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RESEARCH ARTICLE

SUCSESSES AND FAILURES BORNE OUT OF HAVING OR NOT HAVING MULTI-AGENCY LAWS, POLICIES, DOCTRINES, AND STRATEGIES REGARDING TERROR RESPONSE COORDINATION

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Abstract

Terrorism has been a real menace facing Kenya over the years. The study sought to find out the successes and failures borne out of having/not having multi-agency laws, policies, doctrines and strategies regarding terror response coordination. Based on the mixed methods and exploratory research designs, data was collected from a sample of 97. These were drawn from a target population of 3400 which included all the members of the Kenya Defense Forces Special Operations Forces (KDF SoFs), the National Police Service (NPS) Recce squad, ATPU officers, policy level military, intelligence and police officers and a few members of academia. The target population was estimated at 3400 personnel from which a sample of 97 was obtained. Primary data was collected using questionnaires and interviews while secondary data was obtained using desk review of relevant literature. Data was analyzed using quantitative and qualitative methods. The findings show that the existence of structural and legal frameworks guiding multi-agency operations on countering terrorism in Kenya had led to effective response through standardizations of operation guidelines, better sharing of information, joint training and exchange of best practices among the various responders. This was evidenced in the Dusit D2 Attack in which synchronization of operations showed better response to the attack by the various operational and tactical teams as compared to the Westgate Attack. Lastly, it is evident that Kenya is yet to know that it has dealt with the terrorism menace. This can only be attested when the country stays for a long period of time without an attack, say more than 5 years. Based on the findings of the study, the following recommendations were made. There is need for domesticating the existent structural and legal frameworks guiding multi-agency operations on countering terrorism in Kenya so as to enhance the effectiveness of response to terrorism through standardizations of operation guidelines, better sharing of information, joint training and exchange of best practices among the various responders. Regular review of any gaps in the existing structural and legal frameworks should be undertaken and measures put in place to bridge those gaps through continuous legislation.

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Introduction: -

National policies have been undertaken the world over to create a platform for counterterrorism since 2001. These legislations have created mechanisms for anti-terrorism and counterterrorism financing (CTF). In addition, the intelligence community, militaries and the police have also adopted strategies aimed at identifying terrorist threats and neutralizing them. They have also created wide mechanisms for enhancing collaboration with their counterparts in other countries in the war against terrorism.

One of the strong mechanisms adopted in the Horn of African Region is The African Union Mission in Somalia (AMISOM) which was created in February 2007 to promote peace and stability in Somalia. AMISOM is supported by the UN through different agencies which support its “political, diplomatic, civilian, military, humanitarian, and development dimensions.” Since its creation, the EU provided funding of up to EUR 1.6 billion by 2017. In 2017 alone, the EU funded AMISOM with EUR 239.4 million.¹ This has strengthened peace and security as well as counterterrorism efforts in Somalia.

Although many Western militaries started disengaging from Africa after the end of the Cold War, this has been changing. Many western militaries have physical presence in various parts of Africa where they battle terrorist organizations. They have taken part in the provision of hard security assistance as well as training. An example of this is the “Combined Joint Task Force - Horn of Africa (CJTF- HoA),” based in Djibouti. The CJTF has over 2,300 US personnel tasked with fighting against terrorism as well as training African militaries in the HOA. The “US Trans-Sahara Counter-Terrorism Partnership” in the Sahel region and the CJTF has been integrated under the “new US Africa Command (AFRICOM)” which is used by the Pentagon to streamline its military activities on the continent. Kenya, among other governments of strategic importance continue to benefit from these bilateral military programs to enhance their fight against terrorism.² This has had immense benefits since as identified by Karthika Sasikumar, “terrorism is a transnational threat and can be tackled only by cooperation among states.”³

The elaborate frameworks put in place since 9/11 have led to “a 'regime complex' for counter- terrorism as posited by Peter Romaniuk. There has been extensive “duplication of efforts, overlapping mandates and lack of coordination.”⁴ There is thus the need for the establishment of a single institution, which under today’s geopolitical realities may be a tall order.⁵

Uganda has been in the forefront in the global struggle against terrorism. It has established various strategies domestically. The country established the Joint Anti-Terrorism (JAT) in 1999 as a task force aimed at “coordinating efforts among military, police, and intelligence officials to counter a series of domestic terrorist attacks.” However, lack of a counter-terrorism legislation meant that suspected terrorists would be charged with treason. This changed with the adoption of the Anti-Terrorism Act in 2002 which created an expanded legal scope for the government to pursue and prosecute terrorism. The country also cooperates with other countries in the fight against terrorism.⁶

Presently, Uganda cooperates with the US and other East African countries in the fight against terrorism. With support from the “Anti-Terrorism Assistance (ATA) Program” and “the Terrorist Interdiction Program (TIP),” Uganda has strengthened the capacity of its security agencies to deal with terrorism. It is also able to better monitor

¹ <https://www.africa-eu-partnership.org/en/projects/african-union-mission-somalia-amisom>

² Association of Concerned Africa Scholars, 'The politics of Africom' (Washington DC, Association of Concerned Africa Scholars, Bulletin 78, Washington DC, 2008), <<http://concernedafricascholars.org/analysis/acas-bulletin-78-africom-special-issue/>> (19 Jan)

³ K Sasikumar, State agency in the time of the global war on terror: India and the counter-terrorism regime. *Review of International Studies* 36 no. 3 (2010): 615-638

⁴ Linnéa Gelot and Adam Sandor. (2019) African security and global militarism. *Conflict, Security & Development* 19:6, pages 521-542.

⁵ Eric Rosand, The UN-Led Multilateral Institutional Response to Jihadist Terrorism: Is a Global Counterterrorism Body Needed?, *Journal of Conflict and Security Law*, 11 no.3 (2007): 39.

⁶ Beth Elise Whitaker *Review of International Studies* 36 No. 3 (July 2010): 639-662. Cambridge University Press.

its airports and border points.⁷ Other legislations enacted in Uganda to deal with terrorism include the “counter-terrorist financing (CTF) and the anti-money laundering (AML).”⁸

Tanzania has had extensive cooperation with the counter-terrorism regime. Though the government domesticated many international provisions, the implementation of these measures has been regarded as being weak. Some of these include the Prevention of Terrorism Act of 2002 which proscribes the financing, committing and assisting terrorists.⁹ In November 2006 passed the “Prevention of Money Laundering Act.” In 2007, the law went into effect and “a Financial Intelligence Unit (FIU).” This enabled the country to track suspicious transactions. It was further supported by new banking laws in 2006 and an anti-corruption law in 2007. The country is also supported heavily by the US government. This has strengthened its passport systems and monitoring efforts in its border points. In 2007, the country established a “National Counterterrorism.” Its cooperation in the war against terrorism has however being regarded as being riddled with suspicion. Though the country took part in the US “organized International Somalia Contact Group” since June 2006, it opposed the US war in Iraq strongly.”

Kenya has adopted various ways to respond to terror acts. Initially, Kenya responded in a silo bureaucratic manner where the military was the main responder as seen in the 1998 USA embassy bombing in Nairobi. In 2013, Kenya employed the 1st multi-agency approach to responding to international terrorism during the West-gate attack. In these responses, Kenya like many countries in the world has put in place many institutional, normative, and structural changes to deal with this menace of terrorism. It has adopted international resolutions and enacted national laws. This study sets out to investigate the successes and failures borne out of having/not having multi-agency laws, policies, doctrines, and strategies regarding terror response coordination.

Problem Statement:

Kenya has elaborate multi-agency laws, policies, doctrines, and strategies regarding terror response coordination. Over the years, the country has enhanced the tactical response between the KDF special operation forces (SoF) and the recce teams from the NPS. There have also been great efforts aimed at improving the dissemination of information at strategic levels. However, terrorist attacks have continued to rock the country especially in the Northern Eastern region. This signals lapse in terror response coordination. Gaps have been identified in the coordination of response to terrorism at strategic and higher operational realms. Also, there is lack of synchronization of laws related to the management of deployment, training and interoperability of various multi-agency actors. This could account for failures in multiagency response to terrorism. Without systematic study however, the nexus between having/not having multi-agency laws, policies, doctrines, and strategies regarding terror response coordination and terror response coordination could remain largely unexplored. This study sets out to bridge this apparent knowledge gap.

Research Objective: -

To investigate the successes and failures borne out of having/not having multi-agency laws, policies, doctrines, and strategies regarding terror response coordination.

Hypotheses:

HA: Multi-agency laws, policies, doctrines, and strategies regarding terror response coordination have led to an effective response to international terrorism

Literature Review: -

This section presents the literature reviewed. First and foremost, Francis Kipkurui Arap Sang's, "Kenya", focuses on the relationship between the Kenyans National Police Service (NPS) and the international and transnational agencies that fight against crimes and terrorism.¹⁰ To Sang, cooperation from an international arena happens at two stages. The first is the conceptual stage. This is the stage where ideas and policies are formulated, the agenda is set and

⁷Peter Romaniuk and Tracey Durner, The politics of preventing violent extremism: the case of Uganda, Conflict, Security & Development 18 no.2(2018), 159-179, DOI: 10.1080/14678802.2018.1447863

⁸ <https://ulii.org/ug/legislation/act/2017/4>

⁹ Op cit. 25

¹⁰ Francis Kipkurui Arap Sang, "Kenya", International police cooperation: a world perspective / edited by Daniel J. Koenig and Dilip K. Das. 24 Nov, 2015

consultations happen. The second stage is the implementation phase that deals with the operationalization of the blueprints and ideas. At this stage, countries will train together, standardize their policies, legislate laws and sign treaties that deal with common issues e.g. extradition, sharing of intelligence, forming multiagency task forces, creating combined and joint centers of operations and intelligence among other areas.

The KDF, the National Intelligence Service (NIS) and, NPS as well other agencies mandated to deal with terror have benefitted greatly from these initiatives. Multi-lateral training institutes e.g. the international peace support training center (IPSTC) in Karen have massive courses on terrorism and related areas. Other arrangements have included exchange programs and sponsored courses abroad for security agencies.

Sang notes that Kenya has signed extradition treaties with several countries which is a positive move towards fighting crime including terrorism.¹¹ However, he says that at times bureaucratic procedures and political goodwill have in the past affected the execution of such treaties. Sang also notes that the uneven standards in terms of training, equipment, technology, and know-how between the various responders to terror have a significant impact on the success or failure rate of such responses. The lack of a common curriculum, doctrine and modus operandi between various response teams tends to kill the multi-agency idea. Criminals have also been seen to be heavily armed. On various occasions, the Al-Shabaab terrorists have flushed police out of their posts or even overran military defensive positions like the el-Adde attack.

Macharia Munene, "Reflections on Kenya's National and Security Interests," notes that each country has a national interest in the categories of core or primary interest and peripheral or secondary national interest. Primary national interests are those that are not negotiable.¹² That a country is willing to use all its instruments of national power including the instrument of the last resort - the military - to defend them. Secondary national interests are important too, but a country could prefer suing the first two instruments of national power i.e. diplomacy and economy to defend them. Munene warns that Kenya should guard her national interests jealously and not trade them in exchange for super-power pleasing. He actually urges Kenya to use her leadership influence in the region to project her 'national interests' especially in her core environment which has for a long time been a hostile operating environment. With a focus on terrorism, Munene notes how the porous Kenya-Somalia border has seen an influx of illegal and untaxed goods into Kenya whose proceed have aided the Al-Shabaab terror group.

Angel Rabasa, "Countering Terrorism in East Africa," notes that "The Combined Joint Task Force-Horn of Africa (CJTFHOA)" is one of the combined multi-country-multi-agency task force that is dealing with terrorism-related cases.¹³ Their strategic objectives are "to foster a regional perspective on security problems, build littoral capabilities, and support the African Union and United Nations peacekeeping operations in its Area of Responsibility." They have helped to come up with a joint logistical plan to help lift and support Ugandan troops in the AMISOM. They are also helping the entire East African region, building the counterterrorism capabilities of regional states. This, however, happens with a major input of the states themselves with the CJTFHOA providing technical support and training.

Rabasa says that they had conducted counterterrorism training in Yemen. They have helped to build their Coast Guard to deal with pirate issues that are a cash cow for terrorists through the demand of ransoms. They have also provided military training to Ethiopia, Uganda, and Djibouti especially in the special operations realm. Kenyan and Djibouti navies have been major beneficiaries. As other past and current counterinsurgency and counterterrorism campaigns show, "civil affairs operations can be critical in gaining the support of the population against terrorist elements."¹⁴

Makumi Mwagiru, "Towards a Security Architecture in the IGAD Region," urges for more expanded philosophical thoughts amongst policymakers and decision-makers on security.¹⁵ He says that the traditional militaristic

¹¹ Ibid.

¹² Macharia Munene Reflections on Kenya's national and security interests Journal of Language, Technology & Entrepreneurship in Africa 3 No. 1 2011

¹³ Angel Rabasa. Radical Islam in East Africa. Copyright Date: 2009. Edition: 1. Published by: RAND Corporation. Pages 84-180

¹⁴ Ibid

¹⁵ Mwagiru Makumi. "Towards a Sub-Regional Security Architecture in the IGAD." East African Journal of Human Rights and Democracy, University of Nairobi 3 (2004).

perspective of security narrows national security into a tunnel vision of only 3 or 4 main organs or agencies to deal with. In view of the 1994 UNDP paper on human security, Mwagiru opines that it is vital for states to expand their view of security to have a peripheral and not a tunnel approach. In his other article on globalization, he asserts that factors like the end of the cold war, globalization, and the 9/11 incidence have shifted the philosophy of security from statist to expanded perspective. It has challenged the concept of sovereignty. It has introduced power diffusion by showing that non-state actors can acquire capabilities previously enjoyed by states like ability to cause mass casualty and having air superiority. Globalization and modern threats e.g. terrorism have opened borders. They have reduced states to only acting within certain frameworks e.g. foreign policies, domestic policies and supranational platforms like the UN and AU.¹⁶

Peter Kagwanja's "Counter-Terrorism in the Horn of Africa: New Security Frontiers, Old Strategies," looks at the various measures employed by African governments in countering terrorism. He classifies these measures into 4 main groups. The first group includes those measures taken to deal with "liberation movements, guerrillas, bandits, criminal gangs, cattle rustlers, pirates and vigilantes that are not categorized as terrorists." The second measures include the counterterrorism strategies employed by states to ensure national security is enhanced for regime survival.

The third is hard measures taken by states to combat and confront the menace of terrorism. He, however, notes that these hard strategies that are heavily militaristic end up infringing on the human rights of individuals. The last group of measures is 'Soft' policies that are aimed at nabbing terrorism in the bud. This is done through policies dealing with poverty eradication, illiteracy, unemployment ... that could be effective in countering radicalization and violent extremism. Kagwanja urges efforts to improve coordination in all levels as well as the strengthening of laws and the security sector.¹⁷

From the literature reviewed, it is evident that although some scholars have studied the responses undertaken by security forces in Kenya, most of the existent studies do not focus on laws and policies as well as strategies and doctrines specifically in regard to coordination in response during Westgate mall and Dusit D2 terror attacks. This underlines the importance of this study.

Research Methodology: -

This section presents the methods that were employed by this study to answer the research question. The study adopted mixed methods and exploratory research designs. According to Streb,¹⁸ exploratory research designs fit well where there are limited or fewer studies. It is important for obtaining background information about a given topic and is flexible as well as able to address a variety of research questions. According to Creswel¹⁹ "mixed-method research employs both qualitative and quantitative research designs to complement each other by overcoming the weaknesses of each other." The target population was all the members of the KDF SoFs, the NPS Recce Squad, and ATPU Officers, policy level military, intelligence and police officers as well as a few members of academia. The target population was estimated at 3400 personnel. The sample size for this study was obtained using the sampling formula by Yamane²⁰ at a sampling error of 10%. The calculation from a population of 3400 was 97. Therefore, the sample of 97 respondents was chosen from the various security agencies as indicated in Table 1 below.

Table 1: - Sample Size Categories.

Operations Teams	Population Size	Sample Size	Sampling Technique
KDF SoF terror-related	2,000	45	Purposive Sampling
NPS Recce terror-related	400	12	Purposive Sampling
ATPU Officers	800	20	Purposive Sampling
Policy Level Officers	150	10	Purposive Sampling
Members of Academia	50	10	Purposive Sampling
TOTAL	3,400	97	

¹⁶Mwagiru Makumi. "Globalisation and African Foreign Relations: Historical and Intellectual Antecedents' ". 2008.

¹⁷Peter Kagwanja, Counter-terrorism in the Horn of Africa: New security frontiers, old Strategies, African Security Review 15 no. 3 (2006): 72-86, DOI: 10.1080/10246029.2006.9627608

¹⁸ Streb, 372-373.

¹⁹ John W. Creswell Research design : qualitative, quantitative, and mixed methods approaches (4th ed.). Thousand Oaks : SAGE Publications, 2014.

²⁰ Yamane, Taro. "Statistics: An introductory analysis," 1973.

To test validity, the data collection instruments were submitted for expert review. To test the reliability of the research tool, the researcher employed a test-retest technique to guaranty it. The study employed primary as well as secondary data collection techniques. Primary data was collected from the respondents using questionnaires and interviews. On its part, secondary data was obtained from library-based research via books, e-books, journals, government publications, and published thesis, among other reputable academic publications.

The data collected from questionnaires were analyzed using the Statistical Package for the Social Sciences (SPSS) version 24. The findings were presented in descriptive statistics, tables, graphs, charts and inferential statistics. On its part, data from interviews were analyzed thematically based on the objectives so as to establish the key themes and trends from which findings, conclusions, and recommendations were drawn.

Results and Analysis: -

This section presents findings from a set of five-point psychometric scale-based statements on the subject under investigation.

Border Security, Technical Surveillance and Enhanced ICT counterterrorism Capabilities:

The respondents were presented with the statement, “Kenya has effectively tightened border security, heightened technical surveillance and enhanced ICT counterterrorism capabilities due to multiagency coordination of response to terrorism.” The majority of the respondents (41.6%) strongly disagreed with the statement. It can thus be deduced that multiagency coordination in response did not have very strong effects on enhanced technical surveillance and ICT counterterrorism capabilities as recommended by Jody Westby.²¹ It had also not led to thorough border security as witnessed in neighboring countries such as Uganda.²² This could be attributed to challenges such as lack of sufficient resources among other factors as argued by Gatuiku.²³

Table 2: - Border Security, technical surveillance and enhanced ICT counterterrorism capabilities.

	Strongly Disagree		Disagree		Not Sure		Agree		Strongly Agree		Total		Weighted Mean
Statement	F	%	F	%	F	%	F	%	F	%	F	%	
Kenya has effectively tightened border security, heightened technical surveillance and enhanced ICT counterterrorism capabilities which has enhanced multiagency coordination of response to terrorism	32	41.6	19	24.7	3	3.9	12	15.6	11	14.3	77	100	2

Poor Sharing of Intelligence on Terrorism among the Various Security Agencies:

The findings obtained show that despite gains in multiagency response to terrorism, there was poor sharing of intelligence on terrorism among the various security agencies in Kenya. This can be attested by most of the respondents (40.3%) who strongly agreed with the statement. As such, Kenya had yet to fully streamline intelligence sharing on terrorism among the various agencies despite the presence of policies as well as legal and structural frameworks aimed at addressing this challenge.^{24,25,26} As argued by Gatuiku, this could be due to factors such as

²¹Jody R. Westby, Countering terrorism with cyber security, *Jurimetrics* 47, No. 3 (Spring 2007) : 297-313.

²²Isoke, Henry. The dilemma of porous borders : Uganda's experience in combating terrorism. Master's Thesis, 2015, Naval Post Graduate School, Monterey, California.

²³Gatuiku, P. Countering terrorism in the H of Africa: a case study of Kenya. Master's Thesis. University of Nairobi, 2016.

²⁴GoK, Prevention of Organized Crimes Act, 2010, Government Printer, Nairobi.

²⁵GoK, Proceeds of Crime and Anti-Money Laundering Act 2011, Government Printer, Nairobi.

²⁶GoK, Prevention of Terrorism Act 2013 Government Printer, Nairobi.

“corruption, organization inefficiency, lack of resources and technical capacity, poor interagency law enforcement coordination, insufficient training, the politicization of some terrorist incidents, and several other factors.”²⁷

Table 3: - Poor Sharing of Intelligence on Terrorism among the Various Security Agencies.

	1		2		3		4		5				
	Strongly Disagree		Disagree		Not Sure		Agree		Strongly Agree		Total		Weighted Mean
Statement	F	%	F	%	F	%	F	%	F	%	F	%	
There is poor sharing of intelligence on terrorism among the various security agencies in Kenya	9	11.7	11	14.3	5	6.5	21	27.3	31	40.3	77	100	4

Poor Coordination of Efforts Aimed at Checking Terror Group Financing:

The respondents were presented with the statement, “there is poor coordination of efforts aimed to check terror group financing among government departments like defence, intelligence, police, treasury, banks and the private sector in Kenya.” In response, most of the respondents (31.2%) strongly agreed. This shows that multiagency response to terrorism was yet to effectively rein in on terror group financing as recommended by Kibet.²⁸ Consequently, it can be argued that Kenya did not effectively check intra and extra logistical support among terror groups; which could challenge the fight against terrorism.

Table 4: - Poor Coordination of Efforts Aimed at Checking Terror Group Financing.

	1		2		3		4		5				
	Strongly Disagree		Disagree		Not Sure		Agree		Strongly Agree		Total		Weighted Mean
Statement	F	%	F	%	F	%	F	%	F	%	F	%	
There is poor coordination of efforts aimed at checking terror group financing among governments departments like Defence, Intelligence, Police, treasury, banks and the private sector in Kenya	12	22.0	9	11.7	11	14.3	21	27.3	24	31.2	77	100	3

Disconnect in the Operationalization of Frameworks on Synchronization of Response to Terrorism:

Most of the respondents (32.5%) strongly agreed with the statement, “although there are clear frameworks on the synchronization of response to terrorism, there is disconnect in their operationalization.” This shows that despite the fact that Kenya had attempted to put in place frameworks aimed at smoothening joint response to terrorism,²⁹ their effectiveness was thwarted by disconnect in their implementation; which further corroborates the findings of Gatuiku.³⁰ This could affect the efficacy of these joint responses to terrorism attacks among multiple agencies as shown in Table 5.

²⁷ Gatuiku, 2016.

²⁸ Kibet, K.R. Terrorism and Kenya’s foreign policy : a contextual analysis, 2016. Master’s Thesis. United States International University – Africa.

²⁹ Samini Magogo, The effectiveness of counter terrorism strategies in Kenya : a case study of Eastleigh Location, Nairobi County, Master Thesis, University of Nairobi, 2017.

³⁰ Gatuiku, 2016.

Table 5: - Disconnect in the Operationalization of Frameworks on Synchronization of Response to Terrorism.

	1		2		3		4		5				
	Strongly Disagree		Disagree		Not Sure		Agree		Strongly Agree		Total		Weighted Mean
Statement	F	%	F	%	F	%	F	%	F	%	F	%	
Although there are clear frameworks on synchronization of response to terrorism there is disconnect in their operationalization	13	16.9	16	20.8	11	14.3	12	15.6	25	32.5	77	100	3

Exchange Programs and Sponsored Course Abroad:

More than half of the respondents (54.5%) strongly agreed with the statement, “exchange programs and sponsored course abroad has enhanced the capacity of local intelligence forces and tactical teams to respond to terror attacks.” In this regard, it can be argued that frameworks that created avenues for further learning and exchange programs had enhanced the capacities of security agents to respond to terror attacks as argued by Kipkurui Sang.³¹ This could explain the better response to the Dusit D2 Attack in comparison with the Westgate Attack.

Table 6: - Exchange Programs and Sponsored Course Abroad.

	1		2		3		4		5				
	Strongly Disagree		Disagree		Not Sure		Agree		Strongly Agree		Total		Weighted Mean
Statement	F	%	F	%	F	%	F	%	F	%	F	%	
Exchange programs and sponsored course abroad has enhanced the capacity of local intelligence forces and tactical teams to respond to terror attacks	5	6.5	6	7.8	3	3.9	21	27.3	42	54.5	77	100	4

Kenya Faces Challenges Related to Uneven Capacities:

Almost half of the respondents (48.1%) strongly agreed with the statement, “Kenya faces challenges related to uneven capacity in terms of training, equipment, technology and, know-how between the various responders to terror and this has a significant impact on the success of such responses.” This shows that there has not been effectiveness in synchronizing training, technologies and equipment as posited by Yengoude in “The Enemy Achieves Surprise: Are Intelligence Failures Avoidable?” who pointed out that intelligence failures could be explained by lack of equipment and poor organization.³² As a result, multiagency response to terrorism was not as effective as envisaged by the policy, legal and structural frameworks. Thus, there was a need to put in place strategies aimed at dealing with these challenges.³³

³¹ Sang, 2001³²Yengoude, 2017.³³ Bakker, Maley and Boeke, 2016.

Table 7: - Kenya Faces Challenges Related to Uneven Capacities.

	1		2		3		4		5				
	Strongly Disagree		Disagree		Not Sure		Agree		Strongly Agree		Total		Weighted Mean
Statement	F	%	F	%	F	%	F	%	F	%	F	%	
Kenya faces challenges related to uneven capacity in terms of training, equipment, technology and, know-how between the various responders to terror and this has a significant impact on the success of such responses	4	22.0	9	11.7	6	7.8	21	27.3	37	48.1	77	100	4

Lack of a Common Curriculum, Doctrine and Modus Operandi:

When posed with the statement, “there is lack of a common curriculum, doctrine and modus operandi between various response teams and this tends to kill the multi-agency setup,” more than half of the respondents (57.1%) strongly agreed. This is indicative of the fact that Kenya was yet to have uniform capacities to secure synchronized multiagency response to terrorist attacks as recommended by Zhang Yunbi in a study focused on China-US cooperation during terror attacks that argued that there is need for ensuring synchronization in working processes through multiagency cooperation.³⁴ This puts to questions the adequacy of the existent policy, legal and structural arrangements put in place to check this anomaly.³⁵

Table 8: - Lack of a Common Curriculum, Doctrine and Modus Operandi.

	1		2		3		4		5				
	Strongly Disagree		Disagree		Not Sure		Agree		Strongly Agree		Total		Weighted Mean
Statement	F	%	F	%	F	%	F	%	F	%	F	%	
There is a lack of a common curriculum, doctrine and modus operandi between various response teams and this tends to kill the multi-agency setup	3	3.9	4	5.2	1	1.3	25	32.5	44	57.1	77	100	4

Poor Arming of Intelligence Teams:

Most of the respondents either agree or strongly agree - each at 24.7% - with the statement, “poor arming of intelligence teams has often seen terrorist organizations such as Al-Shabaab flush police out of their posts or even overran military defensive positions.” This shows that in some instances, intelligence teams had often made Kenya a soft target; leading to the decimation of police posts and military stations. These findings agree with Macharia Munene in an article titled, “Reflections on Kenya’s national and security interests,” who posited that Kenya was a softer target due to security gaps and lapses.³⁶ As such, there was a need to match policy as well as legal and

³⁴ Zhang Yunbi, “China, U.S. Hold Talks on Terror Fight.” U.S. Department of State, Country Reports on Terrorism 2014.

³⁵ Sang, 2001.

³⁶ Macharia Munene Reflections on Kenya’s national and security interests. Journal of Language, Technology & Entrepreneurship in Africa 3 No. 1 (2011).

structural frameworks with practice. This could be achieved through adequate financing as has been the case in India.³⁷

Table 9: - Poor Arming of Intelligence Teams.

	1		2		3		4		5				
	Strongly Disagree		Disagree		Not Sure		Agree		Strongly Agree		Total		Weighted Mean
Statement	F	%	F	%	F	%	F	%	F	%	F	%	
Poor arming of intelligence teams has often seen terrorist organizations such as Al-Shabaab flush police out of their posts or even overran military defensive positions.	16	20.8	17	22.1	6	7.8	19	24.7	19	24.7	77	100	3

Corruption Defeats Multiagency Response:

The respondents were presented with the statement, “corruption has led to the influx of illegal and untaxed goods from Somalia into Kenya whose proceeds have aided the Al-Shabaab terror group.” In this light, most of the respondents (45.5%) strongly agreed. This shows that the success of multiagency response to terrorism was challenged by corruption among some security agencies³⁸ which had led to financing of terror groups such as Al-Shabaab through contraband goods. As such, dealing with the vice of corruption could lead to the consolidation of the gains made in multiagency response to terrorism. There was also need to come up with effective border control.³⁹

Table 10: - Corruption Defeats Multiagency Response.

	1		2		3		4		5				Weighted Mean
	Strongly Disagree		Disagree		Not Sure		Agree		Strongly Agree		Total		
Statement	F	%	F	%	F	%	F	%	F	%	F	%	
Corruption has led to the influx of illegal and untaxed goods from Somalia into Kenya whose proceeds have aided the Al-Shabaab terror group.	8	22.0	12	15.6	1	1.3	21	27.3	35	45.5	77	100	4

Enhanced Capacities to Respond to Terrorism through Multi-Country-Multi-Agencies:

Lastly, the respondents were posited with the statement, “intelligence sharing with combined multi-country-multi-agency task force such as the combined Joint Task Force - Horn of Africa has enhanced the capacity of Kenya to

³⁷Bamrara, Atul. The Challenge of Cyber Crime in India : The Role of Government. Pakistan Journal of Criminology 3 No. 3 (Jan, 2012) : 127-134.

³⁸Gatuiku, 2016.

³⁹Miyandazi, L. Kenya's military intervention in Somalia : An intricate process. Policy and practice brief issue (2012), November, 19.

respond to international terrorism.” More than half of the respondents (53.2%) strongly agreed with the statement. It is thus clear that when operationalized, multiagency as well as multi-country cooperation strengthened the fight against terrorism in Kenya. This agrees with Angel Rabasa in “Radical Islam in East Africa” who posits that multiagency and multi-country agencies strengthened responses to international terrorism.⁴⁰ It also agrees with Naeem Ahmed who registered similar findings in Pakistan.⁴¹

Table 11: - Enhanced Capacities to Respond to Terrorism through Multi-Country-Multi-Agencies.

	1		2		3		4		5				
	Strongly Disagree		Disagree		Not Sure		Agree		Strongly Agree		Total		Weighted Mean
Statement	F	%	F	%	F	%	F	%	F	%	F	%	
Intelligence sharing with combined multi-country-multi-agency task force such as the combined Joint Task Force-Horn of Africa has enhanced the capacity of Kenya to respond to international terrorism	2	2.6	8	10.4	3	3.9	23	29.9	41	53.2	77	100	4

Findings from the Open-Ended Questions and Interviews:

The respondents were presented with the question, “in which other ways do you rate the successes and failures borne out of having/not having multi-agency laws, policies, doctrines, and strategies regarding terror response coordination?” Conversely, the interviewees were asked, “what are the successes and failures borne out of having/not having multi-agency laws, policies, doctrines and strategies regarding terror response coordination?” The findings show that multiagency laws, policies, doctrines and strategies had led to numerous gains in response to terrorism as posited by Jerome Bjelopera in “Terrorism Information Sharing and the Nationwide Suspicious Activity Report Initiative: Background and Issues for Congress.”⁴² This was through enhanced sharing of intelligence, expertise, facilities and, equipment as posited by Erik Dahl.⁴³ It had also led to standardization of training and operation guidelines during terror attacks. However, lack of enough equipment, corruption as well as slow adoption and domestication of legislation had challenged realization of the gains anticipated through multiagency response to terrorism in Kenya. This agrees with Gatuiku who was of the same opinion.⁴⁴ Additionally, lack of clear guidelines on how to engage civilians had robbed multiagency drives cooperation and support in some of the terrorism prone areas. This was aggravated by use of legal instruments of violence against civilians and profiling by intelligence teams.⁴⁵

The respondents were also asked to give their assessment of the structural and legal frameworks guiding multi-agency operations on countering terrorism in Kenya. To begin with, General Humphrey Njoroge (former commandant of the National Defence College), in an interview with the researcher in Karen Kenya, pointed out that according to the Kenya Defence Forces (KDF) Act, the KDF has two main missions- the primary and secondary missions. Their primary mission is The defense of Kenya’s territorial integrity. The secondary mission is to aid civil authorities. KDF supports other security agencies when called upon to do so internally. However, the law does not tell them how to do that. It just tells them what to do. General Njoroge remarks that the military is guided by certain documents i.e. SOPs, orders, manuals, strategies, policies and plans. Though the military has a military strategy, the

⁴⁰Rabasa, Angel. *Radical Islam in East Africa*. Santa Monica, CA; Arlington, VA; Pittsburgh, PA: RAND Corporation, 2009. www.jstor.org/stable/10.7249/mg782af.

⁴¹ Naeem Ahmed. *Pakistan’s Counter-terrorism strategy and its Implications for domestic, regional and international security*, 2014.

⁴² Bjelopera, Jerome, P. *Terrorism Information Sharing and the Nationwide Suspicious Activity Report Initiative: Background and Issues for Congress*, 2011. CRS Report No. 7-5700, Washington, DC: Congressional Research Service, 2011), <https://fas.org/sgp/crs/intel/R40901.pdf>, 1.

⁴³ Erik J. Dahl, “Local Approaches to Counterterrorism: The New York Police Department Model,” *Journal of Policing, Intelligence and Counter Terrorism* 9, no. 2 (2014) : 81.

⁴⁴ Gatuiku, 2016.

⁴⁵ Boaz Ganor, *Defining Terrorism: Is One Man's Terrorist Another Man's Freedom Fighter?* (Aug. 1998), at <http://www.ict.org.il/articles/define.htm>.

strategy does not tie to the National Security Strategy (NSS) and the Grand Strategy (GS). According to him, “The military strategy should include coding of national assets into vital installations such as Westgate and Dusit D2 Malls”. This emanates from the fact that vital installations such as the three tiers of government affect national security.

Professor Mwagiru in a verbal interview asserted that the defence policy doesn’t work in isolation. It must work in cognizance of the foreign policy, economic policy as well as the national security policy. All these must work looking at the grand strategy that operationalizes the strategic vision. This is because in a multi-agency set-up, there are many agencies that must work together. Thus, the military, the police, the intelligence services as well as other agencies in a multi-agency set up must have joint structures and frameworks. These structures and frameworks must transcend strategic levels, operational levels and tactical levels. The strategic level includes the national security council ensuring that the grand strategy exists, the relevant policies exist and they work inter-operably. This includes training at 3 levels especially for disciplined forces such as commissioners and generals at national level, commanders at operational level and soldiers at tactical level.⁴⁶

The operational level must include the various strategies working synergistically. General Njoroge asserts that the military strategy, the diplomatic strategy and the economic strategy must work in liaison as they marry with the national security strategy to guide the operational level of events. He asserts that at operational level, multi-agency operations should be conducted at two tiers: the 1st he calls committee level. To him, the committee must do the planning, coordination, direction, and management of such operations. This thus faults scenes where strategic level officials camp outside the terror scenes to give press releases as was witnessed at west-gate attack. The second tier consists of the operational teams. These teams must share a similar doctrinal approach to the conduct of operations. Such teams must for instance have the same standard operating procedures as well as similar doctrines in terms of training, operations, worldview and philosophy of the operating environments. They are only to receive direction from the operations committee.

Prof. Mwagiru Makumi on his part asserted that there should be scenario building such that all forces train together. Coordination should be done at national level. It can shift from one agency to another based on the phases an operation is undergoing for instance, it could shift from Department of Defence (DOD) to NIS, NPS, immigration, Kenya Revenue Authority (KRA) to other agencies. To him, though the war on terror was initially defined diplomatically, it has ever since become an intelligence war. As such, terrorism is not a military concept but a diplomatic concept. In this light, diplomacy must be the first instrument to get information about terror related activities via diplomatic missions and then engage. Diplomacy can also assess the capacity of security agencies to deal with terrorism. In this regard, it helps advice the command system on the intentions and strategic history of the other states to enable decision makers act. General Njoroge Humphrey goes ahead to assert that there is thus a need to establish a center of diplomatic studies that validates the diplomatic command and control information systems. The center should also carry out scenario building to help in carrying out analysis of possible future attacks.⁴⁷

Mwagiru was also asked to point out how the multiagency policies as well as structural and legal frameworks guiding terrorism responses in Kenya had evolved with time. The findings show that there was the constitution and other laws that guide the roles of each security organ. However, the problem was interpretation. In this regard, the command systems such as Nations Security Council (NSC), National Security Advisory Committee (NSAC) DOD, NIS and NPS had different strategies, doctrines, policies, laws, and structures to have one smooth coherent operation. The strategic group of the NSC becomes the Cabinet secretaries whereas the technical head of every ministry i.e. the Chief of Defence Forces (CDF), Inspector General (IG) NPS, Director General (DG) NIS and Attorney General (AG) become the interpreters of those policies and strategies.⁴⁸

One of the key informants was asked to interpret section 214 of the NSC, its roles and members etc. The findings show that there was an issue with the secretary of the NSC. It was thus necessary to have an independent person as the National Security Advisor. There was discord between the constitution and National Security Council Act about the secretary. This should be dealt with so as to stop turbulence in case of war/terrorism. Indeed, there were challenges in multiagency coordination at Westgate. During the attack, the Cabinet Secretaries for Defence and

⁴⁶ General Njoroge, August 15, 2020, Nairobi.

⁴⁷ General Njoroge, August 15, 2020, Nairobi

⁴⁸ Prof. Makumi Mwagiru, Professor of Diplomacy and School of Security Studies, August 15, 2020, Nairobi.

Interior, the Chief of the Kenya Defence Forces and interior security minister went to influence the result of the action. Then IG of police went with a G3 rifle. This shows that his thinking was tactical and not strategic. They should have remained at the strategic offices and get feeds for the entire process.⁴⁹

Hypothesis Testing:

Based on the findings obtained, the study rejects the hypothesis that multi-agency laws, policies, doctrines, and strategies regarding terror response coordination had led to an effective response to international terrorism. This emanates from the fact that there were divergent interpretations of the existing policies and strategies that could limit their efficacy in counterterrorism efforts.⁵⁰

Conclusion and Recommendations: -

Conclusion: -

The existence of structural and legal frameworks guiding multi-agency operations on countering terrorism in Kenya had led to effective response through standardizations of operation guidelines, better sharing of information, joint training and exchange of best practices among the various responders. This was evidenced in the Dusit D2 Attack in which synchronization of operations showed better response to the attack by the various operational and tactical teams as compared to the Westgate Attack. Lastly, it is evident that Kenya is yet to know that it has dealt with the terrorism menace. This can only be attested when the country stays for a long period of time without an attack, say more than 5 years.

Recommendations: -

Based on the findings of the study, the following recommendations were made. There is need for domesticating the existent structural and legal frameworks guiding multi-agency operations on countering terrorism in Kenya. This is for purposes of enhancing the effectiveness of response to terrorism through standardizations of operation guidelines, better sharing of information, joint training and exchange of best practices among the various responders. Regular review of any gaps in the existing structural and legal frameworks should be undertaken and measures put in place to bridge those gaps through continuous legislation.

References: -

1. Rabasa, Angel. Radical Islam in East Africa. Edition: 1.: RAND Corporation, 2009: 84-180.
2. Association of Concerned Africa Scholars, 'The politics of Africom' (Washington DC, Association of Concerned Africa Scholars, Bulletin 78, Washington DC, 2008), <<http://concernedafricascholars.org/analysis/acas-bulletin-78-africom-special-issue/>> (19 Jan)
3. Bamrara, Atul. The Challenge of Cyber Crime in India : The Role of Government. Pakistan Journal of Criminology 3, No. 3 (Jan, 2012) : 127-134.
4. Whitaker, Beth Elise. Review of International Studies 36, No. 3 (July 2010): 639-662. Cambridge University Press.
5. Bjelopera, Jerome, P. Terrorism Information Sharing and the Nation-wide Suspicious Activity Report Initiative: Background and Issues for Congress, 2011. CRS Report No. 7-5700, Washington, DC: Congressional Research Service, 2011), <https://fas.org/sgp/crs/intel/R40901.pdf>, 1.
6. Ganor, Boaz. Defining Terrorism : Is One Man's Terrorist Another Man's Freedom Fighter? (Aug. 1998), at <http://www.ict.org.il/articles/define.htm>.
7. Creswell, John W. Research design: qualitative, quantitative, and mixed methods approaches (4th ed.). Thousand Oaks: SAGE Publications, 2014.
8. Bakker, E., Maley, W. and Boeke, S. "ICCT Research Report NATO Project : Transitioning from Military Interventions to Long-Term Counter-Terrorism Policy", the International Centre for Counterterrorism - The Hague (2016).
9. Rosand, Eric. The UN-Led Multilateral Institutional Response to Jihadist Terrorism: Is a Global Counterterrorism Body Needed? Journal of Conflict and Security Law 11 no.3 (2007): 39
10. Dahl, Erik J. "Local Approaches to Counterterrorism : The New York Police Department Model," Journal of Policing, Intelligence and Counter Terrorism 9, no. 2 (2014) : 81.

⁴⁹ Ibid.

⁵⁰ Prof. Makumi Mwagiru, Professor of Diplomacy and School of Security Studies, August 15, 2020, Nairobi.

11. Francis Kipkurui Arap Sang. "Kenya", International police cooperation: a world perspective / edited by Daniel J. Koenig and Dilip K. Das. 24 Nov 2015.
12. Gatuiku, P. Countering terrorism in the H of Africa: a case study of Kenya. Master's Thesis. University of Nairobi, 2016.
13. GoK. Prevention of Organized Crimes Act, 2010. Government Printer, Nairobi.
14. GoK. Prevention of Terrorism Act 2013. Government Printer, Nairobi.
15. GoK. Proceeds of Crime and Anti-Money Laundering Act 2011, Government Printer, Nairobi.
16. Isoke, Henry. The dilemma of porous borders: Uganda's experience in combating terrorism. Master's Thesis, 2015, Naval Post Graduate School, Monterey, California.
17. Jody R. Westby, Countering terrorism with cyber security, *Jurimetrics* 47, No. 3 (Spring 2007): 297-313.
18. K Sasikumar. State agency in the time of the global war on terror: India and the counter-terrorism regime. *Review of International Studies* 36 no. 3 (2010): 615-638
19. Kibet, K.R. Terrorism and Kenya's foreign policy: a contextual analysis, 2016. Master's Thesis. United States International University – Africa.
20. Gelot, Linnéa and Sandor, Adam. African security and global militarism. *Conflict, Security & Development* 19 no.6, (2019): 521-542.
21. Munene, Macharia. Reflections on Kenya's national and security interests. *Journal of Language, Technology & Entrepreneurship in Africa* 3 no. 1 (2011).
22. Miyandazi, L. Kenya's military intervention in Somalia : An intricate process. Policy and practice brief issue (2012), November, 19.
23. Makumi, Mwagiru. "Globalisation and African Foreign Relations: Historical and Intellectual Antecedents", 2008.
24. Makumi, Mwagiru. "Towards a Sub-Regional Security Architecture in the IGAD." *East African Journal of Human Rights and Democracy* 3. University of Nairobi, 2004.
25. Ahmed, Naeem. Pakistan's Counter-terrorism strategy and its Implications for domestic, regional and international security, 2014.
26. Kagwanja, Peter. Counter-terrorism in the Horn of Africa: New security frontiers, old Strategies, *African Security Review* 15 no. 3 (2006): 72-86, DOI: 10.1080/10246029.2006.9627608
27. Romaniuk, Peter and Durner, Tracey. The politics of preventing violent extremism: the case of Uganda, *Conflict, Security & Development*, 18 no.2(2018): 159-179, DOI: 10.1080/14678802.2018.1447863
28. Mwagiru, Makumi. Professor of Diplomacy and School of Security Studies, August 15, 2020, Nairobi.
29. Rabasa, Angel. Radical Islam in East Africa. Santa Monica, CA ; Arlington, VA ; Pittsburgh, PA : RAND Corporation, 2009. www.jstor.org/stable/10.7249/mg782af.
30. Magogo, Samini. The effectiveness of counter terrorism strategies in Kenya: a case study of Eastleigh Location, Nairobi County, Master Thesis, University of Nairobi, 2017.
31. Yamane, Taro. "Statistics: An introductory analysis," 1973.
32. Yengoude, E.A. The Enemy Achieves Surprise : Are Intelligence Failures Avoidable? *Journal of Political Sciences & Public Affairs*, 5 no. 4 (2017).
33. Yunbi, Zhang. "China, U.S. Hold Talks on Terror Fight." U.S. Department of State, Country Reports on Terrorism, 2014.

Web Sources: -

<https://ulii.org/ug/legislation/act/2017/4>

<https://www.africa-eu-partnership.org/en/projects/african-union-mission-somalia-amisom>.