelligence from diverse sources to identify priority threats (Shabibi, 2020). Gisesa (2020) indicates that in particular, Britain's M16 plays a major role to identify, track and fix target's (terrorists) location and determine their fate on whether they are to be killed or captured.

Nonetheless, despite all the restructuring and changes in the IG & S docket by the NARC regime, NSIS still received criticism for failure to execute its duties effectively. There were complains in two perspectives: the NSIS budget may have been inadequate for them to execute their core functions effectively, or too much money was being allocated for little that NSIS was doing. The agency was blamed for its underperformance in terms of intercepting local and external threats, which had had devastating effects on the lives of citizens. Issues like continued drug and illegal weapons smuggling from Somalia, Sudan and other neigbouring countries were among the major issues that made NSIS to be accused of failure and lack of professionalism in carrying out their duties. The outbreak of post election violence after the re-election of Mwai Kibaki as president in 2007 drew a lot of criticism on NSIS. They were highly criticized for failing to detect and thwart the simmering of ethnic issues from escalating into the post-election violence that resulted. This may have been one aspect that contributed to the many changes that were included in developing the new constitution which was overwhelmingly approved through a national referendum in August 2010.

One of the changes that the new Kenya's Constitution 2010 introduced was the renaming of NSIS to the current National Intelligence Service (NIS) under Article 242. Under Article 242(2) of the new constitution, the responsibility of NIS involves security

intelligence and counter intelligence for enhancing national security, and any other function that the national legislation may prescribe to the organ. The National Police service Act of 2011 also mandated the Criminal Intelligence Unit of the CID to contribute in intelligence gathering which entails: Collecting and providing criminal intelligence; undertaking investigations on serious crimes including terrorism, organized crimes, cyber crime etc; conducting forensic analysis among others (Directorate of Criminal Investigations, 2015). Further, the National Intelligence Service Act, 2012 enhanced the service powers and functions of NIS where it is expected to: provide timely, actionable and quality intelligence to assist in decision making, planning and policy formulation, mainly through identifying national security threats and opportunities. In fulfilling this mandate, NIS is guided by existing constitutional, policy, legal and administrative frameworks. Under the new constitution, NIS would still be headed by a director general appointed by the president. However, the new constitution stipulated that the appointee would have to be approved by the national assembly. Gichangi would remain the director general at the beginning of the implementation of the new constitution.

With the new changes introduced by the new constitution on NIS, the agency had to increase their human resource capacity to cover the increased number of districts which was a challenge in itself. Describing the challenge, a senior intelligence officer explained that;

> "…the new constitution also brought its challenges. You see, when you increase the scope of work but you don't put down proper strategies and structures to accommodate the increased scope, definitely there will be problems. That's what the new constitution did which many did not see. It increased the administrative units to be covered but the existing structure of NSIS could not accommodate them effectively forcing a hasty recruitment and training of new agents. Of course

> there were repercussions in the productivity but we still did our best to manage the situation."

Therefore, as NSIS transited to NIS under the new constitution, there was insufficient capacity in the agency to undertake their mandate. Effort to have at minimum, one intelligence officer per district that was introduced was thus a challenge. According to Ombati (2010), NIS hastily recruited over three hundred officers to be able to cover the additional nearly three hundred districts. The intention was to have intelligence officers across the county governments established by the new constitution. Although the process seemed hasty, some positive impact of the changes brought by the adoption of the new constitution were evident when minimal violence was experienced after the presidential election of 2013 in which Uhuru Kenyatta, the son of the first president Jomo Kenyatta, was elected president.

4.7 Intelligence Gathering and Sharing in Kenya; 2013-2018

When President Uhuru Kenyatta took over power after March, 2013 elections, national security threat was high. At the beginning of the Uhuru administration, NIS under the leadership of Michael Gichangi had a major task of addressing terrorism. This had largely been caused by the increased terrorist threat especially in the wake of the Kenya Defense Forces (KDF) invasion in Somalia in pursuit of the al-shabaab terrorists and the terrorists doubtless were planning retaliatory attacks against Kenya. According to an officer from the national counterterrorism center;

> "When our soldiers entered in Somalia to fight the al-shabaab, of course we expected that the group would attack our people back here in the country. We knew it was just a matter of time and so we were also trying to better our defensive strategies but it was not easy."

The NIS under its Director then, Michael Gichangi, was therefore under pressure to unravel plots of terror attacks and work with other security agencies including the National Police Service and the KDF to ensure that terror plots were intercepted and neutralized. Nevertheless, in September 2013, a major terrorist attack by the al-shabaab at the Westgate Mall in Nairobi brought NIS under strong criticism for failure to intercept and prevent the attack (Shaffer, 2019). An officer from NIS explained it as follows:

> "Everybody from the politicians to the media and even the wananchi were blaming us that we had failed to foil the Westgate attack. This was not true because we had informed the police of the possibility of an attack in malls in Nairobi, but since what we share is not made public, so definitely when it is not acted upon, people just come out blaming us."

Days after the Westgate Mall attack, national defense leaders including Gichangi were summoned by a parliamentary committee interrogating the failures that occurred leading to the success of the terror attack. Gichangi highlighted what an earlier leaked intelligence report had indicated that his department gave early warning of the attack to the then Inspector General of Police, David Kimaiyo and the Director of CID, Ndegwa Muhoro (Mutua & Munuhe, 2013). Security lapses prevailed and this became evident with subsequent terror attacks in Mpeketoni and other parts of Lamu and Tana River counties. Blame games continued between the Director of NIS, the Chief of General Staff and the Inspector General of Police in the wake of the security lapses. There were alleged internal conflicts between these major national security leaders which eventually culminated into the resignation of Gichangi as the Director of NIS (Shaffer, 2019). Therefore, security situation was not likely to improve without the harmonious working relationship of the three critical security leaders which called for urgent changes to be made.

The President appointed Major General Philip Kameru Director of NIS to succeed Gichangi in September 2014. However, despite the change in leadership, terrorist attacks continued in the country. Thus, the changes may have brought little improvement in the national security apparatus including NIS. Al-shabaab militants continued to launch major terror attacks in the country afterwards including the deadly Garissa University attack in 2015. In 2017, NIS confessed that terrorism stood out as a major security threat to the national security (Mwere, 2017). The fight against terrorism was thus proving a hard task for NIS.

The 2017 national elections also became a major concern for NIS. Before the elections, NIS alongside other security agencies took part in a multi-agency special training organized in preparedness for violence. Nevertheless, political violence in the aftermath of the elections still claimed dozens of lives. NIS was also engaged in probing corruption cases. In 2018, president Uhuru ordered a lifestyle audit of all public officials including the president himself where records from NIS were used in investigating corrupt officials and auditing government departments. The Director General of NIS would personally brief the president regarding the issues (Shaffer, 2019). This indicates the diversity of roles that the transformed NIS has to be engaged in compared to the past. Even so, the effectiveness and efficiency of NIS continued to be questioned especially in the wake of the terrorism threat. The fundamental question therefore is, after all the transformation that Kenya's IG & S has undergone in terms of structures, systems and strategies, what has been the impact on its effectiveness as far as the handling of national security interest is concerned? In this regard, this study also carried out an appraisal of the use of IG & S in managing transnational terrorism in the country. Chapter five discusses the findings.

4.8 Conclusion

The review in this chapter indicates that intelligence has been and continues to be a fundamental pillar to national security. While its root in the country has been traced to the geopolitical conditions in Kenya during pre-colonial period, the findings have demonstrated that a major transformation occurred in intelligence services during the colonial rule. The colonial administration established the Special Branch in the police force to handle intelligence matters. While the primary focus in the pre-colonial period was for communities to understand the strengths and weaknesses of their neighbor communities, colonial intelligence services were mainly to protect the interests of the colonial administration to further their agenda in their colonial territories. This was inherited by the regimes that took over after independence whereby the Special Branch continued to handle intelligence services until 1998 when the NSIS was established. Before 1998, the review shows that intelligence services were largely used to protect the political interests of the regime in power to primarily preserve their administration. However, after the 1998 attack on the U. S. embassy, intelligence services under NSIS which later became NIS after promulgation of the new constitution 2010 began to focus on the emerging threats of terrorism and other crimes.

CHAPTER FIVE: MAINSTREAMING IG & S IN FIGHTING TT IN KENYA

5.1 Introduction

This research primarily set out to interrogate the application of IG & S in the fight against terrorism. This chapter also addresses the third objective of the study which was to interrogate the integration of intelligence gathering and sharing as a counter terrorism strategy in Kenya. Although the previous chapter also addressed the very objective, it mostly analyzed the chronology of security intelligence service in Kenya to understand the paradigm shift in IG & S. To fully achieve the objective, this chapter extends the analysis by analyzing in details the manner in which Kenya has integrated IG & S in its counterterrorism efforts with a focus to understand its effectiveness and identify the major dilemmas and issues involved. The chapter therefore appraises the use of IG & S in cognition that while it has a pivotal role in dealing with terrorism, there are still weaknesses, whether inherent or external in gathering and sharing important information on terrorism.

The major strengths of IG & S as a counterterrorism strategy include: informing policy and supporting police, military or covert operations by giving early warning, to ensure state security (Nte, 2011). Nevertheless, its major weakness is that it is largely dependent on cooperation from other security agents involved who do not always cooperate effectively. The arena is marred by perceived self-interests and mistrust among the many actors. As terrorism threat has continued to change over time, countries have been making efforts to advance their IG & S mechanisms. In Kenya, IG & S is dynamic and have evolved overtime with different regimes using different strategies to protect state centric interests. As reviewed in chapter four, major changes have been instituted in the

structure, systems and strategies over time. To enhance IG & S further, Kenya has also engaged in various partnerships for IG & S. In addition to being a member of the Great Lakes Region Intelligence Fusion Centre, Kenya has often partnered with U.S and Israel in sharing intelligence in efforts to curb transnational terrorism (Otiso, 2009). More recently, Kenya and the Dutch (Netherlands) government signed an agreement to partner in counterterrorism through intelligence sharing among other measures (Muraya, 2017).

Nevertheless, despite continuously streamlining IG & S to curb transnational terrorism (TT) in the country, doubts still linger on how effective IG & S strategies have been. It has been argued that terrorists continue to morph and execute more daring attacks successfully. Interestingly, since 2002 more than ten successful terrorist attacks have been reported with an even more increased degree and number of casualties. Such attacks have been reported in establishments such as universities, government buildings, hotels and private entities. Terrorists have also targeted police institutions and public transport modes. Their recruitment in institutions and radicalization of young unsuspecting Kenyans of all walks of life continues undeterred by the many security institutions commissioned to engage in intelligence gathering and sharing. To what extent has those mandated with IG & S succeeded or failed in doing their job? Why have they failed and/or succeeded? How has IG & S installations and methodologies contributed to the success or failure? To unravel answers to these questions, this study assessed the forms of intelligence applied in Kenya and interrogated the informants' opinion on various aspects pertaining to the effectiveness of applying of IG & S as a counterterrorism strategy in the country.

5.2 Forms of Intelligence Applied to Curb Transnational Terrorism in Kenya

Intelligence may take different forms. Dailey (2017) identifies five types of intelligence. They include: Signals Intelligence (SIGINT); Human Intelligence (HUMINT); Geospatial Intelligence (GEOINT); Measurement and Signatures Intelligence (MASINT); and Open-Source Intelligence (OSINT). Security officers may use one type of intelligence or the other, or a combination of different types of intelligence based on the security need. In this study, the informants indicated the different types of intelligence they preferred and or used in countering terrorism and violent extremism (VE).

Table 5.1: Type of intelligence preferred and applied in curbing terrorism

Type of intelligence	Frequency	Percent (%)
Human Intelligence	37	68.5
Open-Source Intelligence	34	63.0
Signals Intelligence	11	20.4

According to 68.5% of the informants, Human intelligence is the preferred form of intelligence that they use in countering VE. There were 63.0% of them who used open-source intelligence, while 20% used signals intelligence. This indicates that human intelligence is a major form of intelligence that is applied by intelligence agencies in confronting transnational terrorism. This is probably due to its strength of enabling the HUMINT collector to easily shift to a more focused and relevant information on the subject of investigation, by selectively changing statements during interrogations or discussion to elicit new and critical information from the source. The findings support the assertions by Steele (2010) who noted that HUMINT is bound to be the core of security intelligence within governments in the 21st century. This may be due to the

shock of 9/11 attacks which triggered a refocus on HUMINT by most security agencies according to Andrews and Lindeman (2013). However, although the forms of intelligence are presented as distinct, they are often used complementary for a more enhanced understanding of the information gathered.

Different types of intelligence play an important role in curbing violent extremism and terrorism. According to Martin (2016), the usefulness of intelligence in the fight against terrorism and VE is based on its ability to achieve the following goals: uncertainty reduction, provision of early warning as well as provide insight to policy making in fighting terrorist attacks. In this regard, informants who were interviewed in this study had different opinions on the role played by the different types of intelligence.

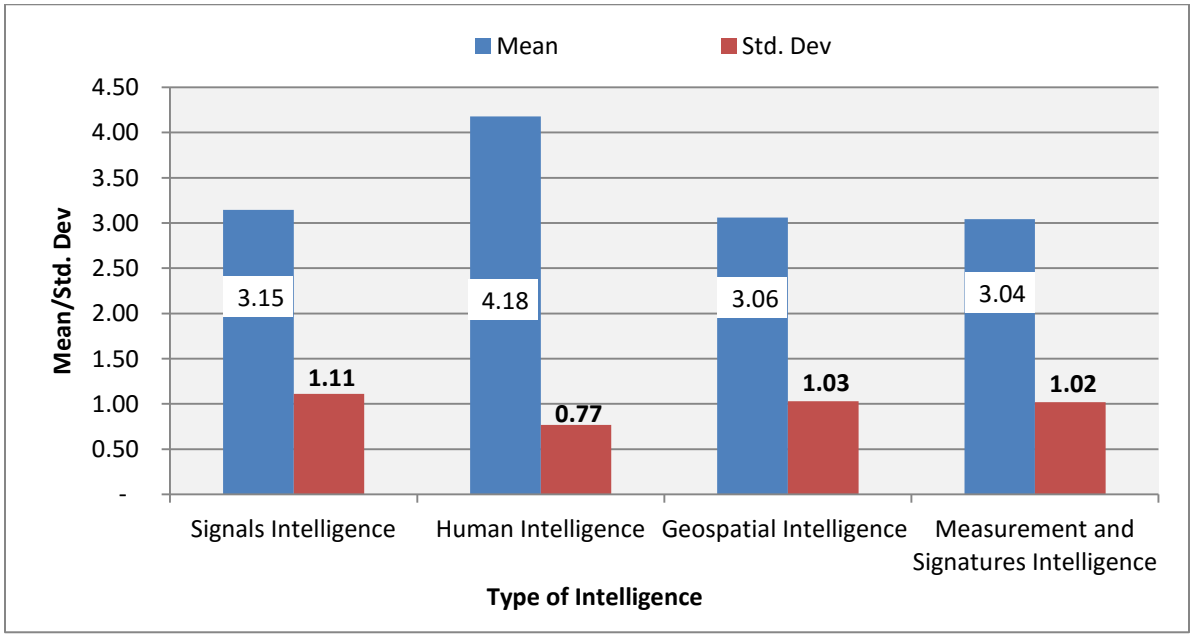

Figure 5.1: Contribution of various forms of intelligence in the fight against terrorism

Figure 5.1 above shows the views of the informants on the extent that different forms of intelligence contribute to the fight against transnational terrorism as rated on a scale of 1 to 5 where: 5= very great, 4= great, 3= moderate, 2= little extent, and 1= no extent at all.

Among the different forms of terrorism, human intelligence was alleged to have played the greatest role (mean = 4.18; Std. Dev = 0.77) in curbing transnational terrorism. Contribution from each of the other forms of intelligence was rated as moderate. This indicates that human intelligence is considered by many intelligence officers as greatly important in curbing transnational terrorism, relative to other forms of intelligence. This is probably because of the nature of HUMINT which Nolte (2009) explains that it entails direct personal involvement of the agents with other persons recruited or who have volunteered 'to betray' their colleagues. The findings nevertheless, disagree with Hughbank and Githens (2010) who faulted HUMINT on the ground that the person collecting the intelligence is often at a high risk. However, the informants highlighted that effectiveness of gathering and sharing of intelligence irrespective of the form of the intelligence was described as subject to those who receive it. An intelligence officer based in Nairobi explained that,

> "It can be very effective if acted on timely because it helps the agencies concerned to act swiftly and be ahead of terrorists. Therefore, the agencies can act proactively in case of an impending attack."

This implies that, the effectiveness of intelligence in curbing terrorism is largely anchored on the ability of the recipient security officers of any intelligence to proactively act on it swiftly to thwart any attack detected.

The importance of open source intelligence particularly collected from social media sites was also emphasized by the informants. They highlighted the need to monitor content in

social media sites to gather intelligence in the fight against terrorism. A member of a civil society organization working in the security sector in Mombasa was of the opinion that;

> "It is very prudent to monitor such social media sites because some terrorist groups use such sites to lure and recruit youths into their terror groups. Such monitoring can lead to apprehension of such agents."

This was echoed by a security expert from Mandera who added that;

> "Terrorists heavily use the internet in spreading propaganda, training, raising funds, radicalization and data mining for potential targets and recruits. It is therefore good that intelligence agents use analytic tools like Google trends to analyze social media platforms for the purposes of collecting intelligence, but legislation should be in place to enable the same."

There is therefore need for monitoring of content in social media like Facebook, Twitter among others and identify any suspicious communications that could lead to the cracking of secret terrorist cells that may be used to lure the youth and radicalize them into terrorism. Unearthing such communications network can significantly help to intercept the planning and execution of terror attacks.

5.3 Effectiveness of IG & S in Curbing Transnational Terrorism

Effectiveness of IG & S according to Rickards (2016) is not merely about information collection and sharing, but a demonstrated ability of bringing together multi-agency expertise, who by drawing upon the diverse skills are able to confront the terrorism menace across jurisdictional boundaries. In this study therefore, the informants' perception on effectiveness of IG & S in curbing TT was first interrogated. However, the study first probed on the impact of the changes that have been instituted in IG & S have impacted on IG & S service in the country.

5.3.1 Changes in Intelligence Gathering and Sharing in Curbing TT

As reviewed in chapter 4 above, since the pre-colonial times, IG & S has been evolving in various dimensions. Informants indicated their opinion on how the changes have impacted intelligence gathering and sharing in the country.

Table 5.2: Status of intelligence gathering and sharing after the changes

Duration involved in intelligence gathering and sharing	Percent (%)				
	Greatly deteriorated	Deteriorated	Improved	Greatly improved	Total
Less than 1 year	-	-	-	100.0	100.0
1-5 years	13.3	26.7	46.7	13.3	100.0
6-10 years	-	-	50.0	50.0	100.0
11-15 years	-	-	77.8	22.2	100.0
Over 15 years	-	-	66.7	33.3	100.0

In their opinion on the impact of the changes in intelligence gathering and sharing, half of the participants (50%) who had served in IG & S for 6-10 years rated it as having improved with the other half (50%) rating is as greatly improved. Among those who had served for 11-15 years, 77.8% considered it improved while the rest (22.2%) considered it greatly improved. A similar trend was noted among those with an experience of over 15 years with 66.7% rating it as improved while the rest 33.3% rated it as greatly improved. This implies that those who have been in Kenya's IG & S service for a long duration largely perceive it to have been improved. This may be probably due to their previous experiences in IG & S which Ndeda (2006) indicates that it focus was largely centered on political interest of the elite political class, as opposed to the current IG & S that

according to Shaffer (2019) is more focused on tackling diverse issues including terrorism and corruption.

However, among the participants who had served for 1-5 years, some considered it deteriorated (26.7%) with few (13.3%) considering it as greatly deteriorated. Nevertheless, most of them (46.3%) still considered it improved. Therefore, IG & S has its shortcomings at present but there have been major improvements from how it used to be in the past. Senior security officers also highlighted this during the interviews and focus group discussions. A senior security officer from the NIS noted that,

> "Intelligence gathering and sharing has greatly improved due to various utilization such as introduction of technology to enhance human and geographical intelligence gathering."

This was seconded by another key security officer based in NCTC, who stated that,

> "…Intelligence gathering and sharing has improved with enhancement in technology."

Therefore, the advancement in technology applied in IG & S over time has greatly contributed to major improvements in IG & S in the country. An academician based in Nairobi explained that,

> "Technology has improved to help keep personnel out of harm because some of it like use of satellites does not require them to be on the ground to collect information."

A key intelligence officer based in the military added that,

> "…Introduction of technology has improved reliability to a very great extent."

Therefore major improvements in technology have also enhanced the security of the officers in intelligence gathering and improved the quality of information collected.

A lady officer in the ATPU was of the opinion that,

> "…Training of personnel on the subject has been highly invested in by the government to ensure the information gathered is highly reliable."

Thus, increased investment in training of persons recruited in IG & S has helped to improve its performance especially by enhancing reliability of the information gathered. A senior officer based in the NIS further explained the improvement as follows:

> "…The government has highly invested on the IG & S through training, the special forces have been subjected to contemporary training including technological so that the information they gather can be easily analyzed for further consumption. For instance, using drone technology."

The findings indicate that there have been major improvements in training of personnel in intelligence gathering which have enhanced the relevance and reliability of the information collected. This also indicates that the shift reported by Boinett (2009) from recruiting unprofessionally trained persons from the police in the past to IG & S to targeting University graduates and post-graduates and take them for a one-year training course on matters of intelligence, human psychology, sociology, counter-intelligence and the science of ballistics and narcotics, has largely helped to improve the performance of IG & S.

On methods used, an officer who retired from NIS indicated that

> "…New methods of intelligence gathering and sharing have been introduced other than relying on traditional methods. Such methods include signal intelligence and open method among others."

Therefore, there have been significant developments in the methods used in intelligence gathering. On the institutions, several officers emphasized on the creation of more

institutions as the major improvements citing NIS, CIU, DMI and ATPU as the major institutions that have been incorporated.

A key security officer in NCTC explained improvement in regulatory framework as follows:

> "…in regulatory framework, changes have also been done in regulation of information collected and sharing. This has been achieved by classification of information gathered and more special teams have been created since 1975."

Changes in regulatory framework for IG & S in the country have also been significant to its improvement in performance. Thus the changes in IG & S that have occurred in various dimensions including technology, methods, training and information shared as well as the regulatory framework have all contributed to the improvement of the modern IG & S relative to its past status.

The researcher probed further into any occurrence that triggered significant changes over the period. The major one highlighted was the bombing of the American Embassy in August 1998. Describing it and the changes triggered, a retired officer who served in NSIS articulated that:

> "…since independence, Kenya had not had a serious terror attack until August 1998 during the bombing of the American Embassy by Al-Qaeda terror group, which triggered a great change on the manner in which intelligence was gathered and shared. Since then, there has been a series of terror attacks which have also made security agencies upgrade their strategies including formation of special teams like ATPU to address terrorism."

Thus were major changes in the intelligence gathering and sharing that were triggered by the 1998 US embassy bombing and thereafter, subsequent attacks that have occurred have spurred some degree of changes in intelligence gathering in the country. This supports the assertions by Aronson (2013) that the August 1998 terror attack on the U.S

embassy in Kenya resulted to major changes in the counterterrorism strategies in the country.

Changes in regime since 1975 have also triggered major changes in IG & S in the country. Explaining this, a member of a civil society stated that,

> "Every regime comes with its model and top leadership of agencies dealing with IG & S has experienced changes with new members being entrusted with the exercise."

Thus, the changes the regimes the country has had since independence have resulted to significant changes in intelligence gathering and sharing mostly in the leadership docket in the institutions and the methods used. The findings concur with Ochieng' (2016), that there have been significant changes in the intelligence docket in the country, instituted during the different regimes. However, as Agbala and Pulkol (2009) highlights, sometimes in such changes, intelligence is politicized which is a major security risk. Therefore, changes in IG & S influenced by change in regime should be carefully done based on merit and objectivity, ensuring that IG & S is autonomous and politics are not dragged into the field.

To probe further on the improvements that have occurred in different dimensions of IG & S, participants' opinion was assessed regarding the improvement/deterioration in the different aspects of intelligence gathering relative to each other.

Table 5.3: Impact of the changes on various dimensions of IG & S

Aspect	Greatly deteriora-ted	Deteriorated	Not changed	Improved	Greatly improved	Mean	Std. Dev
Technology applied	-	-	6.1	53.1	40.8	4.35	0.60
Methods used	-	2.0	7.8	56.9	33.3	4.22	0.67
Institutions	3.8	7.7	11.5	55.8	21.2	3.83	0.98
Training	5.6	1.9	16.7	59.3	16.7	3.80	0.94
Reliability of information gathered	2.0	6.1	18.4	59.2	14.3	3.78	0.85
Regulatory framework	5.8	7.7	15.4	71.2	-	3.52	0.87
Average						3.91	0.82

On average, the participants rated the change in the different aspects of intelligence gathering from 1975 to 2018 at a mean of 3.91 with a Std. Dev of 0.82. This is an indication that the various aspects of IG & S have quite improved compared to the past. In their opinion, technology applied was rated as the most improved aspect (mean = 4.35; Std. Dev = 0.60). This concurs with Ndeda (2006) who revealed since the establishment of NSIS to replace the SB, major investments in information technology has been done to capacity-build the IG & S agency to tackle the diverse issues affecting national security interest. A major improvement was also reported in the methods used (mean = 4.22; Std. Dev = 0.67). This concurs with Boinett (2009) who indicated that with the replacement of SB by NSIS, the later began adopting new methods in gathering information where torture and force was no longer used. Focus of surveillance also changed from being person centered to issue-centered. Participants indicated that regulatory framework had also improved but was the least improved aspect compared to the other aspects (mean =

3.52; Std. Dev = 0.87). This could be explained by the fact that for most of the period, IG & S regulatory framework was not changed during the SB era. Major changes in the regulatory framework only began with the NSIS Act of 1998 that created NSIS to replace SB (Africa & Kwadjo, 2009). Since then, other changes came with the promulgation of the new constitution in 2010. This indicates the necessity for further streamlining the IG & S regulatory framework.

5.3.2 Perception on the use of Intelligence Gathering and Sharing in Kenya

First, the informants' satisfaction with IG & S was assessed before interrogating their views on other aspects of IG & S. Their satisfaction was based on the institution or agency they are based and their experience there as far as handling of intelligence is concerned. This was important in understanding the informant's general attitude towards the country's IG & S apparatus.

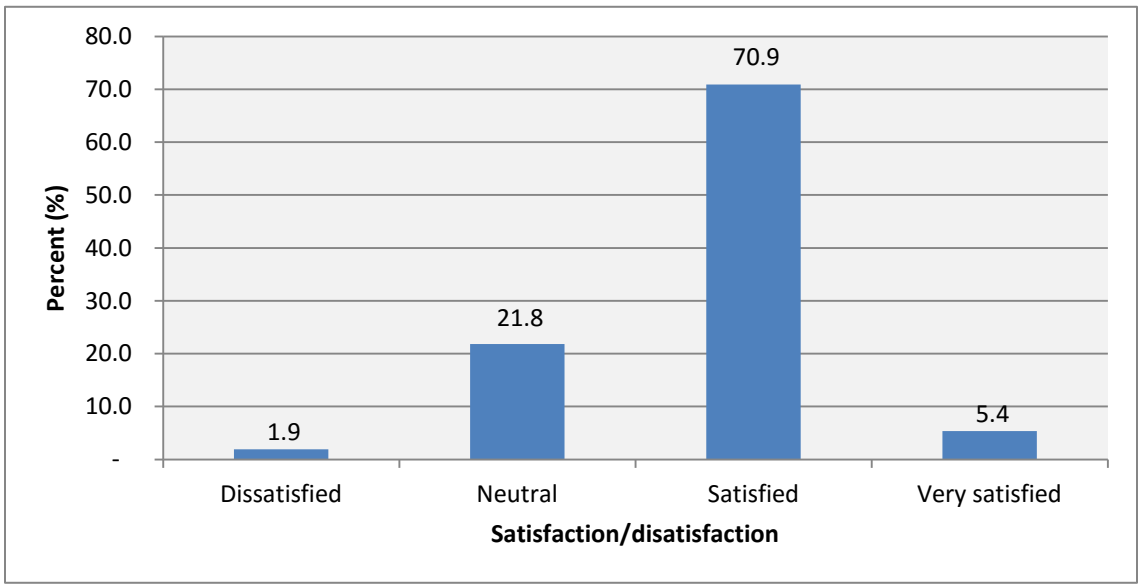

Figure 5.2: Informants' satisfaction/dissatisfaction with IG & S in Kenya

On average, majority of the participants (70.9%) indicated that they were satisfied with the current status of IG & S. Only 1.9% indicated their dissatisfaction with IG & S in the country. The findings indicate that majority of the participants are satisfied with the present status of IG & S in the country.

During the interviews and focus discussion groups, informants also indicated their satisfaction with the present IG & S. A key security officer in Mandera stated that

> "…the present IG & S has been used more than once to intercept terrorist activities before execution and prevent further attacks."

This indicates that despite the instances of terror attacks that have been experienced in the country, intelligence gathering and sharing has been used to thwart other potential attacks. Literature also reveals that there have been cases where intelligence has been allegedly provided of impending attacks but lack of proper coordination and cooperation from other security agents blamed for the failure. For instance, prior to the Garissa University attack, it has been established that intelligence had been circulated to the local police of a possible attack, where it pointed the University or the Medical Training College in the very area as the potential targets (Mukinda, 2015), with the then Minister for Interior Security, the late Joseph Nkaiserry confessing that intelligence was on the ground but there was poor cooperation and coordination from the security agencies in acting upon the intelligence (Goin, 2015). Therefore, lack of intelligence may not be the problem, but the lack of proper coordination and action upon intelligence divulged may be the problem in some terror attacks.

5.3.3 Informants' Perception on Effectiveness of IG & S in Curbing TT

Informants articulated their views on the effectiveness of IG & S in curbing TT. This was rated on a scale of 1 to 5 where: 5= Highly effective and 1= Don't know.

Table 5.4: Effectiveness/ineffectiveness of IG & S in curbing TT in Kenya

Aspect	Don't know	Not effective	Moderately effective	Effective	Highly effective	Mean	Std. Dev
Stopping transnational terrorism attacks in Kenya	-	-	9.4	43.4	47.2	4.38	0.66
Informing defensive strategies against transnational terrorism	-	-	17.3	48.1	34.6	4.17	0.71
Informing offensive strategies against transnational terrorism	-	11.4	36.4	38.6	13.6	3.55	0.87
Informing development of anti-terrorism policies	-	8.0	14.0	36.0	42.0	4.12	0.94
Supporting police and military operations to prevent proliferation of terrorism	-	3.7	11.1	51.9	33.3	4.15	0.76
Adequacy to prevent most of the terror attacks that have occurred in the country	-	17.6	23.5	41.2	17.6	3.59	0.98
Effectiveness of Kenya's partnership with other states in intelligence gathering and sharing in fighting terrorism	1.9	11.5	9.6	40.4	36.5	3.98	1.06
Average						**3.99**	**0.85**

The overall effectiveness of IG & S in curbing transnational terrorism was rated at a mean of 3.99 with a Std. Dev of 0.85. This indicates that IG & S is effective in curbing TT. This concurs with McGill and Gray (2012) who attested that IG & S is set at the forefront in confronting terrorism. Informants strongly indicated the effectiveness of IG

& S in stopping transnational terrorism attacks in Kenya (mean = 4.38; Std. Dev = 0.66). This is congruent to the findings by Karmon (2002) who noted that IG & S helps to stop terror attacks but most of them are usually not recorded. The informants further indicated its effectiveness in supporting police and military operations to prevent proliferation of terrorism (mean = 4.15; Std. Dev = 0.76). This supports Nte (2011) who indicated that in addition to its primary role of informing policies, IG & S plays a major secondary role of supporting military and or police operations that aim at guarding the country against terrorists to hinder their spreading.

The informants further asserted that IG & S has been effective in informing defensive strategies (mean = 4.17; Std. Dev = 0.71) than offensive strategies against transnational terrorism (mean = 3.55; Std. Dev = 0.87). The findings indicate that the effectiveness of intelligence gathering and sharing is also enshrined in its ability to pre-empt an attack and been reliable and relevant enough to support the police and military forces to move in time to thwart the attack. This agrees with the assertions by Martin (2016), that the role of intelligence is emphasized on reducing uncertainty, providing early warning and informing policy decisions in fighting terrorist attacks.

A scholar from a local university further noted that Kenya's partnership with other states in IG & S has helped to fight transnational terrorism in the country (mean = 3.98; Std. Dev = 1.06). This concurs with Adams, Nordhaus and Shellenberger (2011) who noted that in addition to proper coordination of intelligence agents and citizens disclosure of information, many thwarted terrorist plots are supported by inputs from foreign partner states. This implies that successful intelligence in combating terrorism calls for a combined effort between state agencies, members of the public and foreign partners as

well. Even so, according to an Independent Police Oversight Authority official IG & S agreements between Kenya and other states have had positive and negative effects. An intelligence officer based in Mombasa alleged that

> "…It has helped the security agencies to act proactively to reduce the terror threats and thwart impending attacks by helping apprehend the perpetrators as well as intercepting the terror cells before executing an attack."

A former police reservist added that,

> "It has helped to inform the development of more policies to further address the terror threat such as the Prevention of Terrorism Act 2012."

Therefore, by engaging in bilateral and multilateral IG & S agreements with other states, Kenya has been able to intercept and thwart terror attacks as well as streamline the country's anti-terrorism regulatory framework.

However, in a focus group discussion with junior police officers in Nairobi they faulted the IG & S agreements on the ground of certain disadvantages. They complained that,

> "The agreements often result in conflict of interest which leads to withholding of information by some agencies."

This leads to institutional rivalry and suspicion among the agencies. The complimentary role lacks as each agency tends to conceal intelligence instead of sharing. This indicates that some countries in IG & S agreements with Kenya in some instances withhold information that is useful to Kenya's security intelligence in the war on terror. This concurs with Wippl (2012) who indicated that states and their national intelligence agencies are often reluctant to share sensitive, classified information with many international organizations but they prefer to share on a more controllable, bilateral, case-

by-case basis. This can be a major setback in efforts to curb transnational terrorism in the country.

In an interview with a member of *Nyumba Kumi* initiative, he stated that

> "…The agreements have often caused overload of information that does not earn the necessary value. Large amount of information requires detailed analytical work from human agents in order to distinguish the valid and verified information from false one. But the human resource is inadequate, hence the valueless overload."

This seems to point to the fact that the number of intelligence officers in the country is inadequate to process every bit of information received from the different agencies involved in IG & S networks. This means that, there is a possibility of a critical piece of information to be overlooked in the voluminous collection of information collected from different intelligence agencies within and across the borders. This supports the assertion by Hughbank and Githens (2010) who aver that, through the dynamic fact-finding skills applied in the fight against terrorism, collecting, decoding, classifying, prioritizing, disseminating and acting on all information coming along is quite a challenge. This may also largely undermine the effectiveness of IG & S in curbing terrorism. Therefore, the effectiveness of IG & S partnerships with other states is largely rooted in the ability of an individual country's capacity to process the intelligence it receives from the other states and the willingness of the states in the IG & S agreements to share information.

Opinions on the general overall effectiveness of IGS in curbing transnational terrorism were also varied as follows:

Table 5.5: Overall effectiveness of IGS in curbing transnational terrorism

Effectiveness	Percent (%)
Highly effective	68
Effective	19
Moderately effective	8
Not effective	3
Don't know	2

Of the total number of respondents interviewed 68% were of the opinion that IGS has really helped in dealing with transnational crimes including terrorism. In the case of dealing with terrorism, the respondents noted that they trust agents dealing with IGS since they do not disclose the names of those that give them sensitive information. They therefore concluded that stakeholders should strengthen efforts at using many forms of IGS to gather enough evidence on imminent terror threats and attacks. Of those interviewed, 19% disapproved the use of IGS arguing that it has not helped in reducing cases of terror attacks. Only, a negligible minority completely disapproved the use of IGS in reducing terror threats. For them terrorists are more dynamic than Kenyan security agencies.

5.4 The Oath of Office and Sharing of Intelligence

The oath of office for IG & S officers is an issue that attracts a major debate due to the necessity for secrecy in intelligence gathering and the need to share the very information. The context in which intelligence activities take place is based on secrecy, which Nathan (2012) describes as an internal and fundamental aspect of the particular IG & S agency's mandate and functions. Nonetheless, the level of secrecy required for an intelligence service to function effectively is now being questioned. Best and Cumming (2007) posit that intelligence analysis today relies much more on open sources, but this information

becomes 'secret' once it enters the intelligence process. Yet, as Martin (2016) highlights, the need for secrecy does not just apply to the information itself, but to the methods used to obtain it or the sources it comes from, the secrecy of which must crucially be maintained. In this regard, the impact of the oath of office in the IG & S activities should be checked. To this end, informants' opinion was assessed on the effect of the oath of office in their IG & S activities.

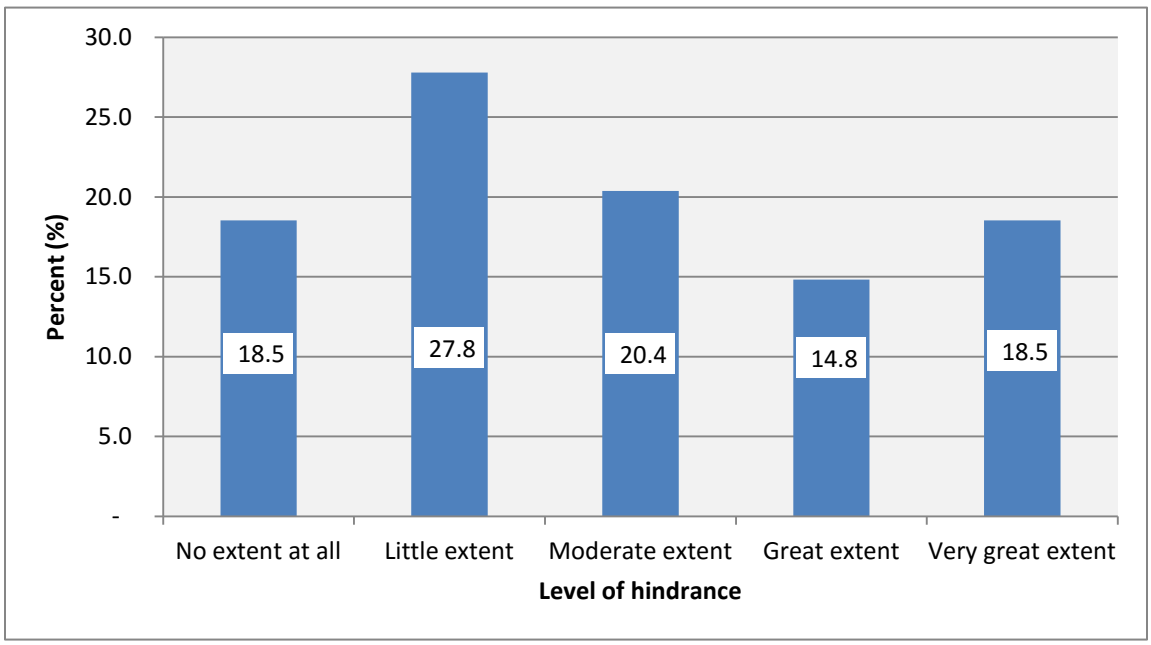

Figure 5.3: Perceived influence of oath of office on the sharing of intelligence

A simple majority of the informants (27.8%) attested that the oath of office poses little hindrance to the sharing of intelligence with another 18.5% stating that it does not hinder intelligence sharing at all. However, there were a few of them (18.5%) who alleged that the oath hinders intelligence sharing to a very great extent, with 14.8% considering the hindrance as great. The rest (20.4%) asserted that the oath was a hindrance to a moderate extent. This is an indication that the effect of the oath of office on intelligence sharing

often ranges from moderate to very great. Describing the effect, a security officer based in Nairobi indicated that it affects sharing of intelligence

> "…because you can't give out the information easily."

This was echoed by another security officer based in Mandera who explained that the oath

> "…limits the sharing of information to a need-to-know basis."

Therefore, the oath of office poses a significant hindrance against sharing of information among the agents. In his words, a senior security expert based in Mombasa explained that:

> "…It ensures that acting parties will abide by the oath to ensure that the information they gather is true information and they will not share it with non-partisan agencies and ensure proper classification of the information they gather. Therefore, it enhances secrecy of information in the interest of the state."

This means that the oath of office in IG & S helps to enhance secrecy with the intent of protecting the national security interest. This implies, it plays an important role in ensuring classified information does not leak to the wrong hands. While this may have its benefits, Best (2011) warns that while compromising secrecy can result in the loss of a source, restricting information dissemination too narrowly may cause it not reach those who need it. This means that the secrecy involved if not well checked could at times work against the ultimate goal of preventing an attack. Thus, as much as the oath of office should help to maintain secrecy, it should be to reasonable extent so that it will not be withheld from the very persons who should use it to foil an attack or neutralize the enemy.

5.5 Seeking of Consent to Share Intelligence/Information

The approval for the sharing of information within the security network is another fundamental aspect in the issue of secrecy in IG & S and the protection of national security interest. This study interrogated the impact of seeking of consent to share information on the overall goal of curbing terrorism.

Table 5.6: Frequency of getting consent to share intelligence/information

Type of intelligence mostly handled	Percent (%)						
	1	**2**	**3**	**4**	**5**	Mean	Std. Dev.
Human Intelligence	2.9	17.1	31.4	31.4	17.1	3.43	1.05
Open-Source Intelligence	3.2	9.7	32.3	32.3	22.6	3.61	1.04
Signals Intelligence	-	50.0	40.0	-	10.0	2.70	0.90
Average						**3.25**	**1.00**

Informants were asked how often they sought consent to share intelligence on a scale of 5 where 1= never; 2= rarely; 3= sometimes; 4= frequently; 5= always. The mean score and standard deviation for the responses were then computed.

On average, informants asserted that they seek for consent to share information sometimes by a mean of 3.25 with a standard deviation of 1.00. Officers who mostly handle OSINT averred that they seek for consent frequently (mean = 3.61; Std. Dev = 1.04). In contrast, those who handle HUMINT and SIGINT seek the consent intermittently, but its prevalence by HUMINT officers (mean = 3.43; Std. Dev = 1.05) is higher than that of SIGINT officers (mean = 2.7; Std. Dev = 0.90). It was also noted that in each category of officers, there were some who seek the consent always (HUMINT =

17.1%; OSINT = 22.6%; SIGINT = 10.0%), and some who rarely do it (HUMINT = 17.1%; OSINT = 9.7%; SIGINT = 50.0%). The findings indicate that the frequency of seeking of consent to share information varies among informants handling different forms of intelligence. It also means that some informants have more freedom to share information than others. This was also noted during the interviews and focus group discussions although there were mixed reactions on what happens when one is denied the consent to share information. A security officer based in Nairobi stated that,

> "…If it is withheld, I won't share."

This was also echoed by another key security officer in Mandera who said that,

> "…I will always abide by the directives of the authority."

Thus, the consent to share information is a major factor in some cases that may result to information withholding. In another perspective, security officer based in Mombasa explained that,

> "…I normally submit any intelligence information to my boss for action. It is upon the in-charge to either act on it or not."

This means that when an officer is denied the consent by their immediate senior to share information, the officer may abandon the information but their senior still has the opportunity to continue acting upon the information further and can still share it based on their assessment.

There were also officers who confessed that they act upon the information within their limits if the consent to share is withheld. A key security officer in Mandera categorically stated that the next move if consent is withheld is to,

'…act on the intelligence within your limit.'

This was seconded by another senior security officer in Mombasa who asserted that

"You deal with intelligence solely without the input from other actors."

Therefore, denying officers consent to share information may not necessarily result to information been concealed. Rather, there is a possibility that it can still spread within the team informally and or be leaked out given that the information is still with the initial officer.

5.6 Building of IG & S Networks Outside the Official Networks

Building IG & S networks outside official networks was a common practice during the SB era. As Boinett (2009) reports, some senior leaders in IG & S like Hezekiah Oyugi during their tenure had their own personal intelligence communications network apart from the formal networks to keep him updated on security matters at any time from diverse sources. This study investigated the existence of the practice in the modern IG & S among informants handling different forms of intelligence in their efforts to curb terrorism.

Table 5.7: Rate at which IG & S networks are built outside the official networks

	Percent (%)						
Type of intelligence mostly handled	No extent at all	Little extent	Moderate extent	Great extent	Very great extent	Mean	Std. Dev.
Human Intelligence	3.0	21.2	15.2	48.5	12.1	3.45	1.05
Open-Source Intelligence	-	26.7	26.7	33.3	13.3	3.33	1.01
Signals Intelligence	-	18.2	9.1	45.5	27.3	3.82	1.03

Among the HUMINT officers, 48.5% confessed building IG & S networks outside the official networks to a great extent, while 12.1% do it to a very great extent. On the same

note, 33.3% of OSINT officers build the IG & S networks to a great extent, 13.3% do it to a very great extent and the rest 26.7% to a little extent. Similarly, 45.5% SIGINT officers build the networks to a great extent, 27.3% to a very great extent, 18.2% to a little extent and 9.1% to no extent at all. The mean rating indicate that officers handling SIGINT lead in building IG & S networks outside the official networks (mean = 3.82; Std. Dev. = 1.03), followed by HUMINT officers (mean = 3.45; Std. Dev. = 1.05) and HUMINT (mean = 3.33; Std. Dev. = 1.01) officers respectively. This indicates that majority of the intelligence officers build IG & S networks outside the official networks irrespective of the kind of the intelligence they handle. This may be probably part of ensuring higher level secrecy in gathering information. Nevertheless, such practices may easily result to infringement of privacy rights especially in electronic surveillance which according to Forcese (2011) may indeed (and often does) involve surreptitious surveillance of communication or conduct, prompting issues of privacy and privacy rights.

5.7 Status of IG & S Platform in Different Institutions/Agencies

Intelligence gathering and sharing activities takes place within various institutions. To this end, the study assessed the informants' opinion on the nature of IG & S in the different institutions.

Table 5.8: The status of IG & S in the country's various institutions

Institution	Very poor	Poor	Fair	Good	Excellent	Mean	Std. Dev
Ministry of Foreign Affairs	25.0	-	-	25.0	50.0	3.75	1.64
Ministry of Defense	-	-	33.3	66.7	-	3.67	0.47
Ministry of Interior and Coordination of National Government	-	-	50.0	33.3	16.7	3.67	0.75
National Intelligence Service (NIS)	-	14.3	28.6	42.9	14.3	3.57	0.90
National Counter Terrorism Centre (NCTC)	-	-	58.3	33.3	8.3	3.50	0.65
Kenya Defense Forces (KDF)	-	-	80.0	-	20.0	3.40	0.80
Ministry of East African Community	6.7	-	60.0	26.7	6.7	3.27	0.85
Anti-Terrorism Police Unit (ATPU)	-	-	100.0	-	-	3.00	-
Overall	3.6	1.8	52.7	29.1	12.7	**3.45**	**0.87**

Overall, the informants described the status of IG & S platform in the different institutions in the country as fair (mean = 3.45; Std. Dev = 0.87). The highest mean rating were reported in the Ministry of Foreign Affairs (mean = 3.75; Std. Dev = 1.64), Ministry of Defense (mean = 3.67; Std. Dev = 0.47) and Ministry of Interior and Coordination of National Government (mean = 3.67; Std. Dev = 0.75). Therefore, IG & S platform in most institutions in the country is good but needs to be enhanced. Participants in the interviews and focus group discussions also commended the current platform for intelligence gathering in their institutions. A member of community policing department based in Mombasa articulated that;

> "…There is a more elaborate way of gathering intelligence in terms of technology and skills especially with the personnel concerned."

This indicates that clarity in procedures in IG & S has been enhanced in most of the institutions. A key security officer based in Nairobi further explained that:

> "…Open platform is mostly used where every team player is allowed to gather information independently, but can be shared with all team players for consumption purposes. Like the intelligence collected is shared with other multi-agencies such as ATPU, DMI and NIS."

This is an indication that the system is mostly based on an individual officer's independent collection of intelligence which is then shared with other agents in the system and this has enhanced the satisfaction of the agents with the system.

5.8 Challenges in the Use of IG & S in the Fight against Terrorism

Interrogating the challenges involved in the application of IG & S in the fight against terrorism is critical because they have implications on sharing with external actors. According to Pillar (2017), various key challenges facing the use of IG & S in curbing terrorism has been a concern for quite long. In this research, informants highlighted the challenges in the use of IG & S to curb transnational terrorism.

Table 5.9: Challenges encountered in using IG & S

Statement	No extent at all	Little extent	Moderate extent	Great extent	Very great extent	Mean	Std. Dev
Pressure to comply with many legal frameworks	-	12.0	24.0	44.0	20.0	3.72	0.93
Collating bulky information gathered	2.0	8.0	34.0	36.0	20.0	3.64	0.96
Obsolete/outdated technology	-	16.7	20.8	37.5	25.0	3.71	1.03
Existence of plots involving few persons who are highly secretive and very informed of security operations	7.7	17.3	26.9	36.5	11.5	3.27	1.12
Highly unrealistic expectations from the public and politicians	2.0	7.8	39.2	27.5	23.5	3.63	1.00
Poor exchange of intelligence among agents and law enforcers	-	10.0	28.0	42.0	20.0	3.72	0.90
Mutual suspicion between different actors in intelligence gathering	2.0	15.7	27.5	31.4	23.5	3.59	1.08
Average						3.61	1.00

Table 5.9 shows the informants' views regarding the challenges encountered in the use of IG & S to curb transnational terrorism as rated on a scale of 1 to 5 where 1 was no extent at all, and 5 was very great extent.

The overall rating of the extent of the challenges in the use of IG & S in the fight against transnational terrorism was on average 3.61 with a Std. Dev of 1.00. This implies that the challenges facing the use of IG & S are quite great. The greatest challenges according to the informants include: poor exchange of intelligence among agents and law enforcers (mean = 3.72; Std. Dev = 0.90). The findings imply the coordination and cooperation between different security agents in sharing and acting upon information is quite wanting. This concurs with Catano and Gauger (2017) who indicated that there is a tendency

among different agencies to withhold "their" information being reluctant to share it which culminates to poor sharing of intelligence among the agents.

The pressure to comply with many legal frameworks was also identified as a major challenge by many informants (mean = 3.72; Std. Dev = 0.93). This supports the assertions by Rickards (2016) who indicated that intelligence agents are often hindered in their operations by the pressure to comply with many legal requirements. They further rated obsolete/outdated technology as a major challenge too (mean = 3.71; Std. Dev = 1.03). This agrees with Walsh (2015) who noted that despite the great enhancement in the capacity for collecting intelligence, there is still a myriad of technological challenges especially with the law enforcers.

A key informant who is a senior security officer in Garissa reported receiving information that was not actionable whereby, the information received in some instances is inadequate for the other security agencies to act upon effectively to thwart the impending attack. This was emphasized by a Criminal Intelligence expert based in Nairobi who shared a piece of information that he received a day before a terror attack was executed in the city the next day in the afternoon. It stated:

> "…Information obtained from a very reliable source established that *al-Shabaab* top commanders have just wished god's blessings to operatives who are proceeding to execute unknown mission at unknown location. The action could be any time from now. Inform all field units to heighten security particularly tonight. Alert all our personnel immediately to take the necessary measures."

The information indicates several gaps that make it difficult to be acted upon to thwart the attack. It lacks precision on the probable target of the attack and the probable time which are very critical in intercepting an attack. Consequently, the terrorists may still

successfully execute the attack even despite such information being available because it does not provide adequate insight to inform an offensive or defensive strategy to thwart the attack. Therefore, it is possible to have terror attacks executed despite the existence of intelligence on the attacks due to insufficiency in the information that was available pertaining to the attack. The intelligence is generic in nature and applicable in almost all instances. Without specifics, countering measures are ineffective. This was noted in the remarks of a senior security officer based in Mandera who was categorical singling out a specific case of terrorist attack and elaborating that:

> "…The case of Garissa University attack is an example of where intelligence was not acted upon. The implication was death and destruction, yet it has been said that the information was disseminated but someone failed to act on it."

However, the officer's phrase that "...it has been said" indicates that the officer's assertion was based on unfounded source alleging there was information prior to the attack. Upon further probing, the officer could not elaborate the nature of information that was available and whether it was actionable or not to establish whether the failure was on the security agencies not acting, or the information being insufficient to inform effective action. This further implies the inadequacies in information shared. A report by Reuters (2019) after the recent attack in the Dusit hotel, Nairobi also revealed that some warnings could be provided but may be incomplete and hence impossible to act upon without further details. In the report, a Somali intelligence official alleged that they had given a warning to their Kenyan counterparts in November 2018 that said, "Five guys want to attack in Nairobi or Mombasa, like a hotel, tourist attraction or a church."

However, such information as explained in the report may be hard to act upon without more details being divulged. However, the Somali agency acknowledged that the

intelligence was not adequate but blamed Kenya for failing to 'pay' for more information from sources within the al-Shabaab network (Reuters, 2019).

This situation could be attributed to the trust-mistrust dilemma conceptualized by Walsh (2010). Using relational contracting concept, Walsh conceptualizes intelligence as a commodity to bring out the notion that those who 'sell' intelligence cannot have any guarantee that those who 'buy' it will adequately secure it; and those who 'buy' lack any guarantee on the authenticity of what they 'buy' as intelligence. In the Kenyan case therefore, using the perspective by Walsh, Kenya could have refused to 'buy/pay' for more details on the grounds of mistrust and lack of guarantee for authenticity. This according to Walsh (2010) brings out clammy dilemmas in bargaining and enforcing intelligence sharing due to the uncertainty that you may be swindled by your partner. This could undermine the effectiveness of intelligence sharing in combating transnational terrorism as was later evidenced in the Kenyan case where the terror attack that could have been thwarted through better cooperation was executed. This was just few months after some drops of intelligence leaked about it but there was no cooperation to connect the fountain that would otherwise reveal more details on the trajectory of the attack to enable the security agencies intercept it before it gets to hit the target.

An academician based in Nairobi pointed out that the secrecy in intelligence is beneficial but a challenge in some instances as far as the national security interest is concerned. He elaborated that,

> "…Secrecy ensures that the national security is not jeopardized through classification of information that is considered national secret. Nevertheless, in some cases, it is difficult to establish the authenticity of information to be classified, and to differentiate between propaganda and genuine secret."

Thus, crucial information that could aid to pre-empt and foil an attack may be withheld on the basis of national security interest and as a result, the terrorists may successfully launch the attack because of lack of timely interception. This means the classification of the information may in some instances end up jeopardizing the very national security interest it was meant to protect. From another perspective, there is also the possibility of leaking information that should be withheld and as a result, the terrorists may access it and use it to defeat the security strategies that may have been put on ground to intercept or neutralize them. A key security officer based in Mombasa further explained that,

> "…Sometimes, information may be kept as secret but some agencies may fail to observe the secret code of conduct and through the loopholes, some of the information classified could leak out to unauthorized persons eventually jeopardizing the very purpose of secrecy."

This means that the high secrecy principle may also trigger betrayal from some agents. This was manifest in the 9/11 attack as unveiled by investigations of the attacks by the two congressional intelligence committees and the 9/11 Commission (the National Commission on Terrorist Attacks upon the United States). In a summary of the findings of these investigations, Best (2011) highlights that there were many clues regarding those who plotted the attack but were concealed in high secrecy files in various agencies particularly the CIA and FBI. Later in another extreme, when the *WikiLeaks* fiasco broke out, the pendulum swung to another end where massive volumes of information classified as 'secret' by the U.S State Department cables were leaked. As noted by McGill and Gray (2012), the 'leakage' of 'secrets' through the *WikiLeaks* lead to very many people accessing too much information than it ought to be, putting the national security system at stake. This implies the need to have standards and control in secrecy to ensure that

information that needs to be shared is not concealed and that which should be concealed is shared or leaked.

Several informants nonetheless emphasized that intelligence should be classified. A member of the Community policing department in Mombasa was categorical that,

> "…All intelligence collected, researched and analyzed and proven of value to the intended purpose should be classified to prevent leakage to unauthorized persons."

This was seconded by a senior security officer based in Mombasa too, who further suggested that,

> "…Intelligence should be classified according to the levels of security that is required to be achieved. For instance, national secrets that entail information whose leakage would put the national security at stake should be classified to ensure that the information dispatched to the public is limited."

This further emphasizes the necessity to have in place proper standards for control in the use of secrecy to ensure that nothing in it works against its original intent of maintaining security.

Another major challenge was highlighted by a member of the public based in Mombasa who complained that human rights activists also pose a challenge as far the use of IG & S to curb terrorism is concerned. He explained that,

> "…As the government through the intelligence agencies tries to come up with a policy to help monitor the movement of perpetrators of terrorism and other transnational crimes, human rights activists come in arms opposing it. They term it as infringing the rights of individual privacy fearing that the law will be applied to anybody through advanced technology."

This implies that use of IG & S in curbing terrorism is often at loggerheads with human right activists who mostly are opposed to the methods used by intelligence agencies to gather intelligence on the basis that it infringes on privacy rights of individuals. Forcese

(2011) pointed this out by asserting that intelligence gathering especially human intelligence and electronic surveillance often does involve surreptitious surveillance of communication or conduct, prompting issues of individuals' privacy rights. However, a member of the civil society based in Mandera noted that,

> "…What human rights agencies are usually against is not the use of intelligence per se, but its misuse. The idea is to caution the state from collecting people's private information and having it shared among different agencies and or states without observing the rule of law in which case, it may eventually be negatively used against them. This is what threatens the violation of human rights."

Therefore, human rights groups fear the use of information gathered by intelligence agencies to victimize the people to violations of human rights by other states. From a realist perspective, Jones (2010) is of the opinion that when an intelligence officer engages in what would be considered unethical behavior, the actions are not considered unethical because they are all necessary for national security. Similarly, Gill (2009) explains that intelligence activities are justified if they serve the well-being of the state and rest on the "moral duty of the sovereign to protect her subjects" (p.89). This means that, the sole driver of intelligence gathering is the national interest as opposed to an individual's rights. As per Kenya Human Rights Commission officer, infringing of human rights on suspected terrorists further aggravates the perilous situation and leads to more radicalization among the youths.

5.9 Conclusion

This chapter has revealed that application of intelligence gathering and sharing as a counterterrorism strategy in Kenya is surrounded by a web of complexities. These complexities undermine its effectiveness in abating terrorism which in its nature has evolved into a transnational problem. While these complexities are rooted in the very

principles on which states engage in intelligence gathering and sharing, this questions the adequacy of the liberalism as a common international relations theory in the context of applying IG & S to curb transnational terrorism. The next chapter in this regard identifies the ensuing dilemmas and issues from the findings, critiques the liberalism view based on the issues and proposes a theory to explain the politics of intelligence sharing in international relations.

CHAPTER SIX: EMERGING ISSUES IN INTELLIGENCE GATHERING AND SHARING IN THE FIGHT AGAINST TRANSNATIONAL TERRORISM IN KENYA: A CRITICAL APPRAISAL

6.1 Introduction

The purpose of this research was to interrogate in depth the application of intelligence gathering and sharing as a security strategy to fight terrorism. The context was Kenya but the focus was to understand its relation with other states in intelligence sharing in the fight against terrorism. The investigation was designed to understand how do states interact by sharing intelligence to fight terrorism while at the same time, sharing the very information could expose their own national security systems and affect their interests? Transnational terrorism by its very nature have its roots and tendrils across borders. Therefore, collaborative efforts are necessary in the collection of intelligence within the wider frame of collective security to deal with it. The question of intelligence gathering and sharing becomes even more compelling because of the complexities involved in IG & S as reviewed in the previous chapter. This chapter therefore discusses the key findings and raises critical question that relate intelligence gathering and sharing as a counterterrorism strategy basing on what this research has found out. The dilemmas and issues emerging from the findings are first discussed, the theories applied reviewed and a new theory on intelligence sharing in the fight against terrorism is proposed based on the findings.

6.2 Dilemmas and Emerging Issues in IG & S

In this research, it was revealed that in quest to deal with terrorism, the importance of sharing intelligence between states cannot be overstated especially because of the transnational nature of terrorism. However, it emerged that while states engage in various intelligence sharing arrangements at bilateral or multilateral level, these arrangements do not lead to total sharing of information between the states. On the contrary, defections and withholding of intelligence are common in these intelligence sharing arrangements raising two questions that were probed in this study: what causes these defections and withholding of information? What are the implications of these defections and withholding of information on the fight against transnational terrorism? This section reviews some of the issues and dilemmas that emerged in the study as the reasons behind the defection and withholding of intelligence while they are supposed to share it in the efforts to curb transnational terrorism.

6.2.1 The dilemma of Terrorism Serving the Interest of the State

This study has found that states engagement in intelligence sharing arrangements is not necessarily to serve the collective interest of all the states involved in the arrangement but rather to serve their self interest. To this end, when a particular state considers that sharing certain information on terrorism will not serve its self interest, the state will not share the information. When this happens, the state that would have benefited from the information and act to address will no longer act to abate the terrorism threat. This is further compounded by the subjective nature of the meaning of terrorism. This study has established that terrorism is a socio-historical construction whose meaning is subject to

the one explaining it and as such, it varies from one context to the other and may change from time to time based on the subjective interest of the one explaining it.

The self interest pursuit of states coupled with the subjective definition of terrorism creates a scenario whereby, when terrorists' activities are working to the benefit of the state, such as striking an enemy state, the state may withhold the information on the terrorists so that the terrorists will successfully strike their enemy state. Moreover, the shifting definition of terrorism with time and from context to context may sometime result to "loyal intelligence agents/sources" defecting to become "terrorists" eventually compromising the intelligence sharing process. This creates the notion of "your terrorist is my freedom fighter" and "yesterday's terrorists is today's beacon of justice". Case examples include Osama Bin Laden (the mastermind of 9/11 attack) who at one time was a strategic ally of the U.S (Chehade, 2007) as well as Nelson Mandela who Canada considered a terrorist alongside his African National Congress movement in South Africa during their armed resistance against Apartheid, but later was awarded honorary Canadian citizenship in 2001 (Freeman, 2013).

6.2.2 The Secrecy Principle Dilemma

Findings revealed the dilemma in the principle of secrecy in IG & S which was found to manifest in the form of the tension in the intelligence gathering agent between sharing or maintaining the 'secret' which essentially is the intelligence. This results from the context in which intelligence activities take place that is basically based on secrecy. From, the findings, intelligence gathered doubtlessly becomes valuable when accessed by those who need it most (to foil a terror attack or neutralize any other security threat for that matter). However, the state have its own sovereign interest that it seeks to protect which

overlaps with the question, will the information retain or lose its value in safeguarding the state's interest after sharing? Since the state has no full guarantee that sharing the information with a partner state that may be in need of this information will not compromise its sovereign interest, the tension on whether to share or not lingers.

In this study, the results indicate that sharing is indeed the best choice in the question of defeating transnational terrorism. However, some scholars like Nathan (2012) hold a different opinion. According to Nathan (2012), maintaining intelligence as a secret is an intrinsic and necessary feature of any intelligence agency's mandate and functions. Best (2011) holds a similar opinion where he asserts that intelligence sharing lowers the value of the intelligence to the source state and increases its risk of being compromised. While their (Nathan, 2012; Best, 2011) concerns for the state interest are valid, the question then is, since terrorism is transnational and states come together in intelligence sharing agreements seeking to defeat it by intelligence sharing, what then becomes the criterion to trust a state enough to share intelligence with them? The paradox that still remains therefore is, states want to work together to curb terrorism but they still cannot freely share the very information that is meant to streamline the effectiveness of our collective efforts to defeat terrorism.

6.2.3 Mutual Suspicion within the Intelligence Community of States

Another conspicuous dilemma in the question of intelligence sharing as it emerges in this study is in the dilemma of trust versus mistrust between states. Due to this dilemma resulting from the secrecy principle as discussed above, states are often caught in mutual suspicion. The findings reveal that this mutual suspicion shapes the intelligence sharing practice from the very start of the agreement to share intelligence – whether bilateral or

multilateral. The suspicion stems from the very fear that sharing the intelligence with another state could jeopardize the individual state's interest and as a result, states are reluctant to share some intelligence because they are suspicious of what the recipient state may do with the information. Again, the recipient states are sometimes hesitant to trust the state that wants to engage them in intelligence sharing, their question in this case been: what are they really after or do they have some hidden interests they are pursuing that are detrimental to us as a state?

This issue of mutual suspicion has also been highlighted by other scholars like Wippl (2012) who noted that states and their national intelligence agencies are often reluctant to share sensitive, classified information with many international organizations but they prefer to share on a more controllable, bilateral, case-by-case basis. The dilemma then is, if states remain suspicious of one another, can they still defeat a transnational security threat like terrorism whose perpetrators' network across nations is determined to wreak havoc across the globe? As Reveron (2008) notes, while zero suspicion may not be attainable, mutual trust and common policies is a necessity to effectively confront transnational security threats like terrorism.

6.2.4 The Sharing Dilemma between Powerful and Less Powerful States

Asymmetrical power relations between states also emerged as a major issue in intelligence sharing. Where a more powerful state is engaged in intelligence sharing agreement with a less powerful state, there is often tendency by the stronger state to compel the weaker state to share more intelligence to serve the interest of the stronger state while the latter withholds some intelligence from the former. This is primarily caused by the question of ability to be entrusted with critical information where the

stronger state doubts the capability of the weaker state to maintain the value of the information; handling it in such a manner that will not compromise the interest of the powerful state. The issue here is that the asymmetrical power relations in the intelligence sharing agreements sacrifices the interest of the weaker state to satisfy the interest of the stronger state. This then raises the question, if the very states that have what is considered as stronger mechanisms to confront terrorism are not committed to share information with the weaker states, how can terrorism be defeated globally since its tendrils as mentioned earlier traverse both weak and strong states?

This study asserts that power relation should not be a tool to undermine but to strengthen the effectiveness of intelligence sharing. However, some authors like Walsh (2010) hold a different view. Walsh (2010) indicates that in bilateral intelligence sharing, the powerful state should be in control of the less powerful state in the intelligence sharing activities to "minimize defection"; a system he calls 'hierarchy system.' This is however serves the interest of the powerful states and in real sense aggravates the asymmetry in intelligence sharing while purporting to reduce defection. Although Walsh (2010) acknowledges the necessity for oversight in the intelligence sharing, his perspective is a one-sided focus that only seeks to satisfy the stronger states interest as opposed to promoting cooperation that leads to mutual benefits.

6.2.5 The Dilemma of Intelligence Sharing versus Political and Economic Stability Interests

This study also finds that states are also confronted by the dilemma of whether to share intelligence or not due to their need to protect their political or economic stability interests. This results to a tendency by states to prefer operating at a bilateral level of

sharing, often on the basis of personal trust with 'tried and tested' known contacts and colleagues from other countries. The primary concern in this case is the fear that in sharing the intelligence to deal with a particular security problem at hand, the state may end up exposing its political or economic 'underbelly' that in turn may have negative consequences on the stability of their mainstream economic or political environment.

This dilemma has been highlighted by Scholars like McGill and Gray (2012) who revealed the damage that the *WikiLeaks* fiasco caused. The *WikiLeaks* fiasco was an unprecedented whistle-blowing on the U.S by *Wikileaks* (a Swedish organization) that leaked classified documents from U. S. foreign diplomats which were termed as "the diplomatic cables" on 28th November 2010 (Steinmetz, 2012). WikiLeaks—an online whistle-blowing organization based in Sweden—released documents from U.S. foreign diplomats, termed "the diplomatic cables," on November 28, 2010. As McGill and Gray (2012) indicates that the *WikiLeaks* releases resulted to far too many people having far too much access whose full damage to the U. S. foreign and economic policy is yet to be fully understood and as such, the U.S and its partners have been forced to employ greater digital monitoring of classified materials, to reduce access to classified information that jeopardizes their political and economic stability.

This research in a nutshell has revealed that there are various dilemmas in the international intelligence community. At the core of the dilemmas is that, whereas sharing in the gathering and applications of intelligence is necessary in the context of the character of transnational crimes such as terrorism, doing so may itself be dangerous as may compromise the individual states' interests. This challenges the sufficiency of the

liberalism theory in international relations. The next section critics the liberalism theory in the light of the study findings.

6.3 Liberalism: A Critique based on the Findings

While liberalism is a common theory in explaining inter-state relations, in the context of this research whose major focus was to interrogate the application and effectiveness of intelligence gathering and sharing between states in curbing terrorism, the theory was limited. This is because within the context of intelligence sharing, the notion of liberalism is that inter-state sharing of intelligence as a practice happens on a super-state level in a globalised as opposed to state-centric world. Liberalists believe in cooperation among states hence informing on the need to establish intelligence sharing arrangements between intelligence gathering agencies of different states. Again, liberalism considers the state as the key actor for analysis while the issue of intelligence gathering and sharing and terrorism extends beyond the state to involve diverse non-state actors.

The transnational nature of terrorism and the complexities of intelligence sharing like the principle of secrecy and pursuit of self-interest by states in intelligence sharing cannot fit in the liberalists' arguments of peaceful human nature and the collaboration interest of (states) to achieve the common goal of collective security. Liberalism tends to defend the notion that democratic states are less vulnerable to war. However, on the contrary, there are democratic states whose tendency to war is very high when it comes to the fight against terrorism as opposed to the peaceful nature that they are expected to manifest from a liberalism perspective of international relations (Dune, 2009). The democratic peace notion that war leads to wastage of economic resources (Dune, 2009) does not apply where democratic states invest colossal volumes of economic resources in efforts to

curb terrorism including major investments in IG & S. Thus, the fact that terrorism is a war-oriented phenomenon that states have to deal with negates the state centric assumption of liberalism since it cannot explain how terrorism and state actor are related.

Another major limitation of liberalism is in how it portrays each individual as absolutely free in the society in his/her habits and lifestyle, where they just choose any society to belong through acceptance to its obligations to feel comfortable, but remains free and independent (Michael, 1990). This notion fails to take into account diverse motives or factors that may lead to an individual acting in a manner that the society would basically expect them to act as is the case with terrorism. Liberalism fails to explain the criteria on which the individual exercise their freedom of choice in their habits and lifestyle. This makes it insufficient in explaining an individual's behavior in the context of terrorism since it cannot explain the factors that could influence one to engage in terrorism. Moreover, in IG & S, the idea of a free individual cannot hold since as revealed in this study, it is the self-interest of the state that often gets priority. That means, individual's freedom may not apply in the question of IG & S since as revealed in this study, individuals rights may be infringed in IG & S in the interest of the state security.

Liberalist's argument on states desire for prosperity is also weak in explaining inter-states relationships in IG & S and terrorism. Liberalists argue that states in their desire for prosperity take into account financial and economic gains on top of political interests to maximize their elf-interest which they pursue through liberal values and democracy. This cannot adequately apply in the context of transnational terrorism whose interests are pursued through violence that is rationally calculated as opposed to democracy and liberal values. Again, the state interests in intelligence sharing are not necessarily sought

through democratic and liberal values. In the light of the above reviewed limitations, the researcher proposes a theory in the next section to explain inter-state relations as far as the question of intelligence sharing between states in efforts to curb terrorism is concerned.

6.4 The Interlocking Triangles Theory of Intelligence Sharing

Based on the findings of this study, the researcher proposes an intelligence gathering and sharing theory to explain the maxim of intelligence gathering and sharing using interlocking triangles, hence the name "Interlocking Triangles Theory." In this theory, the researcher articulates that in any intelligence sharing agreement between states, no matter the terms of the agreement, the volume and content of intelligence is limited to the level of trust between them and their individually perceived benefits of sharing the intelligence. The theory is illustrated in the figure 6.1 below which is a portrait of intelligence sharing between state A and state B.

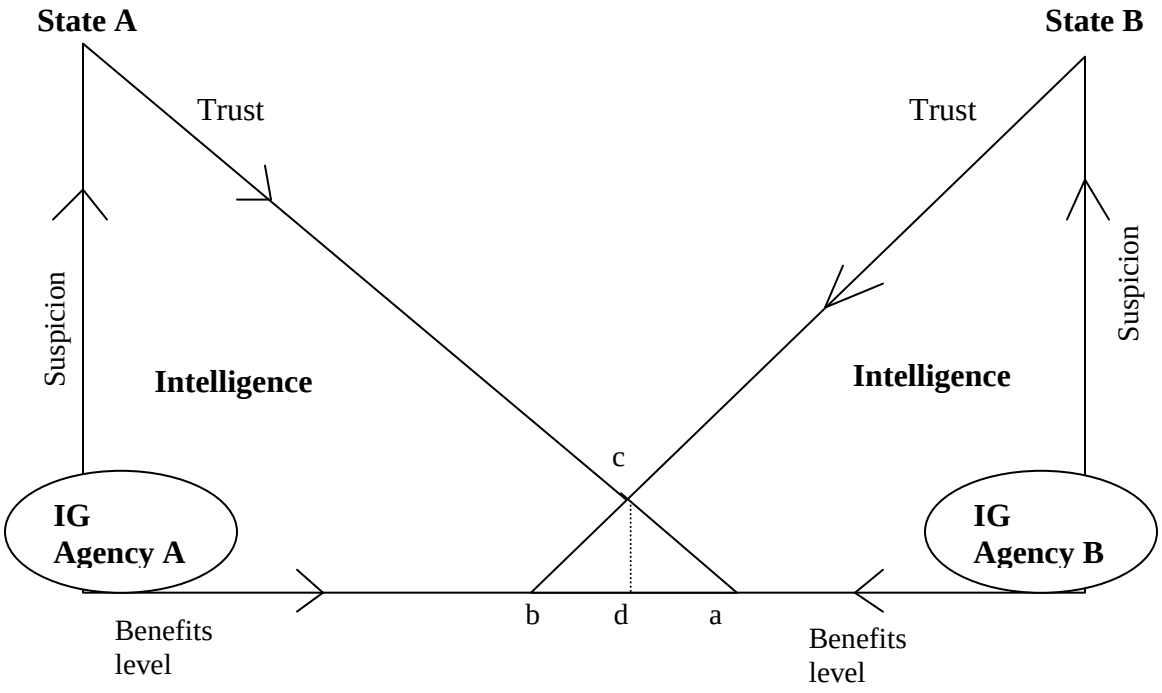

Figure 6.1: Intelligence gathering and sharing maxim triangles

The figure illustrates the flow of intelligence based on three critical aspects that determine the volume and nature of the intelligence shared between two states (A and B) in an intelligence sharing agreement. This is captured in the form of two opposite right-angled triangles that interlocks to form a third small triangle. It is this small triangle that reflects the extent of intelligence sharing that takes place between the two states in their efforts to collectively curb terrorism. The three sides of each of the right-angled triangles indicate the three critical aspects that influence intelligence sharing. That is, the base represents the level of benefits a state expects to obtain by engaging in intelligence sharing with another state, the height represents the extent that the state is suspicious of the other state, while the hypotenuse represents the extent that the state trusts the other

state. The arrowhead on each side indicates the direction of increase for the respective aspect it represents.

The theory as illustrated in Figure 6.1 postulate that if any of the states (A or B) in intelligence sharing arrangement has any suspicion on sharing intelligence with the partner state concerning a terrorist activity, then it will withhold information from the partner state even when it poses a major threat to the partner state. That is, if state A is suspicious of B, it will withhold the information to itself. The same case applies to state B when it is suspicious of state A where if it is suspicious, it will withhold the information to itself. As a result, the terrorist activity that the information would have helped to prevent will go on unabated.

At the maximum level of suspicion, the level of trust and the level of expected benefits are at minimum, hence there will be no sharing of intelligence. When suspicion decreases, it means the level of trust begins to increase as well as the level of the expected benefits. This is explained by the direction of the arrowheads indicating the direction of increase for each aspect in the diagrammatic representation of the theory in Figure 6.1. However, since the trust of A on B does not automatically result to B trusting A, the first question that this theory attempts to answer in explaining intelligence sharing is: when does intelligence sharing between two states begin in the midst of the trust versus suspicion constraint?

The theory asserts that the opening code to unlock the sharing of intelligence is “perceived benefits”. This “perceived benefits code” has different parts where each state possesses its own part. That is, each state has its individual benefits that it expects to obtain from sharing intelligence with the other state. When state A perceives that it will

reap certain benefits in sharing intelligence with B, it will be willing to exchange intelligence with B. Similarly, when B perceives that it will obtain particular benefits by sharing intelligence with A, state B will be willing to share intelligence with A. This is indicated by the direction of the arrowhead on the base of the triangles. This means that when state A is willing to share intelligence with state B, it does not automatically mean that B will be willing to share with A. Rather, it only means that state A has certain self-interests or benefits that it has already considered and carefully calculated that it will gain by sharing with B hence its willingness to share. State B on the other hand has its own self-interests too that it has to consider and carefully calculate to establish that by sharing with A, it will indeed achieve its expected benefits before it agrees to share with A. This means that it does not matter whatever kind of terrorist activity the intelligence may pertain to and the implications of withholding it from the other state. So long as the state does not perceive that it will obtain a certain level of expected benefits by sharing intelligence with the partner state, it will not engage in intelligence sharing no matter how much the other state is willing to engage it in intelligence sharing. If state A raises its suspicion of state B and shares less and state B's suspicion is static to state A, then state A is assured to reap more benefits from B. This may explain the un-equal(asymmetrical) relations between powerful states and less powerful states where the former benefits more. As a result, proliferation of terrorism in either of the countries will continue despite one of the states having intelligence on the terrorism activities because the information is not shared.

Therefore, for the "perceived benefits code" to work (unlock the intelligence sharing), at least the two states must come together and combine their individual parts of the code

that matches one another to unlock intelligence sharing between them. That is, the expected benefits of A must be equal to the expected benefits of B. This is point d on the base of the triangles. At this point, the states also have mutual trust in each other (the intersection point c) to share intelligence. At this point cd, the benefits that state A expects to obtain from sharing intelligence with state B is equal to the benefits that state B expects to obtain from sharing intelligence with state A. The phrase "equal" in this theory means that the benefits that A perceives to obtain by sharing may not necessarily be perfectly the same as the benefits that B perceives to obtain, but they significantly match in terms of the interests they serve in each of the state. At the same time, the phrase also means the perceived benefits of sharing may be perfectly the same. It is at this point of mutual perceived benefits of sharing intelligence and mutual trust that real willingness and readiness to share intelligence between states in an intelligence sharing agreement begins. This means that though on the face of it, the agreement will be to share intelligence to curb terrorism, each state will engage in the sharing agreement with its particular benefits that it expects to achieve.

Once the sharing code of mutual benefits has been unlocked and intelligence sharing begins to flow between the states, the next fundamental question that this theory explains is, how far does the sharing extend and or last? In other words, what is the scope on intelligence sharing between the states that have perceived mutual benefits in sharing intelligence? In this theory, the researcher asserts that this is determined by how much more trust each of the state will have on the other and the maximum benefits each of them is seeking to attain. As mentioned earlier in this theory, the trust of state A on B does not automatically mean that B trusts A. This is primarily because of the dilemma of

the secrecy principle in security intelligence activities as captured by Walsh (2010) in his book “The International Politics of Intelligence Sharing”. Walsh (2010) conceptualizes the dilemma as a two-way predicament whereby, the state possessing the intelligence have no guarantee that once it shares the intelligence, the other state will adequately secure it not to harm its self interest. On the other hand, the states that will receive the intelligence have no guarantee that the intelligence it will receive is authentic.

The interlocking triangles theory asserts that once the two states unlock the intelligence sharing code by identifying mutual benefits of sharing (i.e point d) and trusts each other enough (point c) to share intelligence with them, each of them will seek to obtain as much intelligence as they can to gain the maximum benefits they seek to achieve. As a result, each of them will increase their trust hoping that by sharing further, they will attain their maximum expected benefits. Trust may increase for one reason or the other such as improved diplomatic relations between the two states. Thus, as its trust increases, it shares more to gain more benefits until it obtains its maximum expected benefits. That is, maximum benefits at a for state A and maximum benefits at b for state B. Once the trust for the state has increased to the point of engaging in a level of sharing that it attains its maximum desired benefits, it will not share beyond that point. Therefore, the intelligence sharing scope in the diagrammatic representation of the theory is limited to the area from the points of mutual benefits (d) and mutual trust (c), to the points of maximum trust and maximum level of benefits for each state (a and b). In this regard, the intelligence sharing scope between state A and state B will only be the area of triangle abc (equivalent to the sum area of triangles cda + cdb). The scope of intelligence sharing (area of triangle abc) may entail the totality of the shared information and or the shared

collection methods. That is, the states may independently collect intelligence but share information with each other. They may also share in the collection of intelligence but not share the information they obtain or they may share both the collection mechanisms and the information as well.

The large area outside triangle abc represents the big portion of intelligence that each state individually possess which they will not share with each other. This implies that even among intelligence sharing arrangements between states, terrorism activities will still not be easily curbed because the tendency of the states to withhold information still remains high.

6.5 Conclusion

This chapter reveals that the nature of intelligence sharing arrangements between states is largely defined by state-centric interests that determine their commitment to or defection from sharing information with each other. It also illustrates the complexity and dynamism of TT globally. However, it has earlier been established that terrorists also study state centric interests especially for powerful states and with that knowledge in mind, they attack the interest of these states in other smaller less powerful states. Does this explain why US interests (Embassies) in Kenya and Tanzania were attacked? Are these issues then contributing to the increase in transnational terrorism coupled with the complexities in intelligence gathering and sharing? In the midst of these complexities, what measures are then needed to streamline intelligence gathering and sharing in its use to manage transnational terrorism in the country? The next chapter articulates the conclusions and recommendations derived from the analysis of the findings.

CHAPTER SEVEN: SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

This chapter summarizes the major findings derived from the analysis done in this study in line with the research objectives. Conclusions made are also presented based on the findings and the recommendations proposed are outlined.

7.1 Summary

The study set out to interrogate the use of intelligence gathering and sharing in the management of transnational terrorism in Kenya with five major objectives: to interrogate the emergence and evolution of transnational terrorism in Kenya; appraise the security sector reforms in the fight against terrorism in Kenya; interrogate the integration of intelligence gathering and sharing in the fight against terrorism in Kenya; and to identify the major issues and dilemmas in intelligence gathering and sharing as a counterterrorism strategy. Lastly, the researcher explored appropriate measures for strengthening IG & S which was achieved by proposing various recommendations and the way forward to streamline IG & S to manage TT in the country.

7.1.1 Emergence and Evolution of Transnational Terrorism in Kenya

The findings revealed that TT has morphed overtime in terms of actors, motives and targets. Kenya's collaboration with U.S and Israel has greatly contributed to the morphing of TT in the country. Initial TT attacks in the country were indirect attacks on U. S and Israel interest but most subsequent attacks have been direct targets to Kenya. The attacks have been largely aggravated by KDF invasion in Somalia and weak border controls. Economic motives were identified as catalysts of transnational terrorism compared to religious and social motives.

7.1.2 Security Sector Reforms in the Fight against Terrorism in Kenya

The study found that the Kenyan government has been responding to terror attacks and the future threat posed by terrorism through various security sector reforms that have been undertaken over time. These reforms largely entailed: institutional reforms which entailed establishment and restructuring of various security institutions; collaboration with other states and actors in counterterrorism characterized by initiation of IG & S partnerships with intelligence agencies of different foreign countries and formation of new institutions and special forces; and legislation reforms characterized by enactment of anti-terrorism legislation and judicial reforms.

7.1.3 Integration of IG & S as a Counter terrorism Strategy in Kenya

Changes done on security intelligence structures, systems and strategies in the country overtime were found to have greatly improved IG & S in the country. Major improvements were found in technology used, training and the information shared. Among the different forms of intelligence, human intelligence and signals intelligence were indicated as having played the greatest role in managing TT. Informants indicated that IG & S has helped to stop several transnational terrorism attacks in Kenya. IG & S was found to have greatly supported police and military operations to prevent proliferation of terrorism. It was further revealed that Kenya's partnership with other states in IG & S has helped to fight transnational terrorism in the country with the most common partners highlighted including CIA (in U.S) and MOSSAD (in Israel). However, IG & S partnership arrangements were also faulted on the ground of certain disadvantages especially lack of effective cooperation among some agencies in the bilateral and multilateral intelligence gathering and sharing arrangements.

7.1.4 Major Issues and Dilemmas in Intelligence Gathering and Sharing

Commitment or defection in intelligence sharing agreements between Kenya and other states was found to be subject to several dilemmas and issues in IG & S. Major dilemmas and issues identified include: the "secrecy" principle in intelligence itself, existence of mutual suspicion within the intelligence community of the states, inter-state intelligence sharing dilemma caused by lack of shared identity between states due to state-centric interests, human rights issues because of lack of commonality between individual's rights and national security interests in respect to IG & S, and sharing dilemma between powerful and less powerful states.

7.2 Conclusions

The study makes several conclusions in line with the objectives that the study set out to accomplish. On objective one which was to trace the emergence and evolution of transnational terrorism in Kenya, the study concludes that transnational terrorism morphs over time in terms of the motives, perpetrators and targets of transnational terrorism attacks. In particular, it is concluded that terrorism in the country did not begin as transnational terrorism but it began as domestic terrorism. However, it fast evolved into transnational terrorism particularly due to Kenya's international relations particularly with Israel and the U. S. The research further concludes that transnational terrorism in Kenya began as indirect attacks by terrorists on the interests of the U. S. and Israel but this further evolved with time into direct attacks on Kenya's interests especially after the invasion of KDF into Somalia.

Pertaining to objective two that sought to examine the security sector reforms in the fight against terrorism in Kenya, the study concludes that security sector reforms in the country have played a major role in complementing IG & S in the fight against terrorism in the country. First, the study concludes that the reforms especially in the systems and structures of intelligence services over time have streamlined intelligence gathering and sharing in terms of professionalism. Moreover, the reforms especially the establishment of special forces in the police service have enhanced the capacity to collect and act on intelligence for tactical response to terror attacks. Furthermore, the study concludes that the reforms especially in the anti-terrorism legislation framework have complemented IG & S in the arrest, investigation and prosecution of terror suspects.

On objective three which sought to interrogate the integration of intelligence gathering and sharing as a counter terrorism strategy in Kenya, several conclusions were made given that this was the core of the research. First, the study concludes that intelligence gathering and sharing has undergone major transformation in the country since the pre-colonial era which has culminated into major improvement in intelligence gathering and sharing. The study concludes that in the pre-colonial period, the focus of intelligence services as far as security was concerned was on local communities with a goal to enhance peaceful coexistence. In the colonial era, the research concludes that the focus of security intelligence gathering and sharing was to protect the interests of the colonial administration. In the post colonial era, the research concludes that intelligence gathering and sharing changed with the change in different regimes since independence. The study concludes that the focus of post-independence IG & S was to protect political interests of

the ruling regime until 1998 after the terror attack on the U.S Embassy when the integration of IG&S in counterterrorism began with the establishment of NSIS.

The study further concludes that since the creation of NSIS and the subsequent transformations in security intelligence services, IG & S has been fundamental in thwarting terrorism attacks in the country. The study concludes that use of IG & S in Kenya to curb transnational terrorism is a holistic approach that entails the collection and sharing of different forms of intelligence and not just relying on one type. While different forms of intelligence are integrated and applied in efforts to curb transnational terrorism, the study concludes that human intelligence and signals intelligence are the most used forms of intelligence in the fight against transnational terrorism. However, this does not negate the importance of engaging the other forms of intelligence like signals intelligence in the war on terror. The fundamental aspect is that every form of intelligence is useful especially if there is swiftness in acting upon it by those agencies to whom it may be shared in advance.

The study concludes that Kenya's bilateral and multilateral intelligence sharing partnerships with other states have been instrumental in minimizing the number of terrorism attacks in the country. The researcher concludes that terrorists only manage to successfully execute their attacks sometimes due to lack of effective cooperation among some of the states involved. It is inferred that the question of intelligence being effective or ineffective in the fight against transnational terrorism is dependent on the willingness of the different states in intelligence sharing agreements to share information. It is concluded that even in IG & S agreements between Kenya and different countries, there is tendency by some agencies to withhold some information on the ground of protecting

national security interest, which eventually ends up jeopardizing the very national security interest it was meant to protect.

The study concludes that although IG & S in the country has improved, more needs to be done especially to streamline it further so that it can be more effective in fighting against terrorism by addressing the various underlying issues undermining its effectiveness. The researcher concludes that the effectiveness of IG & S is undermined by lack of commitment by states in intelligence sharing arrangements to share all information that is important in dealing with suspected terrorist activities. Moreover, poor exchange of information among agents and law enforcers and the agents being put under pressure to comply with many legal frameworks is also a major hindrance as well as inadequacy of the technology used. Sharing of incomplete and ambiguous information is also concluded to be a major constraint in the application of IG&S in the fight against TT. This is where intelligence provided prior to an attack is sometimes not sufficient for the security agencies to take effective actions to thwart the attack. Furthermore, the intelligence shared prior to an attack sometimes lacks adequate precision for security agents to take effective actions to foil the attack.

In a nutshell therefore, the study concludes that IG & S is fundamental and an effective strategy to fight terrorism but this will only happen when the challenges, complexities and dilemmas involved in intelligence sharing are properly dealt with. Therefore, on top of the significant improvements that have been put in place in systems and institutions in IG & S, the study concludes that more still needs to be done to streamline this strategy in order to maximize its productivity in the war on terror. Thus, in line with and in order to achieve objective four of the study, this research recommends various measures in

strengthening IG&S to allow it effectively counter violent extremism and decrease transnational terrorism as presented in section 7.3 below.

7.3 Recommendations and the Way Forward

Intelligence gathering and sharing is a major strategy in the war on terror in Kenya. Nevertheless, several challenges and various complexities were found to undermine the effectiveness of IG & S in curbing transnational terrorism. In this regard, the study taking into account the informants' opinions proposes the following recommendations:

In the investments done to enhance the effectiveness of intelligence gathering and sharing in curbing terrorism in the country, the largest portion should be directed on aspects of technology and training. This is particularly due to the need to improve both strategic and tactical intelligence. The priority must therefore be in such a manner to streamline the capacity to "predict" where and when terrorism attacks are likely to happen and the probable targets for the terrorists. This if achieved may give the local security agencies advantage that would enable them to frustrate possible attacks.

The gaps in tactical intelligence gathering should be addressed by ensuring that the collection of human intelligence is done by skilled and committed ground officers, well equipped and trained to think fast and trace the very simple patterns in culture and changes in behavior for those within their designated areas. This would ensure that the security agents are well furnished to carry out surprises with precision.

No state is fully self-sufficient in all areas – policies and resources (finance, human and technology) to curb TT. Therefore, bilateral and multilateral IG & S arrangements

between Kenya and other states should make allocation of more funds and human resources part of their emphasis to capacity build intelligence services in terms of technology and training.

The ability of terrorists to morph should be met with equal efforts by security forces changing their strategies in gathering and sharing information on terrorism from members of the public. All agencies should thus continuously go through retooling and capacity building on early warnings. It should not be onetime event but a continuous process by all involved agencies and institutions. The NIS in this case should consider establishing an independent directorate to exclusively focus on terrorism.

There is also need to separate the enemy (terrorists) from the populace. The security agents needs to take extra-cautionary measures necessary to ensure that when executing offensive or defensive strategies against terrorists, physical or psychological harm to the populace is largely minimized.

The state should also work hard towards denying an aboard to terrorists. Stringent measures need to be taken to seal possible loopholes detected in the structures and system of IG & S that grants terrorists access to security information. Additionally, propaganda is the oxygen for terrorists and therefore, security agencies should counter it by acting fast to ensure that terrorists do not successfully use it to sway the view of the populace.

There was a concern regarding the large number of radicalised youth in Nairobi, Mombasa and Mandera. To deal with this, it is suggested that the state should reduce opportunities and police spaces where possible radicalisation may be taking place. As a way to reduce the number of youth to be recruited into extremist activities the state

should endeavour to create more employment and engage the youth in income generating activities

The government should also consider creating more economic empowerment opportunities for the youth who are graduating from colleges and polytechnics. The government should liaise with colleges and polytechnics to provide job opportunities to those who complete their courses, and give easily accessible incentives to venture into self employment.

Most importantly there is need for interagency cooperation in sharing intelligence. Both domestic and foreign agencies involved in intelligence sharing should work together to boost their confidence with each other to enhance their readiness and commitment to share security intelligence. It is also important to incorporate the civilian component through a multi-agency framework in IG & S to enhance inter-operability between the disciplined and civilian components in reducing threats and incidences of transnational terrorism.

More efforts should be put in place to detect, crack down and dismantle terrorists networks. As such, more investment in community policing is necessary to increase its capacity to detect terrorist activities and provide accurate, timely and relevant information to the police to help dismantle terrorist networks. There should also be more collaboration between the police and telecommunication companies to implement technological strategies to detect and crack down terrorists communication networks to help thwart terror attacks in their planning stage.

In IG & S arrangements between Kenya and other countries, it is important that the parties should ensure that the agreements signed lead to deepened relations between the countries. This should be worked upon to ensure that the countries deepen their ties through diplomacy that should be geared towards ensuring that none of them conceals information that is critical to the security of the other party.

Way Forward

In the light of the above recommendations for strengthening IG & S, the following measures are suggested:

Stringent measures should be taken to curb transnational crimes and hence prevent their influence on the thriving of transnational terrorism. Security agents should ensure that they do their best to infiltrate and crack down transnational crimes network in weapon smuggling, drug trafficking among others.

It is also important that NIS consider a restructuring that should culminate into a new division been created in the institution to be specifically in charge of terrorism intelligence. This will ensure that there is a contingent of officers who at all times are focusing on collecting and or analyzing terrorism related intelligence. This can help to improve the efficiency of information analysis to reduce ambiguity and increase in the precision of information been shared to different agencies to foil terrorist attacks that may be detected.

The national police service should also establish more investigative systems for checking local religious groupings and any other social groupings to ensure that any elements of extremism and radicalization are identified at their early emergence stage and stopped.

This may be achieved through more empowerment of the *Nyumba kumi* initiative and promoting community policing through increased collaboration between police officers and local *Nyumba kumi* leaders.

With the political instability in neighbouring countries, security within the borders should be enhanced. The border control units should be taken through special training to confront terror threats both in terms of defensive and offensive strategies. They should also be well equipped in terms of sufficient human power and ammunition to enhance their effectiveness and efficiency in repelling transnational terrorist cells from advancing into the country especially along the Somalia border.

It is also important that government organize civic education programs countrywide targeting the youth both in school and out of school to educate and warn them about radicalization and terrorism and the risks in it. This may help to minimize their radicalization and subsequent recruitment into terrorism and hence reduce the threat of transnational terrorism.

The government should equip the intelligence service in the country with more modern technology resources to enhance their capacity in intelligence gathering especially signals intelligence in the war on terror. This should be used to supplement the human intelligence capacity.

The government should also consider investing more in human resources in intelligence gathering and sharing in the country including recruiting more staffs in IG & S and undertaking advanced training on the workforce in intelligence gathering. This will help

to reduce the workload on the existing workforce in IG & S and enhance the effectiveness and efficiency of IG & S in curbing transnational terrorism.

Intelligence agencies should have a special unit with officers who should be trained and deployed within the national police service countrywide especially in areas very vulnerable to transnational terrorism including Nairobi, Mombasa and the North Eastern part of the country. These should primarily seek to investigate and expose instances of police officers cooperating with terrorists through among other measures, checking on the response accorded to any security intelligence dispatched to the police officers. This should help to inform necessary revamping of police officers in different regions in the fight against terrorism.

7.4 Suggestions for Further Studies

On the basis of limitations of this study, more studies should be conducted focusing on the following:

Studies should be conducted to interrogate the effectiveness of specific IG & S partnerships between Kenya and other countries in the fight against terrorism. This may help to shed more light on the particular IG & S arrangements that are productive in curbing transnational terrorism in the country and highlight the specific areas in those arrangements that need to be streamlined to enhance their effectiveness.

Studies should be conducted to assess the effectiveness of anti-terrorism legislation in the country in order to identify the areas in the regulatory framework that needs enhancement for effective curbing of transnational terrorism.

Studies should also be conducted to assess the effectiveness of other strategies applied in curbing transnational terrorism apart from IG & S. For instance, effectiveness of the use of military power and use of diplomacy in the war on terror should be assessed. This will help to give more comprehensive insights on the right mix of strategies that should be adopted and how to streamline them in curbing transnational terrorism.

Studies should also be conducted to assess the viability and applicability of the proposed theory – "Interlocking Triangles" to define IG & S between symmetrical and asymmetrical states.

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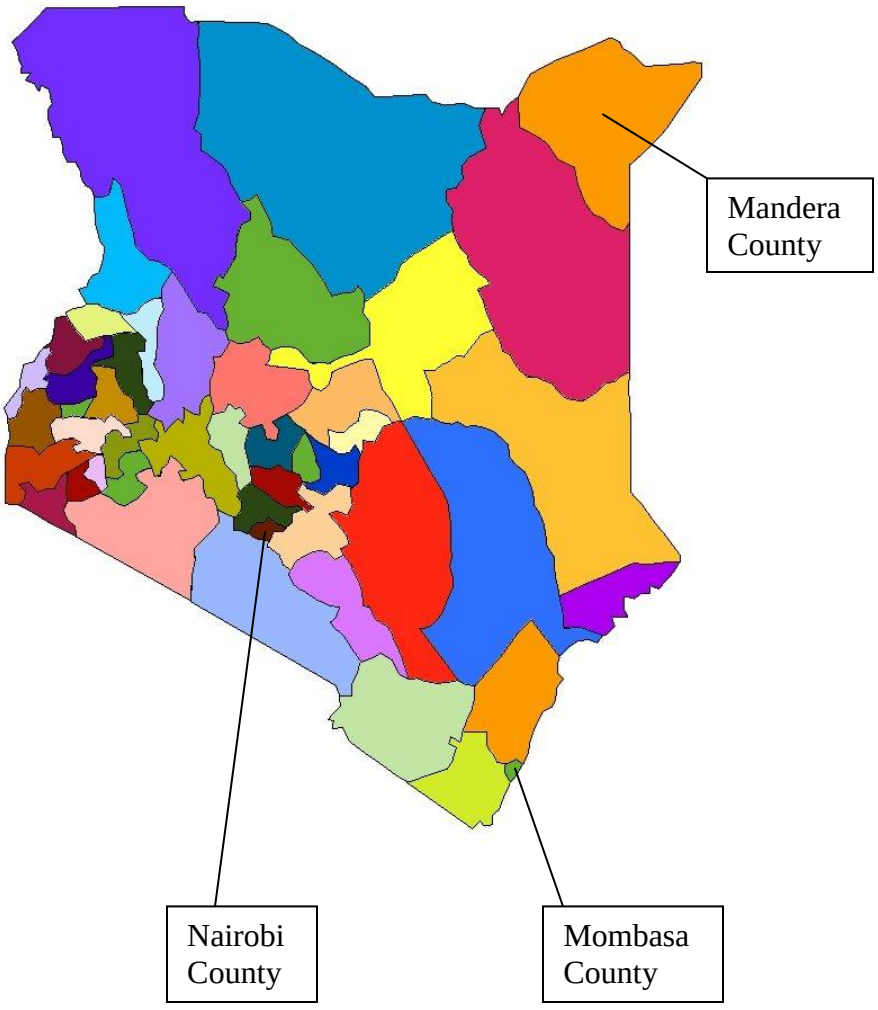
APPENDICES

APPENDIX I: MAP OF KENYA



APPENDIX II: QUESTIONNAIRE

This questionnaire seeks to collect data that will be used in conducting an academic research on **INTELLIGENCE GATHERING AND SHARING AS A STRATEGY IN CURBING TRANSNATIONAL TERRORISM IN KENYA, 1975 – 2018.** Any information you provide will be treated with utmost confidentiality and will strictly be used for academic purpose only.

Instructions:

i) **Do Not Write Your Name Anywhere** on this questionnaire.

ii) Tick where appropriate using a tick **(√)** to indicate your choice.

iii) Where no choices are given, write your answer in the spaces provided.

Part A: Background Information

1) Please indicate your gender

Male ( ) Female ( )

2) Please indicate your age bracket in Years

18-25 years ( ) 26-35 years ( )

36-45 years ( ) Above 45 years ( )

3) Please indicate your highest level of education attained (please tick one)

Secondary level ( ) College level ( ) Bachelor's degree ( ) Postgraduate ( )

4) Please indicate the specific institution/agency where you are currently based?

Institution/Agency	
Ministry of Foreign Affairs	
Ministry of Interior and Coordination of National Government	
Ministry of Defense	
Ministry of East African Community	
Kenya Defense Forces (KDF)	
National Intelligence Service (NIS)	
Anti-Terrorism Police Unit (ATPU)	
National Counter Terrorism Centre (NCTC)	

5) How long have you been involved in intelligence gathering and sharing (IG & S) in Kenya?

Less than 1 year ( ) 1-5 years ( ) 6-10 years ( ) 11-15 years ( ) Over 15 years ( )

6) What type of intelligence do you mostly handle in your current rank? (Tick all the applicable)

Human Intelligence ( ) Measurement and Signatures Intelligence ( )

Geospatial Intelligence ( ) Open-Source Intelligence ( ) Signals Intelligence ( )

Part B: Transnational Terrorism

7) From your experience, what is/are the major motives of perpetrators of transnational terrorism targeting Kenya?

Political motive ( ) Religious motive ( ) Other social motives ( )

8) In your opinion, to what extent have the following factors aggravated the transnational terrorism in Kenya? **NB: 1= No extent at all, 2=Little extent, 3=Moderate extent, 4= Great extent, and 5= Very great extent**

Strategy	**5**	**4**	**3**	**2**	**1**
a) Globalization					
b) Weak border controls					
c) Unstable neighbours					
d) Religious extremism					

9) In your opinion, how can you rate the current threat of transnational terrorism in Kenya?

Very great ( )

Great ( )

Moderate ( )

Little ( )

Very little ( )

10) In your opinion, to describe the effectiveness/ineffectiveness of the following strategies in curbing transnational terrorism in Kenya? **NB: 1= Very ineffective, 2= Ineffective, 3= Neutral, 4= Effective, 5= Very effective**

Strategy	**5**	**4**	**3**	**2**	**1**
a) Regional bodies (e.g IGAD)					
b) Anti-terrorism laws and legislations					
c) Use of special forces (e.g ATPU)					
d) Intelligence gathering and sharing					

11) On a scale of 1 to 5, **where 1= Strongly disagree, 2=Disagree, 3=Neutral, 4= Agree, and 5= Strongly agree**; please indicate to what extent do you agree with the following statements?

Statement	**5**	**4**	**3**	**2**	**1**
a) The threat of transnational terrorism in Kenya has significantly reduced at present compared to the past					
b) Transnational terrorism remains a major threat in Kenya					
c) Kenya's efforts in fighting transnational terrorism have been productive					
d) I believe Kenya is on the right track in curbing transnational terrorism					
e) I am convinced that the various agencies involved in fighting terrorism in Kenya are doing their job well					

Part C: Evolution of Intelligence Gathering

12) In your opinion, how can you describe modern intelligence gathering in general compared to how it was in the past? (**NB: Consider the period 1975 to 2018**).

Greatly improved ( ) Improved ( ) Not changed ( )
Deteriorated ( ) Greatly deteriorated ( )

13) From your experience, kindly describe the change in the following aspects of intelligence gathering in the country over the period 1975 to 2018. **NB: 1= Greatly deteriorated, 2= Deteriorated, 3= Not changed, 4= Improved, 5= Greatly improved**

Aspect	**5**	**4**	**3**	**2**	**1**
a) Regulatory framework					
b) Institutions					
c) Methods used					
d) Technology applied					
e) Reliability of the information gathered					
f) Training					

14) How can you describe your satisfaction/dissatisfaction with the country's current status of intelligence gathering and sharing?

Very satisfied ( ) Satisfied ( ) Neutral ( ) Dissatisfied ( ) Very dissatisfied ( )

15) In your opinion, if intelligence gathering is to be improved in the country, which of the following aspects of needs to be given priority? **NB: Tick all the applicable**.

Regulatory framework ( ) Institutions ( ) Methods used ( )
Technology applied ( ) Training ( ) Any other (Specify)……

Part D: Intelligence Gathering and Sharing As a Counterterrorism Strategy

16) From your experience, kindly rate the extent to which the following forms of intelligence contribute in the fight against transnational terrorism in Kenya? **NB: 1= No extent at all, 2=Little extent, 3=Moderate extent, 4= Great extent, and 5= Very great extent**

Type of Intelligence	**5**	**4**	**3**	**2**	**1**
a) Signals Intelligence					
b) Human Intelligence					
c) Geospatial Intelligence					
d) Measurement and Signatures Intelligence					
e) Any other (Specify)……..					

17) From your experience, to what extent does **the oath of office** hinder you from sharing intelligence?

Very great extent ( ) Great extent ( )

Moderate extent ( ) Little extent ( ) No extent at all ( )

18) To what extent do you build intelligence gathering and sharing networks outside the official networks?

Very great extent ( ) Great extent ( )

Moderate extent ( ) Little extent ( ) No extent at all ( )

19) How often do you have to record the disclosures that you make?

Always ( ) Frequently ( ) Sometimes ( ) Rarely ( ) Never ( )

20) In your opinion, how can you describe the current platform for intelligence gathering and sharing in your organization?

Excellent ( ) Good ( ) Fair ( ) Poor ( ) Very poor ( )

21) On a scale of 1 to 5, **where 1= Strongly disagree, 2=Disagree, 3=Neutral, 4= Agree, and 5= Strongly agree**; please indicate to what extent do you agree with the following statements?

Statement	**5**	**4**	**3**	**2**	**1**
a) Intelligence gathering and sharing has helped to stop several transnational terrorism attacks in Kenya					
b) Intelligence gathering and sharing has critically contributed in defensive strategies against transnational terrorism					
c) Intelligence gathering and sharing has critically contributed in offensive strategies against transnational terrorism					
d) Intelligence gathering and sharing is fundamentally used to inform development of anti-terrorism policies					
e) Intelligence gathering and sharing has greatly supported police and military operations to prevent proliferation of terrorism					
f) In most of the terrorist attacks that have been experienced in the country, there was adequate intelligence that would have prevented the attacks					
g) Kenya's partnership with other states in intelligence gathering and sharing has helped to fight transnational terrorism in Kenya					

Part E: Complexities in the Application of Intelligence Gathering and Sharing

22) Please indicate to what extent the following challenges undermine the use of intelligence gathering and sharing in the fight against terrorism in Kenya. **NB: 1= No extent at all, 2=Little extent, 3=Moderate extent, 4= Great extent, and 5= Very great extent**?

Statement	**5**	**4**	**3**	**2**	**1**
a) Pressure to comply with many legal frameworks					
b) Collating bulky information gathered					
c) Obsolete/outdated technology					
d) Existence of plots involving few persons who are highly secretive and very informed of security operations					
e) Highly unrealistic expectations from the public and politicians					
f) Poor exchange of intelligence among agents and law enforcers					
g) Mutual suspicion between different actors in intelligence gathering					

23) How often do you have to get consent to share intelligence/information in the course of duty?

Always ( ) Frequently ( ) Sometimes ( ) Rarely ( ) Never ( )

24) In case the consent you need to share intelligence is withheld/withdrawn what do you do?

.....

.....

25) From your experience, do human rights issues affect intelligence gathering and sharing in Kenya?

Yes ( ) No ( )

26) If yes, describe the effect of the human rights issues on intelligence gathering and sharing

.....

.....

27) On a scale of 1 to 5, **where 1= Strongly disagree, 2=Disagree, 3=Neutral, 4= Agree, and 5= Strongly agree**; please indicate to what extent do you agree with the following statements?

Statement	**5**	**4**	**3**	**2**	**1**
a) I am limited on the amount of information that I should share					
b) The high secrecy nature of intelligence gathering a necessity yet a challenge in Kenya's fight against transnational terrorism					
c) The norms in international human rights undermines the effectiveness of intelligence gathering in Kenya					
d) Some agencies involved in intelligence gathering in Kenya often withhold crucial information from other agencies					
e) Some states in intelligence gathering and sharing agreements with Kenya conceal information that could otherwise help Kenya curb transnational terrorism					
f) Double-crossing, evasion and departure from cooperation in intelligence gathering and sharing agreements is common					

28) In your opinion, what suggestions would you recommend to enhance the effectiveness of intelligence gathering and sharing in curbing transnational terrorism in Kenya?

……

……

APPENDIX III: INTERVIEW GUIDE

Date: _____Venue _____

Code: _____

Transnational Terrorism (NCTC, ATPU, NIS, KDF, Ministries of interior, Defence, Foreign affairs and East Africa Community)

1) In your opinion, what is/are the main motives of transnational terrorists in Kenya?

2) Would you say the following contributes to transnational terrorism in Kenya? Explain

a) Globalization
b) Weak border controls
c) Unstable neighbours
d) Religious extremism

3) Please explain whether transnational terrorism is a major existing threat to the country's security or not?

4) Kindly explain your stand as to whether the fight against transnational terrorism warrants the use of extraordinary/extralegal measures or not?

5) What is your opinion on the effectiveness of the following measures in curbing transnational terrorism in Kenya?

a) Regional bodies (such as IGAD)
b) Anti-terrorism laws and legislations
c) Use of special forces (like the ATPU)

6) What do you understand as terrorism? Is there any time in the course of duty that you considered a certain occurrence as terrorism but another actor believed it was not? What were the implications?

7) In your opinion, how has post-Cold War developments affected the fight against transnational terrorism?

8) Is there any nexus between transnational crime and transnational terrorism? Explain

Evolution in Intelligence Gathering and Sharing (NIS, Ministries of Interior and Defence)

9) In general, how can you describe the current intelligence gathering and sharing mechanisms compared with how the situation was in the past?

10) Describe what major changes (if any) have occurred in the following aspects of IG & S especially from 1975 to 2018?

a) Regulatory framework
b) Institutions
c) Methods used
d) Technology applied
e) Reliability of the information gathered
f) Training

11) Please highlight any occurrences you are aware of, that mostly triggered the changes (if any) in IG & S over the period 1975 to 2018? What changes were done in IG & S after the occurrence(s)? What were the implications of the changes in the fight against terrorism?

12) From your experience, has IG & S changed with the change in regimes from 1975 to 2018? Explain.

13) Are you satisfied with the present status of intelligence gathering and sharing in Kenya? Explain.

Intelligence Gathering and Sharing As a Counterterrorism Strategy (NIS, NCTC, ATPU KDF)

14) As far as curbing terrorism is concerned, how does IG & S compare with other strategies in terms of effectiveness/ineffectiveness?

15) How would you describe the present platform for intelligence gathering and sharing in your organization in regard to the fight against transnational terrorism?

16) Do you need any consent to share intelligence in the course of duty? If yes, what do you do if the consent is withheld or withdrawn?

17) Do you think general consent to share intelligence should be given in advance? Explain.

18) Is there a clear policy in your institution on intelligence gathering and sharing compliance with other actors? Explain

Complexities in the Application of Intelligence Gathering and Sharing (NIS, NCTC, KDF)

19) Do human rights issues affect the use of intelligence gathering and sharing in the fight against transnational terrorism? Explain

20) In your opinion, should intelligence officers monitor the actual content available on social media sites (performing a scan of social media sites) for purpose of collecting intelligence even with those unwilling to volunteer? Explain

21) What are the advantages and disadvantages of bilateral and multi-lateral intelligence sharing agreements in the fight against terrorism?

22) Do you know other agents/agencies involved in IG & S in Kenya? What are the advantages and disadvantages of having multiple agents in IG & S in curbing transnational terrorism?

23) What are the advantages and disadvantages of the secrecy involved in IG & S in the fight against transnational terrorism?

24) In your opinion, do you think intelligence should be classified? Explain.

25) Does the **oath of office** affect the sharing of intelligence? Explain

26) Are you aware of any instance where an officer or an intelligence agency withheld crucial information meant to assist in the fight against terrorism? If yes, what were the implications?

27) Have you ever received information that was not actionable? How did you address it?

28) From your experience, what do you think needs to be done to enhance the effectiveness of intelligence gathering and sharing in curbing transnational terrorism in Kenya?

APPENDIX IV: INTRODUCTION LETTER

APPENDIX V: RESEARCH PERMIT