
Relationship between Counter-Terrorism Strategies and the Principles of Due Process in Kenya (2012-2019)

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Abstract: The purpose of the study was to evaluate the counter-terrorism strategies correlation to the principles of due process and crime control in criminal justice. The study adopted a constitutionalism theoretical framework, liberal democracy theoretical foundation and the due process model of criminal justice to explain the phenomenon. The study site was Eastleigh North and Eastleigh South wards of Kamukunji Constituency, Nairobi County. This research adopted qualitative analytical approach. The target population for the study was segmented into three major groups. The first category included counter terrorism experts, police officers, officers from Independent Police Oversight Authority (IPOA), officers from Amnesty International, officers from the Law Society of Kenya and officers from Kenya National Human Rights Commission. The second category of the population included the residents of Eastleigh North and Eastleigh South wards of Kamukunji Constituency, Nairobi County. The third category of the population was specifically residents of Eastleigh North and Eastleigh South of Nairobi County who had either been directly accused of being a terror suspect or witnessed a relative, a friend, or a person close to them accused of being a terror suspect. The study adopted purposive sampling, simple random sampling and snowball sampling. The research used key informant interview, questionnaires and In-depth interview to collect data. The study was based on descriptive statistics and qualitative methods of data analysis. The study also revealed that the criminal justice system in Kenya focused more on the speed of concluding terrorism-related criminal cases than on the due process of determining whether a person is guilty or not guilty of terrorism. The study also established that sometimes the criminal justice system in Kenya does not protect the rights of the terror suspects. Notwithstanding, the study further revealed that police powers especially on the arrest provisions in the counter-terrorism laws were sweeping.

Keywords: Terrorism, Counter-Terrorism, Due Process Model, Crime Control, Criminal Justice

1. Introduction

Over the past two decades since the 9/11 attack on the World Trade Center in the United States, terrorism has become a priority for both domestic and global security. Terrorism has set off a paradigm shift in our society on how we interact, exist, integrate, and trade globally. Generally, counter-terrorism approaches have been modelled based on deterrence, preventive, and punitive legislation on terrorism. Thus, Kenya has put in place counterterrorism policies at the national level where it has adopted legislation and policies to combat terror (Wanjiru, 2006). Kenya has been in the spotlight over the past 5 years most notably because of the violence caused by the terror group Al-Shabaab. The predominant and often sole response of most governments to the terror threat has been the use of force. The effects of this response have not always been positive, and lessons from this approach suggest the need for constitutional measures grounded on the rule of law. A fundamental tool in the fight against terrorism is constitutionalism and the rule of law in the criminal justice system. A criminal justice system founded on respect for the rule of law is a viable and effective option in addressing terrorism. However, anti-terrorism measures in Kenya have without a doubt been marred with challenges and criticism. Rights groups, both national and international have accused the government of Kenya adopting counter-terrorism strategies that violate human rights and constitutional principles. Previous studies on counter-terrorism have focused on issues such as torture, internment, indefinite detention, and rendition of terror suspects. Other literature has reviewed issues of legal discourse in determining whether civil liberties have been

infringed upon to a dangerous extent. However, these relevant counter-terrorism studies have fallen short of highlighting efficient due process models for combating terrorism to avoid denying terror suspects their due process rights during arrest and detention in Kenya. There is no agreed consensus on a universal definition of terrorism. Different scholars have varied opinions on what constitutes terrorism and terror activities. Moreover, terrorism has moral and political dimensions that capture both domestic and international legal. The United Nations General Assembly resolution 49/60, sought to criminalize certain armed activities considered to be "terrorist" in nature:

Acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them." (Para. 3) (United Nations General Assembly, 1994). Consequently, the United Nations Security Council defined "terrorism" in Resolution 1566 (2004), to enable States to meet their obligations under Security Council Resolution 1373 (2001). Thus, it stated that terrorism is: a criminal act, including against civilians, committed with intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitutes offenses within the scope of and as defined in the international conventions and protocols relating to terrorism, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, and calls upon all States to prevent such acts and, if not prevented, to ensure that such acts are punished by penalties consistent with their grave nature. (Para. 3) (United Nations Security Council, 2004).

Historically, the first case of a terrorist attack in Kenya was in 1981 by the Popular Front for the Liberation of Palestine (PFLP) who bombed the Norfolk Hotel, Nairobi in what was considered retaliation against Kenya for assisting the Israeli government during the 1976 Entebbe crisis in Uganda (New York Times, 1981). However, terrorist attacks subdued for almost two decades before the Al-Qaeda terror organization led by Osama bin Laden in a well-coordinated terrorist attack bombed the United States embassies in Kenya and Tanzania on September 7th, 1998 (Orina, 2016). Since the 1998 United States Embassy bombings in Kenya, the country has faced many more attacks by the Al-Shabaab, a terror group found in the heartland of Somalia. For instance, on November 28, 2002, at Kikambala hotel in Mombasa County, terrorists attacked and killed 13 people at the hotel owned by some Israeli nationals. Consequently, on September 21, 2013, Al-Shabaab associates attacked the Westgate Mall in Nairobi and killed at least 67 people in one of the worst terror attacks in Kenya. Moreover, in another incident, between the 15 -17 June 2014 over 60 were killed in Mpeketoni, Lamu County by Al-Shabaab (Bryden & Bahra, 2019). On April 2, 2015, The Al-Shabaab terror group hit again. This time in an institution of higher learning - Garissa University College and killed more than 150 people. This was the deadliest attack since the August 1998 United States Embassy bombings. A recent attack occurred, on January 5, 2019, at the DusitD2 complex at Riverside in Nairobi. It was reported that over 21 people were killed and several others injured in the attack that was later claimed by the Al-Shabaab (BBC News Africa, 2019). The terror attacks in Kenya have happened as late as 2019 at DusitD2 complex, Riverside in Nairobi, Kenya begging the question on the effectiveness of counter-terrorism specific laws passed in 2012 and 2014. The continued attacks even with counter-terror laws in place casts a doubt on the counter-terrorism laws especially on the issue of due process when dealing with terror suspects (Bryden & Bahra, 2019).

During times of crisis, the state balances the scale of national security against those of individual liberties. National security always outweighs fundamental rights and liberties when it comes to threats such as terrorism. Nations have the absolute obligation and right to protect innocent civilians against those seeking to harm them. However, the implementation of counterterrorism measures must be mitigated by due process. The essence of the constitution is granting and protecting the civil and political rights of suspects and victims across the board. Failure to provide due process to individuals suspected of involvement in terrorism leads society down a slippery slope from which there is no return. The anti-terrorism measures in Kenya have without a doubt been marred with challenges and criticism. The government has resulted in using heavy-handed measures in their counterterrorism efforts. Thus, rights groups, both national and international have accused the government of Kenya of adopting counter-terrorism strategies that violate human rights and constitutional principles. This is because the government's criminal process operates to screen suspects, determine guilt, and secure appropriate dispositions of persons convicted of a crime based on crime control model of criminal justice. Therefore, the proposed study intends to investigate the efficacy of the due process model in countering terrorism in Kenya.

2. Literature Review

2.1 Due Process Model of Criminal Justice

In the 1960s, legal scholar Herbert L. Packer created the due process model of criminal justice to describe exceeding expectations of the criminal justice system (Packer, 1964). The due process model starts with skepticism about the morality and utility of the criminal sanction. This skepticism is based on the liberal values of the primacy of the individual and the complementary concept of limitation on official power and concerns about the intrusive policing required to enforce laws.

Many police cases of abuse could be prevented if the legislature did not insist on criminalizing such activities. The due process model places much less emphasis on efficiency and guilty pleas taken in the court system (Packer, 1968). Furthermore, the due process model is also concerned with equality in the sense that all accused regardless of wealth or social status should receive equal treatment. It is assumed that protecting the due process rights of all accused will protect the rights of the most disadvantaged. Moreover, it imposes numerous restraints on the police to protect the rights of suspects and minimize informal fact-finding in the streets and station houses (Packer, 1968, p.170). For instance, the police should not arrest or detain suspects in order to develop their case. If there is any communication between the police and the suspect, the accused should be carefully informed about the right to be silent and the right to contact counsel. Any statements taken absent a clear and voluntary waiver by the accused of his or her rights should be excluded from a subsequent criminal trial in order to protect the accused from unfair self-incrimination (Packer, 1968, p. 203).

The rationale of exclusion is not that the confession is untrustworthy, but that it is at odds with the postulates of an accusatory system of criminal justice in which it is up to the state to make its case against a defendant without forcing him to co-operate in the process, and without capitalizing on his ignorance of his legal rights. The criminal trials of the factually guilty accused must address violations of their rights because those subject to police abuse will not as be required by the crime control model be able to bring separate civil, disciplinary, or criminal actions against the police and prosecution (Packer, 1968, p.191). Besides, the police and prosecutors are so concerned with short cuts that it is necessary within the trial to penalize, and label as inefficient any violations of the accused's rights. Strong “prophylactic and deterrent exclusionary rules” are necessary because police abuse will never reach the stage of a criminal trial. Notwithstanding, due to the presumption of innocence and the harmful effects of pre-trial detention on the preparation of a defense, an accused should be detained awaiting trial only when absolutely necessary to ensure attendance at trial (Roach, 1999). Also, alternatives to cash bail should be used because “a system that makes pre-trial freedom conditional on financial ability is discriminatory. Neither the prosecutor nor the judge should encourage guilty pleas by offering deals to an accused who pleads guilty. A criminal trial should be viewed not as an undesirable burden but rather as the logical and proper culmination of the process. The criminal trial is concerned not with factual guilt but with whether the prosecutor can establish legal guilt beyond a reasonable doubt because of legally obtained evidence. Only defense lawyers and appointed judges can be relied upon to appreciate the importance of legal guilt (Packer, 1968,p. 122).

Moreover, due to concerns of minor risks of convicting the innocent, the accused should have wide rights of appeal. Appellate courts should reverse convictions whenever trial judges failed to protect the accused's rights. “The reversal of a criminal conviction is a small price to pay for an affirmation of proper values and a deterrent example of what will happen when those values are slighted”. Besides, the legislature sets the tone by criminalizing much conduct under the crime control model making the Supreme Court the most important institution in the due process model because it defines the legal rights and remedies of the accused (Roach, 1999, p.15). Nonetheless, due process in the context of terrorism in criminal proceedings demands that the police should not arrest or detain terror suspects in order to develop their case. If there is any communication between the police and the terror suspect, the accused should be carefully informed about the right to be silent and the right to contact counsel. Any statements taken absent a clear and voluntary waiver by the terror suspect of his or her rights should be excluded from a subsequent criminal trial in order to protect the accused from unfair self-incrimination (Packer, 1968, p. 203).

2.2 Counter-Terrorism in Kenya

On paper, Kenya like any other State has affirmed its commitment to international treaties and conventions that deal with counter-terrorism. Moreover, Kenya has been at the forefront of the African Union counter-terrorism agenda where it plays a key role in security issues in the Horn of Africa. Moreover, Kenya has established its counter-terrorism strategies in the fight against terrorism such as the regeneration of the National Security Intelligence Service (N.S.I.S) to the National Intelligence Service (N.I.S) to provide a clear mandated structure to the organization (Aronson, 2013). Kenya has partnered with the United States through the United States Anti-Terrorism Assistance (A.T.A) to establish the Anti-Terrorism Police Unit (A.T.P.U), a clandestine police unit and established the first overseas Joint Terrorism Task Force – Kenya (JTTF-K) when it partnered with the U.S Department of State and the Federal Bureau of Investigation (FBI) (U.S Embassy Kenya, 2019). However, the government efforts to counter terrorism have resulted in sweeping police powers that have been used to violate human rights abuses and silence government critics. Enacted anti-terrorism laws provide only a vague definition of terrorism, greatly expanding police powers, and allows the state to create lists of suspected terrorists and terrorist organizations without due process (Mazrui, 2018). For instance, in the aftermath of the 2015 al-Shabaab attack on Garissa University College, two civil society organizations MUHURI and HAKI Africa had their bank accounts suspended after they were accused of funding terrorism but the state was unable to prove the allegations in court. In a 2015 report, the Kenya National Commission on Human Rights (KNCHR) documented over 120 cases of egregious human rights violations, including 25 extrajudicial killings and 81 enforced disappearances, since the start of the crackdown against terrorism in 2013 (KNCHR, 2015).

From the onset, anti-terrorism measures have been seen to target individuals from a certain ethnic and religious affiliation.

Thus, the Somali communities who are predominantly Muslims have been targeted by counter-terrorism security agencies whenever a terrorist attack occurs. For instance, between March and May 2014 under the security operation dubbed, Operation Usalama Watch (Amnesty, 2014) members of the Somali community in Eastleigh and its environs were rounded up in the wee hours of the night without arrest warrants, and taken to the Kasarani Sports Stadium Complex, Nairobi where the State had accommodated the suspects. This was done under the disguise of combating terrorism that the government had stated was the basis of the operation. A mixture of refugees and asylum seekers from Somalia were detained on suspicion of terrorist activities and for being sympathizers of Al-Shabaab (ICJ-Kenya & Justice Forum, 2015). Some refugees and asylum seekers were forcefully returned to Somalia and refugee camps experiencing harsh living conditions and violations of human rights for refugees. The government had violated the human rights of foreign individuals under the 1985 Universal Declaration of Human Rights, Refugee Act Section 16 (2006), and Chapter IV, Bill of Rights in the Kenyan Constitution which guarantees the fundamental rights and freedoms of all individuals in Kenya. (ICJ-Kenya & Justice Forum, 2015). Nonetheless, The International Commission of Jurists, Kenyan Chapter wrote a report, *African Charter on Human Rights and People's Rights against Somali Refugee and Asylum Seekers in The Republic of Kenya During "Operation Usalama Watch"* stating that the rights of the Somali foreign national were violated by the Kenyan government. The research report found that the Somali nationals were mistreated in the detention and forcefully deported or taken to camps without consent (ICJ-Kenya & Justice Forum, 2015).

According to Elfversson and Höglund (2019, p.358), Kenya's Anti-Terrorism Police Unit (ATPU) has been abusing human rights and violating international, regional, and domestic laws when combating terrorism. The ATPU has used excessive force when raiding houses of people suspected of terrorism, torturing them, and in the process of mistreating detainees whenever in custody. Moreover, they have been accused of extrajudicial measures such as arbitrary detentions, disappearances of suspects, and the rendering of terror suspects to other jurisdictions where they usually face torture (HRW, 2014). For instance, there have been documented cases on allegations that the ATPU has been executing terror suspects such as the case of Kassim Omollo and Salim Mohammed Nero in Mombasa, Kenya. Moreover, the pattern has shown that the unconstitutional operations have been directed on a particular ethnic and religious group such as the Somali-Muslims in Kenya. Nonetheless, the government of Kenya has repeatedly denied such allegations and any involvement in extrajudicial killings by their counter-terrorism unit (Open Society Justice Initiative, 2013). Consequently, the Open Society Justice Initiative has accused the government of rendition of terror suspects to other countries. The rendition of terror suspects is unconstitutional because they infringe on the Bill of Rights and Citizenship right under the Constitution of Kenya, 2010. For instance, on July 11, 2010 revelers in two locales watching the 2010 World Cup final match were bombed by the militant group Al-Shabaab. After investigations, nine suspects from Kenya were held accountable for the bombings and were captured and rendered to Uganda to face terror charges. This was unlawful as authorities did not follow proper extradition rules of suspects to other countries. Also, the rendition of terror suspects in Kenya has been done to jurisdictions in Somalia and the United States where suspects have faced torture and ill-treatment in detentions (Open Society Justice Initiative, 2012).

The legal frameworks in the application of bail are from Article 49 of the Constitution of Kenya (2010), the Criminal Procedure Code (Cap. 75 of the Laws of Kenya), and the Bail and Bond Policy Guidelines, 2015. Moreover, Article 49(1)(h) of the Constitution of Kenya (2010) gives an arrested person the right to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released. Furthermore, Article 49(2) of the Constitution stipulates that A person shall not be remanded in custody for an offense if the offense is punishable by a fine only or by imprisonment for not more than six months. Pinto (2016) argued that the main issue of terrorism regarding the issuance of bail to terror suspects should be about public safety and not public opinion. The Kenyan government's various new security laws had deprived some of the rights of its citizens in the criminal justice system. However, even though Article 49(h), Constitution of Kenya (2010) has constituted the right to bail of an arrested person, the anti-terrorism laws sought to deny bail to terror suspects because citizens would not feel safe if suspected terrorists were released from custody. Kantai (2017) supported the arguments made by Pinto (2016) where he reiterated that the bond and bail guidelines had failed to clarify matters on bail for suspected terrorists. This compelled the Judiciary to further interpret and define compelling reasons leading to inconsistencies in the manner in which bail is granted. Furthermore, the release of some suspected terrorists on bail by the Courts in Kenya was against the security of the state as some who were released had gone to commit further acts of terrorism.

Omondi (2015) on the *issue of balancing bail and state security in Kenya* stated that there should be a clear understanding of terrorism and terrorism act before an individual is considered a terror suspect. Also, the executive, legislature, and judiciary should play an important role in ensuring that the fundamental rights and freedom enshrined in the Constitution of Kenya are guaranteed to individuals who are suspected of terror activities. Furthermore, there should be a balance in legislation between the right to bail and the state of security in Kenya. Thus, the author argued that the executive and legislature have established and implemented laws that are outside the constitutional framework. Therefore, it is up to the judiciary to ensure that the rule of law and the fundamental rights in the Kenyan constitution 2010 were observed. Notwithstanding, every right of terror suspects is fundamentally enshrined in the Constitution of Kenya (2010). Terror suspects need to be afforded bail hearing and deserve a fair trial because terrorism can be regarded as any other criminal activity. Thus, criminals are protected by the Bill of Rights under the Constitution of Kenya, 2010 (CoK). Legislations by Parliament on issues of related to terrorism should be

consistent with article 2(1) and (4) of the Constitution of Kenya 2010. Meaning, "the constitution is the supreme law of the Republic and binds all persons in all state organs at both levels of government and that any law including customary law that is inconsistent with the CoK is void to the extent of the inconsistency and any act or omission in contravention of this constitution is invalid". Therefore, the SLAA (2014) and the POTA (2012) limited the fundamental freedoms and rights of terror suspects making it unconstitutional (Omondi, 2015).

3. Methodology

3.1 Research Design

This research adopted a qualitative analytical approach to answer the research questions guiding the study. Qualitative research helped in addressing questions concerned with developing an understanding of the meaning due process and constitutionalism in the counter-terrorism strategies. The qualitative research design sought to answer the research questions based on content analysis of qualitative data collected. The qualitative method of research was favorable for this study because the researcher does not know inductively what to expect. This design is beneficial for terrorism and counterterrorism analysis because of its exploratory approach. Nonetheless, the research was guided by a case study approach. The use of case studies helps explore the phenomenon in context by making use of the varied information sources for an in-depth analysis. Consequently, the approach evaluated the outcomes of the use of Kenya's counterterrorism approach and its legal implications if any. Employing a case study design helped give certifiable information in the Kenyan context.

3.2 Study Population and Sample Selection Procedure

The target population for the study was segmented into three major groups. The first category included counter-terrorism experts, police officers, officers from Independent Police Oversight Authority (IPOA), officers from Amnesty International, officers from Law Society of Kenya (LSK) and officers from Kenya National Human Rights Commission (KNHRC). The category of the population are people who are knowledgeable and have relevant experience concerning counter-terrorism strategies and laws. The second category of the population included the residents of Eastleigh North and Eastleigh Southwards of Kamukunji Constituency, Nairobi County. The category dealt with issues concerning the residents of Eastleigh. The third category of the population was specifically residents of Eastleigh North and Eastleigh South of Nairobi County who had either been directly accused of being a terror suspect or witnessed a relative, a friend, or a person close to them accused of being a terror suspect. Concerning the first segment of the population comprising counter-terrorism experts, police officers, officers from Amnesty International, officers from Independent Police Oversight Authority (IPOA), officers from Law Society of Kenya (LSK) and officers from Kenya National Human Rights Commission (KNHRC), the researcher adopted purposive sampling to select participants in the study. In purposive sampling, a researcher has the research objectives to be achieved and the prospective participants have the required information needed to achieve research objectives (Etikan, Musa, & Alkassim, 2016). The researcher purposively picked one (1) representative from Independent Police Oversight Authority (IPOA), three (3) police officers from Kenya Police Service, one (1) representative from Kenya National Human rights commission (KNHRC) and one (1) representative from Amnesty International, and three (3) counter terrorism experts drawn from academia and counter-terrorism department. All the key informants were nine (9) in total. Regarding the second category of the population comprising of residents of Eastleigh North and Eastleigh South wards of Kamukunji Constituency of Nairobi County, the researcher adopted stratified random sampling technique where the total population of 268,276 people living in Kamukunji Sub County were segmented into five wards. Thereafter, two wards, Eastleigh North and Eastleigh South wards were singled out as the target population. The population living in the two wards according to the last census report was 163,462 people (KNBS, 2019). Consequently, the study used simple random sampling to pick respondents to participate in the study. The respondents were adults who were above 18 years of age and possessed any form of Identification documents recognized by the Kenyan government. The sample size was determined by the formulae suggested by Kothari (2012, p.77) to determine the sample size for the residents of Eastleigh North and Eastleigh South wards to participate in the study. Nonetheless, on the third category of the population, snowball sampling was adopted to first identify a few residents who have in the past been directly accused of being a terror suspect or witnessed a relative, a friend, or a person close to them accused of being a terror suspect. The first respondents identified linked the researcher to other would-be respondents possessing the same characteristics. The researcher intended to collect information from at least ten respondents who had been a victim of the court criminal justice system or related to someone who underwent the criminal justice system in a terrorism case.

3.3 Data Collection Technique

The research used key informant interviews to collect information from the key informants comprising of police officers, counterterrorism experts and human rights defenders. An interview guide comprising of open-ended questions was

administered by the researcher. The key informant interview was administered conversationally with questions that do not limit the interviewee and focuses the conversations in the desired path regarding research objectives. This allowed a degree of freedom and adaptability in getting the information from the interviewee. The disadvantage with this is that it is subject to personal moods and interpersonal dynamics (Pallavi, 2002). The data collection instrument was administered to the individual community members from the two wards of Eastleigh Area as a self-administered questionnaire. Semi-structured questionnaires were used to collect quantitative information from residents of Eastleigh North and Eastleigh South Wards of Kamukunji Constituency, Nairobi County. Also, the researcher asked residents of Eastleigh North and Eastleigh South to fill the questionnaires through ward administrators and assistant chiefs. The questionnaires were distributed to the participants through the help of two voluntary research assistants. Thus, all the filled questionnaires were collected back immediately after for further analysis. Besides, the data collection happened during the COVID-19 pandemic limiting direct interaction with people. However, the researcher observed the guidelines outlined by the Ministry of Health (MoH) and wore protective mask, sanitizers and observed social distancing with the respondents and among respondents who filled the questionnaires as advised. The study adopted an in-depth interview schedule to collect qualitative information from residents who have in the past been directly accused of being a terror suspect or witnessed a relative, a friend, or a person close to them accused of being a terror suspect. The researcher intended to collect information from at least ten respondents possessing the above qualities. The respondents were subjected to questions already formulated before the interview (Kombo and Tromp, 2013, p.55). The interview schedule had open-ended questions to record the respondents' views and additional experiences. Nonetheless, the researcher noted the information given by writing down the points during the interview. The researcher also used a voice recorder to capture the deep experiences of the respondents who narrated of the time they were either accused or watched someone close to them accused.

3.4 Data Analysis Methods

The study was based on descriptive statistics and qualitative methods of data analysis. Data collected using questionnaires were first checked for consistency and completeness. Data were then coded and entered into statistical package for social scientists (SPSS) version 23 for further analysis. Data were analyzed using simple descriptive statistics. In the descriptive analysis, frequencies, percentages, the mean and standard deviation will be employed. Consequently, the researcher relied on qualitative methods of data analysis. The interviewer recording was transcribed and organized in the form of major themes. The systematic content analysis method was adopted to analyze the qualitative data collected in the key informant's interview and in-depth interview. The researcher then documented narrative responses at a sufficient level of detail to permit a systematic content analysis of the qualitative data. Narrative reviews of responses provide an in-depth understanding of the respondent's thoughts, experiences and perceptions regarding counter-terrorism measures and the due process model. This further presented in verbatim to help put a human face to the respondents' views and experiences. Content analysis enabled the researcher to draw out themes that are necessary to help answer the research questions. The analyzed data was presented based on major themes around research objectives.

3.5 Ethical Consideration

The study sought and obtained permission to conduct the study from the relevant institutions involved in the area of study. Before embarking on the research, the researcher requested from the University's Institutional Research Board (IRB) a letter for issuance of research permit by the National Commission for Science, Technology and Innovation (NACOSTI). Thus, NACOSTI granted the researcher permission to conduct research in Kenya. Another key ethical issue was in the area of voluntary participation of the respondents. The researcher obtained informed consent from the participants before commencing the study. The respondents were also free to excuse themselves from the study at any stage if they felt threatened by the questions asked. Also, confidentiality of the respondents and use of information collected was considered by the researcher. The study safeguarded the confidentiality of study subjects by concealing their identity. The researcher has not published any information that can directly be identified with individual respondents. Nonetheless, the researcher used code names to refer to respondents in the data collected and the respondents were not required to give identifying information such as names, identification documents, telephone numbers or residential house numbers. Moreover, downloaded literature, pictures and graphs from the internet and the library were for the sole purpose of reviewing the study and not to claim ownership of the material used. Thus, the researcher recognized the sources of information used through properly citing the authors of the works.

In reporting of research findings, the researcher made sure not to omit any important information provided by the respondents nor falsify the participants' information to suit the researcher's opinion or preempted outcome.

4. Results

4.1 Introduction and Demographics

The researcher printed and administered 96 questionnaires to residents of Eastleigh North and Eastleigh South Wards of Kamukunji Constituenc, Nairobi County. Out of the 96 questionnaires administered, 77 questionnaires were filled and returned to the researcher. The return rate was 80.2% and therefore adequate for further analysis as held by Mugenda and Mugenda (2009) who suggested that questionnaires return rate of at least 70% is good enough and representative for analysis. Concerning the key informants' interviews, the researcher was able to collect information from eight (8) informants that included one (1) representative from Independent Police Oversight Authority (IPOA), three (3) police officers from Kenya Police Service, one (1) representative from Kenya National Human Rights Commission (KNHRC), one (1) representatives from Amnesty International, and two (2) counter terrors experts drawn from both the academia and counter-terrorism department. Thus, the response rate of 8(88.8%) of the expected 9(100%) respondents was recorded. Nevertheless, with regards to the in-depth interview, the researcher was able to collect information from ten (10) respondents who have either been a victim of the court criminal justice system or related to someone who underwent the criminal justice system in a terrorism case in Kenya. To begin with, the study sought to establish the demographic information of the respondents who participated in the study. The demographic information included gender, religion, age and education. The distribution of the respondents in terms of gender was based on males and females. Therefore, there were 47 (49.6%) females and 48 (50.4%) males who participated in the study. The females were well marched against the males in the study with the males having a slight majority. Secondly, the demographic of religion was recorded in the study. It was categorized into Christians, Muslims and others. Majority of the respondents were Muslims comprising of 58 (61.0%) respondents, Christians were a distant third comprising of 15(15.7%) of the respondents and lastly, 22(23.3%) of the respondents belonged to other religions and beliefs. Nevertheless, the findings showed that most of the respondents from the Eastleigh North and Eastleigh South Wards were Muslim given that the area is predominantly occupied by Kenyans of Somali descent who are predominantly Muslims. Also, the study examined the age demography of the respondents. The age was categorized into five classes that included: Below 21 years, 21-30 years, 31-40 years, 41-49 years and 50 years and above. The study revealed that 59 (62.1%) of the respondents were aged between 21-40 years. This was followed by those aged between 41- 49 who were 21 (22.1%). However, fifteen (15.7%) were either aged below 21 and above 50 years. Finally, with respect to education, the education was categorized into six classes that included: Primary, Secondary, Tertiary, Undergraduate, Postgraduate and PhD. The study established that majority of the respondents, 66 (69.4%) of the respondents held a secondary, tertiary and degree level of education. This was followed by 18(18.9%) of the respondents who only had secondary or primary education level. Lastly, those that possessed either postgraduate or PhD qualification were 11(11.5%).

4.2 Relationship between Counter-Terrorism Strategies and the Principles of Due Process

The study sought to investigate the counter-terrorism legislation and strategies and their relationship to the principles of due process and crime control in criminal justice. The objective was first examined based on information collected using a questionnaire. The respondents were presented with several statements regarding due process in the handling of terrors cases and were required to rate based on the Likert scale.

Table 1: Perception of the Counterterrorism Strategies Based on Due Process Model

Statements	Mean	Sd
The Kenyan courts are fundamentally fair under the law to the accused	2.4043	.61029
The criminal justice in Kenya gives more focus to the process of determining whether a person is guilty or not than the speed of concluding the case	2.3936	.67550
The criminal justice system in Kenya does not protect the rights of the terror suspects	3.3830	.53090
Police powers are limited to prevent official oppression of the individuals accused of terrorism activities	2.2872	.57962
The police and other criminal justice authorities in Kenya are usually held accountable to rules and procedures to ensure fairness for the accused persons.	2.2660	.69057
The government of Kenya through the courts usually hold a person guilty of terrorism activities solely on the facts	3.0532	.44882
A person accused of terror activities in Kenya is only found guilty after the government has followed legal procedures in its fact-finding.	2.5894	.42741

Firstly, the respondents were asked to rate the statement whether the Kenyan courts are fundamentally fair under the law to accused terrors suspects. The respondents had a contrary opinion with mean responses tending towards disagreement with the statement (M=2.4043). This implies that the Kenyan justice system is not always fair to terror suspects. Also, the study collected information based on in-depth interview of victims affected directly or indirectly by terror cases in Kenya. In the in-depth interview with victims of the criminal justice system in terror cases in Kenya, the respondents were asked what they felt about the whole process when they were accused. The respondents generally tended to hold a deep feeling of disgust about the unfairness by the justice system in Kenya that violated Article 50 of the Constitution of Kenya, 2010 (CoK). They were of the view that the system was never fair to them. One of the respondents stated:

“...I remember around the month of March in 2014, my husband and I were rounded up in the wee hours of the night without any

arrest warrants like animals...they took us to Kasarani Stadium and detained us in some makeshift cage overnight. They told us we Somalis are hiding Al-Shabaab and are supporting them with money to kill Kenyans...we felt so bad knowing how hardworking we are and have never participated in any terror activities..."

In addition, the statement that criminal justice system in Kenya gives more focus to the process of determining whether a person is guilty or not than the speed of concluding the case was also not supported by most respondents as depicted by mean responses tending towards disagreement ($M= 2.3936$). This implies that the criminal justice system in Kenya regarding terrorism cases are more focused on concluding cases rather than the process of determining whether a person is guilty or not. Respondents were narrowly divided on the statement whether the criminal justice system in Kenya protects the rights of the terror suspects given by mean responses tending towards neutral ($M=3.3830$). This implies that sometimes the court system is fair but in certain cases, they may be unfair. The respondents were asked whether the police got access to their phone and computer and if yes, did they seek permission from the courts to access their phone and computers in their conversations. Most of the respondents stated that during their arrest, the police took their mobile phones and other communication gadgets. However, the police never waited to seek permission from the court before assessing their phones and other communications gadgets. The police even got into the content of the messages in their phones without any permission from the courts. Thus, it violated Article 50(4) of the CoK, 2010 if any evidence obtained from the devices were obtained illegally deeming any trial unfair and detrimental to the administration of justice.

On the contrary, the representatives from the Kenya Police service (KPS) and other counterterrorism institutions were of the general opinion that criminal justice system in Kenya observes the due process and that the rights of the accused are always protected unless public security is at a stake. The officers were of the general view that they mostly follow the due process of the law while handling terrorism cases. Nonetheless, they confessed that sometimes they are forced to deny respondents their rights to privacy by seizing their communication gadgets to prevent the suspect from interfering with evidence collection and even assisting other suspects from evading arrest. One of the officers interviewed from the Kenya Police Service stated:

"We as Kenya police are law abiding members of the society; we follow due process before arresting and presenting any person in court. On the issue on whether we have excess powers to arrest suspects, I can tell you we deserve to have those powers. Tell me, what should a police officer who gets information that some people somewhere are planning to cause terror in the middle of the night do when the courts are closed at night? If we fail to arrest them because we do not have a warrant of arrest and then they go and kill hundreds of Kenyans, who is to be blamed?"

Most of the respondents were in disagreement with the statement that police powers are limited to prevent official oppression of the individuals accused of terrorism activities as depicted by mean response nearing disagreement ($M= 2.2872$). The respondents were also asked whether they considered the police to be justified in arresting them or the person who was close to them. Most of the respondents had a feeling that the arrests were not justifiable. The respondents believed that most of the arrests were not based on any warrant or facts about them. Furthermore, they said that arrests were not carried out humanely. Victims of such arrests talked of experiences of being arrested at night while asleep without cause or even an arrest warrant presented to them on why they are being arrested. Moreover, they were later made aware of cases against them in the courts after the arrest was done. One respondent whose husband was arrested and taken to court stated that:

"Thinking about how they arrested my husband still gives me fear to date. The police came in our house armed with guns as if we were thugs. They banged the door and before we could even open, the door was broken into with a very loud bang from a heavy metal they had in their hands. My husband who attempted to ask who they were and why they are breaking into his house was slapped and carried down to a waiting unidentified vehicle. They then told me to close the door as they left...My husband came to learn of the reason for his arrest for the first time when he was being presented to court. They later released him when there was no evidence linking him to terrorism act..."

The study also asked respondents to rate the statement whether the police and other criminal justice authorities in Kenya are usually held accountable to rules and procedures that ensure fairness for the accused persons. The respondents tended to disagree with the statement as depicted by mean responses leaning to disagreement ($M= 2.2660$). Also, the respondents were asked whether they or the person arrested was produced in court within 24 hours and if not, was there any reason given for continued detention. Moreover, they were asked if the police gave them a copy of court order authorizing their continued detention. Thus, most of the respondents said that even though they were presented in court within 24 hours as stipulated in Article 49(1) of Constitution of Kenya, 2010 (CoK), they continued to be detained without justifiable reasons thus violating Article 49(1)(g) of the CoK, 2010. The respondents felt that their continued detention was aimed at planting evidence on them using non-legal methods to collect incriminating evidence against them. Precisely, one of the respondents stated:

"... When they arrested as on March 2014, they never presented us to court within 24 hours as they took advantage of the weekend to detain us up to the following Monday. When they finally presented us to the courts...Believe you me, they asked for more days

to continue detaining us as they collect more evidence...what more time did they need to collect more evidence, when they had rounded us like animals and kept us for a whole weekend in cages? Finally, we were later released when the evidence they were looking for was not convincing to the court. I thank Allah for saving us that day..."

Key informants' especially human rights defenders believed that the police and other investigating agencies take advantage of the stated provision to confiscate properties such as communication gadgets of the accused person to simulate an urgency and impracticability of getting to court to seek for application. Also, the police sometimes even after seizing communication gadgets belonging to accused person did not make any necessary application within seventy hours as stipulated in the Prevention of Terrorism Act, 2012. The respondents were divided on whether the government of Kenya through the courts usually hold a person guilty of terrorism activities solely on the facts as evidenced by mean response tending towards neutral of (M=3.0532). These findings imply that sometimes the accused persons are charged purely based on facts but sometimes the court system tends to be swayed by other factors which may never be facts. Finally, the statement that a person accused of terror activities in Kenya is only found guilty after the government has followed legal procedures in its fact-finding was disapproved by most respondents given that mean responses were tending towards disagreement of (M=2.5894). Also, the researcher collected information from key informant who participated in the study. The respondents from the academia and rights groups like KNHRC and Amnesty had a general view that the criminal justice system in Kenya regarding terror cases did not following the due process of the law. The representative from KNHRC stated that:

"...I am privy to a number of cases regarding terrorism allegations and court proceedings and I can tell you for a fact that most of the cases never follow due process. We have so many suspects languishing in detention and cells in Kenya on mere allegations of being sympathizers to al-Shabaab. I know of a case where my client who was arrested in a criminal case was being forced to accept that he had been communicating with Al-Shabaab leadership. Such evidence collected through coercion is illegal and is not in accordance with the due process as enshrined in the Constitution of Kenya..."

5. Discussion

Generally, the study concludes that arresting officers and the criminal justice system officials as a whole mostly do not follow the due process of the law in cases concerning terrorism or terror suspects. The findings from the respondents recruited from residents of both Eastleigh wards in Nairobi County and key informant interviews from human rights groups clearly showed that the problem of not following due process is mostly with the arresting officers and not much with the law itself. Besides, they were of the opinion that the arresting officers sometimes failed to follow the due process of law that were fundamental to rights and freedoms of the accused persons. Thus, it violated various Sections of Chapter Four (Bill of Rights) in the Constitution of Kenya, 2010. However, the respondents interviewed from the criminal justice system specifically the police officers were of the opinion that out of necessity for the safety of the majority of Kenyan in terms of national security, an individual's rights may be compromised in specific cases. Nonetheless, due to the finding being underpinned by the theoretical framework of due process model of criminal justice system; most of the counter-terrorism strategies in Kenya do not follow the demands of due process model in criminal cases of terrorism in nature. "Besides, the due process model holds that protecting the rights of all accused will protect the rights of the most disadvantaged. The due process model imposes numerous restraints on the police to protect the rights of suspects and minimize informal fact-finding in the streets and station houses (Packer, 1968). Notwithstanding, in terrorism criminal proceeding, the police should not arrest or detain a terror suspect in order to develop their case. This violates Article 49(1) of the CoK, 2010 that protects the rights of an arrested person. Also, if there is any communication between the police and the terror suspect, the accused should be carefully informed about the right to be silent and the right to contact counsel as stipulated in both Article 49(b)(c) & 50(g) of the Constitution of Kenya, 2010. Any statements taken absent a clear and voluntary waiver by the accused of his or her rights should be excluded from a subsequent criminal trial to protect the accused from unfair self-incrimination (Packer, 1968).

6. Conclusions

The study also sought to investigate the counter-terrorism legislation and strategies and their relationship to the principles of due process and crime control in criminal justice. The study established that the Kenyan courts are sometimes fundamentally unfair under the law to accused terror suspects. The respondents were of the view that the criminal justice system in Kenya is less focused on the process of determining whether a person is guilty and more focused on the speed of concluding criminal cases. Also, the study revealed that police powers in the arrest and detention of terror suspects were sweeping as prescribed in the POTA, 2012 and the SLAA, 2014. Moreover, the arresting authorities in Kenya are rarely held accountable to rules and procedures to ensure fairness for the accused persons. Furthermore, the study also showed that the government of Kenya sometimes held person accused of terrorism activities not on facts but through obtaining of evidence using coercion and undue pressure. Moreover, there were cases where police officers were forced to balance between the due process of the law in cases

of emergency and with the purpose to protect lives and property. Thus, the study concluded that arresting officers and the criminal justice system officials do not always follow the due process in cases concerning terror suspects. Furthermore, the findings from the respondents recruited from residents of Eastleigh wards in Nairobi County and Key interview informants from the human rights groups clearly showed that the violation of due process was done by arresting officers and not so much with the law itself. However, the respondents recruited from the criminal justice system such as Kenya police thought that sometimes for the good of the majority of Kenyans in regards to national security, an individual's rights may be limited in the enforcement of counter-terrorism measures. The study suggests that a balance must be achieved between civil liberties and national security. Counterterrorism measures implemented by the government will always have a negative or positive effect on human rights and fundamental freedoms of its people. The balance may be hard to achieve but with political will and efficient mechanisms in place to check and countercheck security and other government agencies, it is expected that civil liberty concerns can be reduced.

Conflicts of Interest

“The authors declare no conflicts of interest.”

References

- [1] Amnesty, I (2014), Kenya: Somalis scapegoated in counter-terror crackdown, Nairobi: Amnesty International.
- [2] Aronson, S. L. (2013). Kenya and the global war on terror: Neglecting history and geopolitics in approaches to counterterrorism. *African Journal of Criminology and Justice Studies: AJCJS*, 7(1/2), 24.
- [3] Arsenault, E. G. (2017). US Detention Policy Towards ISIS: Between a Rock and a Hard Place. *Survival*, 59(4), 109-134.
- [4] Bannon, A. L. Designing a Constitution-Drafting Process: Lessons from Kenya' (2007). *Yale Law Journal*, 116 (8) 1824-1872.
- [5] BBC News (2019). Kenya terror attack: What happened during the Nairobi hotel siege? Retrieved from <https://www.bbc.com/news/av/world-africa-47202313>.
- [6] Billias, G. A. (2009). *American constitutionalism heard round the world, 1776-1989: a global perspective*. New York: NYU Press.
- [7] Bryden, M., & Bahra, P. (2019). East Africa's terrorist triple helix: The Dusit Hotel attack and the historical evolution of the jihadi threat. *CTC Sentinel*, 12(6), 2-11.
- [8] Center, C. T. (2018). *Boko Haram beyond the headlines: Analyses of Africa's enduring insurgency*. United States Military Academy, Department of Defense.
- [9] Duff, P. (1998). Crime control, due process and 'the case for the prosecution' a problem of terminology?. *the british journal of criminology*, 38(4), 611-615.
- [10] EGYPT: Counter-Terrorism in Sinai 2020, *Africa Research Bulletin: Political, Social & Cultural Series*, 57(5), 22-729.
- [11] Etikan, I., Musa, S. A., & Alkassim, R. S. (2016). Comparison of convenience sampling and purposive sampling. *American journal of theoretical and applied statistics*, 5(1), 1-4.
- [12] Galston, W. A. (2017). *Anti-pluralism: The populist threat to liberal democracy*. London: Yale University Press.
- [13] Ghai, Y (2016) 'Ali Mazrui and Constitutionalism', in SALIM S (Author) & Adem S, Adibe J, Bangura A & Bemath A (Eds.), *A Giant Tree has Fallen*, Grant Park, South Africa, African Perspectives Publishing, pp.284-286. Available from Jstor Online [28 May 2020].
- [14] Greenberg, K. J. (2006). *Introduction: The rule of law finds its golem: Judicial torture then and now. The torture debate in America*. Cambridge: Cambridge University Press.
- [15] Henkin, L (1989). The Constitution for Its Third Century: Foreign Affairs, *The American Journal of International Law*, 83 (4), 713-717.
- [16] Honigsberg, P. J. (2009). *Our Nation Unhinged: the human consequences of the War on Terror*. California: University of California Press.
- [17] Horton, S. (2005). Through a Mirror, Darkly: Applying the Geneva Conventions to "A New Kind of Warfare", in K. Greenberg (Ed.), *The Torture Debate in America* Cambridge, Cambridge University Press.
- [18] Human Rights Watch (2014), Kenya: Killings, Disappearances by Anti-Terror Police. Available at: Human Rights Watch Organization Online [20 May 2020].
- [19] Human Rights Watch (2018). Egypt: Intensifying Crackdown under Counterterrorism Guise. Available from: Human Rights Watch Organization Online [20 June 2020].
- [20] Huntington, S. P. (2000). The clash of civilizations?. In *Culture and politics*. Palgrave Macmillan, New York. Retrieved from <http://polazzo.com/clash.pdf>
- [21] ICJ-Kenya & Justice Forum 4 September 2015, 'Shadow Report On Violations Under The African Charter On Human And Peoples' Rights Against Somali Refugees And Asylum Seekers In The Republic Of Kenya During "Operation Usalama Watch"', Submitted in response to The Combined 8th Periodic Report (2008-2014) of the Government of Kenya presented at The 57th Ordinary Session of the Commission. Available from: <https://www.refworld.org/pdfid/565da2fba.pdf>. [15 February 2020].
- [22] Kamau, W. C. (2006). Kenya & the war on terrorism. *Review of African political economy*, 33(107) 133-141
- [23] Kantai, N. S. (2017). *Rights of suspected terrorists: assessing the constitutional right of suspected terrorists to bail in Kenya against public interest* (Unpublished Doctoral dissertation) Strathmore University.
- [24] Kanyinga, K., & Long, J. D. (2012). The political economy of reforms in Kenya: the post-2007 election violence and a new constitution. *African Studies Review*, 55(1) 31-51.
- [25] Kenya Law 2010, Constitution of Kenya, 2010. Available from: <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=Const2010>

- [11 February 2020].
- [26] Kenya National Commission on Human Rights 2015, *The Error of Fighting Terror with Terror*. Available from: KNHCR Online [2 June 2020].
- [27] Knoechelmann, M. (2014). *Why the Nigerian Counter-Terrorism policy toward Boko Haram has failed: A cause and effect relationship*. International Institute for Counter-Terrorism (ICT).
- [28] Londras, F (2011). *Panic, fear, and counter-terrorist law-making, in Detention in the 'War on Terror': Can Human Rights Fight Back?*, Cambridge, Cambridge University Press.
- [29] Mazrui, A., Njogu, K., & Paul, G. (2018). *Countering Violent Extremism in Kenya: Between the rule of Law and the quest for Security*. Twaweza Communications Ltd.
- [30] Lumumba, P. L. O., & Ambani, J. O. (2011). *The constitution of Kenya: Contemporary readings*. Nairobi: African Books Collective.
- [31] Monshipouri, M. (2012). *Terrorism, Security, and Human Rights: Harnessing the Rule of Law*. Boulder, CO: Lynne Rienner Publishers.
- [32] Murphy, S. D. (2002). *US Nationals Detained as Unlawful Combatants*. *American Journal of International Law*, 96(4), 981-983.
- [33] Murray, M. J. (2011). *Extraordinary Rendition and US Counterterrorism Policy*. *Journal of Strategic Security*, 4(3), 15-28.
- [34] Neuborne, B. Priest, D., Lewis, A., Dratel, J., Mori, M. & Gillers, S, (2005). *Torture: The Road to Abu Ghraib and Beyond*, in K. Greenberg (Ed.), *The Torture Debate in America*, Cambridge, Cambridge University Press.
- [35] *New York Times* 1981, 'Death Toll Rises to 16 in Nairobi Hotel Explosion', *New York Times* 2 January. Retrieved from <http://www.nytimes.com/1981/01/02/world/around-the-world-death-toll-rises-to-16-in-nairobi-hotel-explosion.html>.
- [36] Nollkaemper, A. (2015). *Complicity in International Law: Some Lessons from the US Rendition Program*. *Am. Soc'y Int'l L. Proc.*, 109, 177-181
- [37] Omondi, S. (2015). *Balancing the constitutional right to bail and state security in the context of terrorism threats and attacks in Kenya*. Retrieved from USIU-Africa Library Course Materials Online [19 May 2020].
- [38] Orina, N. (2016). *Fighting Terror Within the Law: Challenges and Prospects of Kenya's Counter-Terrorism Measures*. *Leading Legal Issues in Sub-Saharan Africa*, Maulana Ayoub Ali (Ed.). Available from: ResearchGate [11 March 2020].
- [39] Packer, H. (1964). *Two models of the Criminal Process*, *University of Pennsylvania Law Review*, 113(1),23-34.
- [40] Pallavi, D.A. (2002). *Interview as a method for qualitative research*. Available from: Arizona State University Library Course Materials Online [18 June 2020].
- [41] Pinto, L. M. (2016). *Towards a limitation of judicial discretion on bail in Kenya: A focus on the crime of terrorism..* Available from: USIU-Africa Library Course Materials Online [28 May 2020].
- [42] Sempijja, N. & Nkosi, B. (2019). *National Counter-Terrorism (C-T) Policies and Challenges to Human Rights and Civil Liberties: Case Study of Kenya*, in: Shor E., Hoadley S. (eds.) *International Human Rights and Counter-Terrorism*, International Human Rights, Springer, Singapore.
- [43] Sofaer, A. (2007). *Justice Brennan and Civil Liberty in Times of Crisis*, *California Law Review*, 95(6), 2197-2201.
- [44] Suen, L. J. W., Huang, H. M., & Lee, H. H. (2014). *A comparison of convenience sampling and purposive sampling*. *Hu Li Za Zhi*, 61(3), 105.
- [45] Tinnes, J. (2019), *Bibliography: Boko Haram, Perspectives on Terrorism*, 13(3),31-164. Available from: Jstor Online [13 July 2020].
- [46] UN Security Council (2004). *Security Council resolution 1566 (2004) concerning threats to international peace and security caused by terrorism. S/RES/1566 (2004)*. Available from: <https://www.refworld.org/docid/42c39b6d4.html> [May 25 2020].
- [47] United Nations General Assembly (1994). *Resolution 49/60: Measures to eliminate international terrorism, A/RES/49/60*. Available from: <https://undocs.org/en/A/RES/49/60> [May 12 2020].
- [48] United Nations Security Council (1994). *Resolution 49/60: Measures to eliminate international terrorism, A/RES/49/60*. Retrieved from <https://undocs.org/en/A/RES/49/60> [May 25 2020].
- [49] Yerkes, M. (1969). *The limits of the criminal sanction*, by Herbert L. Packer (1968), *Loyola of Los Angeles Law Review*, 176(2) 1.