

# A Critique of Kenya's Security Sector Reforms (SSR) in the Fight against Terrorism

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**Abstract:** *The waning of the Cold War marked a shift in the concept of security from state-centric to the person-centered notion. In addition, this notion aimed at making security more applicable to such emerging threats of the 21<sup>st</sup> century such as terrorism, poverty and global warming, which present greater threats to humans than interstate wars. One of the major enduring threats in the provision of security has been radicalism and terrorism. In this regard, states have increasingly treated terrorism and terror threats as the single biggest challenges, initiating, in their wake several reforms in the security sector to deal with the challenge. This paper using data from extensive field research spanning three months and literature from various sources, examined the correlation of security sector reforms and global terrorism with a focus on Kenya. The government of Kenya, since the terrorist attack of 1998, has taken various security sector reforms in order to address the existing weaknesses with the national security architecture. These reforms have involved measures of reorganizing security institutions and rewriting of laws to strengthen these institutions in the fight against global terrorism. Despite the fact that many of these reforms have been undertaken and embedded in the current constitution, the threat of terrorism in Kenya remains a reality. Geo-politically, why do terrorists target Kenya? What are the (in)adequacies of existing SSR in curbing terror threats? What more can the government and its partners do in order to curb the threat to radicalization of the youth?*

**Keywords:** Terrorism, security sector reforms, national security, human security

## 1. Introduction

Globally terrorism has become the single most challenge to human security. Specifically, Kenya, a country earlier regarded as a hub of peace and security has increasingly become a soft spot for terrorist groups affiliated to the Al-Qaida. In the last decade since the 1998 bombing of the Tanzanian and Kenyan US embassies Kenya has experienced a series of attacks including hotel bombings, public transport attacks and sieges in public institutions including universities. The proliferation of terrorism in Nairobi, Mombasa and the North Eastern region of Kenya remains a concern to the national and global security players. In particular, the ability of terrorists to change their *modus operandi* despite increased surveillance by Kenya's security forces exposes the vulnerability of the country's security apparatuses and subsequently demanded a reorganization of the country's security systems. How and where has the Kenyan government gone wrong in designing and implementing security sector reforms geared towards curbing terrorism? To be able to achieve this the paper questions the originality of the reforms by responding to the following questions; were the reforms home-grown or were they imposed from outside? Who were the actors in designing the reforms? To what extent were grassroots actor's part and parcel of the process of initiating the infamous local community policing initiatives?

This study highlights the various reforms undertaken by Kenya and then proceeds to assess their effectiveness in the fight against terrorism. It begins by presenting the methodology employed and then proceeds to highlight the various security sector reforms noting their strengths and weaknesses in curbing terrorism in the country. The paper concludes by providing anecdotes on the possible ways in which existing SSR may be enhanced and made effective to deal with terror threats. In particular, we privilege a neo-liberalist approach and thus emphasise on the need for a bottom-up approach, which sees the society, and not the

state as the most crucial actor in curbing terrorism is stressed.

## 2. Justification and Methodology

The study was primarily carried out in Nairobi and Mombasa counties; urban settings, which have endured the most of terror attacks since the 1975, attempted bombing of the Norfolk Hotel in Nairobi.<sup>1</sup> In particular, Nairobi, the capital city of Kenya is the most hit by terror attacks. The first terror attack was reported in 1975 and by 2015, there were approximately ninety terror attempts and direct attacks in Nairobi alone. These attacks happened in supermarkets, buses, congested hotels and bus stations in both Mombasa and Nairobi. (e.g., 27 attacks have been reported in Nairobi alone as follow: (table on various attacks in Nairobi alone-indicate years!)

**Table 1:** Approximate number of attacks on selected targets in Nairobi alone

Place of attack	Target	Injured/ Killed
Nairobi CBD (between 1998- 2014)	Bus stops	47
	Hotel premises	35
	Embassies	1000
	Bars	45
	Inside public transport vehicles	47
	Mosques	11
	Churches	800

In addition, Nairobi and Mombasa towns have recorded the highest number of terrorist hideouts throughout the country.<sup>2</sup> It is alleged that most hideouts are mosques, slums and

<sup>1</sup> Since 1975 the two locations have recorded at least a fifty terrorist attacks each with varies fatalities.

<sup>2</sup> While the Northern part of Kenya neighbours Somalia, the abode of Alshabaab, most of those radicalised allege that they were recruited in Mtwapa, Kaloleni, Kinondoni and major slums of Mombasa. Others were radicalised in mosques in Nairobi in Majengo and Eastleigh

congested peri-urban areas. These places have the highest number of unemployed youth.

The study used both convenient and snowballing sampling techniques to select respondents. A study on security in itself is sensitive. It is even worse when this relates to terrorism and radicalisation. The researcher was thus careful to only seek information relating to cases of terrorist attacks reported in police stations, those that the researcher observed and those that were in the public domain. In addition, the researcher consulted with a selected number of key informants from Non-governmental organizations and civic groups, the police service, academicians, drafters of the local community policing initiative (hence referred to as *nyumba kumi*) and members of *nyumba kumi* cells in Nairobi County took part in the interviews for this research. Finally, the public mostly affected by acts of terror provided important information regarding their perceptions on the effectiveness of community policing in curbing terrorism. The public was in particular instrumental in providing vital information on why the youth have become so vulnerable to recruitment into terrorist groups.

Data collected was majorly qualitative and relied on both primary and secondary sources. Primary data was sourced from informants; in-depth interview one-on-one, Key informant interviews and through focus-group discussions. A critical content analysis of texts government documents, journal, newspapers, theses and dissertations, internet and magazines was also done.

### Conceptual issues and the changing nature of terror attacks in Kenya

Terrorism is the systematic use of violence to create a general atmosphere of fear in a population with the objective of achieving a particular political and or socio-economic objective.<sup>3</sup> Acts of terrorism are thus often considered illegal as they often result in loss of lives and destruction of property. According to Snow, the aim of terror acts is disruption of normalcy of life and causing general fear and anxiety among the people.<sup>4</sup> Due to its global nature, terrorism is not a preserve of one country.<sup>5</sup> Drawing from the experiences of many countries it is clear that terrorism is catastrophic and can occur anytime anywhere. Thus from Europe to Asia, Africa to the United States; all countries have, in one way or the other suffered from acts or threats by terrorists.

Responses by governments and partners in curbing terrorism however, have, varied across countries, depending on the context and resources available to the affected nation. In

<sup>3</sup>Hoffman, Bruce. Defining Terrorism. In Kaufman, D. Parker, M. Howell, P. and Doty, G. *Understanding international relations: the value of alternative lenses*. Boston: McGraw-Hill Custom Publishing (2004) 5<sup>th</sup> Ed. pp. 821-841.

<sup>4</sup>Snow, Donald M. *Cases in international relations*. Longman, 2012.

<sup>5</sup>Nzau, Mumo. "Counter-Terrorism in the Greater Horn of Africa 2004-2010: Revisiting the Somalia Question." *Journal of Language, Technology & Entrepreneurship in Africa* 2, no. 2 (2010): 163-177.

addition, while some countries have somehow succeeded in reducing terror acts, terrorism continues to remain the single most challenge to African nations including Nigeria, Kenya, Somalia Egypt and Libya just to mention a few countries. This paper contends that perhaps the main reason as to why terrorism remains a daunting challenge to African nations is not a lack of resources but largely due to the state-centric nature of security provisioning in these countries. Rather than engage diverse actors, many states have used the top-down approach and therefore alienated the very people that easily are recruited into terror acts. This paper interrogates not only the changing nature of terrorism in Kenya but also offers a critique on the top-bottom approach by the Kenyan government in attempting to curb terror acts.

Generally, the September 2001 of the World Trade Centre and the Pentagon bombing saw a rethinking and re-organization of national security apparatuses of different countries. In particular, the entry and/or affirmation of the US as an important player in curbing terrorism globally were felt. The US encouraged overtly or otherwise, particularly, African countries to initiate or complete comprehensive security sector reforms (SSRs) aimed at tightening existing security loopholes. Security sector reforming in Kenya emerged within this context. It was thus not internally sanctioned and or initiated. In addition, the initiative has been accused of ignoring the contributions of local communities who continue to suffer in the hands of terrorists. The contention of this paper is that it is perhaps owing to the failure of the Kenyan state to engage as many actors and in particular, local populations in curbing terrorism that centers of radicalization by terrorists' continue to increase. Moreover, the paper argues that the many SSRs that Kenya initiated (or borrowed from other nations) were not well thought-out, overlapping mandates by the various arms mandated to deal with terrorists, and terror acts continue to threaten the nation's security. We propose a bottom-up approach to reforming the security sector. The argument of this paper is that rather than perceiving the state as the sole model of political order and the provider to all solutions even where its presence is not felt is itself flawed.<sup>6</sup> On the contrary we privilege society as an equally important actor in designing and helping in designing and in the implementation of reforms within the security sector. To help us understand, we begin by documenting the various acts of terrorism that have occurred in Kenya since 1975 noting the ways in which terrorists have changed their acts overtime and thus outwitted Kenya's security providers.

### Chronicling acts of terror in Kenya; 1975-2015

Kenya as a country has experienced various terrorist attacks from 1970s to date. Therefore, the country could be seen as a hub for terrorism.<sup>7</sup> The first terrorist attack was in 1976 when the Palestinian Front for the Liberation of Palestine (PFLP) and the Baader-Meinhof group (Red Army Faction) attempted to shoot down an El Ali Israeli civilian plane

<sup>6</sup>Mark, Bevir 'The Sage Handbook on Governance' (Los Angeles: Sage 2011) p.124-142

<sup>7</sup>Aronson, Samuel L. "Kenya and the global war on terror: Neglecting history and geopolitics in approaches to counterterrorism." *African Journal of Criminology and Justice Studies: AJCJS* 7, no. 1/2 (2013): 24.

passenger plane during a scheduled stopover for refueling in Nairobi after the Entebbe raid dubbed 'thunderbolt'.<sup>8</sup> This was, however, thwarted after intelligence was shared between the Israelis and Kenyan security apparatus.<sup>9</sup>

This was followed by the first successful international terrorism attack on the Norfolk Hotel in Nairobi by the Palestine Liberation Organization (PLO) in 1980. The Hotel, was alleged, was owned by a Jewish family and this drew Kenya into the Israeli-Palestinian conflict. The attack was retaliation to Kenya for allowing Israeli military planes to refuel in Nairobi during their raid to free Israeli hostages at Uganda's Entebbe Airport in 1976.<sup>10</sup>

The 1998 twin attack on the US embassies in Kenya and Tanzania brought to the world attention the presence of the al-Qaida operatives in the East Africa and the Horn of Africa. During Osama's stay in Sudan he utilized the opportunity to create the al-Qaeda operative in East Africa and the Horn of Africa.<sup>11</sup> The August 7, 1998 resulting in the killing of 224 Kenyans and 12 Americans and injured more than 5,000 people.<sup>12</sup> Out of this attack, Kenya's cooperation with international communities in the fight against terrorism intensified but with it also came new and more lethal terror attacks on the nation. For instance, as a retribution for Kenya's cooperation with western countries and Israel in the fight against international terrorism, an al-Qaeda affiliate "the Army of Palestine" bombed an Israeli owned Paradise hotel along the Kenyan coast in 2002.<sup>13</sup>

Two suicide bombers blew the hotel, killing both local and foreigner tourists.<sup>14</sup> The same day, there was an attempted attack by al-Qaeda terrorists to shoot down an Israeli bound plane, Arkia airliner taking off from Mombasa airport. The missiles missed the airline, but this brought to fore the need to intensify security at Kenyan airports.

It was after 2010, however, that the country witnessed an upsurge in terrorist attacks attributed to a new group; the *Al-Shabaab*. The increasing levels of attacks by al-Shabaab in Kenya coincided with the loss of its last urban stronghold in Southern Somalia, the port city of Kismayo, on October 2, 2012.<sup>15</sup> Since Kenya, intervention in Somalia the country has been attacked 133, times up to the period of May 4<sup>th</sup>, 2014 (see Table 1 below).

<sup>8</sup>Mogire, Edward, and Kennedy Mkutu Agade. "Counter-terrorism in Kenya." *Journal of Contemporary African Studies* 29, no. 4 (2011): 473-491.

<sup>9</sup>Ibid.

<sup>10</sup>Forest, James JF, and Jennifer Giroux. "Terrorism and political violence in Africa: Contemporary trends in a shifting terrain." *Perspectives on Terrorism* 5, no. 3-4 (2011). See also Otenyo, Eric E. "New terrorism: Toward an explanation of cases in Kenya." *African Security Studies* 13, no. 3 (2004): 75-84.

<sup>11</sup>Botha, 2013.

<sup>12</sup>Adan, Hared H. *Combating Transnational Terrorism In Kenya*. Army Command and General Staff Coll Fort Leavenworth Ks, 2005.

<sup>13</sup>Botha, 2013.

<sup>14</sup>Otenyo, 2004.

<sup>15</sup>Gartenstein-Ross, Daveed, and Nathaniel Barr. "From Westgate to Garissa, Al-Shabab's Murderous Wave." *Foreign Policy* (2015).

**Table 2:** Statistics on terror related attacks in Kenya since 1975-May 4<sup>th</sup> 2014.

Year	Number of Attacks	Killed	Injured	Perpetrator
1975	1	0	0	PFLP
1980	1	15	85	PFLP
1998	1	224	4000	Al-Qaeda
2002	2	15	80	Al-Qaeda
2010	8	8	49	Al-Shabaab
2011	29	16	90	Al-Shabaab
2012	52	75	389	Al-Shabaab
2013	42	151	287	Al-Shabaab
2014	10	22	157	Al-Shabaab
<b>Total</b>	<b>146</b>	<b>526</b>	<b>5137</b>	

Source: Modified from Wafula 2014<sup>16</sup>

As indicated in the table 1 above, the entry of the Alshabaab movement into Kenya has seen more deaths in the country. Secondly, since 2010 there has been yearly attacks with increased fatalities. While the proximity of Somalia to Kenya and the porosity of borders between these two countries may help explain this, the ineptness of the police and the failure of the state to use local populations to conduct intelligence gathering and sharing is a big factor in explaining the proliferation of terrorist hideouts in the country.

In addition, within the context of globalization, the revolution of information has seen terrorists use the internet to spread propaganda and recruit unsuspecting youth into their networks. By moving from the physical sanctuaries of the 1990s to virtual sanctuaries on the internet, the terrorists reduced their risk of being apprehended. No longer does the recruiting occur only in physical locations such as mosques and jails, but also online (See Welch, 2011).<sup>17</sup> A visit to selected prisons in Mombasa and Kamiti maximum, the largest prison in Kenya revealed that most of those jailed for terror related cases were, however, recruited by terrorists physically. The informants noted that while some of their friends were shipped secretly into Somalia others were promised lucrative rewards so as to either purchase or hide terrorists. Others alleged that they were recruited by their close friends oblivious of what that portended for them. It is within the context of increased terror attacks and subsequent radicalization that the Kenyan government intensified surveillance and attempted to reform the security sector. However, despite such concerted efforts, intermittent cases of terror attacks continue to be experienced especially in Kenya's major towns of Nairobi and Mombasa. The next section highlights the various SSRs that Kenya has undertaken overtime in the fight against terrorism.

### 3. Security Sector Reforms in Kenya in the context of Global Terrorism

SSR as a concept emerged in the 1990s after the Cold War period.<sup>18</sup> The conceptualization of security began by

<sup>16</sup>Wafula Peter. "Kenya has been Attacked 133 times since start of operation lindanchi". *The Standard*, (2014, August 31<sup>st</sup>). Pp. 10-12.

<sup>17</sup>S Jr, Nye Joseph, and A. Welch David. *Understanding Global Conflict and Cooperation*. (8<sup>th</sup> Ed.). Boston: Pearson (2011).

<sup>18</sup>Sedra, Mark. "Introduction: the future of security sector reform." In Sedra, M. (Ed.), *The future of security sector reform* Ontario:

broadening the rubric of threats to national security beyond the traditional realist concern with military threats to the exclusion of many non-military threats to the national security.<sup>19</sup> The shift acknowledges that the new threats such as terrorism, poverty, or global warming present greater threats to humans than interstate wars, which since the demise of the Cold War are no longer prevalent. Security is now not only a concern for states but also of individuals and communities.<sup>20</sup> The focus of security to individual is critical to the concept of SSR because it locates security at the lowest level.<sup>21</sup> SSR should thus be perceived as the umbrella for promotion of human and not necessarily state security.

A successful SSR program should be people centered. It should also uphold the primacy of the rule of law and it should be in accordance with the international human rights norms and standards. Moreover, the governance within the security sector should be accountable to the citizens and institutions such as justice and security are subordinate to civilian authority.<sup>22</sup> These are achieved through the review of policies and programs of a country's security sector, with the aim to make it more professionalized and effective. In Sedra's view security, sector professionalism and effectiveness cannot only be measured by the capacity of the security forces to perform, but also, on the extent to which local populations are involved in security provisioning. The manner in which solutions to radicalization are sought from residents of slum and peri-urban areas and rural areas is also important.<sup>23</sup>

Even though SSR has been associated with professionalizing security of countries that are emerging from conflicts or collapsed states, SSR may be aimed at improving operational effectiveness to counter threats such as terrorism. It is within this perspective that Kenya's SSR were born. The main goal was to improve the capabilities of the statutory institutions to deal with insecurity. Generally, the assessment of Kenya's SSR is thus conducted based on the reform's ability to prevent terrorist attacks, to pursue terrorist suspects and prosecute terrorist suspects and to protect the vulnerable targets and to respond to future threats of terrorism in the country. The broader concept of SSR of including the statutory, non-statutory and most importantly the public will be used in the analysis of how effective Kenya's security sector reforms have been in efforts to mitigate terrorism.

In Kenya, efforts at security sector reforming began in earnest with the calls for multi-party democracy in the early 1990s. It was after the 1998 bombing of the US embassies in Nairobi and Tanzania that the Kenyan government began

rethinking its legislations regarding how security was conceptualized and in particular, how to deal with terror attacks. At the time, the motives and *modus operandi* of terrorists were still unclear. Kenyan security providers were also not adequately equipped and trained to handle terrorists and terror cases. Within such context, it thus became important for the government to re-examine intelligence gathering and sharing in order to fight terrorists. It was, however, not until 2010 with the promulgation of the new Kenyan Constitution that a comprehensive reform program for the security sector was realized. Despite such efforts, terrorism has continued unabated thus exposing fundamental shortcomings in the countries' national security vulnerabilities to terror activities. The next section examines in details the various reforms noting their strengths and weaknesses in dealing with terrorists and terrorism in the country.

### i) The National Intelligence Service (NIS)

The history of the National Intelligence Service (NIS) can be traced back to the Special Branch, a department of the national police that was created in 1952 under the British administration.<sup>24</sup> At the time, intelligence gathering was aimed at dealing with interstate issues. With decreased interstate challenges and an increase in the need for human security after the 1975 and in the wake of 7<sup>th</sup> August 1998 attack on the US embassy, a reform in how intelligence was gathered and shared became important. Hence, through an act of parliament of 1998, the National Security Intelligence Service (NSIS) currently, National Intelligence Service (NIS) was established to deal with emerging threats.<sup>25</sup> Its functions include investigating, gathering, evaluating, collating, interpreting, disseminating, and storing information from domestic and foreign sources and detecting, identifying, any potential threat to national security.<sup>26</sup>

In 2003, the former president Mwai Kibaki grounded the NSIS more firmly in the country's effort to respond to modern security challenges, by unveiling new priorities for the services. This included the responsibility to provide early warning on matters of national interest, with emphasis on security, terrorism, and involvement against corruption.<sup>27</sup> Further reforms were initiated within the service following the promulgation of the new constitution. Chapter Fourteen, Article 242 (1) of the constitution renamed the intelligence service to National Intelligence Service (NIS). This was actualized through the National Intelligence Service Act, 2012.

### ii) The Anti-Terrorism Police Unit (ATPU)

The ATPU was created in 2003 as a specialized Kenya Police unit to deal with issues of terrorism. This institution is

Canada, the Centre for International Governance Innovation (2010), pp. 17-28.

<sup>19</sup>Mutave, Nancy. *Terrorism Challenges Facing Kenya's National Security and National Response to Terrorism, 1981-2003*. Unpublished Master Thesis, University of Nairobi (2005).

<sup>20</sup>Wairagu et al., 2004.

<sup>21</sup>Jonyo et al., 2011.

<sup>22</sup>Sedra, Mark. "Introduction: the future of security sector reform." In Sedra, M. (Ed.), *The future of security sector reform* Ontario: Canada, the Centre for International Governance Innovation (2011), pp. 17-28.

<sup>23</sup>Ibid. p. 16

<sup>24</sup> Ibid. see also Chau Donovan. "The Price of Counter-terrorism in Africa: Fool's Gold or Genuine Gold?" In Okumu, W. & Botha, A. (Eds.), *Understanding Terrorism in Africa: In Search for an African Voice*. Pretoria; Institute for Security Studies (2007), (Pp. 59-66).

<sup>25</sup> Chau, 2007.

<sup>26</sup> Boinett, Wilson. "The Origins of the Intelligence System of Kenya." In Africa, S. & Kwadjo, J. (Eds.), *Changing Dynamics of Intelligence in Africa*. GFN-SSR (2009). 15-40. P. 30.

<sup>27</sup>Ibid.P. 32.

under the office of the president and responsible for the prevention and suppression of terrorist financing. The unit is also composed of intelligence personnel dealing with various aspects of financial forensics required to trace the proceeds channeled for terrorist activities.<sup>28</sup>

Regional offices were created at strategic towns such as Nairobi, Mombasa, and Garissa where terrorist sympathizers and terror suspects hideouts. However, there was an effort by the government to widen the locations of ATPU by establishing other regional units in Eldoret in the west, Lokichogio and Kisumu.<sup>29</sup> The extension of ATPU offices in the various parts of the country has enabled the apprehension of terrorist suspects, disruption of terrorist planned attacks.<sup>30</sup>

While this unit has been credited with foiling attacks, the institution has increasingly come under criticisms especially from human rights organization for human rights abuses such as detention without trials, incommunicado detention, and detention in undisclosed areas. They have also been accused of carrying out their operations "above the law" and "outside of any formal legal structure". This is characterized by not registering arrests and detention and not having particular police stations, which they operate, therefore, they operate on a roving basis.<sup>31</sup>

The human rights abuses by the ATPU have led to increasing tense relations between the central government and the Muslim community. This has eroded the trust of the Muslim community to the government. It should be noted that radical fundamentalist groups such as al-Qaeda and its affiliates could exploit the violations of human rights in counterterrorism as a platform for recruitment. The tense relation has always been manifested through violent and peaceful demonstrations that are always carried in the wake of killings and disappearances of alleged 'Muslim terrorist suspects'.

For example, the alleged killings of Sheikh About Rogo in August 2012, Omar Faraj in October 2012, and Sheikh Ibrahim Omar Rogo in October 2013, suspected to have been carried out by the ATPU resulted into violent riots. In managing the riots, it is alleged that the security agencies responded in a repressive manner by carrying out mass arrests and detention.<sup>32</sup> Such responses further builds distrust by the community on security agencies and erodes the credibility of the ATPU among the Muslim community. The ATPU is perceived to be protecting government interest,

which is Christian dominated and at the same time being oppressive to the Muslim community. Because of this perception when Muslims clerics are assassinated rioters often, target churches as retribution.

Retribution against the Christians has instigated the concept of "third cheek theory." This concept is grounded on the Biblical teaching verse in the book of Mathew 5:39 'If anyone slaps you on the right cheek, turn to them the other cheek also.' Since human being has only two cheeks, the third cheek in this context means retaliation. The retributions and attacks on Christians are perceived to be too much by some population of the Christians, therefore, Christians should also hit back. Such opinions may provide a recipe for sectarian conflict between the Muslims and Christians. This is the fact that only a few individuals within the Muslim and Christian population advocate for such retaliation. How can the fight against terrorism be won when the security organs, which are supposed to protect the citizens, are the one who are perceived to be the very threat to security?

### iii) The National Counter-Terrorism Centre (NCTC)

In January 2004, Kenyan government established the National Counterterrorism Centre (NCTC) under the officer of National Security and Intelligence Service (NSIS), which is a Kenya formal security organ. The NCTC is required to provide timely and factual intelligence to assist in the fight against terrorism.<sup>33</sup> It is involved in counterterrorism coordination at the national level. It is composed of the Ministry of Defense, the National Police Service, National Intelligence Service and, Immigration and Customs. All these institutions are represented at the NCTC by staff seconded to it.<sup>34</sup> The establishment of this institution has promoted timely dissemination of intelligence to a tactical unit charged with combating terrorism.<sup>35</sup>

### iv) Legislations

Terrorism legislation is meant to address the crime of terror and mitigate the risks that it poses. As the government's effort to provide a legal framework to deal with terrorism related issues, the then minister of justice and constitutional affairs on 30<sup>th</sup> April 2003 tabled the Suppression of Terrorism Bill 2003.<sup>36</sup>

Section 3 (1) of the Suppression of Terrorism bill defines *terrorism* as 'the use or threat of action designed to influence the Government or to intimidate the public or a section of the public; and made for the purpose of advancing a

<sup>28</sup>Ibid.

<sup>29</sup> Government of Kenya 2004:7-8 as quoted in Adan, 2005: 53

<sup>30</sup>Adan, Hared H. *Combating Transnational Terrorism In Kenya*. Army Command and General Staff Coll Fort Leavenworth Ks, 2005.

<sup>31</sup> The investigation dubbed 'Inside Kenya's Death Squad' highlighted how the antiterrorism agency carried out extra judicial killing of perceived 'terrorist suspects', and the Kenyan police using the war on terrorism to kill with impunity. For more see 2014 investigation by the Doha based Al Jazeera available at <https://www.youtube.com/watch?v=IUjOdjdH8Uk>

<sup>32</sup>Botha, Anneli. "Assessing the vulnerability of Kenyan youths to radicalisation and extremism." *Institute for Security Studies Papers* 2013, no. 245 (2013).

<sup>33</sup>Kegoro, George. "The effects of counter-terrorism measures on human rights: The experiences of east African countries." In Okumu, W. & Botha, A. (Eds.), *Understanding Terrorism in Africa: In Search for an African Voice*. Pretoria; Institute for Security Studies, (2007) pp. 51-58.

<sup>34</sup> Center on Global Counterterrorism Cooperation and IGAD Security Sector Program. *Fighting Terror through Justice: Implementing the IGAD Framework for Legal Cooperation Against Terrorism*. New York and Addis Ababa: IGAD (2012), P. 8

<sup>35</sup>Adan, *Combating Transnational Terrorism In Kenya*.

<sup>36</sup>Kamau, Wanjiru Carolyne. "Kenya & the War on Terrorism." *Review of African political economy* (2006): 133-141. See also Mwazighe, Charles Lenjo. "Legal responses to terrorism: case study of the Republic of Kenya." PhD diss., Monterey, California. Naval Postgraduate School, 2012.

political, religious or ideological cause'. According to Prestholdt, this definition is vague, as it perceives virtually any act of political dissent as an act of terrorism.<sup>37</sup> Okumu on his part argues that the broad and vague definition provides wide latitude for the government to abuse the proposed law.<sup>38</sup> Mazrui adds that the definition encompassed a wide range of crimes that are currently covered by the country's Penal Code; from robbery with violence to crimes of passion between lovers.<sup>39</sup>

Flaws like these always affect the effectiveness of a policy and often make them open to abuse by parties that are concerned. Despite the importance of the definition of terrorism, the Bill failed to provide a clear and precise definition because only an offense that meets this definition falls under the strictures of the law. In a sense, the definition would establish the threshold of "terrorism" from a legal perspective.<sup>40</sup>

Hodgson & Tadros consider the definition of terrorism to be important because "it determines, which actions count as acts of terrorism, and hence who is regarded as a terrorist. He adds that because the definition of terrorism within this bill triggers a range of controversial extension of police and prosecutorial powers".<sup>41</sup> Despite the importance of the definition of terrorism, the term has remained subjective and just as elsewhere Kenya has failed to come up with comprehensive definition. This has provided a challenge in dealing with terrorism as attempts directed to fighting the vice is often perceived to be infringing on liberal values.

Article 12 (1) of the bill outlines that a person will be suspected of being a terrorist by merely wearing clothing similar to those worn by known terrorists affiliated organizations such as *al-Qaeda*.<sup>42</sup> This allowed police to arrest people who wore certain clothing. This provision thus left the Muslim community vulnerable to police officers who were at liberty to arrest anyone donning Muslim attire.<sup>43</sup> Such provision worked further in the alienation of the Muslim community in the fight against terrorism, yet their inclusion would have, and remains important in the fight against terrorism. The criminalization of the Muslim dressing cord heightened the debate on the 'Islamization of terrorism', which has negative consequences in the fight against terrorism. It was also argued that the US and the UK

were behind the Bill and signing it would have meant that Kenya was surrendering its sovereignty to the two countries.

The Bill also gave extensive power to Minister for Internal Security to declare an organization terrorist by decree.<sup>44</sup> This placed the local organization and even political parties at the mercy of the minister. Such flaws could be used by the government to crack whip on organization or political parties that were critical of their regime

It was not until 2012 that the Prevention of Terrorism Act 2012 was introduced in National Assembly. The Bill addressed the many concerns that were raised in regards to the 2003 Bill and the judiciary was looped in to dealing with terrorists, an element that had not been addressed by earlier legislations. In general, the Act provides for life imprisonment for persons or individuals that engages in terrorism activities.

Under Article 4 (1) of the bill, the punishment for the perpetrators of terrorist acts that do not result into death(s) is a jail term of not exceeding 30 years. Articles 5, 6, 7, 8, 9 and 10 tackles the issue on individuals or persons that directly or indirectly or knowingly perpetrates terrorism through recruitment, funding, being a member, provides weapons or logistical supports (such as housing a terrorist, provision of security intelligence) is liable to jail term of not exceeding 20 years. This was intended to curb the local support that terrorist have been receiving in carrying out their activities in the country.

#### v) The Constitution

In addition to these measures, the promulgation of a new Constitution on the 27 August 2010 ushered in new reform agendas in the security sector. Even though these reforms are not directly linked to the fight against terrorism, they are geared towards the professionalizing of the security sector institutions in their dispensation of duties. The reforms in this case were initiated after the 2007-2008 post-election violence following allegation of misconduct of the police during the violence. These reforms were codified in the 2010 Constitution and some came about as national legislation by the parliament.<sup>45</sup>

The National Police Service Commission Act 2011 created the National Police Service Commission (NPSC).<sup>46</sup> The function of the commission is to mitigate political interference with police personnel management practices and is responsible for recruitment, promotions, transfers, and disciplinary sanctions of police within the National Police Service.<sup>47</sup> This, according to Kawira is to promote fairness in recruitment, promotion and discipline of officers because

<sup>37</sup> Prestholdt, J. (2011). "Kenya, the United States, and Counterterrorism." *Africa Today* (2011) Vol. 57(4), pp. 3-27.

<sup>38</sup> Okumu, 'Gaps and Challenges in Preventing and Combating Terrorism in East Africa', 2008, 65.

<sup>39</sup> Mazrui Ali. Africa's Role on America's 'War on Terrorism: Some Political Implications. In Okumu, W. & Botha, A. (Eds.), *Understanding Terrorism in Africa: In Search for an African Voice*. Pretoria; Institute for Security Studies, (2007), pp. 67-76. P. 70

<sup>40</sup> Mwazighe, "Legal responses to terrorism: case study of the Republic of Kenya", 59.

<sup>41</sup> Hodgson, Jacqueline S., and Victor Tadros. "The impossibility of defining terrorism." *New Criminal Law Review: In International and Interdisciplinary Journal* 16, no. 3 (2013): 494-526. P. 494.

<sup>42</sup> Okumu, "Legal responses to terrorism: case study of the Republic of Kenya.

<sup>43</sup> Kamau, "Kenya & the War on Terrorism, 136

<sup>44</sup> Bachmann, Jan, and Jana Hönke. "Peace and security' as counterterrorism? The political effects of liberal interventions in Kenya." *African Affairs* 109, no. 434 (2009): 97-114.

<sup>45</sup> Kawira, Sarah. *Police Reforms in Kenya, Case of National Police Service Commission*. Unpublished Master Thesis, University of Nairobi (2014).

<sup>46</sup> For detailed analysis see National Police Service Commission Act No. 30 of 2011

<sup>47</sup> Amnesty International. *Police Reforms in Kenya: "A Drop in the Ocean"*, 2013. <http://www.refworld.org/docid/510ba3de2.html> (Accessed on 20/02/2015).

there is the oversight body<sup>48</sup> to check on the dispensation of these services.<sup>49</sup>

The commission is also responsible for vetting the current members of the National Police Service (NPS).<sup>50</sup> The NPS Act, section 7 (2) and (3) stipulates that all members of the National Police Service will undergo vetting to assess their suitability and competence and the commission will discontinue any officer who does not meet the vetting standards (National Police Service Act 2011). According to International Centre for Transitional Justice, vetting is part of a justice-sensitive approach to SSR, which, when combined with other SSR programs can contribute to building the integrity and the legitimacy of the institution(s) concerned (no pp. no).<sup>51</sup> The objective of the vetting process is to build trust and confidence in the National Police Service and to ensure the service complies by the Article six of the constitution and principles of public service.<sup>52</sup>

The National Police Service Act (2011) among others established the Directorate of Criminal Investigations with independent funding in order to enhance management and quality of investigations.<sup>53</sup> The creation of such directorate enhances investigations of various criminal activities such as terrorism, which helps to foil terrorist plots and counter the financing of their activities.

#### vi) Community based policing (now *nyumba kumi*).

Community based policing (CBP) is both a *philosophy* (a way of thinking) and an *organizational strategy* (a way of carrying out the philosophy), that allows the police and the community to work together in new ways to solve problems of crime, disorder and safety issues to improve the quality of life for everyone in that community.<sup>54</sup> This creates a mutual ownership of the security agenda by both the states and the communities.<sup>55</sup> Community policing is a 'philosophy that promotes organizational strategies which support the systematic use of partnership between communities and government policing agencies, and problem solving techniques to proactively address the immediate conditions

<sup>48</sup>The Independent Police Oversight Authority (IPOA) was created by the Independent Police Oversight Authority Act 2011. This institution is mandated to provide oversight or act as watchdog authority for the activities of the National Police Service

<sup>49</sup> Kawira, *Police Reforms in Kenya, Case of National Police Service Commission*, 69.

<sup>50</sup> Amnesty International, *Police Reforms in Kenya: "A Drop in the Ocean"*.

<sup>51</sup> International Centre for Transitional Justice (ICTJ). Security sector reform and transitional justice in Kenya. ICTJ Briefing. Nairobi, (2010). <https://www.ictj.org/sites/default/files/ICTJ-Kenya-Security-Reform-2010-English.pdf> (Accessed on 20/04/2015).

<sup>52</sup> Kawira, *Police Reforms in Kenya, Case of National Police Service Commission*, 50.

<sup>53</sup> Amnesty International, *Police Reforms in Kenya: "A Drop in the Ocean"*, 10.

<sup>54</sup> Saferworld. "Implementing Community-Based Policing in Kenya", (2008). <http://www.gsdr.org/document-library/implementing-community-based-policing-in-kenya/> (accessed on 24/04/2015).

<sup>55</sup> Holmer Georgia & van Deventer, Fulco. Inclusive Approaches to Community Policing and CVE. *Special Report 352*: United States Institute of Peace (2014).

that give rise to public safety issues as a crime, social disorder and fear of crime'.<sup>56</sup>

The conceptualization of community policing as an aspect of security reform helps in deconstructing the concept of security provision being the sole responsibility of the law enforcement agencies, but being everybody's responsibility. It helps the community (both rural and urban) to have a say and participate in security matters that affect them, in turn helping to professionalize the security sector agencies and making them accountable to the community. Even though Community based policing serves many objectives, the study focused on how it can be used to mitigate terrorism and terrorist activities in the country. Its focus on society-centered approaches to policing.

The upsurge of community based policing around the world has been attributed to terrorism and violent extremism.<sup>57</sup> For example, after the 9/11 CBP became accepted domestic strategy in the US and UK to mitigate terrorism and extremism.<sup>58</sup> As a way to redress the high levels of crime and insecurity fuelled by inadequate, police capacity and distrust between the communities and the police. The promulgation of the new constitution in Kenya in August 2010 boosted the concept of CBP. Through the National Police Service training program designed to retool the police, training modules in areas such as community policing, public relations, service delivery among others were introduced.<sup>59</sup> The Act addressed the lack of a national legal framework and guides on community policing by mainstreaming it. The Act also seeks to promote the cooperation of the police and the community and build trust between them in order to combat crimes.

The Act also establishes community-policing committees to oversee the implementation of the program in their areas of operation. The committees are chaired by civilian and deputized by police officer. This inclusive approach involves the key players is the police and the community. Despite the provision of this legal framework from 2011, much has not been done to implement it and it is only after the Westgate attack that there was a call to implement community policing dubbed "*Nyumba Kumi*" (ten household). The Westgate attack response demonstrated the need of community policing. This is because after the attack, it was noted that the first respondents to the attack were licensed armed civilians and members of the Westgate neighborhood.<sup>60</sup> The response thus demonstrated the importance of the local policing initiatives in the fight against terrorism. The program stands a better chance of mitigating terrorism and other crimes if well implemented.

<sup>56</sup> For more details, see Republic of Kenya. "Draft Guidelines for Implementation of Community Policing- NyumbaKumi: Usalamawa Msingi." Nairobi, Government Printer, 2015. P. 2

<sup>57</sup> Holmer et al., 'Inclusive Approaches to Community Policing and CVE'.

<sup>58</sup> Ibid. p. 2

<sup>59</sup> Kawira, *Police Reforms in Kenya, Case of National Police Service Commission*

<sup>60</sup> Holmer et al., 'Inclusive Approaches to Community Policing and CVE'.

Monitoring and evaluation on the effectiveness of the program in curbing terror related crimes should also be a priority for those concerned and follow-up made.

#### vii) Post constitution reforms and amendments: The Security Laws (Amendment) Bill 2014

The Kenyan government in an effort to revise and update country's security legislations drafted the Security Laws (Amendment) Bill, 2014. This Bill sort to amend 22 laws of Kenya concerned with matters of national security.

The Bill was majorly a response to the continuous terror attacks and was seen within the context of changes in tactics by terrorists.<sup>61</sup> The Kenyan opposition rejected the Act by challenging it in court. The civil society led by the Kenya National Commission on Human Rights (KNCHR) and other interested parties also supported the opposition. This resulted in the suspension of seven Articles of the Act; Articles 12, 16, 20, 26, 34, 48 and 95 of the law.<sup>62</sup> Section 75 of the Bill in particular, introduces Section 30 (F) to the Prevention Terrorism Act 2012, stipulating the punishment for the failure to seek police permission prior to reporting on terror related incidences. The offenses are punishable by a term of imprisonment not exceeding three years or to a fine of five million shillings, or both. The fines according to KNCHR were, however, punitive and not proportional to the limitation intended by the amendment.<sup>63</sup> In particular civil society organizations felt that the requirement that journalists obtain a police permit before investigating or publishing stories on domestic terrorism and security issues was taking back the country to the dark era of media censorship. In addition, it was felt that the Bill would hamper access to information by the public. In some quarters members of the civil society also argued that the denial to publish information regarding terrorism and was a ploy by the government to prevent criticism against how they often handle terrorist incidences.<sup>64</sup>

It should be remembered that during the West gate attack of 2013, the government was accused of mishandling information regarding the response to the attack.<sup>65</sup> Attempts to silence the media should thus be seen in this light. As Wardlaw, rightly notes, the symbiotic relationship between the media fraternity and terrorism calls for an element of

media regulation on reporting of activities of terrorists.<sup>66</sup> This is because of two related reasons. To begin with, it is argued that the dissemination of any information related to arrests and networks is likely to undermine investigations or security operations. For example, in cases involving hostages, media broadcast may tip off the captors of the security agencies move; thus, putting the lives of the hostages at risk. The second issue relates to the question of the dilemma between good intentions and realities. Terrorists often use the media, overtly and covertly, to intimidate and at times display their might. By displaying casualties of a given terror, attack the perpetrators thus often pride in such news. Thus although the government concerns appear genuine a balance should be reached between media freedom and security.

Section 66 of the Bill on its part amends the National Intelligence Service Act. This by introducing Part V on covert operations: Under section 42 (2), the Director General (DG) of the National Intelligence Service (NIS) is empowered to authorize covert operations. The DG authorizes this where he has reasonable grounds to believe that a covert operation is necessary to enable the Service to investigate or deal with any threat to national security or to perform any of its functions. This also provides the use any written authorization by the DG to Service members to obtain information, material, records, document, or for the purposes of operation; monitor communication; install, maintain or remove anything; and do anything that is considered an act towards preserving national security. However, important this is, it suspends the role of the judiciary in the protection of privacy because it is only the DG that can authorize the agency's activity. The immense power vested on the DG has also been questioned, as it can be open to abuse. The DG is only subject to the Council. This gives him authority to carry out mass surveillance on online communication for the purpose of 'national security'.<sup>67</sup> The mechanism is also open to abuse by the executive as it may carry out mass surveillance on their critics in the pretext of national security.

According to KNCHR, the bill also seeks to give the NIS powers to arrest suspects just like the defunct Special Branch.<sup>68</sup> The implication of this is mixing of powers of policing and intelligence of which the former is constitutionally not provided to the agency. Thus, the agency should concentrate on their constitutional mandate of gathering intelligence of criminal activities that assists the police in preventive action.<sup>69</sup>

The Bill further provided a limit to the number of refugees and asylum seekers to 150,000. The refugees are also not

<sup>61</sup> This was following terrorist attack on a Nairobi bound bus from Manderu that resulted in 28 deaths mostly Christians.

<sup>62</sup> Agutu Nancy. Chaos at Parliament during Security Law debate was "loud consultations", High Court rules. *The Star* (2015, February 23). <http://www.thestar.co.ke/news/chaosparliamentduringsecuritylawdebatewasloudconsultationshighcourtrules#sthash.e7Fg6ld.dpuf> (Accessed on 25/02/2015).

<sup>63</sup> Kenya National Human Rights Commission (KNCHR). "Advisory On the Security Laws (Amendment) Bill, 2014", 2015. [http://www.knchr.org/Portals/0/Bills/Advisory%20on%20Security%20Laws%20\(Amendment\)%20Bill%202014%202.pdf?ver=2014-12-16-170539-963](http://www.knchr.org/Portals/0/Bills/Advisory%20on%20Security%20Laws%20(Amendment)%20Bill%202014%202.pdf?ver=2014-12-16-170539-963) (Accessed on 2/11/2017).

<sup>64</sup> For a detailed analysis see BBC, 2014; Article 19, 2014

<sup>65</sup> For example, Kenya Television Network on October 18, 2013, aired closed-circuit television (CCTV) footage showing KDF soldiers leaving the Nakumatt Supermarket at Westgate with loaded white papers, which were suspected to be containing looted goods.

<sup>66</sup> Wardlaw. Grant. *Political Terrorism: Theory, Tactics and Counter-Measures*, (2<sup>nd</sup>Ed.). (Great Britain, Cambridge: Cambridge University Press 1989).

<sup>67</sup> Article 19. "Kenya: Concerns with Security Laws (Amendment) Bill", 2014. [http://www.article19.org/resources.php/resource/37800/en/kenya:concernswithsecuritylaws\(amendment\)bill#sthash.luLYmLQR.dpuf](http://www.article19.org/resources.php/resource/37800/en/kenya:concernswithsecuritylaws(amendment)bill#sthash.luLYmLQR.dpuf) (accessed on 20/02/2015).

<sup>68</sup> Kenya National Human Rights Commission (KNCHR). "Advisory On the Security Laws (Amendment) Bill, 2014.

<sup>69</sup> Ibid.



permitted to leave the camps unless with the permission of the camp officer. The refugee question in this case is securitized by the Kenyan government. Therefore, the presence of refugees is seen as an existential threat to Kenya's national security that requires immediate action. The Kenyan government concerns on refugees were majorly driven by various allegations of refugee camps and refugee settlements being recruitment grounds for terror groups like the *al-Shabaab*. According the UN Monitoring Group on Somalia and Eritrea report, the Westgate attack was planned in the Daadab refugee complex and executed from Eastleigh.<sup>70</sup> Rather than externalizing the challenges it is facing due to its failure to deal with national problems such as corruption and insecurity, the Kenyan government should provide adequate and appropriate mechanisms to police but most importantly protect refugee populations.

Despite a court ruling and criticism, the Bill also provided a wide range of new paradigms of dealing with security reforms geared towards curbing terrorism. Section 85 of the Bill amends the Prevention of Terrorism Act 2012 by inserting mechanisms for coordinating terrorism measures through the provision of NCTC. The responsibility of the agency is the coordination of national counterterrorism and efforts in order to detect deter and disrupt terrorist acts. This is to be achieved through carrying out public awareness on terrorism; facilitating capacity building for counterterrorism stakeholders; developing strategies to counter and de-radicalization.<sup>71</sup>

This to some limit focuses on addressing the root causes of terrorism by preventing radicalization through the involvement of different stakeholders and encouraging public participation in the fight against terrorism. The Bill also places stiff penalties for those who are involve carrying radicalization; the individuals who provide training and instructions for purpose of terrorism and presumptions of travelling to a country for purposes of being trained as a terrorist. It also includes penalties for foreign terrorist or persons who are aiding and abetting terrorism.<sup>72</sup> The penalty is a jail term ranging from 15-30 years and no provision for fines so that it acts as deterrence. This is due to the allegations that Kenyan citizens has been travelling to Somalia to be trained by terrorist group *al-Shabaab* and on return are used to carry out attacks in the country.

The bill is an appropriate measure to enhance national security and individual security, but this should not be carried out in a manner perceived to be against the Kenyan constitution. The various clauses of the Act that generated debate should be reviewed to make sure that they are in line with the national laws of Kenya, the Kenyan constitution and international regimes.

<sup>70</sup> United Nations Monitoring Group on Somalia and Eritrea. "Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2111 (2013)", (2014)

<sup>71</sup> For more details, see Security Laws (Amendment) Act Kenya Gazette Supplement. No. 163.

<sup>72</sup> Ibid.

#### 4. A Critical appraisal of Kenya's Security Sector Reforms in the fight against terrorism

The Kenyan government SSRs has done much in the prevention of terrorism. The security agencies have foiled terrorist attacks, but these are not always in the public domain. The security agencies are always working around the clock to ensure national security and these reforms have always forced terrorists to change their *modus operandi*. The creation of specialized anti-terrorism police within the police force has enhanced the capacity of the police force to efficiently deal with terror related activities. This has been supplemented by the intelligence service, which many times have provided information leading to foiling of terrorist activities and evening leading to arrests. The capacity of these institutions has been enhanced by legislation that has helped to redefine their roles in the wake of changing nature of terrorism.

However, there has been criticism against these efforts. This is primarily because some of the reforms are seen to be against established conventions. In particular, in fighting against terrorism, the Kenyan government has displayed tendencies of carrying out reforms that erode values of the open societies. This brings into sharp focus the dilemma of balancing between liberty and security. The challenge of reconciling the foundational principles of SSR, which thrives on transparency and democracy, thus remains daunting. In other cases, the reforms have been perceived to be externally driven and not context specific.

Even though these loopholes exist, an amendment on the Prevention of Terrorism Bill 2012 under the Security Laws (Amendment) Bill, 2014 to some extent attempts to deal with the root causes of terrorism, which has been a major security threat. Under the mechanisms for coordinating counter-terrorism measures, the act also empowers the National Counter-Terrorism Centre with membership drawn from different security organs to foil terror acts. The main duty of the institution is to detect, deter, and disrupt terrorist acts. In order to achieve this, the center has attempted to create a database to assists other security agencies in dealing with terrorism. It also aims at creating public awareness on prevention of terrorism, develop strategies to counter and de-radicalize, and promote capacity building for stakeholders. The Border Control and Operations Coordination Committee has also gone a long way in managing entry and exit points to Kenya, and coordinating information sharing among the relevant agencies that are mandated with the duties of promoting national security.

Despite the political debates surrounding SSRs, the government has shown continued effort in carrying out security reforms to deal with international terrorism. Nevertheless, with all these, there are still continued terrorists' activities and attacks in the country and this begs the questions: do we need the security sector reforms? Are SSRs effective enough in dealing with terrorist activities? Are there challenges in the implementation of the reforms? Do the security agencies have the capability of dealing with terrorism related activities? Should the matter of security be left to the security institutions? Alternatively, should it start with the citizens? It is thus possible that the government

fight against terrorism will call for changes in the configuration of the security sector with intend to enhance its capacity but the opposite may be the case where the security sector may impact terrorism leading to public outrages.

To effectively curb terrorism, the government should increase efficiency in law enforcement, prosecution of terrorist suspects, improve intelligence gathering, and the police should be effectively trained to deal with terrorism incidences. The covert nature of terrorism often precludes an easy analysis of their capabilities or intent; therefore, giving them an advantage of lying in wait and striking when least expected. The government responses should thus be proactive. Cooperation in intelligence gathering and sharing is also paramount. This needs to be done nationally, regionally and internationally. Collaboration and networking with other stakeholders is especially paramount.

In conclusion, it is clear that the changing nature of terrorism and its association with subjective activities has presented a definitional problem thus has provided a challenge in dealing with terrorism as attempts directed to fighting the vice is often perceived to be infringing on liberal value. The variance in definition presents a possibility of condemning one form of terrorism and accepting the other. Thus, it will continue to remain a problem depending on who is defining and identifying terrorism, and the context within which the definition is made. This provides an area where further research should be directed.

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