Terrorism and Conditions for Human Rights in Counter-terrorism in Sub-Saharan Africa

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ABSTRACT

This doctoral study first explores the nature of terrorism in sub-Saharan Africa and what distinguishes it from terrorism in other regions. Based on an interpretation of the political history of sub-Saharan Africa, and certain aspects of violence in ethnically, politically and religiously motivated conflicts, terrorism in the region manifests in four broad categories or typologies i.e. anti-colonial terrorism, terrorism in national conflicts, terrorism in regional conflicts and jihadi terrorism. While anti-colonial terrorism is no longer manifest, jihadi terrorism presents sub-Saharan Africa with the most complex and serious security challenge in the history of its social and political development. Generally, what makes terrorism in sub-Saharan African distinct is its inward-looking nature, even when it is directed towards distant targets geographically located outside the region. This is evidenced by the fact that no indigenous sub-Saharan Africa terrorist organization has so far ever been associated with a terrorist attack outside the region.

Assuming that human rights violations co-vary with certain macrosocial conditions mutable in the structure of society, the main objective of the study was to establish the conditions or set of conditions necessary and or sufficient to facilitate or impede human rights when governments respond to terrorism in sub-Saharan Africa. In addition, the study also sort to uncover additional factors unique to social and political systems of sub-Saharan Africa, previously not predicted by theory and extant empirical studies but which come to bear on human rights outcomes in counterterrorist policies. Thus, relying on a theoretical model that isolates significant macrosocial

conditions suggested by theory (liberal democratic and constructivist theories) and extant empirical studies, the study employs a research design that combines Comparative Qualitative Analysis – QCA, specifically Crisp Set Comparative Qualitative Analysis (csQCA) and an in depth case study of Mali to test five hypotheses in the form of necessary conditions that facilitate human rights, and uncover additional important factors unique in the structure of African societies.

Based on this analysis, it was established that government preference for human over state security (here measured by more government expenditure on welfare than on military) and poor economic and administrative capacity (here measured by the absence of transparency and accountability coupled with a high level of corruption in the public sector) are necessary conditions that facilitate and impede human rights respectively in counterterrorist policies in sub-Saharan Africa. In addition, it has been established that ancient African social norms, cultural practices and traditions that promote justice and human rights passed down the generations through socialization play an important role in facilitating human rights in counterterrorist policies in sub-Saharan Africa.

The findings in this study have important ramifications for theorising the relationship between counterterrorism and human rights in sub-Saharan Africa and for the design and implementation of counterterrorist policies in the region.

ABSTRAKT

Die vorliegende Dissertation untersucht zuerst die Art des Terrorismus in Subsahara-Afrika und was ihn von Terrorismus in anderen Regionen unterscheidet. Basierend auf einer Interpretation der politischen Geschichte Subsahara-Afrikas und gewissen Gewaltaspekten in ethnisch, politisch und religiös motivierten Konflikten, lässt sich Terrorismus in der Region in vier breiten Kategorien oder Typologen unterscheiden: anti-kolonial motivierter Terrorismus, Terrorismus in nationalen Konflikten, Terrorismus in regionalen Konflikten und Jihad-Terrorismus. Zwar spielt anti-kolonial motivierter Terrorismus keine Rolle mehr, aber Jihad-Terrorismus stellt das komplexeste und ernsthafteste Sicherheitsproblem in der Geschichte Subsahara-Afrikas sozialer und politischer Entwicklung dar. Was Terrorismus in Subsahara-Afrika kennzeichnet, ist dass er nach innen gerichtet ist, selbst wenn er geographisch entfernte Gegner außerhalb der Region treffen soll. Dies wird dadurch veranschaulicht, dass bisher keine indigene Subsahara-Afrikanische Terrororganisation mi einem Terroranschlag außerhalb der Region in Verbindung gebracht wurde.

Davon ausgehend, dass Menschenrechtsverletzungen mit bestimmten makrosozialen Bedingungen zusammenhängen, die je nach Gesellschaftsstruktur variieren können, ist das Ziel der vorliegenden Studie, die notwendigen bzw. hinreichenden Bedingungen zu abzugrenzen, die Menschenrechte wahren bzw. einschränken, wenn Regierungen auf Terrorismus in Subsahara-Afrika reagieren. Zudem versucht die vorliegende Studie, zusätzliche Faktoren zu identifizieren, die Alleinstellungsmerkmale sozialer und

politischer Systeme in Subsahara-Afrika sind, die durch entsprechende Theorien und empirische Studien bisher noch nicht vorhergesagt werden, aber beeinflussen, welchen Effekt Anti-Terror-Strategien in der Region auf die Menschenrechtssituation haben. Die Studie baut auf einem theoretischen Modell auf, das maßgebliche makrosoziale Bedingungen isoliert, die aus (liberal-demokratischen und konstruktivistischen) Theorien und bestehenden empirischen Studien abgeleitet werden. Methodisch wird eine Comparative Qualitative Analysis (QCA), genauer gesagt eine Crisp Set Comparative Analysis (csQCA), mit einer detaillierten Fallstudie zu Mali kombiniert.

Auf diese Weise werden fünf Hypothesen zu den notwendigen Bedingungen getestet, die die Wahrung von Menschenrechten sicherstellen, und zusätzliche wichtige Faktoren identifiziert, die für die Struktur Afrikanischer Gesellschaften einzigartig sind.

Auf Grundlage dieser Analyse wird festgestellt, dass notwendige Bedingungen, die die Wahrung der Menschenrechte bei Anti-Terror-Strategien in Subsahara-Afrika erleichtern bzw. erschweren, einerseits die Priorität der Regierung auf dem Schutz der Bevölkerung statt Schutz des Staates ist (gemessen als höhere Staatsausgaben für den Sozialstaat als für das Militär) sowie eine schwache ökonomische und administrative Kompetenz (gemessen als ein Mangel an Transparenz und Verantwortlichkeit, verbunden mit hoher Korruption im öffentlichen Sektor). Außerdem konnte festgestellt werden, dass historische Afrikanische Sozialnormen, kulturelle Praxis und Traditionen, die Gerechtigkeit und Menschenrechte vermitteln und von Generation zu Generation in der Gesellschaft weitergereicht

werden, eine wichtige Rolle spielen, um im Rahmen von Anti-Terror-Strategien in Subsahara-Afrika Menschenrechte zu schützen.

Die Ergebnisse dieser Studie haben auch bedeutsame Konsequenzen einerseits für die Theorie des Zusammenhangs zwischen Anti-Terror-Maßnahmen und Menschenrechten in Subsahara-Afrika und andererseits für die Entwicklung und Implementierung von Anti-Terror-Strategien in der Region.

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colleague, my academic sojourn to Erfurt was rightfully the pinnacle of my academic and professional growth.

Lastly, I wish to express my deepest and warmest gratitude to my family for enduring long periods of my absence but still found courage to push me to soldier on. Without this valuable and unwavering moral support, I would have easily crumbled when things got tough.

DEDICATION

'To my brother, Charles Wakhu.

For paying with his life the ultimate price of fighting terrorism.'

DECLARATION

"I hereby affirm that the work I have submitted was done independently and without unauthorized assistance from third parties. All parts which I took word-for-word or nearly word-for-word from any sort of publication are recognizable as such. I did not use any means or resources other than the literature I have quoted, and all my own works which I have used (including previous publications and other theses) have been properly cited.

Other people were not involved in the intellectual preparation and production of the work at hand. Specifically, I did not receive help from a doctoral supervisor. No one has received any direct (monetary) or indirect compensation for their assistance in connection with this doctoral dissertation.

I have not submitted any edition of this dissertation in its current or a similar form to a doctoral examination committee or for any other examination procedures in or outside of Germany."

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ABBREVIATIONS AND ACRONYMS

ACHPR	African Commission on Human and Peoples' Rights
ACSRT	African Centre for the Study and Research on Terrorism
ADF	Allied Democratic Forces
AfCFTA	African Continental Free Trade Area
AFISMA	African-led International Support Mission in Mali
AFRIPOL	African Police Organisation
AMIS	African Union Mission in Sudan
AMISOM	African Union Mission to Somalia
ANC	African National Congress
APRM	African Peer Review Mechanism
APSA	African Peace and Security Architecture
AQIM	Al Qaeda in the Land of the Islamic Maghreb
ARMSA	Association of Regional Magistrates in Southern Africa
ASF	African Standby Force
ATPU	Anti-Terrorism Police Unit
ATT	Amadou Toumani Touré
AU	African Union
BBC	British Broadcasting Corporation
BVG	Bureau du Vérificateur Général
CAEMC	Central African Economic and Monetary Community
CEMOC	Common Operational Joint Chiefs of Staff Committee
CENTIF	Cellule Nationale de Traitement des Informations Financières
CEWS	Continental Early Warning System
CITCO	Center for Terrorism and Organizational Crime
CJ	Criminal Justice
CJS	Criminal Justice System
CNDH	Nationale des Droits De L'homme du Mali
COIN	Counter-Insurgency
COMESA	Common Market for Eastern and Southern Africa
CPI	Corruption Perception Index
CPIA	Transparency, Accountability, And Corruption in the Public-Sector
CSIS	Center for Strategic & International Studies

csQCA	Crisp-Set Qualitative Comparative Analysis
DAAD	Deutscher Akademischer Austauschdienst in English German Academic Exchange Service
DDR	Demobilisation, Demilitarisation and Reintegration
DRC	Democratic Republic of the Congo
EAC	East African Community
ECCAS	Economic Community of Central African states
ECOWAS	Economic Community of West African states
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
EU	Europe European Union
EUTM	EU Military Training Mission in Mali
FACI	Armed Forces of Côte d'Ivoire
FAMA	Forces Armées et de Sécurité du Mali
FNLA	Frente de Nacional de Liberataçao de Angola
FORSAT	Forces Spéciales Anti-Terroristes
FRELIMO	Fronte de Liberatacão de Moçambique
FSI	Fragile States Index
GCLD	Global Counterterrorist Legislation Database
GDP	Gross Domestic Product
GIA	Armed Islamic Group
GSPC	Salafist for Preaching and Combat group
GTD	Global Terrorism Database
GWT	Global War on Terror
IAEA	International Atomic Energy Agency
IBK	Ibrahim Boubacar Keita
ICAO	International Civil Aviation Organization
ICC	International Criminal Court
ICU	Islamic Courts Union
IGAD/ICPAT	Intergovernmental Authority on Development/Capacity-Building Programme against Terrorism
IIAG	Ibrahim Index of African Governance
IMF	International Monetary Fund
IMO	International Maritime Organization
INTERPOL	International Criminal Police Organization
ISIS/L	Islamic state of Iraq and Syria/the Levant
ISISSKTU	Islamic state in Somalia, Kenya, Tanzania, and Uganda
ISS	Islamic state in Somalia
JNIM	Jamaat Nusrat al-Islam Wa al-Muslimin
JSC	Judicial Service Commission
JTF	Joint Military Task Force

KDF	Kenya Defence Forces
LRA	Lord Resistance Army
LURD	Liberians United for Reconciliation and Democracy
MENA	Middle-East and North Africa
MINUSMA	United Nations Multidimensional Integrated Stabilisation Mission in Mali
MNLA	Movement for the Liberation of Azawad
MONUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of the Congo
MPLA	Movimento Popular de Liberataçao de Angola
MSSD	Most Similar Systems Design
MUJWA	Movement for Unity and Jihad in West Africa
NEPAD	New Partnership for Africa's Development
NGO	Non-Governmental Organisation
NIF	National Islamic Front
OAU	Organisation of African Unity
OCLEI	l'Office Central de Lutte Contre L'enrichissement Illicite
P/CVE	Preventing or Countering Violent Extremism
PFLP	Popular Front for the Liberation of Palestine
PIACC	Portido Africano da Independencia da Guinie´ e Carbo Verde
PSC	Peace and Security Council
PTS	Political Terror Scale
QCA	Qualitative Comparative Analysis
RENAMO	Mozambican National Resistance
RoL	Rule of Law
SADC	Southern African Development Community
SIPRI	Stockholm International Peace Research Institute
SNA	Somalia National Army
SPLM/A	Sudan People's Liberation Movement/Army
SSS	State Security Service
SWANU	South West Africa National Union
TI	Transparency International
TSCTP	Trans-Saharan Counterterrorism Partnership
U.S.	United states
U.S. AFRICOM	United states of Africa Command
UCDP	Uppsala Conflict Data Program
UN	United Nations
UNDESA	United Nations Economic and Social Affairs
UNDP	United Nations Development Programme

UNESCO	United Nations Educational, Cultural & Scientific Organization
UNITA	National Union for the Total Independence of Angola
UNMIS	United Nations Mission in Sudan
UNMISS	United Nations Mission in South Sudan
UNODC	United Nations Office for Drugs and Crime
UNTOC	United Nations Convention Against Transnational Organized Crime
WAEMU	West African Economic and Monetary Union
WISPI	Internal Security and Police Index
WMD	Weapons of Mass Destruction
ZANU–PF	Zimbabwe African National Union – Patriotic Front

1. INTRODUCTION

1.1. Background

Sub-Saharan Africa is geographically and ethno-culturally the area of the continent of Africa that lies south of the Sahara Desert covering 22,431,000 square kilometres[1]. In some instances, countries that make up the region vary according to different researchers and organisations. For example, the United Nations Department of Economic and Social Affairs (UN-DESA) lists 50 countries including Mayotte and Réunion but excludes Sudan[2]. The World Bank and the African Union list 48 countries including Sudan but exclude Mayotte and Réunion[3,4]. However, while the World Bank includes Mauritania and excludes Djibouti, the African Union includes Djibouti and excludes Mauritania.

The total population of the region according to the United Nations (UN) is approximately 1.2 billion people (about 60 percent below the age of 25 years) and projected to grow at an annual average rate of about 2.7 percent[5]. The World Bank (WB) estimates that the gross domestic product (GDP) of the region is approximately 1.75 trillion U.S. dollars and projected to grow at an annual average rate of about 2.3 percent[6].

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[1] https://en.wikipedia.org/wiki/Sub-Saharan_Africa#cite_note-2 . Accessed 30 May 2020.

[2] https://unstats.un.org/sdgs/indicators/regional-groups/ . Accessed 31 May 2020.

[3] https://datacatalog.worldbank.org/ . Accessed 31 May 2020.

[4] https://au.int/en/member_states/countryprofiles2 . Accessed 31 May 2020.

[5] UN Statitics Division (2020). Accessed at http://data.un.org/en/reg/g202.html on 31/05/2020

[6] https://databank.worldbank.org/reports.aspx?source=2&series=NY.GDP.PCAP.PP.CD&country=#

Other than Ethiopia which was never colonised, nearly two thirds of countries in the region attained independence in the 1960s. By early 1980s, all countries had attained independence except for Namibia, Eritrea and South Africa which became independent in the 1990s and South Sudan which separated from Sudan in 2011. The social and political development of most countries in the region since independence has been punctuated by periods of internal conflicts (e.g. civil wars, coups and counter coups, ethnic violence, violent political protests, insurgencies) stimulated by conditions of state weakness; poor health of political systems and negative developments at the international stage. These conditions include for example, existence of large swathes of ungoverned spaces; inability of governments to effectively maintain a monopoly on violence; corruption and extensive criminalization of law enforcement agencies; poor service delivery; general disregard for the rules of the formal political and economic sectors; lack of social justice; non-participatory political processes; civic lethargy; marginalisation and exclusion; cold war and great power politics, globalisation of war; regional competition among states etc. (Baynham, 1994, p. 41; Botha, 2008a, pp. 35-36; Cilliers, 2003, pp. 98-102; Forest & Giroux, 2011, pp. 7-9; Howard, 2010, pp. 960-982; Kimunguyi, 2011, pp. 3-4; Mair, 2003, p. 3; Omotola, 2008, p. 44; Shinn, 2003; Straus, 2012).

For good measure, many major forms of large-scale organized internal violence are no longer active or significantly deescalated (Hamilton, 2009, p. 43; Straus, 2012). However, this positive development that began in the early 1990s as a consequence of increased traction of

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. Accessed 31 May 2020.

democracy in the region, coincided with the arrival of Osama bin Laden in Sudan in late 19991 who established al Qaeda and used sub-Saharan Africa as a laboratory for the manufacture, testing and launching of contemporary global jihadi terrorism (Bergen, 2002, 2006; Dagne, 2002, pp. 8-16; Glickman, 2003, p. 167; Howard, 2010, p. 964; Lesch, 2002; Lobel, 1999, p. 537; Lyman & Morrison, 2004, p. 78; Makinda, 2007, p. 17; Shinn, 2003; Taylor & Elbushra, 2006). Since then, and specifically after al Qaeda's maiden attacks on U.S. embassies in Kenya and Tanzania in 1998, jihadi terrorism has become the region's most complex and significant security threat.

1.2. State of Art and Knowledge

According to the Global Terrorism Database (GTD)[7], successful incidents of terror attacks in sub-Saharan Africa increased from 227 incidents in 1991 when Osama bin Laden first arrived in the region to 1,338 incidents in 2017. This represents an increase of about 505 percent in terror attacks. Currently, sub-Saharan Africa is dubiously the third busiest terrorism podium in the world. See figure 1.1 below.

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[7] The GTD defines a terrorist attack *'as the intentional, threatened or actual use of illegal force and violence by a non-state actor to attain a political, economic, religious, or social goal through fear, coercion, or intimidation'.*

Figure 1.1 Terrorism by global region (1998 – 2017)

Middle East & North Africa
South Asia
Sub-Saharan Africa
Southeast Asia
Eastern Europe
Western Europe
South America
North America
Central Asia
East Asia
Central America & Caribbean
Australasia & Oceania

36%
34%
12%
8%
3%
3%
3%
1%
0%
0%
0%
0%
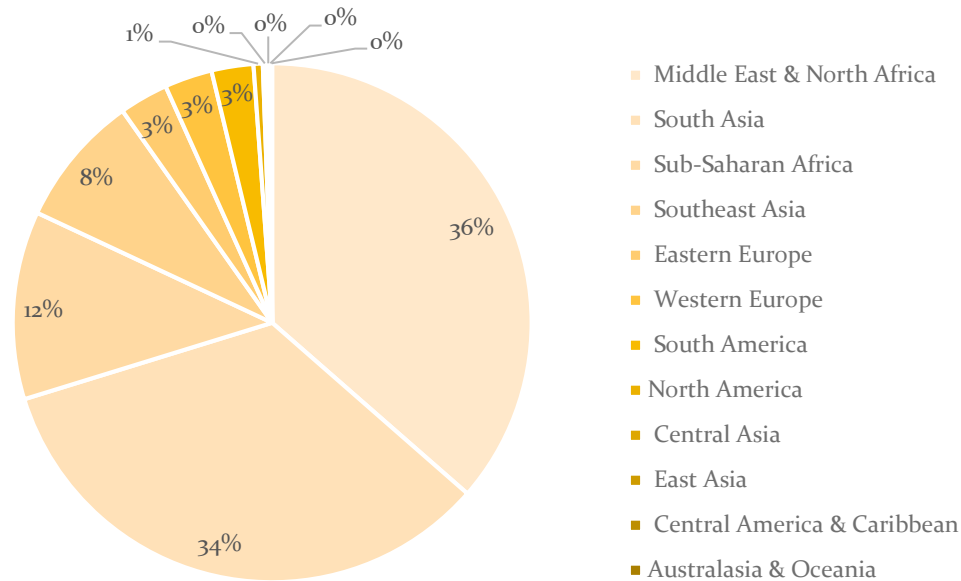
Source: Global Terrorism Database accessed on 26/02/2019 from http://www.start.umd.edu/gtd/

Despite the early signs that emerged in 1998 showing that terrorism in sub-Saharan Africa is a significant threat to global peace and security[8], the region only attracted academic and policy attention after al Qaeda's apocalyptic attack in the U.S. in September of 2001 killing over 3,000 people (Dagne, 2002, p. 6; Dowd & Raleigh, 2013, p. 499; Francis, 2013, p. 10; Glickman, 2003, p. 168; P. Kagwanja, 2006, p. 81; Kingebiel, 2005, pp. 35-36; Mair, 2003; Rapoport, 2001; Strydom, 2019, p. 80). Since then, there has been a diverse growing body of academic literature canvassing different areas of scholarly interest on terrorism, counterterrorism and human rights in the region.

A few scholars have incorporated the history of terrorism in sub-Saharan Africa in general accounts of the origin and evolution of

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[8] When al Qaeda attacked U.S. Embassies in Kenya and Tanzania killing over 250 people and injuring over 3,000 others.

terrorism in the world e.g. Atran (2003); Halliday (2004); Laqueur (1977); Rapoport (2001); Shughart (2006). Others in this category such as Makinda (2007) have been specific and give a systematic account of the history, classification and causes of terrorism in sub-Saharan Africa.

Despite lack of agreement within both academic and policy communities on a universal definition of terrorism, a significant body of academic literature relevant to the understanding of terrorism in sub-Saharan Africa has delved into the debate e.g. (Ruby, 2002); Saul (2005); Weinberg, Pedahzur, and Hirsch-Hoefler (2004). Some scholars in this category have gone as far as prescribing minimum elements for an academic definition of terrorism e.g. Botha (2008b, p. 30); Cilliers (2003, p. 91); Forest and Giroux (2011, p. 1); Ignatieff (2002, p. 1146); Kozera (2018, pp. 11-12); Laqueur (1999, p. 8); Saul (2008, p. 196); A. P. Schmid (2011, 2012); Shanahan (2016); Warbrick (2004, p. 989). A small number of publications have discussed the endless definitional problem from an African perspective e.g. Botha (2008a); Clapham (2003) while others have approached the debate from a human rights perspective e.g. Saul (2008). Generally, there is no shortage of academic literature canvassing the protean and endless problem of defining terrorism. Most publications on terrorism in sub-Saharan Africa include a definition of terrorism in their introductory sections.

Equally, there is a huge repository of scholarly literature on the nature and causes of terrorism in sub-Saharan Africa. Some texts offer a general overview of terrorism and counterterrorism in the region e.g. Botha (2008a); Busher (2014); Dagne (2002); Forest and Giroux (2011);

Glickman (2003); Mair (2003); Welfling (1979) while others such as Alexander (2015); Botha (2008b); Bullejos (2019); Dentice (2018); P. Kagwanja (2006); Kimunguyi (2011); Maïga (2016); Marc, Verjee, and Mogaka (2015); Shinn (2003) take a sub-regional focus. The bulk of the sub-regional literature is on East & Horn of Africa, and the Sahel Sahara & West Africa sub-regions. Understandably, the high concentration of publications focusing on these two sub-regions is because terrorism is more prevalent making in the two them 'the axis of terrorism' in sub-Saharan Africa. A significant body of academic literature interested in the root causes of terrorism in sub-Saharan Africa canvases the problem from the lens of fragility, political terror and state terrorism e.g. Chauzal and van Damme (2015); Dagne (2002); Eck and Hultman (2007); Feldman (2009); Forest and Giroux (2011); Glickman (2003); Howard (2010); Leeson (2007); Sow (2018).

Another thick layer of academic literature focuses on terrorist groups in the region e.g. Ajayi (1990); Barnes and Hassan (2007); Boeke (2016); Filiu (2017); Forest (2011); Laub and Masters (2015); Lebovich (2013); Pantucci and Jesperson (2015); Wise (2011). The most widely discussed terrorist groups are al Shabaab in East & Horn of Africa and Boko Haram and al Qaeda in the Islamic Maghreb (AQIM) in the Sahel Sahara & West Africa. Closely related to this category is a generous catalogue of literature concerned with the origin, nature and proliferation of violent extremism in the region e.g. Bergen (2002); Dowd and Raleigh (2013); Forest (2011); Lesch (2002); McCormack (2005); Menkhaus (2003); Ousman (2004); Taylor and Elbushra (2006); Warner (2017). Linked to the scholarship on terrorist groups is a small community of scholars who interrogate the symbiotic relationship between terrorism and organised crime e.g. Boeke (2016);

Briscoe (2014); Edwards and Gill (2002); Finckenauer (2005); Hübschle (2011); Miraglia, Ochoa, and Briscoe (2012); Onuoha and Ezirim (2013).

Generally, how terrorism starts and persists in sub-Saharan Africa has received much academic attention than how it ends i.e. counterterrorism. See also Boeke (2014, p. 1). For example, even the recently published *"Routledge Handbook of Terrorism and Counterterrorism"* edited by Andrew and Silke (2018) features no single case from Africa, let alone sub-Saharan Africa. Nevertheless, some of the areas covered by academic publications on counterterrorism in the region can be highlighted. While some scholars have focused on regional counterterrorism initiatives with an emphasis on African Union led interventions e.g. Ewi and Aning (2006); Ford (2011); A. Keith (2007), others such as Anderson and McKnight (2015); Dersso (2009); Ellis (2004); P. Kagwanja (2006); Keita (1998); Khamala (2019); Kimunguyi (2011); Workneh (2019) have pursued a country or sub-regional focus. Others such as Chau (2008); Coolsaet (2010); Francis (2013); Karlsrud (2017); Lyammouri (2018); Piombo (2007); Rupesinghe et al. (2019); Stigall (2015) have focused on UN and foreign interventions, ostensibly those led by the United States, France and the European Union. A small body of literature approaches counterterrorism in sub-Saharan Africa from a broad overview e.g. Omotola (2008). Others e.g. Cigar (2014); Kozera (2018) examine the pros, cons and complexities of counterinsurgency (COIN) as a counterterrorism strategy, especially as it relates to the use of non-state armed actors.

In general, research on terrorism, counterterrorism and human rights in sub-Saharan Africa is plagued by lack of valid and reliable data. In

many countries, information and data on security agencies and counterterrorism is shrouded in secrecy and often protected by legislation (Gupta, De Mello, & Sharan, 2001, pp. 752-753; Pyman, 2017, p. 513; Sidibe, 2018, p. 47; Sigsworth, 2019, pp. 3, 7; Thuo, 2009, pp. 155-156). This problem is well illustrated by Shor (2011, p. 55) who while introducing the '*Global Counterterrorist Legislation Database (GCLD)*' observes that African countries are highly represented among 71 countries that no reliable information could be found.

The problem of lack of valid and reliable data and information is compounded by the poor development of some aspects of counterterrorism. For example, there is almost no academic literature on probation as a rehabilitation measure for ex-terrorists in the region. Understandably, this is because in many countries, probation services are non-existent and where they exist they are poorly developed and underutilised.

1.3. The Problem

The most important task for both academic and policy research as far as terrorism and counterterrorism are concerned is developing a body of knowledge that increases understanding of the relationship between both phenomena and human rights. This is because, both terrorists and those who seek to end it through counterterrorist policies advance human rights arguments to justify their actions.

Thus, caught in the middle of terrorism and counterterrorism, human rights form a critical space that determines the effectiveness of counterterrorist policies, depending on how governments adjust the contours of this space while responding to terrorism. See also Abadie

(2006); Hafner-Burton and Shapiro (2010); James A. Piazza (2015); James A Piazza and Walsh (2009, 2010); Shor, Charmichael, Nazif Munoz, Shandra, and Schwartz (2014); Walsh and Piazza (2010). Based on this understanding, empirical research on counterterrorism in sub-Saharan Africa has the important role of establishing the factors and conditions that facilitate or impede human rights in counterterrorist policies. Despite this critical role located at the nexus of counterterrorism and human rights, the bulk of scholarly literature on the region focus only on human rights as a distinct area of scholarship. Another body of scholarship focuses on the causal relationship between human rights and terrorism. Only a few scholars e.g. Ford (2013); Sigsworth (2019) interrogate the impact of counterterrorism measures on human rights. Generally, publications that have interrogated the relationship between terrorism, counterterrorism and human rights in the region are largely descriptive and do not empirically test theoretical propositions. What exists in this direction are empirical studies e.g. Khan (2016); James A Piazza and Walsh (2009, 2010); Poe and Tate (1994); Saul (2008) that are of a global scope but relevant for the general understanding of terrorism, counterterrorism and human rights sub-Saharan Africa.

To the best of our knowledge, only the study by Shor et al. (2014) seeks to establish the conditions that facilitate or impede human rights in counterterrorist policies but at a global level. Relying on regression analysis and a framework that brings together actor-oriented explanations and socio-cultural approaches, the study explores macro social conditions that predict states' human rights behavior in relation to counterterrorist policies. Though the study sheds some useful insights relevant for the understanding of conditions that might

influence human rights in sub-Saharan Africa in times of counterterrorism, it does not consider the unique attributes of the region as a social and political system. In short, there is no or very little (if any exists) empirical research on the conditions that facilitate or impede human rights in counterterrorist policies in sub-Saharan Africa.

In addition, despite being developed in the late 1980s by C. Ragin (1987), there is no or very little research on terrorism, counterterrorism and human rights in sub-Saharan Africa that employs QCA as a method of analysis. Most of the extant literature is made up of essays, single country case studies, few country comparative case studies or regional descriptive analyses. Yet QCA offers many practical benefits. For example, with QCA it is possible to identify conditions that facilitate or impede desired policy outcomes. Hence, it offers the chance that bad elements of a policy can be eliminated and good ones enhanced to increase effectiveness.

Further, even though there is a plethora of literature on politically motivated ethnic conflicts in sub-Saharan Africa, scholars have generally missed out on terrorism that occurs in the context of these types of conflicts prevalent in the region. See also Kaplan (2011).

1.4. Study Objective and Questions

From the foregoing and based on the assumption that human rights violations co-vary with certain macrosocial conditions mutable in the structure of society (See also Park, 1987, pp. 405-406; Pearson, 2001, p. 46), this doctoral study sort to establish the conditions or set of conditions that facilitate or impede human rights when governments respond to terrorism with counterterrorist policies in sub-Saharan Africa. The study sort to answer the following questions: -

1. What is the nature of terrorism and counterterrorism in sub-Saharan Africa and what distinguishes it from terrorism in other regions?
2. What conditions or set of conditions are necessary and or sufficient to facilitate or impede human rights in counterterrorist policies in sub-Saharan Africa?
3. What other factors and conditions not previously predicted by theory and empirical findings, unique to the social and political systems of sub-Saharan Africa appear to facilitate or impede human rights in counterterrorist policies in the region.

1.5. Chapter Outline

This dissertation is organised into seven chapters. Chapter two discuses in depth the nature of terrorism in sub-Saharan Africa and highlights what distinguishes it from terrorism in other regions.

Chapter three elaborates what is counterterrorism and discusses the various measures applied in sub-Saharan Africa within the framework of the two main approaches to counterterrorism i.e. military and

criminal justice approaches. The chapter then proceeds to elaborate the understanding of human rights in sub-Saharan Africa and describes the structure of their application, promotion and protection, before discussing the main human rights issues and concerns associated with counterterrorist policies in the region.

Chapter four reviews the factors and conditions that are predicted to facilitate or impede human rights in counterterrorist policies. Specifically, the chapter examines prepositions advanced by liberal democratic and constructivist theoretical perspectives and extant empirical studies that have examined the relationship between terrorism, counterterrorism and human rights. Based on this review, the chapter identifies and isolates specific variables that measure macrosocial conditions that are hypothesised to be necessary to facilitate human rights in counterterrorist policies in sub-Saharan Africa.

Chapter five outlines the procedure for empirically establishing which of the macro social conditions or combinations of conditions hypothesised in chapter four are necessary to facilitate or impede human rights in counterterrorist policies in sub-Saharan Africa. Specifically, it describes the analytical design, selection of cases, selection and measurement of variables, sources of data, and methods of data collection and analysis.

Relying on version 3.0 of the open source fsQCA software developed by C. C. Ragin and Davey (2016), chapter six begins with an analysis of necessary conditions followed by an analysis of combinations of conditions sufficient to facilitate or impede human rights in

counterterrorist policies in sub-Saharan Africa. The chapter also analyses the case of Mali to illustrate the findings and uncover relevant additional variables not previously considered or predicted by theory and extant empirical studies but which come to bear on human rights outcomes in times of counterterrorism in indigenous African societies.

In conclusion, chapter seven summarises the main findings of the study, discusses their implications for theory, methods and policy, and makes some recommendations for future academic and policy research as well as for the design and implementation of counterterrorist policy in sub-Saharan Africa.

2. TERRORISM IN SUB-SAHARAN AFRICA

*"Terrorism is like pornography, difficult to describe and define
but easy to recognise when one sees it" (Laqueur 1986: 89)*

2.1.   Introduction

Terrorism is an old phenomenon, dating back at least 2000 years, to early A.D.66-73 when it featured as a subordinate strategy in political and religious conflicts (Atran, 2003, p. 1535; Garrison, 2003, p. 39; Laqueur, 1977, p. 7; 1999, pp. 10-11; Rapoport, 2001, p. 419; Shughart, 2006, p. 13; Silke, 2008, p. 19). As the concept, 'terror', it was first codified in early 18th century by Maximilien Robespierre to mean the systematic use of violence to attain political ends (Atran, 2003, p. 1535). In 1795, Edmund Burke added the word 'terrorist' to the English lexicon and later defined as 'systeme, regime de la terreur' in the Dictionmaire of the academie franciase in 1798 (Atran, 2003, p. 1535; Halliday, 2004, p. 3; Laqueur, 1977, p. 6; Rapoport, 2001, p. 419; Shughart, 2006, p. 13).

Despite having long history, there is no agreement among academic and non-academic communities on a common definition of terrorism. This is because the concept is plagued by indeterminacy, subjectivity and political disagreements over whether all forms of subversive and state violence should be included within the definition (Boeke, 2016, p. 916; Hoffman, 2004, p. 936; Khan, 2016, p. 7; Kielsgard, 2005, p. 281; Saul, 2008, p. 196). In addition, the way terrorism manifests is quite amorphous in nature. Warbrick (2004, p. 1001) for example observes

that it can range from a bomb attack by a single-issue-single-activist, to an elaborate violent campaign by an organised group seeking fundamental change. In many instances therefore, those who are considered terrorists in some quarters are considered liberators, freedom fighters, human rights champions, defenders of national interests etc. in other quarters. Nevertheless, for purposes of advancing academic research and discussion, many in the academic community including Botha (2008b, p. 30); Cilliers (2003, p. 91); Forest and Giroux (2011, p. 1); Ignatieff (2002, p. 1146); Kozera (2018, pp. 11-12); Laqueur (1999, p. 8); Saul (2008, p. 196); Warbrick (2004, p. 989) consider terrorism to mean the 'use of violence or the threat of violence not motivated by financial gain by a state or non-state actor', and any combination of at least two of the following elements:

(a) to cause death, serious bodily injury or endanger life and property;
(b) against civilians or non-combatants to create extreme fear;
(c) calculated to seriously intimidate a population or part of a population;
(d) unduly compel a government or an international organisation to do or to abstain from doing any act;
(e) for a political, ideological, religious or ethnic purpose.

The element of state or non-state actor distinguishes between state and non-state terrorism. See also Edwards and Gill (2002, p. 207); Finckenauer (2005, pp. 65-67); P. Williams (1997, p. 1) who make a distinction between terrorism and organised crime.

Though the definition outlined above is useful for empirical research, it cannot be blindly applied to the study of terrorism and conditions for human rights in counterterrorism in Sub-Saharan Africa without considering the region's unique attributes as a social and political system. This is because, as observed by Botha (2008b, p. 28); Sartori (1970); A. Schmid (2004), highly contentious concepts run the danger of 'conceptual stretching' or misrepresenting facts if applied in a generic manner to the understanding of observed phenomenon across different regions with taking into account geopolitical differences. Based on this understanding and an interpretation of certain unique aspects of violence that have featured in the history of the political development of region, terrorism in sub-Saharan Africa can be considered to manifest in four broad categories i.e.:

(a) Anti-colonial terrorism;
(b) Terrorism in national conflicts
(c) Terrorism in regional conflicts
(d) Jihadi terrorism.

Makinda (2007) employs a similar classification scheme but treats terrorism in the context of Israeli-Palestinian conflict and terrorism related to the rise of al Qaeda's global jihadi ideologies as two distinct types. Here, it is argued that the two are not distinct because, to justify their actions, terrorists in both categories advance arguments that refer to social and political grievances of Muslims populations both in Palestine and globally. See also Atwan (2008); Glickman (2003, p. 165); Kimunguyi (2011, p. 10); McCormack (2005, pp. 2-4); Ousman (2004, p. 69) who link the emergence of al Qaeda and Islamism to issues affecting the Muslim world including the Israeli-Palestinian conflict.

This chapter discuses in depth the nature of terrorism and how it manifests in sub-Saharan Africa through the lens of the four categories outlined above. It also highlights what distinguishes terrorism in sub-Saharan Africa from other regions.

2.2.   Anti-Colonial Terrorism

According to several accounts, among them Halliday (2004, p. 4); Rapoport in Kaplan (2011, p. 6); Morgan (2004, p. 3); Shughart (2006, p. 14), terrorism as we know it today first appeared on African soil on the morning of 8th May 1945, when approximately 8,000 strong protesters demonstrated in the market town of S′etif, calling for the independence of Algeria from France, sparking off a wave of violent anti-colonial struggles both in and out of Africa. Thereafter, terrorist-like tactics could be traced both to the colonial state, and the violent wing of the Pan-African anti-colonial struggle championed by Frantz Fanon and followed by the more radical liberation leaders[9] (Cooper, 1994, p. 1521; Ewi & Aning, 2006, p. 35; Friedlander, 1981, p. 281; Hübschle, 2011, p. 3; Omotola, 2008, p. 43; Shughart, 2006, p. 34; Wantchékon & García-Ponce, 2013, p. 7; Welfling, 1979, pp. 450-458). For example, in May 1983, the military wing of the African National Congress (ANC), Umkhonto we Sizwe detonated a street car bomb targeting South African Air Force personnel killing 19 people and injuring more than 200 others (Clapham, 2003; Forest & Giroux, 2011, p. 3; P. Kagwanja, 2006, p. 74; Presley, 1988, p. 505). In the 1950s, the Mau Mau movement in Kenya not only selected and killed British settlers commonly by six blows to the head and chopping their bodies

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[9] In 1884/85, the Berlin Conference set the rules of colonial occupation in Africa and by 1900 Africa had been curved up by European powers for colonial occupation (Ndege, 2009, p. 2; Welfling, 1979, p. 447)

into pieces, it was also notorious for burning to death African loyalists who collaborated with the British colonial administration (Cooper, 1994, p. 1522; Lonsdale, 1990, pp. 394, 398). Table 2.1 presents some of the prominent violent Pan-African anti-colonial movements whose strategies included terrorist-like tactics.

Table 2.1: Violent anticolonial movements in sub-Saharan Africa

Colony	Colonial state	Liberation movement
Algeria	France	Front de Liberation Nationale
Guinea Bissau	France	Portido Africano da Independencia da Guinie´ e Carbo Verde (PIACC)
Carbo Verde	France	Portido Africano da Independencia da Guinie´ e Carbo Verde (PIACC)
Mozambique	Portugal	Fronte de Liberatacǎo de Moçambique (FRELIMO)
Angola	Portugal	Movimento Popular de Liberataçao de Angola (MPLA), Frente de Nacional de Liberataçao de Angola (FNLA) and Union Nacional para a Independencia Total de Angola
Zimbabwe	Britain	Zimbabwe African National Union – Patriotic Front (ZANU–PF)
Namibia	Britain, Germany	South West Africa National Union (SWANU)
South Africa	Netherlands	African National Congress (ANC)
Madagascar	France	Mouvement démocratique de la rénovation malgache (MDRM)
Kenya	Britain	Mau Mau
Cameroon	France, Britain	Union of the Peoples of Cameroon (UPC)

(Clapham, 2003; Forest & Giroux, 2011, p. 3; Glickman, 2003, p. 165; Presley, 1988, p. 505; Tishken, 2008, pp. 262-269; Wantchékon & García-Ponce, 2013, p. 78).

Whether certain aspects of anti-colonial violence in sub-Saharan Africa and in deed the once colonised world were terrorist in nature depended on which side of the 'colonial-anticolonial' debate on one favoured (Friedlander, 1981, p. 282; Glickman, 2003, p. 165; Howard, 2010, p. 964; Tishken, 2008, pp. 262-269; Wantchékon & García-Ponce, 2013, p. 78). For example, ANC leader Nelson Mandela, imprisoned for terrorist acts by the apartheid regime in South Africa in 1964 and designated a 'terrorist' by Western states, embarrassingly remained on the U.S. list of designated terrorists until 2008, despite being released from prison in 1990 and becoming President of South Africa in 1994 (Busher, 2014, p. 2; Cronin, 2008; Mimi Hall, 2008; Villa-Vicencio, 2014).

Since all countries in sub-Saharan Africa have since gained their independence, it is only possible to assert that anticolonial terrorism is no longer tenable as a conceptual or empirical typology. In its place, what continues to manifest is what we can consider as its close cousin, and for the lack of a better concept we may refer to as 'secession terrorism'. This brand of terrorism like activity occurs in places like the English-speaking regions of Bamenda and Buea in Western Cameroon, the Somali dominated Oromia region in Ethiopia and the Taureg dominated Northern region of Mali. In these places, insurgents continue to wage violent separatist campaigns against the state and employ varying terrorist like terrorist strategies.

Despite coming to its logical conclusion, it may be argued that in the history of the study of terrorism in sub-Saharan Africa or in deed elsewhere, it is only anticolonial terrorism that is known to have achieved its stated objectives i.e. national independence. This view

and the evidence supplied by the end of colonialism in the world challenges those who have claimed that terrorism as a strategy of waging conflict is prone to failure and has never archived its stated objectives e.g. Abrahms (2006); Fortna (2015); Freedman (2007).

2.3. Terrorism in National Conflicts

Many countries in sub-Saharan Africa have at one time or another been subject to viscous internal conflicts in which terrorist like activities are perpetrated by both state and non-state actors. Because of the regions high ethnic, religious and linguistic fractionalisation, many of these conflicts have ethnic and or religious dimensions that are deeply rooted in primordial political rivalries over power, territory and economic resources (Alesina, Devleeschauwer, Easterly, Kurlat, & Wacziarg, 2003, p. 163; P. Kagwanja, 2006, p. 84; Mair, 2003, p. 2; Ousman, 2004, p. 76; Shinn, 2003). However, despite the prevalence of ethicised violent conflicts in the region, terrorism in the context of these conflicts has received far much less academic attention. For example, referring to this type of terrorism as 'ethnic terrorism' Kaplan (2011, p. 6) notes that accounts of the evolution of terrorism such as Laqueur (1977, 1986, 1996, 1999); Rapoport (2001); Shughart (2006) fail to account for this dimension of terrorism prevalent in sub-Saharan Africa.

Some of the countries that have experienced the most vicious ethnically motivated political violence in the region include: Angola, Democratic Republic of Congo, Kenya, Mozambique, Nigeria, Sierra Leon, South Sudan, Sudan, Uganda, Liberia and Zimbabwe. In most of these conflicts, terrorist tactics have included e.g. burning live

victims to death, mutilation of body parts, decapitation, mass rape, kidnapping for ransom, kidnapping children and forcing them to become child-soldiers, porters, and/or sexual slaves, bombing and destruction of infrastructure etc.[10] (Apuuli, 2004, p. 395; Chau, 2008, pp. 29, 34; Cilliers, 2003, p. 100; Collier & Vicente, 2012, pp. 33-36; Dunn, 2004, pp. 138-142; Margaret Hall, 1990, p. 52; Howard, 2010, p. 964; Johnson, 2014, p. 300; A. Keith, 2007, p. 149; Lemarchand, 1995, p. 8; Robinson & Ghahraman, 2008, p. 981; T. Young, 1990, pp. 497-498).

These aspects of violence are not qualitatively different from some of the methods employed by terrorist groups proscribed by the UN Security Council.[11] For example, the radical Sunni Islamist group, Islamic state of Iraq and the Levant (ISIL) also known as the Islamic state of Iraq and Syria (ISIS) carries out public decapitation of its victims in various countries. See Friis (2015); Zech and Kelly (2015). Similar methods have been employed by Mungiki in ethnically motivated political violence in Kenya (P. M. Kagwanja, 2003; Klopp & Kamungi, 2007). The only tactical difference between ISIS and Mungiki is that, while the former employs an elaborate propaganda strategy aimed at disseminating the images to as far and wide an audience as possible to generate mass fear and terror, the latter does not. In addition, there is no qualitative difference between ethnic

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[10] For example, burning of 80 students of the Kichwamba Technical College in the Kabarole district of Uganda in 1998 and the burning of post-election violence victims in a church and a house in Kenya in 2008. See Forest and Giroux (2011, pp. 8-9); P. Kagwanja (2006, p. 78); Klopp and Kamungi (2007). Forest also cites the example of 48 explosive devices detonated in and around Kampala, killing approximately 50 people and injuring an estimated 200 others between 1998 and 2001 by Allied Democratic Forces (ADF)

[11] See https://www.un.org/securitycouncil/sanctions-committees/security-council-committee-pursuant-resolutions-1267-1999-1989-2011-and-2253

violence in sub-Saharan Africa in which terrorist like activity occurs and racial violence in places like Europe and the U.S. in which armed groups such as Black Panthers, Ku Klux Klan, Aryan Nation, Posse Comitatus, neo-Nazi are known to have committed terrorist acts including but not limited to mass shootings and detonation of bombs See alsoKaplan (2011, p. 6); Laqueur (1999, pp. 29-30, 87, 107-108).

The argument that communal level conflicts in sub-Saharan Africa, especially ethnic motivated conflicts account for much of terrorism activity in the region finds empirical support in data compiled by Uppsala Conflict Data Program (UCDP), of the Department of Peace and Conflict Research at Uppsala University and the Global Terrorism Database (GTD).

UCDP defines three types of intrastate conflicts: non-state conflicts (communal and organized armed violence where none of the parties is the government of a state); one-sided violence (intentional attacks on civilians by governments and formally organized armed groups) and dyadic conflicts (armed attacks where at least one party is the government of a state).   See Allansson, Melander, and Themnér (2017); (Eck & Hultman, 2007; Harbom, Melander, & Wallensteen, 2008; Pettersson & Eck, 2018; Sundberg, Eck, & Kreutz, 2012).

The GTD broadly defines a terrorist attack 'as the intentional, threatened or actual use of illegal force and violence by a non-state actor to attain a political, economic, religious or social goal through fear, coercion, or intimidation'. However, recognising the problems of applying a generic definition of terrorism, the GTD allows researchers to truncate data based on a criteria terrorism that best suits their

research needs. Counting only successful attacks of essentially no doubt of terrorism that resulted into at least ten deaths and including only countries with full data for all variables, correlation analysis in table 2 shows that the only significant association ($r = .83, p = .00$, 1-tailed) is between communal and organized armed violence where none of the parties is the government of a state (non-state conflicts) and terrorism.

This result suggests that most terrorist violence in sub-Saharan Africa occurs in the context of communal violence over local issues such as ethnicity, religion, local politics, shared resources etc. This result is supported by Bertram and Ellison (2014) who in their study *"Sub Saharan African Terrorist Groups' use of the Internet"* find that out of 112 terror related websites studied, 72 (64.3%) were linked to quasi legitimate guerrilla groups, insurgent groups, organised criminal gangs, vigilantes, bandits, militias, etc.

Table 2.2: Intrastate conflicts and terrorism in sub-Saharan Africa (1998 –
2017)

Country Name	Non-state	One sided	Dyadic	Terrorism
Burundi	4	17	20	18
Cameroon	2	2	5	30
Central African Republic	18	24	9	36
Chad	5	2	16	16
Congo, Dem. Rep.	48	85	29	72
Cote d'Ivoire	9	10	6	2
Ethiopia	45	7	38	15
Guinea	3	2	2	3
Kenya	36	8	3	21
Mali	15	1	23	11
Nigeria	117	17	13	389
Senegal	1	4	5	2
South Sudan	22	9	10	34
Sudan	75	25	46	48
Uganda	24	4	27	28
Total	*424*	*217*	*252*	725
Multiple R	*0.83*	*0.19*	*0.02*	
R Square	*0.68*	*0.04*	*0.00*	
Standard Error	*18.98*	*21.44*	*13.95*	
Observations	*15.00*	*15.00*	*15.00*	
t Stat	*5.27*	*0.71*	*0.05*	
P-value	*0.00*	*0.49*	*0.96*	

Source: Uppsala Conflict Data Program, retrieved from https://ucdp.uu.se/ (Allansson
et al., 2017; Eck & Hultman, 2007; Gleditsch, Wallensteen, Eriksson, Sollenberg, & Strand,
2002; Harbom et al., 2008; Pettersson & Eck, 2018; Sundberg et al., 2012). National
Consortium for the Study of Terrorism and Responses to Terrorism (START). (2018).
Global Terrorism Database [Data file]. Retrieved from https://www.start.umd.edu/gtd

An important aspect of terrorism in the context of intrastate conflicts
in sub-Saharan Africa is terror perpetrated by agents of the state or
simply state terrorism. Because modern states are based on the
Weberian concept of state monopoly of the legitimate use of violence
justified by the need protect society from evils and anarchy, states
even at the UN are unable to agree on a common definition of

terrorism, even though some or their agents commit very atrocious acts (Claridge, 1996, pp. 48-52; M. Weber, 2009). It is not surprising therefore that in the case of sub-Saharan Africa, the regional body 'the African Union' opted for a vague definition of terrorism contained in article 1(3)(a) of the *'OAU Convention on the Prevention and Combating of Terrorism'*[12] by leaving the final responsibility of determining what is terrorism to individual states and national laws.

According to Claridge (1996, pp. 48-52) and Kimunguyi (2011, p. 3), we may consider state terrorism in sub-Saharan Africa to mean 'the systematic use or threat to use violence by agents or proxies of the state' plus any configuration of the following elements:

    (a) operating with resources of the state;
    (b) for unlawful political objectives;
    (c) calculated to generate fear and communicate a message to a wider group than the intended victims who at the time of the act are neither armed nor organised for aggression.

Moore (2002, p. 885) adds that state terrorism also includes turning a blind eye to the actions of state agents in circumstances where the state stands to benefits from unrestrained action even if there is no official extant state terror policy.

In sub-Saharan Africa, the systematic use of violence or threat of violence on civilians based on ethnicity, religion, political persuasion or region has for a long time (especially the period before the early

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[12]   See   https://au.int/en/treaties/oau-convention-prevention-and-combating-terrorism

1990s) formed part of the policy and political strategy of many governments, often in the pretext of either maintaining civic order or countering terrorism (Botha, 2008b, p. 31; Busher, 2014, p. 2; Hamilton, 2009, p. 39). This type of violence manifests in various forms e.g. facilitating armed militia to intimidate voters and silence dissent; use of government aircraft to bomb civilian populations perceived to support opposition; brutal crackdowns against and targeted killings of opposition leaders; instigating and facilitating deadly ethnic violence for political expediency; creation of secret police squads with legal discretion to detain, invade, kill, and torture at the state's behest for purposes of terrifying opposition voices etc. See Adar and Munyae (2001, pp. 8-9); Cilliers (2003, p. 100); Dersso (2009, p. 6); Flint (2009, pp. 19-37, 46); Forest and Giroux (2011, p. 5); Howard (2010, p. 964); Kimunguyi (2011, p. 5); Leeson (2007, p. 693); Ogbonnaya (2016, p. 187); Stanton (2004, pp. 1-2); Tiba (2007, p. 513); Wolf (2006, pp. 134, 198).

In some countries, state terrorism has led to social and political outcomes of significant historical proportions. For example, in what became the first African trial of an entire regime before a national court, former Ethiopia's Prime Minister, Mengistu Haile Mariam's government (1974-1991) was charged and sentenced before the Ethiopian Federal High Court for among other charges the summary execution of 60 prominent individuals on 23 November 1974 (Forest & Giroux, 2011, p. 5; Makinda, 2007, p. 17; Tiba, 2007, p. 513). The former President of Sudan, General Omar al-Bashir, became the first sitting Head of State to be indicted by the International Criminal Court (ICC) for crimes against humanity for the genocide in Darfur[13]. In Somalia,

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[13] See https://www.icc-cpi.int/darfur/albashir/pages/alleged-crimes.aspx

the reign of terror presided over by former President Said Barre (e.g. the indiscriminate bombing of Issaq-inhabited northern Somalia - 'the Isaaq Genocide or the Hargeisa Holocaust' - between 1987 and 1989 killing an estimated 50,000-100,000 people) led to collapse of the state in 1990 followed by the birth of al Shabaab which has risen to become one of sub-Saharan Africa's most viscous terrorist group (Barnes & Hassan, 2007; Dersso, 2009; Gettleman, Mazzetti, & Schmitt, 2011; Menkhaus, 2003; Murunga, 2009; Ogbonnaya, 2016, p. 187; Powell, Ford, & Nowrasteh, 2008; Wise, 2011).

Though correlation analysis in table 2.2 suggests that there exist only small and insignificant associations between terrorism and intentional attacks on civilians by governments and formally organized armed groups i.e. one-sided violence ($r = .19$, $p = .49$, 1-tailed); and between terrorism and armed attacks where at least one party is the government of a state i.e. dyadic conflicts ($r = .02$, $p = .96$, 1-tailed), instances of state terrorism as described by Claridge (1996, pp. 48-52) and Kimunguyi (2011, p. 3) have been documented in the context of communal and organized armed violence where none of the parties is the government of a state. Some of these instances involve state sponsored armed militias (surrogate armies) or the state turning a blind eye to activities of armed groups when it stands to benefit politically. For example, the government of Sudan sponsored the Janjaweed (devils on horseback) militia's brutal campaign of slaughter and rape in Darfur (2003-04) targeting civilians from three non-Arab ethnic groups (the Masalit, Fur, and Zaghawa) for alleged insurgency against the government Flint (2009); Howard (2010, p. 964); A. Keith (2007, p. 149). At various times, the government of Mali sponsored Songhay and Fulani militias (Ganda Koy and Ganda Iso

respectively) in the fight against Taureg insurgents in the north while allowing them to profit from illegal enterprise in exchange of returned rents and loyalty (Amadou, 2019; Bøås & Torheim, 2013; Kozera, 2018, p. 20).

Descriptive analysis of data obtained from the Political Terror Scale (PTS) further illustrates the veracity of state terrorism in sub-Saharan Africa. See table 2.3. Since the early 1980s, Social Scientists have relied on the PTS to empirically determine whether states violate international human rights standards. The PTS defines political terror as the violation of basic human rights to physical integrity of the person by agents of the state within territorial boundaries of the state. The scale is based on a 5-point score where 5 represents countries in which terror has expanded to the whole population since leaders place no limits on the means or thoroughness with which they pursue personal or ideological goals. A score of 1 or 2 represents countries in which political terror is non-existent or limited. According to the PTS, out of 45 countries in sub-Saharan Africa for which data is available for the period 1998 – 2017, over two thirds or 33 countries have average scores that range between 3 and 5. This implies that in these countries, political terror and violation of basic human rights to physical integrity of the person by agents of the state is prevalent.

Table 2.3: Political terror in sub-Saharan Africa (1998 – 2017)

Country Name	Average PTS Score
Angola	3
Benin	2
Botswana	2
Burkina Faso	2
Burundi	4
Cameroon	3
Central African Republic	4
Chad	4
Comoros	2
Congo, Dem. Rep.	5
Congo, Rep.	3
Cote d'Ivoire	3
Equatorial Guinea	3
Eritrea	4
Eswatini	2
Ethiopia	4
Gabon	3
Gambia, The	3
Ghana	2
Guinea	3
Guinea-Bissau	2
Kenya	3
Lesotho	3
Liberia	3
Madagascar	3
Malawi	2
Mali	2
Mauritania	3
Mauritius	2
Mozambique	3
Namibia	2
Niger	3
Nigeria	4
Rwanda	3
Senegal	3
Sierra Leone	3
Somalia	4
South Africa	3
South Sudan	5
Sudan	5
Tanzania	2
Togo	3
Uganda	4
Zambia	3
Zimbabwe	3

Source: Gibney, Mark, Linda Cornett, Reed Wood, Peter Haschke, and Daniel Arnon. 2017. The Political Terror Scale 1976-2016. Retrieved on 22/02/2019 from: http://www.politicalterrorscale.org/.

A feature of terrorism in the context of intrastate conflicts in sub-Saharan Africa that transcends both state and non-state terrorism is assassination of opponents. Many of the political assassinations that have occurred in the region took place between the 1960's soon after independence of most states and the early 1990's. Much of this period was also characterised by cold war politics during which foreign sponsored coups and counter coups were a recurring feature of political contests over power and influence in the region. See Baynham (1994, p. 41); Straus (2012, p. 179). Examples of high profile assassinations include: Patrice Lumumba once Prime Minister of Congo in 1961; President Sylvanus Olympio (Togo, 1963); Pierre Ngendandumwe and Joseph Bamina, Prime Ministers (Burundi, 1965); Pinto Gama Pinto a prominent member of Parliament (Kenya, 1965); Federal Prime Minister Sir Abubakar Tafawa Balewa and Johnson Aguiyi-Ironsi, military head of state (Nigeria, 1966); Tom Mboya prominent minister and trade unionist (Kenya, 1969); J. M. Kariuki a prominent member of Parliament (Kenya, 1975); Presiden Murtala Ramat Mohammed (Nigeria, 1976); Steve Biko anti-apartheid activist (South Africa, 1977); President Captain Thomas Sankara (Burkina Faso, 987); Foreign Minister Dr. Robert Ouko (Kenya, 1990) among others. See Mazrui (1968, pp. 41-42); Tamarkin (1978, p. 298); Wilkins (1989, p. 376). The most catastrophic was the assassination of Juvenal Habyarimana (President of Rwanda) and his counterpart Cyprien Ntaryamira (President of Burundi) on the evening of 6 April 1994. The fatal downing of the presidential plane triggered a genocide that claimed hundreds of thousands of lives in 100 days and whose roots lay in decades of ethno-political tensions between Hutu and Tutsi communities (Lemarchand, 1995, p. 8; Robinson & Ghahraman, 2008,

p. 981). Besides these specific examples, diverse sources indicate that since 1828, at least four kings and twenty-one presidents/heads of state have been assassinated in sub-Saharan Africa[14]. According to the GTD, between 1970 and 2017, a total of 1,101 assassination incidents of essentially no doubt of terrorism took place in sub-Saharan Africa.

2.4. Terrorism in Regional Conflicts

Less common in sub-Saharan Africa today is terrorism that occurs in the context of regional conflicts. The few documented instances have mainly involved states in Eastern, Horn and Central sub-regions. For example, between 1989 and 1999 Sudan was accused of engaging in subversive activities against regimes in Algeria, Ethiopia, Egypt, Libya and Tunisia e.g. failed assassination attempts against the presidents of Tunisia in 1991 and Egypt in 1995 (Dagne, 2002, pp. 8-16; Howard, 2010, p. 964; Lesch, 2002, pp. 203-204; Lyman & Morrison, 2004, p. 78; Shinn, 2003). Also, it is in Sudan that Osama bin Laden founded his terror organisation al Qaeda during his stay there between 1991 and 1994 on invitation of Dr. Hassan al-Turabi, then leader of Sudan's National Islamic Front (NIF) and very close associate to then Sudan's military ruler General Omar Hassan al-Beshir (Lesch, 2002; Makinda, 2007, p. 17).

State sponsored subversive activities have been implicated in conflicts involving Eritrea, Ethiopia, Kenya and Somalia. For example, Ethiopia and Kenya on the one side, have at different times traded accusations and counter accusations with Somalia. The two states have for a long time accused Somalia of acting as a contagion state and supporting

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[14] See https://en.wikipedia.org/wiki/List_of_people_assassinated_in_Africa

subversive in their territories perpetrated by irredentist Somali armed groups agitating for secession to join their kin and kith in Somalia (Adamu, 2009, p. 5; Castagno, 1964, pp. 166-184; Dagne, 2002, p. 18; Dersso, 2009, pp. 25-26; Yousaf & Wakhu, 2020, pp. 7-12). In similar fashion, a border dispute[15] was the cause of accusations and counter accusations of subversive activities between Ethiopia and Eritrea leading to Ethiopia's invasion of Somalia in 2006 with U.S. backing which kicked out al-Shabaab and the ICU from Mogadishu accusing Eritrea of involvement with al-Shabaab and plots against African leaders gathering in Addis Ababa   (Abbink, 2003, pp. 413-415; Clapham, 1998, p. 1; Dersso, 2009, p. 36; Forest & Giroux, 2011, p. 5; Wise, 2011, p. 2). Accusations of terrorist like subversive activities have also featured in contestations between Sudan and Uganda, Uganda and South Sudan, Rwanda and Uganda, Rwanda and Democratic Republic of Congo (Apuuli, 2004, p. 394; Uwiringiyimana, 2019). In the mid to late-1990's eight militaries from Rwanda, Uganda, Angola, Burundi, Chad, Namibia, Sudan and Zimbabwe got involved in the Democratic Republic of Congo in what has been described as the most epic regional conflict in sub-Saharan and came to be dubiously referred to as 'Africa's world war' or 'Africa's great war' (Lamb, 2011, p. 43; Lyman & Morrison, 2004, pp. 84-86; Prunier, 2008; Shearer, 1999).

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[15] The disputed border, a straight line between the rivers Mareb and Takazze and the village of Badme, led to a brutal war between the two states in May 1998 that ended with a peace agreement in December 2000, which the established of the Ethiopia-Eritrea Boundary Commission (EEBC) and later the disputed region awarded to Eritrea in 2002 by the Permanent Court of Arbitration in The Hague (Abbink, 2003, pp. 407-408; Clapham, 1998, p. 1). Ethiopia never recognised the decision until June 2018 ending the dispute (Abbink, 2003, p. 408). See also https://www.nytimes.com/2018/06/20/world/africa/ethiopia-eritrea-peace-delegation.html.

2.5. Jihadi Terrorism

Currently, Jihadi terrorism is the most complex and serious security threat in sub-Saharan Africa. It manifests as a local brand of global jihad popularised by Osama bin Laden and his al Qaeda outfit. Essentially therefore, Jihadi terrorism is a type of international terrorism. The widely used definition of international terrorism is the one supplied by *"the Palermo Convention"* ("United Nations Convention against Transnational Organized Crime," 2004, p. 6). According to this definition, international terrorism is a terrorist act that is committed in

(a) more than one state;

(b) one state but a substantial part of its preparation, planning, direction or control takes place in another state;

(c) one state but involves an organized criminal group that engages in criminal activities in more than one state or

(d) one state but has substantial effects in another state.

Though jihadi terrorism began to gain currency as a terrorist phenomenon and academic attention as an analytical typology in the early 1990s, it is an old phenomenon which Halliday (2004, p. 4); Rapoport (2001); Shughart (2006, p. 14) trace to the Iranian revolution in 1979 and credit its introduction at the international stage to the hijacking of an El Al flight from Rome to Tel Aviv on 22nd July 1968 by the Palestinian Liberation Organization (PLO). Arguably, the Israeli-Palestinian conflict is one of the most significant precursors to Jihadi terrorism in sub-Saharan Africa (Atwan, 2008). According to P. Kagwanja (2006, p. 74), sub-Saharan Africa's early contact with aspects of terrorism related to the Israeli-Palestinian conflict dates

back to the 1940s during the colonial era when leaders of two Israeli groups that employed terrorism to fight for a state of Israel (the Irgun and Stern Gang) were detained in Kenya. Thereafter, only a few incidents that took place in the 1970s and 1980s can be accounted for. The most dramatic incident was the hijacking of a French plane from Athens to Kampala in 1976 in a collaborative effort between the Popular Front for the Liberation of Palestine (PFLP) and Uganda's ldi Amin Dada (Makinda, 2007, p. 17). Table 2.4 lists terrorism incidents on sub-Saharan African soil related to the Israeli-Palestinian conflict.

Table 2.4: Terrorism incidents in SSA related to the Israeli-Palestinian conflict

Perpetrator	Location	Target	Attack type	Deaths	Year
Black September	Sudan	U.S.	Assassination	2	1973
BMG and PFLP	Uganda	Israel, France	Plane Hijacking/ hostage taking	3	1976
PFLP	Somalia	Germany, Israel	Plane Hijacking	0	1977
PFLP	Kenya	Israel, Kenya	Bomb	15	1980
Unknown	Sudan	United states	Armed assault	1	1986

Own table adapted from Cass (2013, p. 11); Forest and Giroux (2011, p. 2); Halliday (2004, p. 1); Hoffman (2004, p. 304); P. Kagwanja (2006, p. 74); Kimunguyi (2011, p. 5); Laqueur (1977, 1986, 1996, 1999); Lyman and Morrison (2004, p. 75); Makinda (2007, p. 17); Morgan (2004, p. 4); Omotola (2008, p. 43); Piombo (2007, p. 4); Rapoport (2001); Shinn (2003); Shughart (2006); Silke (2008, p. 28). https://2001-2009.state.gov/r/pa/ho/pubs/fs/5902.htm. PFLP: Popular Front for the Liberation of Palestine. BMG: Baader-Meinhof Group

Since the 1986 attack in Sudan targeting the U.S., there is no evidence of any terrorist attack linked to the Israeli-Palestinian conflict on sub-Saharan Africa soil. The main reason why this conflict has so far had a brief terrorism foot print in sub-Saharan Africa is that unlike other places (e.g. the Middle East), many states in the region and their Muslim populations have consistently remained politically on the periphery as far as the conflict is concerned (Gasiorowski, 2016; Glickman, 2003, p. 74; P. Kagwanja, 2006, p. 165; Makinda, 2007, p. 15).

What has replaced the Israeli-Palestinian conflict as a source of terrorism with religious dimensions in sub-Saharan Africa is jihadi terrorism inspired by jihadi ideologies popularised by Osama bin Laden and his al Qaeda outfit. Jihadi ideologies are based on Islamism which unlike Islamic fundamentalism seeks the introduction of Islam in politics and society with the objective of creating modern Islamic states and at best a caliphate through jihad and martyrdom as the vital means of achieving this objective (P. Kagwanja, 2006, p. 75; Kimunguyi, 2011, p. 8; Ousman, 2004, pp. 72-77). The fact that Osama bin Laden used Sudan as a haven where he founded al Qaeda and planned the organisation's maiden attacks on August 7, 1998 targeting U.S. embassies in Nairobi and Dar es Salam killing over 250 people and injuring over 5,000 makes sub-Saharan Africa the laboratory where al Qaeda inspired global jihadi terrorism was manufactured, tested and launched to the world. See Bergen (2002); Bergen (2006); Dagne (2002, pp. 8-16); Glickman (2003, p. 167); Howard (2010, p. 964); Lesch (2002); Lobel (1999, p. 537); Lyman and Morrison (2004, p. 78); Makinda (2007, p. 17); Shinn (2003); Taylor and Elbushra (2006).

According to the Global Terrorism Database (GTD), terrorism incidents in sub-Saharan Africa increased by 578% from 227 incidents in 1991 (when Osama bin Laden's arrived in Sudan) to 1,539 incidents in 2018. The most affected sub-regions are Eastern & Horn of Africa and Western Africa. As shown in figure 2.1, these two sub-regions have higher total and Muslim populations which create an environment where the diffusion of Islamist ideologies becomes faster and easier translating into more incidents of jihadi terrorism.

Figure 2.1: Proportion of Muslim population and terrorist attacks by sub-region.
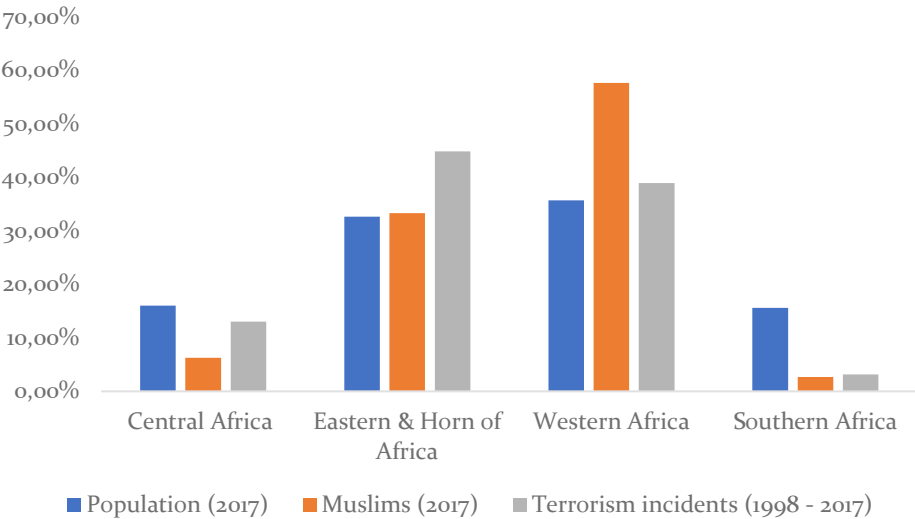
See also Ogbonnaya (2016, pp. 190-191); Warner (2017, p. 28) who relies on extant data to show that there are more Islamist terrorist organisations in East and West Africa than any other part of sub-Saharan Africa.

Some scholars such as Ellis (2004, p. 459); Forest (2011, p. 11); Glickman (2003, p. 168); Howard (2010, p. 961); Hübschle (2011, p. 10); P. Kagwanja (2006, p. 75); Kimunguyi (2011, pp. 2-3); Lyman and Morrison (2004, p. 77); Omotola (2008, pp. 44-45); Shinn (2003) argue that Eastern & Horn of Africa and Western Africa sub-regions record higher incidents of terrorism generally and jihadi terrorism specifically because they share geographical proximity and bonds of history with the Middle East, facilitating the movements of jihadi militants across the two regions, exposing them to sectarian conflicts propagated by Islamism.

Several factors make Jihadi terrorism the most complex security problem in the history of the social and political development of sub-Saharan Africa. Its metamorphosis is a function of unknown variables except for two constants i.e. the commitment to Islamist ideologies and the goal of establishing a sub-Saharan Africa Islamic theocracy or caliphate. The formation and reformation of jihadi terrorist groups is an endless cycle determined by any configuration of hostilities, collaboration, mergers and splits. See Bassou (2018); Boeke (2016); Dao (2019); Gilmour (2019); P. Kagwanja (2006, p. 75); Kimunguyi (2011, p. 8); Lounnas (2018); Ousman (2004, pp. 72-77); Roberto, Closs, and Ronconi (2013); Sangaré and McSparren (2018); Sow (2018); Stewart (2013); Wojtanik (2015). Table 2.5 illustrates some features of the complex nature of jihadi terrorist groups in sub-Saharan Africa.

The complexity of jihadi terrorism in sub-Saharan Africa is compounded by the ability of local terrorist groups to fight multiple local versions of global Jihadi influenced by competition between al Qaeda and the Islamic State of Iraq and the Levant (ISIL) also known as the Islamic state of Iraq and Syria (ISIS). These versions incorporate and exploit a universe of local opportunities, issues, agendas, concerns, conflicts, criminal enterprise, community relations and kinships etc. (Bassou, 2018, pp. 3, 10; Boeke, 2016, pp. 923-927; Briscoe, 2014, p. 41; Bullejos, 2019, pp. 65-66; Dentice, 2018, p. 2; Lebovich, 2013; Lecocq et al., 2013, p. 21; Lounnas, 2018, p. 14; Sigsworth, 2019, p. 8; Tronc, Grace, & Nahikian, 2019, p. 13). For example, al-Shabaab's 'Gaidi Mtaani' – 'Terrorist on the Street' – a Swahili propaganda magazine is devoted to the effective propagation of the idea that Kenya's security policies are merely a continuation of colonial oppression of Muslims and specifically those of Somali origin (Anderson & McKnight, 2015, pp. 22-23). See also BBC (2014); Jazeera and Agencies (2014). Anderson and McKnight (2015); Barnes and Hassan (2007); Boeke (2016); Dersso (2009) highlight instances of involvement of AQIM and al Shabaab in criminal enterprise, establishment of deep kinship ties through marriage (offering camouflage and enhanced recruitment opportunities), tax collection and provision of public services etc. Another example is the intensifying low level ancestral 'tit-for-tat' inter communal ethnic conflicts in central Mali and northern Burkina Faso by jihadi terrorist groups transforming them into deadly ethno-religious conflicts (News, 2019a, 2019b, 2019c; Sangaré & McSparren, 2018, p. 15).

Table 2.5: Formation and reformulation of terrorist groups in SSA

	Splits	**Mergers**	**Severe Attacks**	**Counterterrorism**
Hostilities	Split of Islamic State in Somalia (ISS) and the Islamic State in Somalia, Kenya, Tanzania, and Uganda (ISISSKTU) from al Qaeda aligned al-Shabaab in 2015; Split of Movement for Unity and Jihad in West Africa (MUJWA, 2011) and those who Sign in Blood (2012) from AQIM; Split of al Qaeda aligned Ansari in full 'Ansarul Muslimina Fi Biladis Sudan' from ISIS aligned Boko Haram (2012); Split of Ansar al Deen ("Defenders of the Faith"); Taureg nationalist movement MNLA	Merger of AQIM splinters MUJAO and Katibat Islamist al-Mulathameen (Masked Brigade, or al-Mua'qi'oon Biddam -Those Who Sign with Blood) to form al-Murabitun in 2013		Ras Kamboni Brigade of Sheikh Ahmed Madobe fell out with Al-Shabaab in Somalia and the Taureg rebel movement MNLA fell out with the coalition of terrorists made of AQIM, Ansar Dine and MUJWA that had pushed it out of Kidal, Gao and Timbuktu. Both Ras Kamboni Brigade and MNLA joined CT efforts in Somalia and Mali respectively
Collaboration		AQIM, Ansar al-Din, the Macina brigade and Al-Mourabitoun merged in 2017 to form the Jamaat Nusrat al-Islam Wa al-Muslimin (JNIM), a group that analysts described as the largest and most powerful gathering of terrorists in the history of sub-Saharan Africa	Collaboration between Al-Murabitun and AQIM in attacks on the Grand Bassam hotel in Cote, d'Ivoire (2016), Splendid hotel in Burkina Faso (2016), and Radisson Blu hotel in Mali Bamako (2015) which killed in total at least 67 people	

Source: Own table. See Anderson and McKnight (2015); Arieff (2013, p. 10); Australia (2018); Bassou (2018, p. 7); Boeke (2016, p. 915); Briscoe (2014, p. 45); Bullejos (2019, p. 66); Dentice (2018, p. 6); Filiu (2015, pp. 108-109; 2017, p. 170); Izak (2018, p. 307); Laub and Masters (2015, p. 4); Lounnas (2018, p. 12); Maïga (2016, pp. 3, 7); Ogbonnaya (2016, pp. 190-191); Pantucci and Jesperson (2015, p. 25); Sigsworth (2019, p. 8); Stewart (2013, pp. 41-44); Warner (2017, p. 29); Zenn (2014, p. 2).

Despite these complexities, some in the scholarship contend that chances of jihadi terrorism spreading in sub-Saharan Africa or developing into a genuine indigenous variant are remote. Ousman (2004, p. 96) argues that most if not all states in sub-Saharan Africa are secular compelling all religions to operate within established legal and constitutional margins which confer to the state organizational monopoly over social, economic and political lives of diverse groups and guarantee greater freedom for religious expression. Forest and Giroux (2011, pp. 6, 12); Glickman (2003, p. 165); Mair (2003, p. 2); McCormack (2005, pp. 4-5, 9-13); Ousman (2004, pp. 96, 99) contend that the high degree of ethnic, linguistic and religious heterogeneity in sub-Saharan Africa generates competition and sometimes rivalry among different ethnic, linguistic and religious groups rendering the objective of political mobilization under the banner of one religion neither desirable nor feasible. Others observe that Islam in Africa, which is predominantly Sufi, was largely peacefully spread incorporating in its way local African traditions of tolerance and moderation (Forest & Giroux, 2011, p. 6; Francis, 2013, p. 10; Glickman, 2003, pp. 74, 165; P. Kagwanja, 2006, p. 165; Mair, 2003; McCormack, 2005, p. 4; Schulz, 2012, p. 6; Stewart, 2013, pp. 25-27). An example that renders support for this reasoning is the splinter of al-Qaeda aligned Ansari in full 'Ansarul Muslimina Fi Biladis Sudan (Vanguards for the Protection of Muslims in Black Africa)' from ISIS aligned Boko Haram in 2012, condemning Boko Haram's style of operations as inhuman and damaging to Muslims, accusing it of killing innocent Muslims, non-Muslims and security operatives while vowing to 'restore the dignity of Muslims in black Africa (Pantucci & Jesperson, 2015, p. 25; Sigsworth, 2019, p. 8; Warner, 2017, p. 29). Others argue that sub-Saharan Africa is fairly insulated from Jihadi terrorism

because the region's Muslim population and states have historically remained on the periphery of major issues such as the Israeli-Palestinian conflict affecting the global Muslim Umma (Gasiorowski, 2016; Glickman, 2003, p. 74; P. Kagwanja, 2006, p. 165; Makinda, 2007, p. 15).

However, signs of jihadi terrorism spreading outside its traditional bases in West and East sub-Saharan Africa have been observed. For example, since October 2017, over 100 people have been killed in brutal violence including the beheadings of women and children in Cabo Delgado in the northern province of Mozambique allegedly by a group calling itself Ahlu Sunnah Wa-Jamâ often abbreviated to al-Sunnah (Aljazeera, 2020; Fabricius, 2018). Following the "massacre" in April 2020, the government of Mozambique admitted for the first time the presence of ISIL-affiliated fighters in the country (Aljazeera, 2020; BBC, 2020). According to Aljazeera (2020), Islamic State Central Africa Province (ISCAP) which is affiliated to ISIL, claimed some of the attacks in Cabo Delgado, posting images of killed soldiers and weapons seized.

The emergence of ISIL affiliated Islamic State Central Africa Province (ISCAP) and Ahlu Sunnah Wa-Jamâ in Cabo Delgado which has a Muslim population of about 58% compared to 18% for the country (Fabricius, 2018) renders further support to the reasoning that higher Muslim populations make the diffusion of Islamist ideologies faster, easier and subsequently a higher incidence of jihadi terrorism. Besides conditions of state weakness and poor health of political systems, another factor that may facilitate the spread of Jihadi terrorism in sub-Saharan Africa is the existence of a variety of inadequately protected

potential international targets e.g. business interests, citizens, diplomats, international organizations such as UN complexes in Kenya and Ethiopia etc. (Botha, 2008a, pp. 35-36; 2008b, p. 29; Cilliers, 2003, pp. 95-99; Forest & Giroux, 2011, pp. 7-9; Howard, 2010, pp. 960-982; Kimunguyi, 2011, pp. 3-4; Mair, 2003, p. 3; Omotola, 2008, p. 44; Shinn, 2003).

2.6. Conclusion

What manifests as terrorism in sub-Saharan Africa is summarised as in figure 2.2 below

Figure 2.2: Terrorism in sub-Saharan Africa.
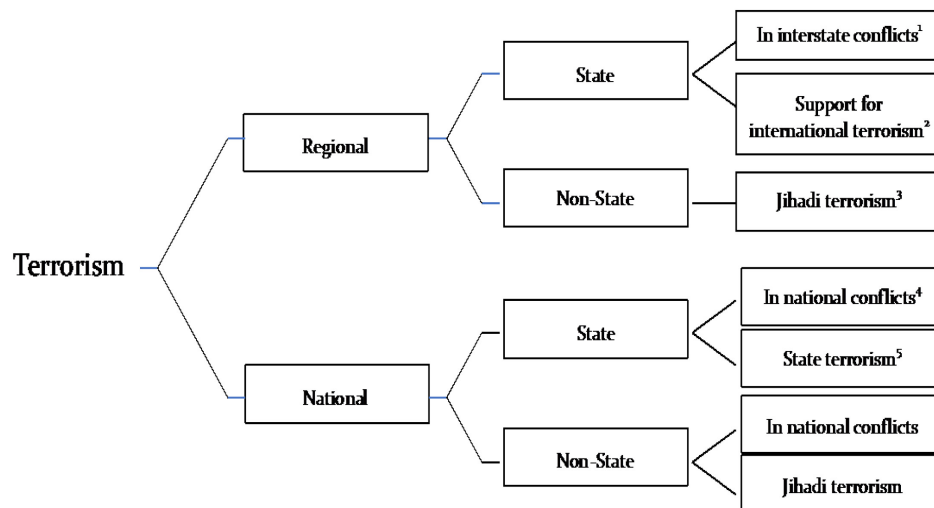
Source: Own figure

Notes:

1. Less prevalent e.g. Sudan vs Uganda, Uganda vs South Sudan, Rwanda vs Uganda, Rwanda vs Democratic Republic of Congo, 'Africa's world war' or 'Africa's great war'
2. Less prevalent. Only two known states: Sudan (Welcomed and used by Osama bin Laden as a base to establish al Qaeda) and Iddi Amin's Uganda (support for the hijacking of a French plane from Athens to Kampala in 1976 by the Popular Front for the Liberation of Palestine (PFLP).

3. Driven by Islamism, an ideology that seeks the establishment of Islamic theocracies using jihad as the vital means. Most complex security challenge in the history of the political development of sub-Saharan Africa. Main groups: AQIM, al Shabaab, Boko Haram, JNIM. High overall and high Muslim populations are key in the diffusion. Signs of spread from traditional bases in Eastern and Western Africa to Southern Africa have emerged.
4. Mainly driven by ethnically motivated political violence. Also features political assassinations. Methods do not differ from those applied by UN proscribed terrorist groups e.g. decapitation
5. Autocratic governments that brutally crack down on opposition, including official state terror policy. State sponsorship for non-state armed groups that commit vicious atrocities. Turning a blind eye to terror by agents of the state in situations where the state stands to benefit politically.

What makes terrorism in sub-Saharan African distinct is that it is essentially inward-looking even when it is directed towards distant targets geographically located outside the region. The fact that there no indigenous sub-Saharan Africa terrorist organization that has so far been associated with a terrorist attack outside the region, explains why major global powers have for a long time procrastinated and seen the region as an insignificant distant threat to global peace and security. See Dagne (2002, p. 6); Dowd and Raleigh (2013, p. 499); Francis (2013, p. 10); Glickman (2003, p. 168); P. Kagwanja (2006, p. 81); Kingebiel (2005, pp. 35-36); Mair (2003). For example, the United states of Africa Command (U.S. AFRICOM), which is designed for military relations with African nations came into being in 2007[16], a decade after al Qaeda first attacked U.S. interests in sub-Saharan Africa and surprisingly, 5 years after its apocalyptic attack in the U.S. in September 2001 killing over 3,000 people (Rapoport, 2001; Strydom, 2019, p. 80).

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[16] See https://www.africom.mil/about-the-command

Even though sub-Saharan Africa does not manufacture and export its own indigenous brand of terrorism, it acts as a logistics haven where foreign terrorist organisations such as Hezbollah, ISIS/ISIL, Taliban and al-Qaeda and al-Qaeda in the Islamic Maghreb (AQIM) exploit enabling conditions (state weakness and poor health of political systems) to engage in criminal enterprise (money Laundering, trade in mineral such as tanzanite and diamond and trade in cocoa, smuggling of drugs through west Africa to Europe) to finance and plan offshore attacks (Danjibo, 2013, p. 20; Glickman, 2003, p. 167; Hübschle, 2011, p. 10; Mair, 2003, p. 3). These are the conditions that enabled Osama bin Laden to use sub-Saharan Africa as a base for the manufacture, test and launch of contemporary jihadi terrorism to the world.

3. COUNTERTERRORISM AND RELATED HUMAN RIGHTS ISSUES IN SUB-SAHARAN AFRICA

3.1. Introduction

Having established what manifests as terrorism and its distinctive character in sub-Saharan Africa, this chapter examines how terrorism ends in the region and discusses the human rights issues and concerns that arise.

Specifically, the chapter briefly elaborates what is counterterrorism and discusses the various measures applied in the region within the framework of the two main approaches to counterterrorism i.e. military and criminal justice approaches. The chapter then proceeds to elaborate the understanding of human rights in sub-Saharan Africa and describes the structure of their application, promotion and protection, before discussing the human rights issues and concerns that are associated with counterterrorist policies in the region.

3.2. Approaches to Counterterrorism

The problems that plague a common definition of terrorism extend to counterterrorism. This is because states, which bear the responsibility of protecting society from terrorism sometimes in the course of counterterrorism commit human rights violations used by terrorists to justify their actions (Andrew & Silke, 2018, p. 8; Busher, 2014, p. 2; Claridge, 1996, pp. 48-52; Field, 2017; Ford, 2013, p. 3; Sigsworth, 2019, p. 6; M. Weber, 2009).

In sub-Saharan Africa, counterterrorism generally means the whole range of government measures designed to prevent, deter, pre-empt, and respond to terrorism and deal with its consequences (Andrew & Silke, 2018, p. 8; Kozera, 2018, pp. 11-12). These measures are broadly categorised into two main approaches i.e. military and criminal justice (Andrew & Silke, 2018, p. 8; Sigsworth, 2019, p. 5). Military approaches rely on the use of armed force by military and civilian security agencies to directly combat threats through security operations (Kielsgard, 2005, p. 252; Sigsworth, 2019, p. 6). Criminal justice approaches are based on the notion of 'criminal justice' which entails the principle of fairness; cultural beliefs about right and wrong and the structure, function and decision processes of the criminal justice system (formal legal systems and informal social institutions that deal with enforcement of criminal law and the efficient and effective control and management of crime and criminal offenders) (DiIulio, 1992, pp. 6, 10; Farrell & Koch, 1995, p. 55; Ford, 2011, pp. 13-14; Schmalleger et al., 2014, p. 5).

3.2.1. Military

The military approach incorporates several measures which include but not limited to peacekeeping; preventing state support for terrorism by threat of military intervention; developing state preventive capacity through military aid and cooperation; assisting in the orderly distribution of humanitarian aid; special operations or day-to-day activities in risky regions; drone warfare; targeted killing or capture suspected key leaders of terrorist groups (cutting off the snake's head) etc. (Kielsgard, 2005, p. 252; Kozera, 2018, pp. 11-12; Sigsworth, 2019, p. 6). Military measures are most effective in pre-

empting imminent threats of attacks and or when civilian authorities are unwilling or unable to intervene (Kielsgard, 2005, p. 252; Sigsworth, 2019, p. 6). In most cases, military and security agencies exercise expanded powers grounded in laws that are shrouded in secrecy under the rubric of essential secrecy (Gupta et al., 2001, pp. 752-753; Pyman, 2017, p. 513; Sidibe, 2018, p. 47; Sigsworth, 2019, p. 7; Thuo, 2009, pp. 155-156). In sub-Saharan Africa, military measures are applied within the framework of regional and international peace support operations; special security operations and counterinsurgency.

3.2.1.1. Peace Support Operations (PSO)

Peace support operations (PSO) are applied within the structure of the African Peace and Security Architecture (APSA) of the African Union (AU) and the United Nations Security Council (UNSC).

The Peace and Security Council (PSC), which is the central organ of the African Union (AU), assumes the overall responsibility for counterterrorism through the department of Peace and Security[17]. Integral to the operations of APSA are the African Standby Force (ASF)[18]; the African Centre for the Study and Research on Terrorism (ACSRT) and the Peace Fund.

ASF is made up of civilian and military components stationed in their countries of origin and ready for rapid deployment in case of grave circumstances within a member state. The force derives its right to

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[17] See https://au.int/en/psc
[18] Comprise of civilian and military components stationed in their countries of origin, ready for rapid deployment.

intervene from the Constitutive Act of the AU. The ACSRT acts as the secretariat of the AU counterterrorism structure and is responsible for centralizing information, empirical research relevant to counterterrorism policy and development of continental counterterrorism capacity building programs. Established by the 2004 AU Plan of Action on the Prevention and Combating of Terrorism, the ACSRT is headed by a Director who is also the continental Special Representative for Counterterrorism Cooperation. The Peace Fund which covers mediation, preventive diplomacy, institutional capacity building and peace support operations, is credited through member state contributions drawn from the 0.2% levy charged on member states to finance the overall AU budget (Ogbonnaya, 2016, pp. 194-195). Some of the AU peace support operations that have featured in the region include:

- The African Union Mission in Somalia (AMISOM) which is ongoing and whose key responsibility is to degrade the threat posed by Al-Shabaab. AMISOM was created by the AU-PSC on 19th January 2007 to replace the Inter-Governmental Authority on Development (IGAD) Peace Support Mission to Somalia (IGASOM)[19].
- The African Union–United Nations Mission in Darfur (UNAMID)
- The Regional Cooperation Initiative for the Elimination of the Lord's Resistance Army (RCI-LRA)[20].
- Sub-regional stand by forces modelled along the design of the African Standby Force (ASF). These include: The Economic

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[19] See https://amisom-au.org/amisom-background/
[20] https://au.int/en/psc

Community of Central African States (ECCAS) Standby Force; the Eastern African Standby Force (EASF); the Southern African Development Community (SADC) Standby force and the Economic Community of West African States (ECOWAS) Standby force.

Within the framework of United Nations Security Council (UNSC), peace support operations (PSOs) take the shape of multi-dimensional international missions. Examples in sub-Saharan Africa include:

– The United Nations Multidimensional Integrated Stabilisation Mission in Mali (MINUSMA), established in accordance with UN Security Council resolution 2085 of 20 December 2012, to replace the African-led International Support Mission in Mali (AFISMA)[21] in accordance with UN Security Council resolution 2100 of 1 July 2013[22]; the United Nations Mission in the Sudan (UNMIS);

– The United Nations Mission in South Sudan (UNMISS) and

– The United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).

Whereas UNMIS, UNMISS and MONUSCO have mainly engaged in counter-insurgency operations against local rebel groups, MINUSMA is mainly engaged in degrading the capacity proscribed and declared jihadi terrorist groups e.g. AQIM, Ansar Deen, MUJAO, JINM etc. Based on the level of risk and number of troop deaths MINUSMA is considered the deadliest UN mission so far

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[21] AFISMA composed of forces drawn primarily from ECOWAS which never deployed
[22] See https://minusma.unmissions.org/en/history

(Boeke, 2016, p. 915; Boeke & de Valk, 2019, p. 1; Boutellis & Zahar, 2017, pp. 2, 10; Briscoe, 2014, p. 44; Karlsrud, 2017, p. 1219; Laub & Masters, 2015, pp. 6-7; Sangaré & McSparren, 2018, p. 15; Stigall, 2015, pp. 15-16; Tull, 2019, p. 405).

3.2.1.2.   Special Security Operations (SSO)

Special security operations are either state or multi-state joint special security operations.

State special operations fall into two categories i.e. national and international. National special counterterror operations feature highly trained small special units of the national police services and the military. Examples include, the Kenya Anti-Terrorism Police Unit (ATPU); the Forces Spéciales Anti-Terroristes (FORSAT) of Mali, the Joint Anti-Terrorist Task Force (JATF) of Uganda   and the Joint Military Task Force of Nigeria (Anderson, 2014, p. 2; Dao, 2019, p. 93; Mwamburi, 2016, p. 78; Oppenheimer, 2005, p. 119; Tour, 2018, p. 37).

International state special military counterterror operations in the region are dominated by France and the U.S. This is despite countries such as Britain and China which have military bases in Kenya and Djibouti respectively. French operations include: Operations Serval (Mali, 2013); Licorne (ivory coast, 2002-14); Èpervier (chad, 1986-2014); Sabre (Burkina Faso, 2012-2014) all of which were moped up into operation Barkane (Sahel, 2014). U.S. special counterterror operations in the region include: the Trans-Saharan Counterterrorism Partnership (TSCTP) established in 2005 and the U.S. Africa Command (AFRICOM) established in 2007 with its base in Djibouti (Boeke, 2014, p. 19; Boeke & de Valk, 2019, p. 11; Diarra, 2012, p. 20; Laub

& Masters, 2015, pp. 6-7; Lecocq et al., 2013, p. 23; Venter, 2018, p. 19). Some scholars raise concerns over foreign military operations in the region. For instance, Busher (2014, p. 2); Ford (2013, pp. 1, 4); Shuriye and Ibrahim (2013) argue that such interventions are not only a continuation of colonial legacies but are also informed by selfish and narrow economic and national security interests. For example, Shuriye and Ibrahim argue that France military interventions in the Sahel Sahara and largely West Africa are motivated by the need to prevent terrorist sanctuaries from thriving close to its uranium exploits in Niger.

Multi-state joint special operations are carried out by countries facing terrorism threat that transcend their common borders. Examples include:

- the Multinational Joint Task Force (MNJTF) established by Chad, Cameroon, Nigeria and Niger against Boko Haram;
- the G5 Sahel Joint Force made up of Burkina Faso, Chad, Mali, Mauritania and Niger established in 2014 with support of France against AQIM, Ansar Deen, MUJAO and JINM and
- the Common Operational Joint Chiefs of Staff Committee (CEMOC) made of Algeria, Mali, Mauritania and Niger established in 2010 against AQIM (Boutellis & Zahar, 2017, p. 9; Diarra, 2012, p. 19).

3.2.1.3. Counterinsurgency (COIN)

Counterinsurgency (COIN) is a comprehensive civilian and military strategy designed to simultaneously degrade terrorist networks and win the support of local populations (hearts and minds) by addressing the root causes of terrorism (Boeke, 2014, p. 6; Kozera, 2018, pp. 11-12). As observed in section 2.3 of chapter two, much of the post-colonial political development of sub-Saharan Africa has been plagued by viscous internal conflicts in which terrorist tactics have formed part of the violent strategy of insurgent and rebel movements. In many of the affected states e.g. Angola, Burundi, DRC Congo, Liberia, Mali, Mozambique, Rwanda, Sierra Leonne, South Sudan, Sudan, Uganda etc. counterinsurgency by the military has formed the traditional response to violence generally and terrorist like violence specifically. In some instances, governments and international partners collaborate with 'friendly' non-state armed groups in counterinsurgent operations. For example:

- the joint operation against al Shabaab by the Kenya Defence Forces (KDF), the Somalia National Army (SNA) and al Shabaab splinters Ras Kiamboni Brigade, Ahlu Sunna wal Jamma, Azaaniya, Gedo Forces and Harti Group;
- the joint operation by the Taureg Mouvement National Pour la Liberation de l'Azawad'(MNLA), the French military and Mali's military also known as Forces Armées Maliennes (FAMA) in northern Mali against a coalition of jihadi terrorist groups and
- the joint operation by Somali armed groups opposed to al Shabaab, the Ethiopian military and the U.S. in 2006 that drove al Shabaab out of Mogadishu

See Arieff (2013, p. 10); Boeke (2016, p. 923); Chauzal and van Damme (2015, p. 40); Dao (2019, pp. 73-74); Gettleman (2011); Kone (2017, p. 58); Kozera (2018, p. 20); Laing (2015); Maïga (2016, pp. 3, 7); Sow (2018, p. 25); Stewart (2013, pp. 41-44); Thurston (2013, p. 5).

In other instances, states avoid direct confrontation and instead engage the services of non-state armed groups (surrogate armies) to carryout COIN operations in locations where they have limited operational capacity or do not want to conceal their involvement. For example, the Janjaweed (devils on horseback) militia's used by the government of Sudan against three non-Arab groups (the Masalit, Fur, and Zaghawa) in Darfur and the Ganda Koy and Ganda Iso militia used by the government of Mali against Taureg rebels in the north of the country (Amadou, 2019; Bøås & Torheim, 2013; Flint, 2009; Howard, 2010, p. 964; A. Keith, 2007, p. 149; Kozera, 2018, p. 20).

3.2.2. Criminal Justice

Unlike the military approach, the criminal justice approach does not treat terrorism as a military problem requiring the use of armed force, rather, it treats terrorism as a serious crime proscribed in international laws, national criminal laws and extant anti-terrorism conventions (Ford, 2011, pp. 12-14; Kielsgard, 2005, pp. 253-254). The ordinary mode of implementing criminal justice measures is through the Criminal Justice System (CJS) i.e. the aggregate of all operating, administrative and technical support agencies (police, courts,

corrections, community) that regulate potential, alleged and actual criminal activity within limits designed by law i.e. within the rule of law-RoL (Bernard & Engel, 2001, p. 2; Sanders, Young, & Burton, 2010, pp. 1-2; Schmalleger et al., 2014, pp. 5, 14). In other words, CJS agencies are responsible for the administration of justice which includes but not limited to detection, apprehension, detention, pre-trial release, prosecution, adjudication, post-trial release, correctional supervision, rehabilitation & reintegration of accused persons or criminal offenders back to the community and protection victims of crime (DiIulio, 1992, pp. 6, 10; Ford, 2011, pp. 13-14; Schmalleger et al., 2014, p. 5). In sum, the criminal justice approach to counterterrorism encompasses the full range of legislative and institutional measures aimed at countering terrorism within the framework of the rule of law.

3.2.2.1. Legislative Mechanisms

Because criminal justice is anchored on the rule of law (RoL), legislative mechanisms are the foundation of criminal justice (CJ) approaches to counterterrorism. They entail the development of effective and efficient laws that define and criminalise acts of terrorism, guide the implementation of counterterrorist policies as well as the prosecution and rehabilitation of former terrorists. They are based on the principle that, because terrorism is an attempt to break the law and disrupt public order through use or threat to use illegitimate violence, the fight against forces threatening the law must be fought within the law (Mersel, 2005, p. 91; M. Weber, 2009). In sub-Saharan Africa, legislative mechanisms take the shape of regional, international and national legal frameworks.

3.2.2.1.1. Regional and International Legal Frameworks

Through ratification, regional and international legal frameworks provide a legal basis for cooperation on issues such as extradition, prosecution, imprisonment, intelligence, exchange of information, creation of lists of suspected terrorists, their financier and adherents for targeted sanctions (severance of diplomatic relations, travel bans, asset freezes, arms embargo), border security, control of trafficking in arms etc. (Argomaniz, 2011, p. 10; Boeke, 2014, p. 6; Coolsaet, 2010, pp. 857-873; Foot, 2007, p. 491; Ford, 2013, pp. 5, 12; Khan, 2016, p. 7; Kielsgard, 2005, pp. 253-254; Rosand, 2003, pp. 335-338; Sigsworth, 2019, pp. 6, 12; Warbrick, 2004, pp. 993-1015).

The legal framework for counterterrorism at the regional level consists of three key instruments:

– the Organisation of African Unity (OAU) resolution AHG/Res.213 (XXVIII) of 1992 on the Strengthening of Cooperation and Coordination among African states;

– the OAU resolution AHG/Del.2 (XXX) of June 1994 on the Code of Conduct for Inter-African Relations and

– the 1999 Convention on the Prevention and Combating of Terrorism and its additional Protocol.

– the African Model Law on Counter-Terrorism adopted in July 2011. This model law provides a continental legal standard to assist states in the task of developing national anti-terror legislations.

These instruments define and denounce extremism and terrorism; provide a framework for interstate cooperation in areas such as extradition, extra-territorial investigations and mutual legal assistance; address concerns over protection of human rights, state security, state jurisdiction over terrorism-related offences, financing of terrorism and risks of terrorists acquiring weapons of mass destruction (Ewi & Aning, 2006, p. 36; P. Kagwanja, 2006, pp. 79-80; Sturman, 2002, pp. 103-104).

At the international level, states in the region have at their disposal nineteen UN International legal instruments for the prevention of terrorism which have been in force since 1963. However, ratification of these instruments in sub-Saharan Africa varies between states and in some states quite poor. See table 3.1. See also Ewi and Aning (2006, pp. 35-36); Ford (2011, pp. 35-40).

Only four of the UN instruments have been ratified by at least half of the countries in sub-Saharan Africa. Four countries (Eritrea, Somalia, including Zambia and Zimbabwe) which also have no specific legislation on terrorism have not ratified any of the nineteen UN international instruments.

Several explanations can account for the poor ratification record for some of the instruments. The most obvious reason is the lack of agreement among states on a universal definition of terrorism. Second, in some places, because power is highly personalised and abused, and for fear of accountability, ratification of some the instruments is unattractive to some governments. Third, colonial experiences of most African states make governments sensitive to

ideas crafted in foreign capitals and generally averse to some political developments taking place at the international stage. Fourth, the technical nature of some instruments does not for the time being correspond with economic and technological realities of many states in the region rendering their ratification irrelevant. For example, the *"1980 Convention on the Physical Protection of Nuclear Material"* has been ratified only by Nigeria and South Africa. This makes sense because, all things being constant, they are the only states in the region with the economic capacity to develop viable nuclear programmes. See also Ford (2011, pp. 14-16).

Table 3.1:Ratification UN CT international legal instruments in sub-Saharan Africa

Instrument	No.
– 1970 Convention for the Suppression of Unlawful Seizure of Aircraft	1
– 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons	1
– 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation	2
– 1980 Convention on the Physical Protection of Nuclear Material	2
– 2014 Protocol to Amend the Convention on Offences and Certain Acts Committed on Board Aircraft	4
– 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection	4
– 1979 International Convention against the Taking of Hostages	6
– 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation	6
– 1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft	7
– 2005 Protocol to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms located on the Continental Shelf	7
– 1997 International Convention for the Suppression of Terrorist Bombings	7
– 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation	10
– 2010 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft	12
– 2005 Amendments to the Convention on the Physical Protection of Nuclear Material	12
– 2005 International Convention for the Suppression of Acts of Nuclear Terrorism	14
– 1999 International Convention for the Suppression of the Financing of Terrorism	24
– 1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf	32
– 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation	35
– 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation	41

Source:
1. UN-CTC https://www.un.org/sc/ctc/resources/international-legal-instruments/
2. International Atomic Energy Agency (IAEA): https://www.iaea.org/resources/legal/treaties
3. International Civil Aviation Organization (ICAO): https://www.icao.int/Secretariat/Legal/Pages/TreatyCollection.aspx
4. International Maritime Organization (IMO): http://www.imo.org/en/About/Conventions/StatusOfConventions/Pages/Default.aspx
5. UN Treaty Collection: https://treaties.un.org/Pages/ParticipationStatus.aspx?clang=_en
Note: all accessed on 04/12/2019

3.2.2.1.2. National Legal Frameworks

National legal frameworks consist of the whole bundle of national criminal laws relevant to counterterrorism. They are guided by standards set by the UN Global Counter-Terrorism Strategy (2006) and UN Security Council Resolutions 1267 (1999), 1373 (2001) and 1540 (2004) adopted under chapter VII of the UN Charter (Ford, 2011, p. 24; Sigsworth, 2019, p. 5; Sturman, 2002, p. 104). These standards require that UN member states draft comprehensive national and regional strategies; develop legislation to criminalise acts and the financing of terrorism; implement legislation through law enforcement and criminal justice processes; cooperate internationally; ensure that any counterterrorism measures taken comply with all state obligations under international law, international human rights standards, refugee and humanitarian law (Andrew & Silke, 2018, p. 8; Ford, 2011, pp. 7-9; Sigsworth, 2019, p. 5; Whitaker, 2007, p. 1018).

In sub-Saharan Africa, compliance with these legal standards is varied and in some instances unsatisfactory (Ford, 2011, p. 39; Whitaker, 2007, p. 1019). For example, data on the number of legislation on terrorism complied by the United Nations Office for Drugs and Crime (UNODC)[23] and the Center for Strategic & International Studies (CSIS)[24] shows that while most countries in sub-Saharan Africa have at least one specific anti-terror legislation explicitly focusing on terrorism, seven countries have no single legislation. See figure 3.1.

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[23] See https://sherloc.unodc.org/cld/v3/sherloc/
[24] See https://www.csis.org/programs/international-consortium-closing-civic-space-icon/aligning-security-and-civic-space-0

According to Ford (2011, p. 39), countries with no legislation on terrorism either see their generic criminal code as sufficient; do not believe counterterrorism is of sufficient priority or lack technical capacity.

Figure 3.1: Anti-terror legislations by state in sub-Saharan Africa
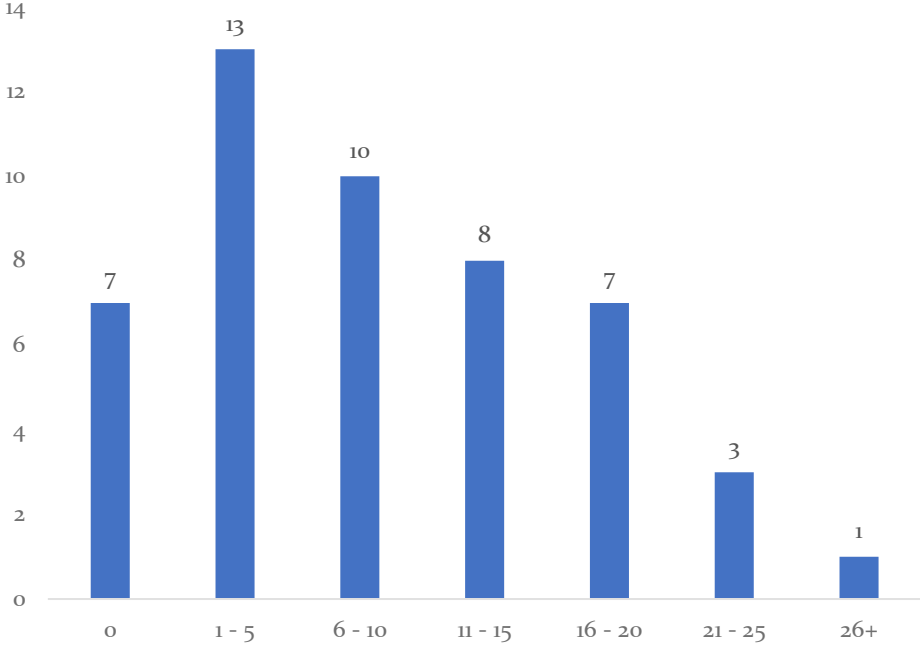
Source: (SHERLOC, 2019; Studies & CSIS, 2018)

Notes:
- No legislation: Eswatini, Liberia, Rwanda, São Tomé & Príncipe, Togo, Zambia, Zimbabwe;
- 1 – 5: Somalia, Seychelles, Sierra Leone, South Africa, South Sudan, Tanzania, Uganda, Congo, Sudan, Equatorial Guinea, Comoros, Gabon, Lesotho;
- 6 – 10: Angola, Guinea, Guinea-Bissau, Chad, Malawi, Mauritania, Botswana, Burundi, Democratic Republic of Congo, Eritrea;
- 11 – 15: Benin, Cabo Verde; Central African Republic, Madagascar, Senegal, Cameroon, Niger, Nigeria;
- 16 – 20: Kenya, Mozambique, Namibia, Djibouti, Ghana, Mali, Ethiopia;
- 21 – 25: Côte d'Ivoire, The Gambia, Mauritius;
- 26 +: Burkina Faso.

3.2.2.2. Institutional Mechanisms

3.2.2.2.1. Police

The primary role of police is to maintain public order and safety by enforcing the law. In the context of counterterrorism, police work entails but not limited to extraditing and prosecuting terrorism suspects; protecting potential targets; gathering intelligence and exchanging information on terrorists; providing border security and control of trafficking in arms; conducting investigation and forensics etc.

As observed by Cilliers (2003, p. 98); Forest and Giroux (2011, pp. 7-9); Glickman (2003, p. 167); Kimunguyi (2011, pp. 3-4); Omotola (2008, p. 44); M. Weber (2009), because terrorism thrives where the state is absent[25], weak or fails to excise its monopoly over legitimate use of violence, effective police organisations as far as counterterrorism is concerned are those that are well funded, adequately equipped, sufficiently populated, well distributed, properly trained and maintain an appropriate culture (Kleck & Barnes, 2010; Wellford, 1974; Wilson & Boland, 1978).

The U.N. Secretary-General's report to the twelfth United Nations Congress on Crime Prevention and Criminal Justice suggests that every country should have a minimum of 300 police officers per 100,000 inhabitants. See Nations (2010, p. 19). Because countries in the region do not allow open access to information and data on the profile of security agencies, it is not easy to establish whether

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[25] For example, Diarra (2012, pp. 9, 16) observes that withdrawal of security forces from northern Mali freed the region for criminal activities and the entrenchment of terrorist elements.

countries in sub-Saharan Africa meet this minimum threshold. Even when information and data is made publicly available, it is usually accompanied by caveats on usage and difficult to verify (Sigsworth, 2019, p. 3). Generally, useful publicly available primary information and data on counterterrorism in sub-Saharan Africa is shrouded in secrecy and legal protection (Gupta et al., 2001, pp. 752-753; Pyman, 2017, p. 513; Sidibe, 2018, p. 47; Sigsworth, 2019, pp. 3, 7; Thuo, 2009, pp. 155-156).

Nevertheless, based on UN reports, national police websites and strategic plans, data on the size of police organisations is available for twenty-seven countries for different years as displayed in table 3.2. The data also includes successful attacks of essentially no doubt of terrorism for the subsequent year for which data on the size of the police force and total population are available. Lagging of police data allows for accurate inferences on the association between the size of the police force and the observed incidence of terrorism. This is because we expect that if police organisations are effective in preventing terrorism, future attacks in the subsequent year are also expected to be lower and vice versa.

Table 3.2: Density of Police officers in sub-Saharan Africa by state

Country	Year	Police Size	Total Population	Police per 100,000	Terrorism incidents
Mauritius	2012	12,475	1,255,882	993	0
South Sudan	2012	52,000	10,113,647	514	10
Botswana	2012	8,500	2,039,551	417	0
Eswatini	2012	4,164	1,079,288	386	0
Cabo Verde	2015	1,825	524,743	348	-
South Africa	2012	156,489	52,834,005	296	9
Gambia, The	2012	5,000	1,905,011	262	0
Zimbabwe	2008	28,772	12,379,549	232	0
Nigeria	2013	360,000	171,765,769	210	622
Kenya*	2013	75,325	45,519,889	165	95
Burundi	2014	16,173	9,844,297	164	83
Uganda*	2015	44,897	36,912,148	122	5
Lesotho	2012	2,404	2014990	119	0
Zambia	2018	19,000	17,351,822	109	0
Liberia	2012	4,100	4,135,659	99	0
Guinea	2012	10,000	10,652,029	94	2
Ghana	2012	23,000	25,996,449	88	0
Tanzania	2015	45,487	51,482,633	88	2
Cote d'Ivoire	2008	15,770	19,605,569	80	0
Comoros	2012	500	723,871	69	0
Togo	2012	4,000	6,773,807	59	0
Niger	2012	8,700	17,795,191	49	3
Mali	2012	7,000	15,979,499	44	31
Somalia	2012	5,532	12,715,510	44	189
Madagascar	2015	8,272	24,234,088	34	1
Cameroon	2013	3,839	22,077,298	17	56
Rwanda	2013	530	10,811,543	5	2

Source: UN Survey on Crime Trends and Operations of Criminal Justice Systems (UN-CTS), World Bank; ((START), 2018). Data marked with an asterisk (*) is obtained from national police sources (the Kenya Police Strategic Plan 2013/14-2017/18 available at http://www.nationalpolice.go.ke/downloads/category/14-nps-strategic-plan.html and the Uganda Police force statistical abstract, 2015 available at https://www.upf.go.ug/download/2015-upf-statistical-abstract-final/. Both accessed on 21/12/2019.

Correlation analysis finds no clear association between the number of police officers per 100,000 inhabitants and the incidence of terrorism ($r = .01$, $p = .49$, 2-tailed) in sub-Saharan Africa. However, it is important to note that extant studies such as Kleck and Barnes (2010); Nations (2010, p. 20); R. J. Sampson and Cohen (1988); Wellford (1974); Wilson and Boland (1978) that have empirically investigated the relationship between the size of police organisations and the level of crime have produced mixed and inconclusive results.

Nonetheless, data in table 3.2 shows that except for South Sudan, the other three countries in sub-Saharan Africa (Mauritius, Botswana, and Eswatini) that meet the suggested minimum threshold of 300 police officers per 100,000 inhabitants did not experience any terrorist attack in the subsequent year for which data for their police organisations was available. Notwithstanding, scarcity of data and lack of clarity on the relationship between variables that measure key characteristics of police organisations and serious crime, it appears that the quality and performance of most police organisations in the region cannot guarantee effective counterterrorism.

According to the first edition (2016) of the World Internal Security and Police Index (WISPI)[26] (Abdelmottlep, 2016, pp. 2, 12), seven out of ten worst performing police organisations in the world are sub-Saharan African. The report observes that police organisations in the region have the lowest level of responsiveness to internal security issues; are under-resourced and stretched by terrorist organisations and insurgencies.

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[26] WISPI ranks countries according to their ability to provide security services and boost security performance in general (Abdelmottlep, 2016, p. 1).

According to the 2019 World Justice Project rule of law index[27] (Project, 2019), the effectiveness of criminal investigation systems in sub-Saharan Africa is below average (0.42/1.00). This indicates that generally, many police organisations in the region cannot guarantee effective investigations that yield robust evidence that enables courts to secure fair, just and successful convictions in terrorism related cases. The import is that with poor evidence, procedural justice is miscarried giving way to violation of rights of accused persons and victims of terrorism.

According to the 2016/2018 Afrobarometer survey, only 28.5 percent of citizens in sub-Saharan Africa highly trust the police and even smaller proportion 8.0 percent, think that police are not involved in any form of corruption[28]. These statistics generate genuine concerns because as noted by Cilliers (2003, p. 91); Edwards and Gill (2002, p. 207); Finckenauer (2005, p. 65); Ignatieff (2002, p. 1146); Miraglia et al. (2012, p. 6); P. Williams (1997, p. 1), terrorist networks like other criminal organisations, rely on corruption to nullify government and operate unhindered by law enforcement officers who are willing to turn a blind eye or look the other way for their personal gain. The perception that police officers in sub-Saharan Africa are involved in corruption suggests that local communities would not have faith that crucial actionable information on terrorists that they share with the police will be handled with confidence; guarantee the safety of informers and lead to successful convictions. At stake are police-

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[27] See https://worldjusticeproject.org/our-work/research-and-data/wjp-rule-law-index-2019/current-historical-data
[28] See Afrobarometer Data, Round 7, 2016/2018, available at http://www.afrobarometer.org

community partnerships commonly known as community policing e.g. as applied with varying degrees of success and challenges in Nigeria and Kenya (Ejiogu, 2019; Ndono, Muthama, & Muigua, 2019).

During the field visit in Mali for this research in May 2019, one respondent observed that:

> *'It's easy, we must dispense justice to avoid the impunity and bad governance. The militaries and the population trust each other to fight insecurity because terrorists are hidden among the population. We must create a climate of confidence between armies and population, and the population must know that armies are there to protect them and not to persecute them'.*

Despite the challenges, there is some progress. For example, the 2018 Ibrahim Index of African Governance (IIAG)[29] shows that large and fast improvements across the security and justice sector have been recorded since 2014, See Foundation (2019, p. 50). In Kenya for example, the Independent Police Oversight Authority (IPOA)[30] and the National Police Service Commission[31] are recent constitutional bodies established to provide among other things: civilian oversight, ensure due process, respect for human rights and exercise disciplinary

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[29] The Ibrahim Index of African Governance (IIAG), created at Harvard's Kennedy School of Government, evaluates African countries according to fifty-seven variables producing overall rankings of governance attainment. Its purpose is to diagnose (Rotberg, 2009). See http://mo.ibrahim.foundation/iiag/methodology

[30] see https://www.ipoa.go.ke/ . See also the African Policing Civilian Oversight Forum (APCOF) which is a coalition of police oversight bodies and practitioners in Africa: http://apcof.org/

[31] See https://www.npsc.go.ke/index.php/about-us

control over police officers. In Ghana, constitutional reforms (Article 203,13), reconstituted the Police Council, making it an independent body in charge of ensuring the effective and efficient administration of the Ghana Police Service (Bryden & Chappuis, 2015, pp. 19-35). At the regional level, the African Police Organisation (AFRIPOL)[32] and the International Criminal Police Organization (INTERPOL) ensure coordination and cooperation among national police organisation on matters counterterrorism.

3.2.2.2.2. Courts

In modern democracies, the main responsibility of the judiciary is to review legislation, policies and actions of other arms of government (legislature and executive) to ensure that they comply with the law (Fabbrini, 2009, p. 666; Krebs, 2016, p. 42; Mersel, 2005, pp. 68, 91; Scheinin, 2016). As guardians of the constitution, courts set limits on counterterrorism measures by clarifying, tracking and interpreting applicable sources of authorization (the constitution, statutes, international laws, human rights laws and administrative regulations) for executive power or action (Benvenisti, 2007, pp. 1, 7-8; Boateng & Adjorlolo, 2018, p. 1692; Fabbrini, 2009, pp. 666, 694; Krebs, 2016, pp. 42, 49-51; Mersel, 2005, pp. 90-92; Murray, 2016, p. 91; Scheinin, 2016)[33]. They also facilitate international counterterror cooperation anticipated in ratified instruments and mutual legal arrangements and assess such cooperation against possible human rights abuses

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[32] See https://afripol.africa-union.org/

33 According to Fabbrini (2009, p. 693), the rights protection role of courts can be seen through a three tier lens. When the judiciary adopts a very limited public security scrutiny, the protection of fundamental rights is minimal. When courts engage in a middle review scrutiny, tackling the manifest error of appreciations of the political branches of government, protection is intermediate. When courts exercise a strict, high level scrutiny, rights are fully protected.

(Benvenisti, 2007, p. 1; Murray, 2013, p. 194). When implementing counterterrorism measures, it is common for states to invoke national security interests, especially when military approaches are involved. In such circumstances, courts assess on a case by case basis any measures deemed by the executive as necessary to deal with grave risks to society, and make a proportional determination on the balance between national security interests and human rights concerns (Benvenisti, 2007, pp. 4-5; Khamala, 2019, p. 79; Krebs, 2016, p. 49; Mersel, 2005, pp. 92-93, 103, 110; Scheinin, 2016). In this regard, courts either weigh up the conflicting risks and interests or review how the executive performed this delicate balancing act (Benvenisti, 2007, pp. 7-8). Terrorism challenges democracy because it seeks to replace politics (the means through which democratic societies maintain control over human violence through dialogue, discussion, debate, protest, the arts etc) with violence alone (Ignatieff, 2002, p. 1162). In times of counterterrorism therefore, courts play the crucial role of maintaining democracy by ensuring that governments do not fight terrorist violence with violence alone i.e. ensuring that the fight against terrorism is fought within the law (Boateng & Adjorlolo, 2018, p. 1692; Fabbrini, 2009, p. 690; Ignatieff, 2002, p. 1162; Mersel, 2005, p. 69; Scheinin, 2016). In sum, since the ordinary mode of enforcing the International Bill of Human Rights is through the laws and constitutions of states which are the first recourse to address any violations, courts are the gatekeepers of human rights in counterterrorism, because they ensure that these legislations are obeyed to the latter (Brown, 2016, pp. 13, 32).

In the fight against terrorism, courts must be and be seen to be independent and impartial for them to be effective and efficient[34] (Krebs, 2016, p. 43). In the context of counterterrorism, judicial independence and impartiality is particularly important because as noted by Andrew and Silke (2018, p. 8); Busher (2014, p. 2); Claridge (1996, pp. 48-52); Collier and Hoeffler (2004); Field (2017); Ford (2013, p. 3); Krebs (2016, p. 73); Sigsworth (2019, p. 6); M. Weber (2009), terrorists rely on violations and injustices committed by the state to justify their actions. Thus, as the last layer of protection, it is pertinent that courts must be seen to protect citizens against state injustices without fear or favour.

According to the Ibrahim Index of African Governance (IIAG) first published in 2008, judicial governance in Africa can be measured using three indicators i.e. independence of the judiciary, independence & transparency of the judicial process and access to Justice. The IIAG index shows that since 2008, there is progressive overall improvement in judicial governance in sub-Saharan Africa on all the three indicators, though significant variations exist between countries (Foundation, 2019, p. 43). The number of countries that have shown consistent improvements in all the three indicators of the IIAG index is four times (15) the number of countries that have shown consistent decline (4) over the period 2008 – 2017. See table 3.3.

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[34] The universally accepted minimum standards for achieving judicial independence are contained in the *"UN Basic Principles on the Independence of the Judiciary"*. See Nations (1988).

Table 3.3: Judicial Governance in sub-Saharan Africa, 2008 – 2017

Change between 2008 and 2017	Independence of judiciary	Independence & Transparency of the Judicial Process	Access to Justice	Improve/ decline in all indicators
Improved	21	44	26	15
deteriorated	27	4	22	4
No data	1	1	1	1

Own table adapted from Foundation (2019, p. 43). Note: tallies are based on average scores between 2008 and 2017.

According to the 2016/2018 Afrobarometer survey, only 28.6 percent of citizens in sub-Saharan Africa highly trust the judiciary and a smaller proportion 11.0 percent think that magistrates and judges are not involved in any form of corruption[35]. These statistics are problematic. The implication is that, convicted terrorist and their families are highly likely to perceive that their right to a fair and just legal process was violated, and those acquitted or yet to be arrested are highly likely to be emboldened by the knowledge that they can easily corrupt their way through the judiciary to freedom. In a nutshell, perceptions of mistrust and corruption in the judiciary play into the hands of terrorist propaganda and complicate genuine counterterrorism efforts. See also Boateng and Adjorlolo (2018).

The deficiencies that affect judicial independence and impartiality in many countries in the region are tied to colonial legacies that saw post-independence governments inherit and maintain autocratic institutions for purposes of continued control e.g. poor funding;

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[35] See Afrobarometer Data, Round 7, 2016/2018, available at http://www.afrobarometer.org

deliberate understaffing; appointment of staff through personal ties intimately linked to the executive etc. (Affichard, 2019, pp. 7, 10-11; Hamilton, 2009, pp. 39-40; L. C. Keith & Ogundele, 2007, p. 1066; Mingst, 1988, p. 137; Shen-Bayh, 2018, p. 9). In some jurisdictions, courts are severely affected by operational problems e.g. long processing times (which goes hand in hand with a substantial backlog of cases) and empty or incomplete files due to poor prosecution practices (e.g. poor investigations that fail to meet the high evidentiary threshold required in serious criminal cases) leading to low conviction rates (Affichard, 2019, pp. 7, 10-11; Hamilton, 2009, pp. 39-40; Nozawa & Lefas, 2018, p. 9).

The challenges notwithstanding, some progress is notable beginning with the rapidly increasing process of democratisation in most of sub-Saharan Africa that began in the early 1990's (Boateng & Adjorlolo, 2018, p. 1691; Hamilton, 2009, p. 43; Straus, 2012). If all things remain constant, increased democratisation gives hope that gains in judicial governance as indicated by the IIAG index will continue to make visible human rights foot prints in counterterrorist policies across the region. Specific judicial reforms include for example, establishment of specialized judicial units to address backlog of cases in Burkina Faso (Crime, 2018, p. 7) and constitutional reforms that established the Judicial Service Commission (JSC) to promote an independent, accountable, efficient, effective and transparent judiciary in Kenya[36].

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[36] See http://www.jsc.go.ke/

3.2.2.2.3. Corrections

In many places, corrections are made up of prison and probation organisations. Prisons ensure the safe custody of persons lawfully convicted of crime; facilitate their rehabilitation in custody and reintegration back into the community. Probation organisations ensure the rehabilitation of offenders within the community and facilitate their reintegration back into the community when they leave prison. The universally acknowledged minimum standards for the management of correctional facilities and the treatment of prisoners and offenders in the community are outlined in the UN Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules)[37]; the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)[38] and the UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders[39]. These standards ensure that all prisoners and offenders are treated with the respect due to their inherent dignity and value as human beings.

In the counterterrorism network, correction organisations are critical nodes because they cure, sanitise and delink former terrorists from terrorist networks. While there is a significant body of scholarly literature focusing on the role of prisons as counterterrorism agencies (especially literature on radicalisation), not much has been discussed on the role of probation organisations. The problem is compounded in sub-Saharan Africa by scarcity of data and information due to

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[37] See https://www.ohchr.org/EN/ProfessionalInterest/Pages/TokyoRules.aspx
[38] See https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf
[39] See https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf

difficulties of access. Even the data portal of the United Nations Office for Drugs and Crime (UNODC), which collects and centralises global data and information on drugs, crime and terrorism has no data on probation services for any country in the world. Responding to an email request for data on probation in sub-Saharan Africa, the UNODC observed that:

> *'We do not collect data on probation. We only collect data on prosecuted, brought before criminal courts, convicted and brought into formal contact.'*

The scarcity of empirical literature on probation is partly because unlike prisons services, probation services in sub-Saharan Africa are not well developed. In Nigeria for example, Yekini and Salisu (2013, p. 101) observe that while the law allows for the use of probation sentences, there are no adequate institutional facilities to drive it and its application by courts is rather restricted to juvenile offenders. According to the United Nations Interregional Crime and Justice Research Institute, only four countries in Africa (all in sub-Saharan Africa) have designated probation and parole organisations i.e. Botswana, Kenya, Seychelles and South Africa[40]. Arguably, Kenya's Probation and Aftercare Services (PACS) is the most advanced probation organisation in sub-Saharan Africa[41].

The data on prisons on the UNODC data portal obtained through its questionnaire system is available for only a few countries[42]. According to Telisinghe et al. (2016), by the end of 2016 there were at least 2,490

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[40] http://www.unicri.it/
[41] See http://www.probation.go.ke/
[42] See https://dataunodc.un.org/

prison facilities in sub-Saharan Africa. Conditions in most of these facilities are some of the poorest in the world[43] e.g. severe overcrowding; lack of sanitation and access to proper medical care; few rehabilitative, educational or vocational programmes and opportunities; physical and psychological abuse; lengthy legal processes; increased violence etc. The average daily census of prison detainees in sub-Saharan Africa is about 150 per cent (See table 3.4) comprising mainly of remand detainees (Abdelmottlep, 2016, p. 12; Nations, 2010, p. 21; Telisinghe et al., 2016, pp. 3-4). Prison overcrowding means that more funds go to the management of high prison populations as staff become demoralised by poor pay, training, housing, equipment etc. It also means that rehabilitation programmes are poorly funded, designed and are inadequate etc.

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[43] https://www.penalreform.org/where-we-work/africa/

Table 3.4:Prison populations in sub-Saharan Africa

Country	Prison population	Prisons	Year	Prisoners per 100 000 population	Pre-trial detainees (%)	Occupancy (%)	Terrorism
Angola	22826	34	2014	106	47·1	167	21
Benin	7247	9	2012	77	74·9	364	0
Botswana	3960	23	2015	192	24·5	92	0
Burkina Faso	6251	25	2014	34	48·0	171	3
Burundi	8646	11	2014	93	47·5	214	18
Cabo Verde	1434	5	2013	286	29·6	122	0
Cameroon	25914	78	2013	115	59·9	138	30
Central African Republic	764	5	2015	16	70·2	..	36
Chad	4831	45	2011	39	63·4	232	16
Comoros	233	3	2014	31	55·8	388	0
Congo, Dem. Rep.	21711	120	2013	32	82·0	271	72
Congo, Rep.	1240	12	2014	27	60·0	483	3
Côte d'Ivoire	10850	34	2014	52	42·0	218	2
Djibouti	600	2	2014	68	50·0	171	..
Equatorial Guinea	1000	15	2014	129	..	..	0
Eritrea	..	..	..	..	..	..	2
Eswatini	3616	12	2014	289	18·1	127	0
Ethiopia	111050	126	2012	128	14·0	..	15
Gabon	3500	9	2013	210	33·0	..	0
Gambia, The	1121	3	2014	58	22·2	173	0
Ghana	14534	43	2016	53	18·7	147	0
Guinea	3110	31	2014	26	65·0	175	3
Guinea- Bissau	92	3	2013	..	majority	102	1
Kenya	54154	108	2015	118	40·4	202	21
Lesotho	2073	12	2014	92	19·5	71	0
Liberia	1719	15	2014	39	83·0	138	0
Madagascar	18719	82	2013	83	53·0	181	0
Malawi	12156	30	2014	73	16·1	174	0
Mali	5209	58	2014	33	52·8	222	11
Mauritania	1768	18	2014	44	41·0	102	1
Mauritius	2137	10	2016	159	41·1	117	0
Mozambique	15976	184	2015	57	32·9	195	0
Namibia	3560	13	2015	144	6·6	96	0
Niger	7424	38	2014	39	53·4	60	14
Nigeria	56620	240	2014	31	69·3	114	389
Rwanda	54279	14	2015	434	7·1	96	2
São Tomé and Príncipe	201	1	2014	101	10·9	77	0
Senegal	8630	37	2014	62	41·4	117	2
Seychelles	735	3	2014	799	15·5	143	0
Sierra Leone	3488	19	2015	55	54·3	195	5
Somalia	3450	..	2012	..	..	..	..
South Africa	159563	236	2015	293	27·1	133	0
South Sudan	6504	80	2015	52	28·9	329	34
Sudan	19101	125	2013	50	20·4	255	48
Tanzania	34196	126	2014	69	50·1	120	2
Togo	4493	12	2014	64	65·2	165	0
Uganda	45092	247	2015	115	55·0	273	28
Zambia	18560	88	2015	125	23·2	229	0
Zimbabwe	18857	46	2015	145	17·1	111	0

Source: ((START), 2018; Telisinghe et al., 2016, pp. 3-4)

Prison radicalisation is the most significant problem for prison authorities in sub-Saharan Africa as far as counterterrorism is concerned. It is a process in which an individual's convictions and willingness to seek deep and serious changes in society increase through the effective socialisation and re-socialisation of criminal and extremist culture in prisons (Mulcahy, Merrington, & Bell, 2013, p. 5; Santoro, 2018). Overcrowding compound the problems associated with prison radicalisation and according to Rope and Sheahan (2018, p. 28); Walmsley (2003, p. 73) make prisons to become 'the university of crime' where violent extremism is taught as one of the courses. To illustrate the grave danger posed by prison radicalisation, Paul and Virgili (2019, p. 3) cite the case of two terrorist attacks that took place in Europe in 2018 (Liège in Belgium and Strasbourg in France) perpetrated by individuals radicalised in prison. In addition, a recent study of '*violent extremism and radicalization among youth in Kenyan prisons*' by Kahara (2017, p. 70) found that at least 26% of ex-inmates had been approached by people they believed to be terrorists or violent extremists during their time in prison.

Besides the challenges posed by prison radicalisation, prisons face the grave danger of imminent attacks from terrorists because they hold terrorists in their custody. For example, on 1 June 2013, the Movement for Unity and Jihad in West Africa (MUJWA) and the Signed-in-Blood Battalion attacked the main prison in Niamey, Niger facilitating the escape of 22 inmates including their members (Arieff, 2013, p. 7; Briscoe, 2014, p. 22; Filiu, 2015, pp. 107, 109; Lebovich, 2013; Marc et al., 2015, p. 44; Marchal, 2013; Onuoha & Ezirim, 2013, p. 5; Stewart, 2013, pp. 41-44; Stigall, 2015, p. 10; Venter, 2018, p. 79). In 2010, 2011 and 2012, Boko Haram militants attacked Bauchi, Yola and Kogi prisons in

Nigeria, liberating at least 100 militants and hundreds of prisoners, some of who were forcefully conscripted into the group (Ajayi, 1990, p. 106; Cook, 2011, p. 12; Sodipo, 2013, p. 1). Insufficient numbers (low prison officer to inmates' ratio) of demoralised, poorly trained, equipped and paid prison officers are un able to respond to such attacks and their aftermath e.g. prison riots.

In sum the main challenge for counterterrorism in sub-Saharan Africa as far as prisons are concerned is prison overcrowding which breeds a host of other problems mainly radicalisation of violent extremist culture and human rights violations. Demoralised prison staff become a threat to human rights in prison.

3.2.2.2.4. Preventing or Countering Violent Extremism (P/CVE)

Measures for preventing or countering violent extremism (P/CVE) are designed to address the root causes of terrorism e.g. prevalence of prolonged explosive unresolved conflicts; mass poverty; expansive inequality; porosity of national borders; despotic colonial legacies; dehumanization of victims of terrorism; absence of the rule of law; ethnic, political and religious discrimination and exclusion; lack of good governance and corruption etc., all summarised into state weakness and poor health of political systems (Assembly, 2006, p. 51; Boateng & Adjorlolo, 2018, pp. 1692, 1694; Gebeye, 2019, p. 338; L. C. Keith & Ogundele, 2007, p. 1066; Mingst, 1988, p. 137; Shen-Bayh, 2018, p. 9). See also the Fragile States Index (FSI)[44] which shows that in 2018, sub-Saharan Africa was home to 18 of the world's 25 most fragile

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[44] The FSI is based on 12 social, economic and political indicators which detail the pressures and vulnerabilities faced by countries. http://fundforpeace.org/fsi/data/. Accessed on 9/03/2019. It is the most well-known country fragility index used by researchers (Boeke & de Valk, 2019, p. 4).

states. There are regional initiatives designed to broadly address macrosocial conditions that breed terrorism and violent extremism. For example:

- AU's 50-year development blueprint "Agenda 2063";
- the New Partnership for Africa's Development (NEPAD);
- the African Peer Review Mechanism (APRM);
- the Panel of the Wise (PoW);
- the African Centre for the Study and Research on Terrorism (ACSRT);
- the Continental Early Warning System (CEWS);
- the African the Peace Fund;
- the African Continental Free Trade Area (AfCFTA) etc.

See also Ford (2011, p. 32); Ogbonnaya (2016, pp. 185-188); Omotola (2008, p. 47).

In addition, there exists a web of sub regional bodies and regional economic communities (RECs) and policy frameworks that contribute to preventing or countering violent extremism. These include for example:

- the Central African Economic and Monetary Community (CAEMC),
- the Intergovernmental Authority on Development's Capacity-Building Programme against Terrorism (IGAD/ICPAT) together with its Committee on Early Warning and Response (CEWARN)45; the East African Community (EAC);

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45 Ford (2011, p. 32) observes that, compared with other sub-regional organisations, IGAD has been more proactive, since its June 2003 Addis Ababa Conference on

- the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG);

- the Common Market for Eastern and Southern Africa (COMESA);

- the Economic Community of Central African states (ECCAS);

- the Economic Community of West African states (ECOWAS);

- the Southern African Development Community (SADC);

- the Association of Regional Magistrates in Southern Africa (ARMSA);

- the West African Economic and Monetary Union (WAEMU);

- the African Development Bank (ADB) etc.

A key challenge for RECs is the tendency towards sub-regional isolation and lack of synergy on a broad range of policy concerns and interests. In some instances, both regional and internal political dynamics limit the full potential for development outcomes limiting potential gains that can be appropriated for human rights and counterterrorism in sub-Saharan Africa.

Prevention and Combating of Terrorism, leading the way among sub-regional organisations on counter-terrorism strategy

3.3. Human Rights Issues and Concerns

3.3.1. Conceptual Understanding

Unlike terrorism and counterterrorism, the concept of human rights in sub-Saharan Africa is an old one; attracts less controversy and does not generally differ from modern international understandings of human rights.

Traditional African societies had their own conceptions of justice and human rights (based on indigenous customs, ethics, religion and social practices) that did not permit many of the violations prohibited in the modern structure of human rights e.g. violations against the integrity of the person, life and community etc. (Motala, 1988). Even the notion of protecting and promoting human rights when society is facing grave danger had relevance in many ancient African societies long before the arrival in sub-Saharan Africa of contemporary understandings of terrorism, counterterrorism and human rights. For example, the Mande people ancient oral constitutions, the Charter of Mandé (1222) and the Charter of Kurukan Fuga (1236) advocated for the right to life; the preservation of its physical integrity; justice for victims of murder and the humane treatment of offenders and enemies (Amselle, 2013, pp. 81, 84-85; Diabaté, 2018; Motala, 1988; Nesbitt, 2014, p. 13; UNESCO, 2006; R. Weber, 2010, pp. 136-137). See articles 5 and 41 of the Charter of Kouroukan Fuga in annex 2. Based on such examples, it is evident that modern conceptions of human rights fairly resonate with what many societies in sub-Saharan Africa have long considered to be individual and communal rights.

Thus, we may consider human rights in sub-Saharan Africa to mean a set of 'universal' (applicable to all peoples regardless of sex, race, nationality and economic background at all times, in all places), 'incontrovertible' (not subject to any political machinery) and 'subjective' (properties of individual subjects who possess them due to their capacity for rationality, agency and autonomy) ethical principles designed to ensure the equal worth of everyone as the foundation of freedom, justice and peace in the world (Brown, 2016, pp. 24-28; Gearty, 2007, p. 343; Hoffman, 2004, p. 939; Ignatieff, 2002, p. 1137; Ishay, 2004, p. 159; Jawad, 2015, p. 104; Landman, 2003, pp. 6-10; O'Byrne, 2014, pp. 26-27; Panikkar & Panikkar, 1982, p. 83; Pearson, 2001, p. 44). They are anchored on the notion that human beings will not do certain things to fellow human beings no matter what because, by everyone's human dignity[46], each human being has moral ties and responsibilities to all others and is entitled to certain minimum inalienable standards of treatment and equality (Brown, 2016, pp. 24-28; Hoffman, 2004, p. 939; Ignatieff, 2002, p. 1137; Jawad, 2015, p. 104; Landman, 2003, pp. 6-10). As presently understood, Brown (2016, p. 28); Landman (2003, p. 9); Maïga (2016, p. 7). Note that these rights consist of: -

- *civil and political rights* i.e. right to life, liberty, personal security, equality & due process before the law, religious freedom, speech and expression, assembly & association, vote & political participation;

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[46] Human dignity is a special equal status that generates a basis on which all people can exact mutual respect because of their inherent features as human beings who have human potential, qualities and capacities (Brown, 2016, pp. 38-47; Panikkar & Panikkar, 1982, p. 78),

- *economic, social and cultural rights* i.e. right to a family, education, health & wellbeing, work & fair remuneration, form trade unions & free associations, leisure time, social security, benefit of culture, indigenous land, rituals and shared cultural practices, speak one's own language and mother tongue education and

- *solidarity rights* i.e. right to public goods such as development and environment)

According to Brown (2016, pp. 51-56), global developments have expanded the scope of human rights to include certain specific rights such as rights accorded to women, children and persons with disabilities; rights related to sexual orientation; rights of prisoners, migrants and stateless people and the right of "all peoples" to self-determination. How academic and policy communities approach human rights issues in counterterrorism is shaped by opposing arguments over the merits and demerits of limiting rights and freedoms in the fight against terrorism.

One group of scholars argues that because terrorists not only violate but also exploit rights and freedoms of a free society to circulate, evade detection and plan attacks, as a necessary lesser evil and unfortunate cost of counterterrorism, terrorism tempts societies to limit rights and freedoms (Flynn, 2007, p. 2; Gearty, 2007, pp. 351-358; Ignatieff, 2002, pp. 1138, 1156-1137; Jawad, 2015, p. 104; Kielsgard, 2005, pp. 260-261; Omotola, 2008, p. 42; Saul, 2008, pp. 199-200; Walsh & Piazza, 2010, p. 3). See also Eubank and Weinberg (2001); Eyerman (1998); Li (2005); James A Piazza (2008); A. P. Schmid (1992); Wade and Reiter (2007)

who find and suggest that democracies experience more terrorist attacks.

Another group of scholars argues that respect for human rights does not inhibit legitimate and effective counterterrorism, instead it makes it easier for government authorities to collect intelligence on terrorists and mobilise domestic and international support (Gearty, 2007, p. 352; Hoffman, 2004, p. 934; Walsh & Piazza, 2010). This group contends that limiting rights in the pretext of being a lesser necessary evil, risks lesser evils quickly giving way to greater ones with physical integrity rights (torture, imprisonment without due process, disappearances and extrajudicial killings etc.) facing highest risk of abuse (Abadie, 2006; Gearty, 2007, p. 352; Hafner-Burton & Shapiro, 2010; James A. Piazza, 2015; James A Piazza & Walsh, 2009, 2010; Shor et al., 2014; Tosini, 2007). In addition, it is argued that since human rights are indivisible, interconnected, complementary and mutually reinforcing, it is impossible to talk of upholding certain rights exclusive of others because protection of any right is contingent to the protection of other rights even when responding to grave threats such as terrorism[47] (Brown, 2016, p. 29; Landman, 2003, p. 10; Warbrick, 2004, p. 999)

Striking a balance between the two opposing perspectives is the notion that because during counterterrorism the ability to fully implement one right may temporarily conflict with the ability to fully implement another, states can limit certain rights (e.g. the rights to freedom of expression, association, assembly, movement, and the right to respect for one's private and family life) in accordance with a

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[47] Civil and political rights secure social and economic rights, and social and economic rights make possible the meaningful exercise of civil and political rights (Brown, 2016, p. 75).

limited and lawful mandate (Brown, 2016, p. 75; Jawad, 2015, p. 107). However, it is acknowledged that certain rights are more fundamental e.g. rights not to be tortured or enslaved which are not to be derogated without substantially demonstrating to accountable bodies (judiciary and elected legislature) that the impact of terrorism threatens organized life, national security, public safety, public order, health, morals, and the human rights and freedoms of others[48] (Brown, 2016, p. 68; Flynn, 2007, pp. 2-3; Ford, 2011, p. 26; Hoffman, 2004, pp. 951-952; Ignatieff, 2002, p. 1140; Jawad, 2015, p. 108; Warbrick, 2004, p. 999). The universally accepted grounds for temporary derogation of rights are outlined in article 29(2) of the UNDHR.

Regardless of how states approach the issue human rights in counterterrorism, they bear the principal responsibility for any violations that occur. Mutua (2008, p. 30) argues that because human rights police the space between the state and the individual and not between individual citizens, it's the sole duty of the state to ensure that violations do not occur. In addition, because it is only state parties that sign the International Bill of Human Rights and many other universal instruments relating to human rights, only states bear the principal responsibility for any violations (Brown, 2016, p. 29; Landman, 2003, pp. 9-11; Mutua, 2008, p. 30; A. Peters, 2015, p. 13; Saul, 2008, pp. 198-199). It therefore means that only individuals in first order and human peoples, families and communities in the second order are the bearers of human rights, including terrorists (Brown, 2016, pp. 51-57, 118; Ignatieff, 2002, p. 1138). The notion that even

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[48] Ignatieff (2002, p. 1142) cautions that the real danger for human rights as far as derogation and declarations of emergency are concerned, even when done within a limited lawful mandate, is the manipulation of opinion and the manufacture of danger by executive authorities who are seeking more power.

terrorists are possessed of rights is based on the principle that once rights are distinguished from deserving and of moral worth, they are the entitlement of even those who despise the very idea of rights (Ignatieff, 2002, p. 1138).

3.3.2. Promotion and Protection Architecture

The ordinary mode of implementing human rights in counterterrorism in sub-Saharan Africa is through the International Bill of Human Rights, regional legal instruments relevant to human rights and national constitutions and laws. These are enforced by national, regional and international court systems and promoted by national, regional and international human rights institutions.

According to Brown (2016, p. 45); Erastus-Obilo (2008, pp. 1-7); Jawad (2015, p. 104); Kielsgard (2005, p. 272); Landman (2003, p. 13); Mihr and Gibney (2014, p. xxxi); Pearson (2001, p. 44), the International Bill of Human Rights is made up of: -

- the United Nations Charter of 1945; the Universal Declaration of Human Rights (UNDHR) of 10 December 1948;
- the International Covenant on Civil and Political Rights, which came into force on 23 March 1976 and its two Optional Protocols, the International Covenant on Economic, Social and Cultural Rights, which also came into force on 3 January 1976 and
- core regional human rights treaties i.e. the African Charter on Human and Peoples' Rights; the American Convention on

Human Rights and the European Convention on Human
Rights

Regional legal instruments relevant to human rights include:

- the African Charter on Human and Peoples' Rights (also known as the Banjul Charter);
- the African Charter on Democracy, Elections and Governance;
- the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;
- the Constitutive Act of the African Union;
- the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights and
- the African Charter on the Rights and Welfare of the Child and African Union Convention Governing Specific Aspects of Refugee Problems in Africa.

Despite being African, not all the instruments have received full ratification. Only the African Charter on Human and Peoples' Rights has received full ratification and only six countries (Burkina Faso, Ghana, Lesotho, Mauritania, Rwanda, South Africa) have ratified all regional human rights instruments. See figure 3.2 below.

Figure 3.2: Ratification of key African human rights treaties by states
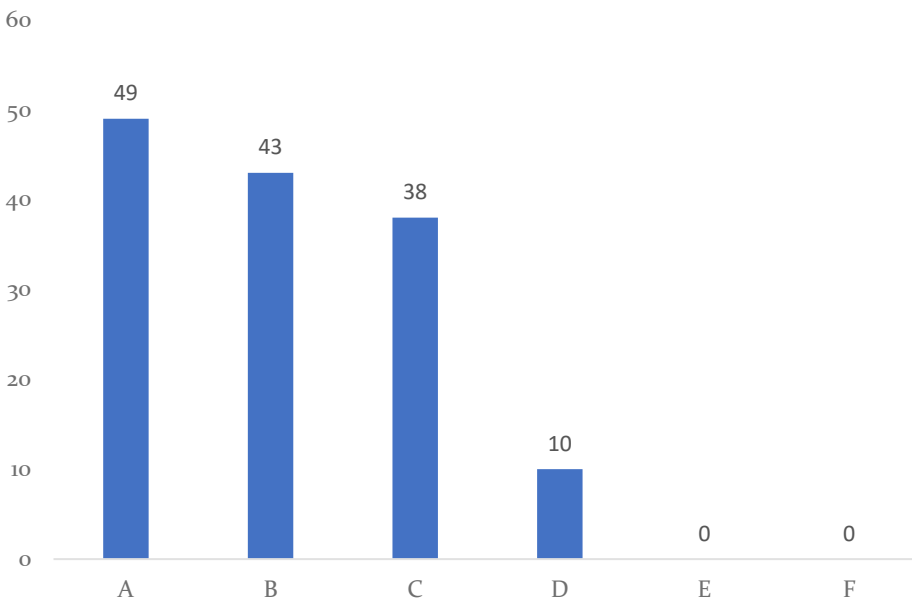
Notes:
  A. African Charter on Human and Peoples' Rights;
  B. AU Convention Governing Specific Aspects of Refugee Problems in Africa;
  C. African Charter on the Rights and Welfare of the Child;
  D. African Charter on Democracy, Elections and Governance;
  E. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;
  F. Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights.

Nearly two decades since they were adopted, two instruments i.e. the 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and the 1998 Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights have not been ratified by any state. As far as the protection and promotion of human rights in counterterrorism is concerned, it is worrying that the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights is

yet to be ratified by any state. This is worrying because, designed to be the last gatekeeper in the region when human rights come under the threat of counterterrorism (Benvenisti, 2007, pp. 1, 7-8; Boateng & Adjorlolo, 2018, p. 1692; Fabbrini, 2009, pp. 666, 694; Krebs, 2016, p. 42; Mersel, 2005, p. 92; Murray, 2016, p. 91), lack of ratification deprives the court important legal mandate to try human rights cases brought to its attention. This effectively reduces the regional court to a toothless institution that can only make non-binding legal opinions on matters that come before it[49]. Generally, ratification of international instruments is poor among sub-Saharan Africa countries. See also Ewi and Aning (2006, pp. 35-36); Ford (2011, pp. 35-40). In addition to the Court, the African Union Commission; the African Commission on Human and Peoples' Rights (ACHPR) and the Pan-African Parliament complete the regional institutional framework for the protection and promotion of human rights. See also Aidoo (1993, p. 710); Ford (2011, p. 27); Motala (1988, pp. 374, 395); I. T. Sampson (2015, p. 35).

At the national level, all countries in sub-Saharan Africa have constitutions and national laws that protect human rights in varying degrees based on either French Civil Law (francophone countries) or British Common Law (Anglophone countries). In many countries, the institutional architecture is made up of national human rights institutions (NHRI), state line agencies and a network of local and international human rights NGOs. NHRIs are statutory bodies established by governments to promote and protect human rights. As at 24 June 2020, only 27 countries in sub-Saharan Africa had NHRIs[50].

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[49] https://en.african-court.org/index.php/about-us/jurisdiction
[50] See https://www.achpr.org/nhris

In some countries NHRIs are constitutional bodies and therefore enjoy higher levels of autonomy and protection e.g. the Kenya National Commission on Human Rights (KNHCR) in Kenya[51]. Human rights NGOs form an important network of domestic political actors that facilitate the vertical internalization and incorporation of human rights norms in countries, influencing compliance by the state (Guzman, 2002, pp. 1835-1839; Kingsbury, 1998, p. 356; Moore, 2002, p. 880; Raustiala, 2000, p. 406; Simmons, 1998, p. 87). For example, NGOs that have been granted observer status by the African Commission on Human and Peoples' Rights (ACHPR) participate in the commission's proceedings and draw its attention to violations of the African Charter on Human and Peoples' Rights (ACHPR) taking place in their countries. According to the ACHPR, eight countries i.e. Comoros, Equatorial Guinea, Eritrea, Sao Tome and Principe, Sierra Leone, Somalia and South Sudan were unrepresented by human rights NGOs at the commission as at the end of March 2020. See figure 3.3 below.

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[51] See https://www.knchr.org/

Figure 3.3: Terrorism and Human Rights NGOs with observer status at the ACHPR.

Chart showing Terrorism and HR NGOs percentages by African sub-region:
- Central Africa: Terrorism ~15%, HR NGOs ~13%
- Eastern & Horn of Africa: Terrorism ~21%, HR NGOs ~45%
- Western Africa: Terrorism ~45%, HR NGOs ~39%
- Southern Africa: Terrorism ~19%, HR NGOs ~3%

Legend: ■ Terrorism ■ HR NGOs
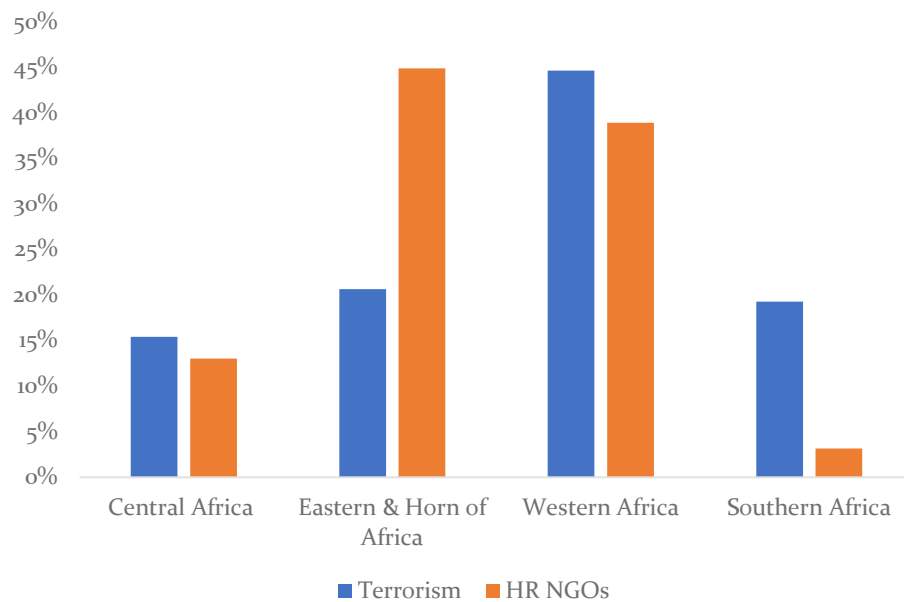
Source: African Commission on Human and Peoples' Rights, https://www.achpr.org/statistics accessed on 20/03/2020; Global Terrorism Database (GTD). Terrorism (1998 – 2017). NGOs (March 2020)

Evidently, there is a higher concentration of both human rights NGOs and terrorism incidents in Eastern and Western sub-regions. This further highlights the close association between human rights and terrorism.

3.3.3. Concerns and Violations

Much has been done by states and the regional body the AU to combat terrorism and address its root causes, including human rights concerns. Even though there is visible progress in democratisation and the respect for human rights since the early 1990s (Aidoo, 1993, pp. 705-708; Boateng & Adjorlolo, 2018, p. 1691; Chabal, 1998, p. 292; Hamilton, 2009, p. 43; Mutua, 2008, p. 29; Straus, 2012), significant

variations exist between states and signs of overall decline are emerging.

Figure 3.4 displays the trend in average scores for the Freedom House human rights index for sub-Saharan Africa for the period 1998 – 2017. The Freedom House is a widely-used measure of human rights in academia. It rates countries and territories on a combined average score for Political Rights (PL) and Civil Liberties (CL) based on a three-tier scale where: free = 1.0 - 2.5; partly free = 3.0 - 5.0 and not free = 5.5 - 7.0. This scale implies that when the score is equal to or above 3.0 human rights cannot be guaranteed when governments respond to terrorism.

Between 1998 and 2005 (the year with the best average score of 3.91) human rights in the region enjoyed increasing space as depicted by the falling PR and CL lines. Since 2005, the space occupied by human rights in the region began to consistently shrink as depicted by the rising PR and CL lines. This implies that since 2005, the chances that states in the region will violate human rights when implementing counterterrorist policies are steadily increasing. This grim empirical fact is best illustrated in figure 3.5 which compares the share of terrorism incidents contributed by each group of countries, grouped by Freedom House human rights classification (free, partially free and not free), for the period 1998 – 2017.

Figure 3.4: Political rights and civil liberties in sub-Saharan Africa (1998 – 2017).
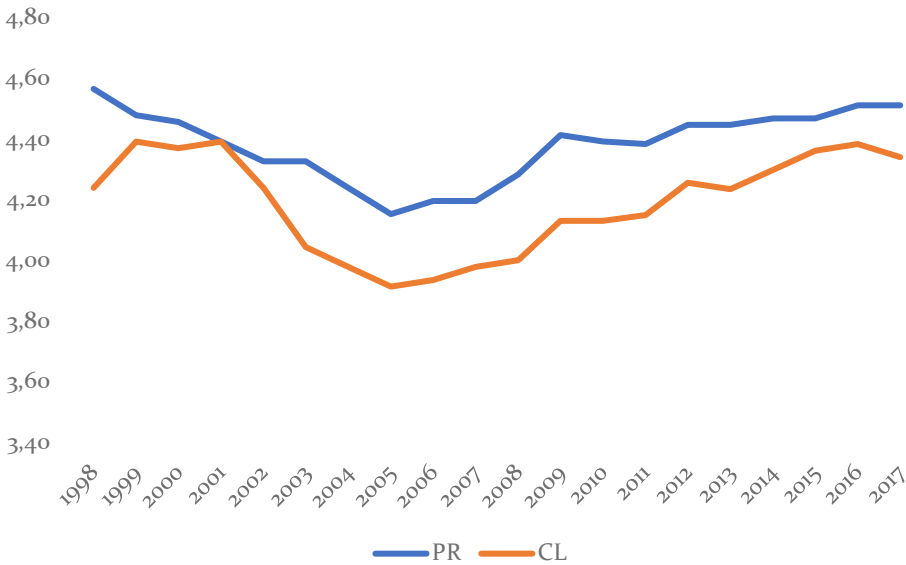
Source (House, 2018)

Figure 3.5:Terrorism and human rights in sub-Saharan Africa (1998 – 2017).
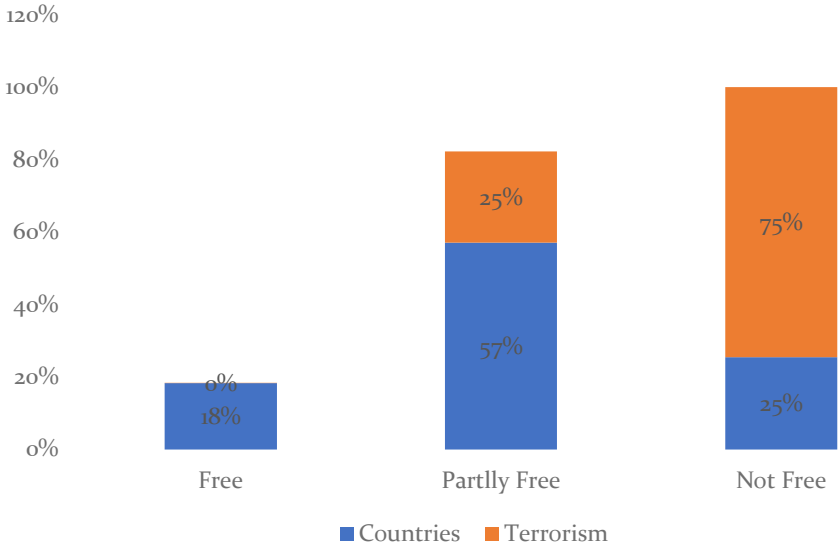
Source: ((START), 2018; House, 2018)

Figure 3.5 shows that countries which are 'not free' experience three times as much terrorism incidents as countries which are 'partly free'. The comparative data offers more support to Gearty (2007, p. 352); Hoffman (2004, p. 934); Walsh and Piazza (2010) and others who have found and argued that respect for human rights in counterterrorist policies, especially physical integrity rights, increases rather than reduces their effectiveness. Notwithstanding extant empirical evidence calling for increased protection of human rights in counterterrorism as a strategy for enhancing their effectiveness, numerous instances of violations have been documented by local and international human rights NGOs e.g. Amnesty International and Human Rights Watch in the region.

Military and security agencies engaged in counterterrorism sometimes target and capture or kill leaders of terrorist groups in a strategy commonly known as 'cutting off the snake's head' in military jargon (Andrew & Silke, 2018, p. 8; Bayard de Volo, 2015, pp. 229, 231; Boeke, 2014, p. 17; Kozera, 2018, pp. 11-12). For example, the U.S. Africa Command (AFRICOM) commonly uses drones to kill senior al Shabaab leaders in Somalia[52]. Special security operations commonly led by anti-terror police units have been accused of summary killings of suspected terrorists' leaders in Kenya, Mali and Nigeria (Ayodeji, 2016; Bayard de Volo, 2015, pp. 229, 231; Boeke, 2014, p. 17; Kozera, 2018, pp. 11-12; Mazetti & Schmitt, 2011; O'Connell, 2011; Pantucci & Jesperson, 2015; I. T. Sampson, 2015, pp. 27, 52-29). In such instances, suspected terrorists are killed in an extrajudicial manner, depriving them of their rights to life and equal due process before the law. In

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[52] See https://www.standardmedia.co.ke/article/2000154625/us-drone-attack-in-somalia-kills-westgate-terror-mastermind-adan-garaar

addition, because the strategy is plagued by difficulties in precise targeting, there are instances where innocent civilians are killed (Boeke, 2014, p. 17) depriving them of their right to life and personal security.

In some instances, military and security agencies carry out security operation aimed at flushing our terrorist elements and their sympathisers from suspected hide out locations. Often these operations are accompanied by numerous accounts of human rights violations. For example, Associated-Press (2013); BBC (2015); Busher (2014, p. 2); Carrier (2016); International (2010, 2014b); Wanyeki (2015) observe that special security operations mounted by Kenyan security agencies in the predominantly Somali inhabited Eastleigh suburb of Nairobi following the Westgate Shopping Mall attack on 21 September 2013, which killed at least 67 people and the Garissa University College attack on 2 April 2015 which killed at least 148 people, mostly students were marred by accusations of :-

- police harassment, extortion, torture, arbitrary arrests and intimidation;
- illegal searches and violation of privacy;
- forced encampment (forced return to designated refugee camps);
- ill treatment of Somali refugees and threats of relocating them back to Somalia etc.

Similarly, Ayodeji (2016); International (1991a, p. 2; 1991b, pp. 1-2; 1994a, p. 1; 1994b, p. 1; 2012a, p. 6; 2012b, p. 5; 2012c, p. 13; 2012d, p. 1; 2012e, pp. 4-5; 2013a, p. 17; 2013b; 2013c, p. 8; 2013d, pp. 17-18; 2014a, p.

6; 2017, p. 7); Pantucci and Jesperson (2015); Sigsworth (2019, p. 14) note that Côte d'Ivoire security agencies; Mali's Forces Spéciales Anti-Terroristes (FORSAT) and Nigeria's Special Joint Military Task Force (JTF) have been accused of mounting special security operations marred by accusations of :-

- extra-judicial killings, enforced disappearances, lack of investigation into deaths and barriers to complaints;
- intimidation, rape, forced evictions and house burning;
- incommunicado, arbitrary and unlawful detention in unofficial places;
- denied rights under arrest e.g. access to lawyers, family members and medical care;
- flouting of due process e.g. delayed prosecution;
- absence of witness protection and support;
- racial and indiscriminate attacks on Tuareg, Arabs and Peul civilian population;
- arrests and intimidation of journalists;
- inhumane and degrading methods of interrogation;
- detaining child soldiers with adults without any rehabilitation safeguards in place etc.

Where counterinsurgency has incorporate the non-state armed actors (surrogate forces or militias) e.g. the MNLA, Ganda Koy and the Ganda Izo in Mali. Dao (2019, pp. 73-74); International (2012b, p. 12; 2012c, p. 20; 2012e, p. 6; 2014a, p. 11); Lyammouri (2018, p. 3); Rupesinghe et al. (2019, p. 4) observe that in many occasions, governments and their international partners have limited control over these actors who often sacrifice protection of civilians and human rights at the altar of unclear agendas including indiscriminate

reprisals against specific populations, extortion, confiscating property of victims, recruitment and use of child soldiers, sexual violence against women and girls etc. See also Cigar (2014); Kozera (2018) who discuss in detail the pros and cons of incorporating surrogate armies in counterinsurgency operations against terrorists.

All countries in sub-Saharan except seven (Eswatini, Liberia, Rwanda, São Tomé & Príncipe, Togo, Zambia and Zimbabwe) have at least one anti-terror legislation (see figure 3.1). Whitaker (2007, p. 1021)[53] notes that most anti-terror legislations in sub-Saharan Africa: -

- – define terrorism broadly;
- – emphasise anti-state activities;
- – are used by governments to label whole organisations as terrorist groups;
- – expand law enforcement powers e.g. enhanced surveillance; reduce procedural requirements such as obtaining court approval;
- – allow for lengthy pre-trial detention of suspects;
- – allow interception of private communication;
- – impose mandatory sentences on those convicted etc.

Such broad and sometimes vague provisions create avenues for human rights violations in counterterrorist policies or in the name of counterterrorism. In some instances, they embolden state agents who either harbour sadistic passions or have insatiable appetite for the

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[53] Whiteker cautions that enacting anti-terror laws must be approached with care to avoid the risk that those targeted by special laws regard the move as an acknowledgement that they are 'not really' criminals but political offenders.

abusing power. For example, Foot (2007, p. 499); Ford (2013, pp. 2, 7-9); Hoffman (2004, p. 946); Khamala (2019, p. 80); Khan (2016, p. 7); Kielsgard (2005, p. 263); Omotola (2008, p. 42); Sigsworth (2019, p. 6); Whitaker (2007, pp. 1026-1028); Workneh (2019) observe that in the wake of the U.S. sponsored global war on terror (GWT), governments in Uganda, Zimbabwe and Ethiopia used the rhetoric of GWT to acquire tools of abuse for the survival of state power and advancement of interests of incumbent leaders, commonly reigning hard on political opposition labelling and prosecuting them as terrorists under anti-terrorism laws.

In some countries, anti-terror legislations are scattered across different statues. For example, after a sharp increase in terrorist attacks from zero in 1998 to 57 in 2018, Burkina Faso become the country with the highest number of anti-terror legislations in the region by enacting 33 legislations scattered across different statutes. See (START) (2018); SHERLOC (2019); Studies and CSIS (2018). Such a high number of legislations scattered across different statutes is a recipe for lack of clarity and conflict between legislations. In chapter 3, it was noted by Benvenisti (2007, pp. 1, 7-8); Boateng and Adjorlolo (2018, p. 1692); Fabbrini (2009, pp. 666, 694); Krebs (2016, pp. 42, 49-51); Mersel (2005, pp. 90-92); Murray (2016, p. 91); Scheinin (2016) that as guardians of the constitution, courts set limits on counterterrorism measures by clarifying, tracking and interpreting applicable sources of authorization (the constitution, statutes, international laws, human rights laws and administrative regulations) for executive power or action. In the case of Burkina Faso for example, it may not be clear which legislations guide which specific counterterror measures and in the worst-case scenario, legislations may conflict and contradict each

other. Such circumstances are likely to breed chaotic counterterrorist policies and miscarriage of justice. Ambiguity and conflict of legislations creates grey areas where human rights violations by the state can easily thrive. Terrorists and their lawyers may also exploit the same grey areas to evade criminal responsibility.

Measures for preventing or countering violent extremism (P/CVE) are also prone to human rights abuses. For example, Sigsworth (2019, p. 6) observes that when the 'extremism' net is cast too wide as to target entire racial, ethnic or religious groups, the rights of legitimate actors within these groups may be affected in ways that might stigmatise them. During a research visit in Mali in May 2019, one key respondent observed that:

> *It's easy, we must dispense justice to avoid the impunity and bad governance. The militaries and the population trust each other to fight insecurity because terrorists are hidden among the population. If the armies consider these same population as terrorists, the struggle is going to be very difficult. We must create a climate of confidence between armies and population, and the population must know that armies are there to protect them and not to persecute them.*

Obviously, when preventing or countering violent extremism (P/CVE) programmes target entire racial, ethnic or religious groups, not only do members of such groups feel stigmatised and their human dignity violated, they also become reluctant to cooperate with authorities. As

a result, useful actionable community intelligence that may aid pragmatic counterterrorism is likely to get lost. In addition, members of targeted communities may reject well-intended social programmes e.g. programmes aimed at addressing poverty, exclusion, social justice, illiteracy etc.

As noted in chapter 3, some prison facilities in the region face the double challenge of being responsible for the safe custody of highly contagious terrorism suspects in conditions of overcrowding. See Abdelmottlep (2016, p. 12); Nations (2010, p. 21); Telisinghe et al. (2016, pp. 3-4). This creates the possibility that prison radicalisation i.e. the diffusion of radical ideologies within prisons is potentially faster and more effective. To forestall this danger, prison authorities hold terrorism suspects and convicts in isolated, highly secured and anonymous prison blocks with little or no social interaction and limited or no access to rehabilitation programmes. Generally, overcrowding also means that things like medical care, sanitation and diet etc. are in insufficient and of poor quality.

3.4.   Conclusion

Counterterrorism entails the whole range of government measures designed to prevent, deter, pre-empt, and respond to terrorism and deal with its consequences. In sub-Saharan Africa, these measures broadly fall into two main approaches i.e. military and criminal justice. Military approaches rely on the use of armed force by military and civilian security agencies to directly combat threats through security operations. They take the form of regional and international peace support operations, special security operations and

counterinsurgency. Criminal justice approaches are based on the notion of 'criminal justice' and rely on enforcement of the law by criminal justice agencies i.e. parliament, police, courts, corrections and other government and community agencies involved in preventing or countering violent extremism (P/CVE).

The ordinary understanding of human rights as conceived by early traditional societies in sub-Saharan Africa fairly corresponds with contemporary notions of human rights as codified in the International Bill of Human Rights and other international human rights statues. However, there are significant human rights concerns and violations associated with counterterrorist policies in the region. The main concern is that since 2005, nearly two thirds of countries in the region are either 'partly free or not free' and therefore cannot guarantee respect for human rights in counterterrorist policies. The importance of protecting human rights when responding to terrorism in the region is illustrated by the fact that countries which are 'not free' experience three times as many terrorism incidents as countries which are 'partly free'. This implies that increasing the space occupied by human rights in counterterrorist policies is likely to enhance their effectiveness in the fight against terrorism in the region. Therefore, we can conclude that as far as counterterrorism and human rights in sub-Saharan Africa are concerned, the key task for empirical research is to identify factors that facilitate human rights in counterterrorist policies.

4. THEORETICAL AND EMPIRICAL PROPOSITIONS

4.1. Introduction

Chapter two established what manifests as terrorism in sub-Saharan Africa, noting that jihadi terrorism is the most complex security threat that affects the region. Chapter three discussed in depth responses to the problem and the human rights issues, concerns and violations associated with counterterrorism in the region.

Based on the understanding that increasing the space occupied by human rights in counterterrorist policies is likely to enhance their effectiveness in the fight against terrorism in sub-Saharan Africa, and the assumption that the degree of human rights violations co-varies with certain macro social conditions inherent in society (Park, 1987, pp. 405-406), this chapter explores the factors and conditions that are predicted to facilitate or impede human rights in counterterrorist policies.

Specifically, the chapter examines prepositions advanced by liberal democratic and constructivist theoretical perspectives and extant empirical studies that have examined the relationship between terrorism, counterterrorism and human rights. The key objective is to identify and isolate specific variables thought to be significant and closely approximate macrosocial conditions that can be hypothesised as necessary to facilitate human rights in counterterrorist policies in sub-Saharan Africa.

4.2. Theoretical Propositions

4.2.1. Liberal Democratic Theory

Liberal democratic theorists are rationalist in orientation. They emphasize the structure of domestic interests, actors (individuals, private groups, courts, legislatures, administrative agencies, NGOs etc.), power and incentives as the main pathways to identifying conditions that determine state compliance with human rights (Guzman, 2002, pp. 1838-1839; Kingsbury, 1998, p. 356; Moore, 2002, p. 880; Raustiala, 2000, pp. 399, 406-399). According to liberal democratic theory, states are rational, strategic, interdependent and utility maximising actors who have analytic capacity to choose the best feasible alternative based on available information on well-defined, complete and transitive subjective preferences (Chayes & Chayes, 1993, p. 177; Geisinger & Stein, 2007, p. 1131; Guzman, 2002, p. 1836; Kingsbury, 1998, pp. 349-351; Raustiala, 2000, p. 399). Therefore, according to liberal democratic theorists, the aggregate of subjective interests (e.g. display of power through military prowess; safety of its citizens etc.) moderated by a rational calculation of costs (e.g. monetary and political expense for an independent judiciary etc.) and benefits (e.g. unrestrained action, reputation, credibility, status etc.) determine whether counterterrorism measures adopted by a state will facilitate or impede human rights (Chayes & Chayes, 1993, pp. 177, 187; Geisinger & Stein, 2007, p. 1137; Guzman, 2002, p. 1837; R. B. Mitchell, 1993, p. 327; Moore, 2002, pp. 883-885; Raustiala, 2000, p. 402). Further, liberal democratic theorists argue that the presence of democratic institutions (elected legislatures, judiciary, NGOs etc.) facilitate human rights because they secure important civil liberties (e.g. freedom of speech, assembly and the press), and permit the

existence of constitutional provisions that place political costs, constraints and retributions in the way of governments inclined to impede human rights in the fight against terrorism (Cross, 1999, pp. 89-91; Davenport & Armstrong, 2004, p. 540; De Mesquita, Downs, Smith, & Cherif, 2005, p. 456; Evans, 2001, pp. 625-626; Kingsbury, 1998, p. 357; Raustiala, 2000, pp. 409-411; Shor et al., 2014, p. 305; Simmons, 1998, p. 83). In sum, liberal democratic theory emphasises the importance of power and security as the primary locus of interests that determine whether a state is likely to prioritise human rights in the fight against terrorism.

Several limitations plague liberal democratic theory as a framework for identifying and understanding macro social conditions associated with violations or respect for human rights in society. The notion of subjective interests fails to explain why states devote huge amounts of resources (time, financial, political and human) in developing international human rights norms that, according to liberal democratic theorists, will nevertheless be disregarded (Chayes & Chayes, 1993, pp. 187-188, 197; Geisinger & Stein, 2007, p. 1131; Guzman, 2002, p. 1837; R. B. Mitchell, 1993, p. 328; Moore, 2002, p. 885; O. R. Young, 2013, p. 1). Thus, liberal democratic theory does not account for social influences that may override subjective interests of the state and which may be decisive in determining the extent of a government's compliance with human rights in counterterrorism. See also Phillips (2007, p. 63). Democracy in its pure form constitutes the central pillar of liberal democratic theory. This presents empirical problems because, as a variable, democracy is plagued by epistemological deficiencies. It is monolithic and over encompassing. According to Dahl (1998, p. 48); Morlino (2004, pp. 12-18); Schmitter

and Karl (1991, pp. 79-80) democracy is not only a system of governing, it is also inherently a system of rights. The analytical problem with democracy as a variable is that it is endogenous to our dependent variable i.e. human rights and to many possible explanatory variables leading to reverse causality, also known as granger causality. See Granger (1988); Roberts and Whited (2013, p. 499). In addition, democracy is afflicted by the academic danger of conceptual stretching because there is not one but many democracies even within in sub-Saharan Africa, shaped by differences in internal, sub-regional, colonial (French, British, Portuguese), ethnic and religious characteristics of states (Ake, 1993, p. 239; Alesina et al., 2003, p. 163; Chabal, 1998, p. 295; Sartori, 1970; Schmitter & Karl, 1991, p. 76).

4.2.2. Constructivist Theory

Constructivist theorists are Sociological in orientation. They emphasize the role of socialization in the construction of states and their interests through influences that are intersubjective, endogenous and not merely reducible to material costs and benefits (Kingsbury, 1998, p. 358; Raustiala, 2000, pp. 399-409; Simmons, 1998, p. 85). Constructivists argue that states, the principal units of analysis, are not necessarily irrational and obey rules perceived to have come into being in accordance with the right process but are not obliged to obey rules they did not consent to (Guzman, 2002, pp. 1833-1834; Harrison, 2004, p. 526; Raustiala, 2000, p. 406; Simmons, 1998, p. 87). Thus, state consent which is determined by perceived fairness and procedural legitimacy of international human rights norms generates a legal obligation to promote and protect human rights at home in the fight against terrorism (Kingsbury, 1998, p. 355; Raustiala, 2000, p. 406). For example, rights involving bodily integrity are widely

accepted as legitimate transnationally and cross-culturally because they resonate with basic ideas of human dignity common to most cultures (Simmons, 1998, p. 87). According to constructivist theory, the socialisation of human rights norms occurs through norm entrepreneurs (e.g. multinational corporations, NGOs, international organizations and private individuals) who generate and drive patterns of behaviour from which international norms emerge, are internalized and incorporated within domestic legal and political institutions of the state leading to formation of identities around those norms and ultimately to state compliance (Guzman, 2002, pp. 1835-1839; Harrison, 2004, p. 526; Moore, 2002, p. 880; Raustiala, 2000, p. 406; Simmons, 1998, p. 87). Further, constructivist theorists assert that the general propensity of states to comply with international law is not only determined by the need to recalculate the costs and benefits of such a decision but also by the transaction costs of the decision to comply (Guzman, 2002, p. 1831; Kingsbury, 1998, p. 352). Thus, operational factors e.g. lack of administrative and or financial capacity, ambiguity in treaty terms, unforeseen changes in conditions exogenous to treaty processes etc. are important in determining the extent of a government's respect for human rights in counterterrorism (Alvarez, 1997, p. 309; Guzman, 2002, p. 1831; Kingsbury, 1998, p. 352; Moore, 2002, p. 880; Raustiala, 2000, p. 407).

Constructivist theory is also plagued by inadequacies that limit its explanatory power as a theoretical framework for identifying and understanding macro social conditions that predict respect for human in counterterrorism. The notion of social construction of states and their interests through intersubjective influences is problematic because it presupposes that world cultures are rigid yet compatible

structures that enable states to socially acquire intersubjective behavioural properties. This notion ignores that in the absence of effective enforcement, states are unlikely to facilitate human rights when responding to terrorism if compliance comes at greater costs e.g. political costs, public safety and security etc. (Kingsbury, 1998, p. 352; Moore, 2002). Diametrically opposite to the inadequacies of the notion of subjective interests in liberal democratic theory, the notion of intersubjective interests fails to explain why states disregard international human rights norms that they collectively develop in a process of intersubjective influences. Thus, it does not explain variances in human rights outcomes between proximate states and between states in the same geopolitical region. For example, African Union human rights instruments are indigenous to sub-Saharan Africa; enshrine African cultural conceptions of rights and all member states of the AU participated in their development. From a constructivist perspective, these instruments are expected to receive full unreserved ratification by African states. However, it turns out that not all instruments are fully ratified and only six states in sub-Saharan Africa (Burkina Faso, Ghana, Lesotho, Mauritania, Rwanda, South Africa) have ratified all the instruments. Constructivist theory's notion of intersubjective influences and socialisation of states fails to explain this discrepancy as much as it fails to explain why Rwanda has no legislation on terrorism yet it shares common borders with the Democratic Republic of Congo and Burundi which have ten legislations each. The notion of consent presents ontological and epistemological problems. What does state consent to international human rights instruments mean and how should it be measured in empirically? Does it mean signing, ratification or observed human rights behaviour of states? Some states which are either signatories or

have ratified key international human rights instruments have poor human rights records. Empirical studies that have incorporated ratification as a measure of consent have yielded mixed and inconclusive results (Hathaway, 2002, p. 2022; Keohane, 2000, p. 126; Neumayer, 2005, pp. 925-926; Risse & Sikkink, 1999; Risse-Kappen, Risse, Ropp, & Sikkink, 1999, pp. 5-8). It could be that, ratification is better proxy for external rather than internal behaviour of states to which consent is most relevant.

4.3.   Empirical Propositions

A considerable body of empirical literature has examined the relationship between macro-social conditions and human rights. Many of these studies use variables suggested by liberal democratic and constructivist theories. Davenport and Armstrong (2004, p. 540); Henderson (1991, pp. 121-127); Park (1987, p. 142); D. Schneider (2004, pp. 424-430); Shor et al. (2014, p. 305) find that military control, size of the military, size of the police, military expenditures, military dependence on the U.S. are negatively associated with respect for human rights. Argueing that democracies make it easier for citizens and opposition leaders to publicize locally and internationally human rights violations, Poe and Tate (1994, p. 854) find that democracy has substantively important and statistically significant effects on repression. Klingemann and Hofferbert (1998, p. 167) show that as the proportion of respondents satisfied with democratic performance in 18 post-communist Central and Eastern European countries declines, the proportion of citizens positively rating the human rights performance of their government also declines. According Foot (2007, p. 493); Hathaway (2002, p. 2022); Neumayer (2005, pp. 925-926);

Risse-Kappen et al. (1999, pp. 5-8), governments in a region that has a higher number of domestic and international actors engaged in the diffusion of international human rights norms are more likely to have better human rights records when responding to security challenges. They argue that domestic and international human rights actors support local opposition which exposes and puts pressure on norm violating governments by shaming them. Cross (1999, p. 95) finds that the number of lawyers and judicial independence in a country are significantly associated with greater political freedom and human rights protection. Davenport and Armstrong (2004, p. 551); De Mesquita et al. (2005, p. 456) show that only high levels of aggregated dimensions of democracy are associated with improvements in human rights outcomes, and below a certain level democracy has no impact on human rights violations. This finding exposes empirical weaknesses in liberal democratic theory's reliance on democracy as a major explanatory condition for human rights outcomes. It raises some pertinent empirical questions. For example, what is the objective threshold for high and low levels of democracy? Certainly, in the absence of a scientific widely acceptable method, determining what is a high or a low level of democracy dependents subjective judgement, influenced by among other things how democracy is defined and operationalised.

According to constructivists theory, operational factors such as lack of administrative or financial capacity are important determinants of state compliance with human rights imperatives. Collier and Hoeffler (2004); Henderson (1991, p. 124); N. J. Mitchell and McCormick (1988, pp. 479-497) find that governments of poor countries facing substantial social and political tensions exuberated by economic

scarcity are more likely to resort to state repression to maintain control. According to Cross (1999, p. 94); N. J. Mitchell and McCormick (1988, p. 479); Neumayer (2005, pp. 932-933); Park (1987, p. 407), low levels of economic growth and development represent the principal economic conditions that may be associated with human rights violations. Friedman (2006, p. 18) argues that economic growth and development is expected to provide governments with financial resources necessary to procure technologies that enable security agents to respond to security challenges in ways that facilitate human rights. Bohara, Mitchell, Nepal, and Raheem (2008, pp. 9-11); Clutterbuck (1995, pp. 88, 90-92); Pearson (2001, p. 52); Pilapitaya (2005, pp. 10-18); Thuo (2009, p. 125); Vorster (2012, p. 137) find that low-income countries have high rates of corruption and are associated with government use of torture and poor human rights records. They argue that corruption disables a state from exercising its administrative capacity and control over bureaucratic agents, limiting its ability to respect, fulfil and protect the human rights at all levels. While Landman (2005, p. 3); Risse-Kappen et al. (1999, pp. 5-8) show that treaty ratification is positively associated with greater protection of human rights, Hathaway (2002, p. 2022); Moore (2002, p. 881); Shor et al. (2014, pp. 297, 307) find that countries that ratify human rights treaties appear not to have better human rights practices compared to those that do not ratify and may in fact be associated with worse human rights records. Contending that human rights treaties empower local NGOs to acquire greater legitimacy and political prominence which enables individuals to conceptualise abuses previously committed against them, Goodman and Jinks (2003, pp. 172-175) show that China's ratification of the International Covenant on Civil and Political Rights influenced human rights policies of

Burma, Indonesia, North Korea, and Singapore. However, Neumayer (2005, pp. 925-926) argues that the beneficial effect of ratification of human rights treaties is conditional on the extent of democracy and the strength of an internationally linked civil society.

Though there is an abundance of empirical literature that has examined the relationship between macro-social conditions and human rights, to the best of our knowledge, only the study by Shor et al. (2014) examines macro social conditions that predict states' human rights behaviour in relation to counterterrorist policies. Relying on a theoretical framework that brings together actor-oriented (rationalist) and socio-cultural (constructivist) explanations and a longitudinal cross-national analysis of panel data for the years 1981-2005, the study finds substantial evidence for the effects of both explanations. Specifically, Shor and colleagues find that terrorism; higher levels of economic and military dependence on the United States; high levels of domestic unrest and countries in regions with high average repression levels are associated with repressive counterterrorist policies. They also establish that connection to the global system (economic, political, and social openness and dependence on the international community); higher levels of democracy and economic growth are significant predictors of less repressive counterterrorist policies. However, they also find that ratification of global human rights treaties has no significant effect in either direction and argue that the ability of transnational agents and legislation to reduce serious violations of basic human rights when responding to terrorism is limited.

4.4. Conclusion

Considering the theoretical and extant empirical propositions discussed in this chapter, we can conclude that, variables that predict human rights outcomes in times of counterterrorism in sub-Saharan Africa can be grouped into five categories of macrosocial conditions as indicated in table 4.1 below

Table 4.1: Macro social conditions and variables

Macro Social Condition	Variables
1. Democracy	Level of democracy, elected legislature, independent judiciary, human rights NGOs, rights protective constitutional provisions, laws, population of lawyers etc.
2. Economic and administrative capacity	GDP, corruption, poverty levels, inequality etc.
3. State and human security	Welfare expenditure, military expenditure, military control, size of the military, size of the police etc.
4. International integration	Ratification of international human rights instruments, repression levels of neighbouring countries, military and economic dependence of powerful rights espousing countries etc.
5. Terrorism and internal unrest	Terrorism incidents, internal conflicts (civil war, insurgency, rebellion political unrest, protests etc.)

Own table

Thus, we can postulate that democracy; good economic and administrative capacity; preference for human over state security; high levels of integration into the international community and a low level of terrorism and internal unrest are necessary macro social conditions to facilitate human rights in counterterrorist policies in sub-Saharan Africa.

Figure 4.1: Conceptual framework
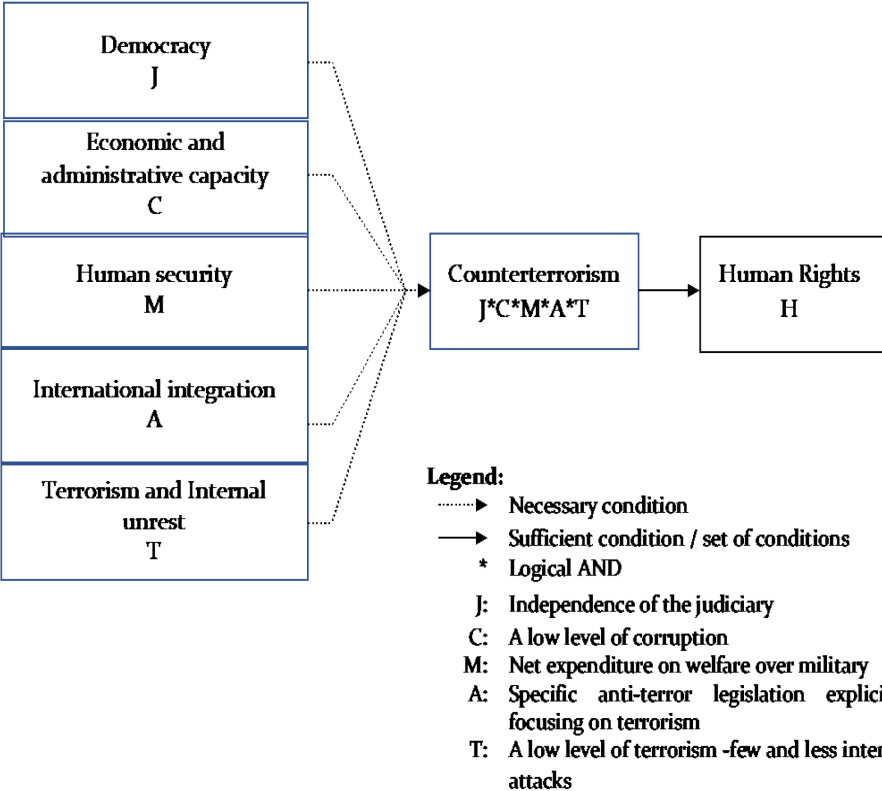
5. METHODOLOGY

5.1.   Introduction

Chapter four we hypothesised that: -

– democracy;

– good economic and administrative capacity;

– preference for human over state security;

– high levels of integration into the international community and

– a low level of terrorism and internal unrest

are necessary conditions to facilitate human rights in counterterrorist policies in sub-Saharan Africa.

This chapter outlines the empirical procedure for establishing which of these macro social conditions or combinations of conditions are necessary to facilitate or impede human rights when governments in sub-Saharan Africa respond to terrorism.

Specifically, it describes the research design, selection of cases, selection and measurement of variables, sources of data, methods of data collection and analysis.

5.2. Analytical Design

5.2.1. Social Science Methods

The fundamental empirical problem that confronts our analysis is how to control for confounding factors not subject to the analysis in order to isolate as far as possible conditions or combinations of conditions necessary to facilitate or impede human rights in counterterrorist policies in sub-Saharan Africa. See Lijphart (1971, pp. 683-685); B. G. Peters (1998, p. 26). Scientists have over the years developed four research methods designed to overcoming this problem i.e. experimental, statistical, comparative and case study methods (Lijphart, 1971, p. 683; Marsh & Stoker, 2002, p. 176; Rihoux & Grimm, 2006, p. 48).

The experimental method isolates necessary relationships between variables by exposing one group of cases (experimental group) to a stimulus and any observed difference between this group and the other (control group) is attributed to the stimulus (Crombie, 1955; Lewin, 1947, pp. 8-9; Lijphart, 1971, p. 683; Shadish, Cook, & Campbell, 2002, pp. 12-18). Because of practical and ethical impediments, the experimental method is rarely used in the analysis of human behaviour in the Social Sciences even though it is the most ideal design for scientific enquiry (Lijphart, 1971, pp. 683-684).

The proximate alternative to the experimental method is the statistical method which models (mathematically manipulates) empirically observed data of a large number of individual cases to discover the patterns, directions and magnitude of the most important controlled relationships among variables by means of

partial correlations (Hanushek & Jackson, 2013, pp. 1-3; Lijphart, 1971, p. 684).

The third in the order of things is the comparative method which is suitable for the study of large macro social units as opposed to individual cases and resembles the statistical method in all respects except that the number of cases it deals with is too small to permit systematic control by means of partial correlations (Lijphart, 1971, pp. 684-685; B. G. Peters, 1998, p. 28; C. Ragin, 1987, pp. 32-38; Rihoux & Grimm, 2006, p. 49). The comparative method is useful for identifying cross societal differences and similarities at more than one level of analysis (Flick, 2014, p. 150; A. Przeworski & H. Teune, 1970, p. 36; C. Ragin, 1987, p. 32).

Last in the scheme of things is the case study method which is an intensive study of a single unit with an aim to describe the case; interpret empirical theory; develop theoretical hypotheses where no theory exists; confirm or infirm a theory or reveal why a case deviates from established patterns of causal relationships i.e. to uncover relevant additional variables that were not considered previously (Gerring, 2004, p. 341; Lijphart, 1971, pp. 691-693).

Since this is a regional study involving a small number of cases, the analysis combines the comparative method, specifically Qualitative Comparative Analysis (QCA) with the application of Crisp Set Qualitative Comparative Analysis (csQCA) and an in-depth case analysis as graphically illustrated in figure 5.1 below.

Figure 5.1 Analytical design and process of analysis using QCA
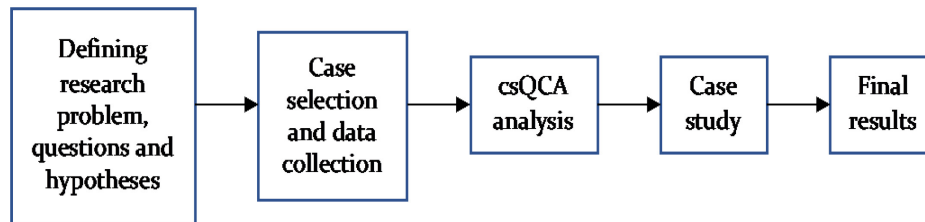
Developed in the late 1980s by C. Ragin (1987) and programmer Kriss Drass, csQCA dichotomizes a case as either belonging to or not belonging to a set (Rihoux & De Meur, 2009, p. 33; Saka-Helmhout & Piekkari, p. 14). For this specific analysis, we rely on version 3.0 of the open source fsQCA software developed by C. C. Ragin and Davey (2016)[54].

5.2.2. Qualitative Comparative Analysis (QCA)

Qualitative Comparative Analysis (QCA) is a variant of the comparative method that permits systematic control by means of partial correlations, overcoming a fundamental limitation of the comparative method (Lijphart, 1971, pp. 684-685; C. Ragin, 1987, pp. 32-38; C. C. Ragin, 1999, pp. 1233-1234; Rihoux & Grimm, 2006, p. 49). QCA is designed to analyse cases as holistic configurations of attributes to identify conditions or combinations of conditions that cause observed changes in social phenomena and to group cases that share given causal conditions or combinations of conditions into meaningful empirical categories (Legewie, 2013, p. 3; Mahoney & Goertz, 2006, p. 236; C. C. Ragin, 1998, p. 107; Rihoux & Grimm, 2006,

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[54] See www.compasss.org or www.fsqca.com

pp. 17-18, 54; Rihoux, Rezsöhazy, & Bol, 2011, p. 13). QCA is based on the logic that in the Social Sciences, causality is complex. As observed by Kruck and Schneiker (2017, pp. 127-128); Legewie (2013, p. 3); Mahoney and Goertz (2006); Mello (2012, p. 428); Rihoux et al. (2011, p. 13); C. Q. Schneider and Wagemann (2012, p. 382) this implies that in QCA causality is:

a) conjectural i.e. causal factors can combine leading to the occurrence of a phenomenon;
b) equi-final i.e. different combinations of causal factors can lead to the occurrence a phenomenon;
c) diametric i.e. causal factors can have opposing effects and
d) an identified relationship between a condition and the outcome does not mean that the inverse relationship must also be true.

5.2.2.1. Operational Mechanics of QCA

The operational mechanics of QCA is grounded on the formal logic of Boolean Algebra which is the algebra for variables that have only two possible values true (present) or false (absent), formulated by the British Mathematician and logician George Boolean in the 19th century (Kruck & Schneiker, 2017, p. 124; B. G. Peters, 1998, p. 166). Two fundamental Boolean operators are used to guide the analysis and define the nature of the relationship between causal conditions and outcomes (Ibid).

The additive operator referring to the logical OR, denoted by (+) implies that, if A, B and C are the hypothesized causal conditions for

an observed change in social phenomena Y, then A + B + C = Y means that if any one of the conditions A or B or C is present Y will be present or have a positive value i.e. any of the three conditions could be sufficient to produce the observed change although none is a necessary condition (Kruck & Schneiker, 2017, p. 126; Legewie, 2013, p. 9; Mello, 2012, p. 428; B. G. Peters, 1998, p. 166; C. C. Ragin, 1998, p. 116; 1999, pp. 1226-1227; 2009, p. 109). In other words, a condition A or combination of conditions X is sufficient for the outcome Y if Y will always occur when A or combination of conditions X are present, but other conditions or combinations of conditions besides A or X may also produce Y i.e. a condition A or combination of conditions X is sufficient if it is definitely or almost definitely followed by the outcome Y (Legewie, 2013, p. 9; C. C. Ragin, 1999, pp. 1226-1227; 2009, p. 109).

The multiplicative operator referring to the logical AND, denoted by (*) implies that, if A, B and C are the hypothesized causal conditions for an observed change in social phenomena Y, then A * B * C = Y means that each one of the conditions A or B or C can be said to be necessary but probably not sufficient to produce the observed outcome (Kruck & Schneiker, 2017, p. 126; Legewie, 2013, p. 9; Mello, 2012, p. 428; B. G. Peters, 1998, p. 166; C. C. Ragin, 1998, p. 116; 1999, pp. 1226-1227; 2009, p. 109). In other words, a condition A is necessary for an outcome Y if the occurrence of Y is not possible without the presence of A, but A alone is not enough to produce Y i.e. the occurrence of A does not guarantee that Y will occur (Legewie, 2013, p. 9; C. C. Ragin, 1999, pp. 1226-1227; 2009, p. 109).

A rightward arrow (→) is used to refer to a sufficient condition and a leftward arrow (←) is used to refer to a necessary condition (Kruck & Schneiker, 2017, p. 126; C. C. Ragin, 1999, pp. 1226-1227)[55]. In QCA solution terms, capital letters are used to express explanatory and outcome conditions and tilde (~) is used to refer to the logical NOT, as a negation or absence of a condition (Kruck & Schneiker, 2017, p. 126).

The operation of QCA proceeds in three distinct and successive stages in which causal conditions are logically reduced until only those conditions that clearly differentiate between outcomes are included in parsimonious explanations (Blackman, Wistow, & Byrne, 2013, p. 132; Hicks, 1994, p. 96; C. C. Ragin, 1998, p. 121; Seawright, 2005, p. 5). The first stage involves the constitution of a property space by defining the cases; theoretically identifying relevant causal conditions and gathering data on these conditions for each case (Blackman et al., 2013, p. 137; Greckhamer, Misangyi, Elms, & Lacey, 2008, p. 698; C. C. Ragin, 1998, p. 121). In the second stage, a truth table which lists the different logically possible combinations of causal conditions along with the cases conforming to each combination is used to analyse the property space to systematically identify causal conditions sufficient for the outcome of interest to occur (Greckhamer et al., 2008, p. 698; B. G. Peters, 1998, p. 163; C. C. Ragin, 1998, p. 121; 1999, p. 1232; Rihoux & Grimm, 2006, p. 19; Seawright, 2005, p. 5). Causal conditions are represented in the truth table using presence/absence dichotomies

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[55] Ragin (p. 1237) cautions that, the properties of sufficiency and necessity notwithstanding, QCA configurational analysis is non-causal and no use should be made of the language of causation or causal reasoning.

with 0 indicating absence (the case is not in the set-in question) and 1 indicating presence (the case is in the set-in question) (C. C. Ragin, 1998, p. 109; 1999, p. 1230; Seawright, 2005, p. 5)[56]. The truth table is then logically minimized to represent in a shorthand manner the prime implicants (combination of conditions necessary and sufficient for the observed outcome) denoted as minimal/parsimonious formulas (B. G. Peters, 1998, p. 166; C. C. Ragin, 1999, p. 1233; Rihoux et al., 2011, p. 15). The minimization process begins with the selection of rows displaying the outcome which are then compared to each other, with the objective of simplifying them through a bottom-up process of paired comparison based on the logic that if a Boolean expression differs in only one causal condition yet produces the same outcome then the causal condition that distinguishes the two expressions can be considered irrelevant and discarded (Amenta & Poulsen, 1994, p. 1; B. G. Peters, 1998, p. 166; C. C. Ragin, 1999, pp. 1233-1234). In other words, rows that differ on only one causal condition but produce the same outcome are combined minus the differing causal condition to generate the "prime implicants chart" (C. C. Ragin, 1999, pp. 1233-1234). The third and final stage of QCA analysis, is the evaluation and interpretation of the parsimonious formulas in congruence with the relevant theoretical background (Greckhamer et al., 2008, p. 698; C. C. Ragin, 1998, p. 121; Seawright, 2005, p. 5).

5.2.2.2. Application and Strengths of QCA

There are several reasons for using QCA in this analysis. First, QCA incorporates credible in built mechanisms to establish controls for

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[56] Binary coding in QCA converts qualitative data into forms suitable for quantitative analysis and systematic testing of hypotheses (B. G. Peters, 1998, p. 166; Berg-Schlosser et.al. (2009) in Rihoux et al., 2011, p. 16).

small to intermediate N studies (about 15 to 50 cases) in similar experiment like fashion as statistical cross-tabulation (Greckhamer et al., 2008, p. 722; Legewie, 2013, p. 5; Lijphart, 1971, p. 685; C. C. Ragin, 1999, p. 1225; Rihoux et al., 2011, pp. 13-14). Thus, it is optimal for the comparative analysis of 49 sub-Saharan Africa countries. Second, QCA stands in the middle of qualitative and quantitative methods therefore offering the combined advantages of both (Amenta & Poulsen, 1994, p. 3; Blackman et al., 2013, p. 130; Greckhamer et al., 2008, pp. 696-697; B. G. Peters, 1998, p. 165; Rihoux & Grimm, 2006, p. 17). Third, QCA's conjectural analysis is suitable for our theoretical approach which combines liberal democratic and constructivist theoretical traditions. See also Rihoux and Grimm (2006, p. 17). Fourth, QCA's dichotomous/categorical coding allows for the analysis of ordinal variables that vary qualitatively. In this case for example, independence of the judiciary and specific anti-terror legislation explicitly focusing on terrorism . See Berg-Schlosser et.al. (2009) in Rihoux et al. (2011, p. 16). Fifth, the study is a regional/area study in the sense discussed by Lijphart (1971, p. 688). Based on the geopolitical scope of this study, QCA offers real possibilities for developing empirically grounded mid-range theories, systems of classification and typologies relevant to the understanding of counterterrorism in sub-Saharan Africa and similar geopolitical regions. See Flick (2014, p. 33); Legewie (2013); Stein Rokkan (1966) in Lijphart (1971, p. 686); B. G. Peters (1998, p. 26); Pierce (2008, p. 55); Rihoux et al. (2011, p. 14). Sixth, the set theoretic logic of QCA identifies causal regularities that are parsimonious in the form of necessary and sufficient conditions for the occurrence of events which allows for the possibility that a bad policy outcome can be prevented by removing or blocking one of its necessary conditions or improving a good outcome by enhancing its

necessary conditions (Amenta & Poulsen, 1994, p. 1; Blackman et al., 2013, p. 129; B. G. Peters, 1998, p. 167; C. C. Ragin, 1999, p. 1228; Rihoux et al., 2011, pp. 14-17; Sibeon, 1999, p. 142). Therefore, QCA offers the study the possibility of contributing actionable empirical knowledge relevant for counterterror policy in sub-Saharan Africa.

5.2.2.3. Limitations of QCA

Some limitations are however noted. Since QCA is designed for analysis in small to intermediate-N studies, some in the scholarship such as Amenta and Poulsen (1994, p. 29); Lijphart (1971, p. 686); Mahoney and Goertz (2006, p. 238); C. C. Ragin (1998, p. 106); Teune and Przeworski (1970, p. 5) have raised concerns over the external validity or generalisability of results it generates. Because this study is a regional study and theoretical claims are limited to sub-Saharan Africa, concerns over external validity or generalisability of results do not arise. Besides, being a regional study QCA enables an in depth understanding of the conditions that come into play to facilitate or impede human rights during counter-terrorism in sub-Saharan Africa. This reasoning is supported by Hicks (1994, pp. 97-98); Mahoney and Goertz (2006, p. 237); B. G. Peters (1998, p. 5) who argue that in empirical research, in depth understanding of a case(s) is a useful trade-off for external validity or generalisability and should not necessarily be considered a weakness. In depth understanding of the conditions that facilitate or impede human rights during counter-terrorism in sub-Saharan Africa can illuminate areas for future research and in this case, test the applicability of existing theoretical explanations. Moreover, as discussed by Lijphart (1971, p. 687) a longitudinal dimension in the design of the study which incorporates

a 20-year time frame (1998-2017) circumvents the problem of a limited number of cases and improves the external validity of the results.

A problem that confronts empirical research in the Social Sciences is that whereas the number of cases is sometimes small, especially in qualitative studies, the universe of possible conditions/variables is often too large. This is one of the main limitations of QCA because combinations of causal and outcome variables grow exponentially from a base of two, making many causal variables not only wildly but also less likely that any given combination will have an empirical referent or will have only one case and therefore not theoretically interpretable (Amenta & Poulsen, 1994, p. 29; Mahoney & Goertz, 2006, p. 238; C. C. Ragin, 1998, p. 106). Lastly, QCA's, dichotomous coding is not amenable to all social phenomena and can lead to loss of valuable information by lumping together cases that may be in many significant ways dissimilar (Blackman et al., 2013, p. 140; B. G. Peters, 1998, p. 169; C. C. Ragin, 1999, pp. 1236-1237).

5.3. Selection of Cases

The analysis is based on 43 out the 49 states that make up sub-Saharan Africa. Five states i.e. Comoros, Djibouti, Sao Tome and Principe, Somalia and South Sudan data are excluded from the analysis because for these states, full data for all the variables is not available. A sixth state, Liberia is excluded because it is not possible to dichotomise its human rights score. This is because the value for human rights score as derived from the Freedom House '*Freedom in the World* index' is the median for states that cannot be coded as either 1 = free/present or 0 = not free/absent as required in csQCA. See section 5.4.1.

The analysis is limited to sub-Saharan Africa because North African states tend to draw their historic, cultural, political and religious identity and heritage to the Middle East. Therefore, much of what influences their political development and in turn terrorism, corresponds to political realities occurring in the social-political block collectively known as the Middle-East and North Africa (MENA). Such influences include for example, the Israeli/Arab-Palestinian conflict and the grievances affecting the Muslim Umma, in the MENA region. See Chabal (1998); Cooper (1994); de Melo and Tsikata (2015); Feldman (2009); Gasiorowski (2016); Glickman (2003, p. 74); P. Kagwanja (2006, p. 165); Lijphart (1971, p. 688); B. G. Peters (1998, p. 36); Teune and Przeworski (1970, p. 8). This analytical separation is not peculiar to this study. For instance, the U.S. state Department separates those who deal with counterterrorism in North Africa, from those who deal with it in sub-Saharan Africa (Lyman & Morrison, 2004, p. 86; Piombo, 2007, p. 8). In any case, according to Mill (1843); B. G. Peters (1998, pp. 5-6); Pierce (2008, p. 55); Adam Przeworski and Henry Teune (1970, pp. 4-9), comparison between units that share as many similarities as possible i.e. most similar systems design (MSSD), is the true comparative method because any observed changes in social phenomena can be attributed to their differences.

The main objective of the analysis is not to interpret, clarify, confirm, infirm or develop new theoretical propositions (See Gerring, 2004, p. 341; Lijphart, 1971, pp. 691-693) but to establish the conditions or combinations of conditions that facilitate or impede human rights when implementing counterterrorist policies in sub-Saharan Africa. In any event, since this is a regional study based on a small number of cases (N = 43), there is no point in inviting academic controversy by

seeking to make theoretical generalisations from the results. Based on this understanding, selection of the case for in depth analysis is tied to the results of the QCA analysis and guided by the criteria that the case is ideal to illustrate results and or it deviates from the pattern of causal relationships established by the analysis.

5.4. Variables, Calibration and Data

5.4.1. Dependent Variable/Outcome

The dependent variable is *'human rights'*. It has been argued that physical integrity rights (torture, detention and imprisonment without due process, disappearances suspected to result from the workings of state agents, and extrajudicial killings perpetrated by government officials etc.) face the highest risk of abuse by the state when implementing counterterrorism measures (James A Piazza & Walsh, 2009, 2010). This argument suggests that the best counterterrorism measures are those that maximise the protection and promotion of the category of human rights known as physical integrity rights. However, consensus in human rights scholarship is that human rights are indivisible, interconnected, complementary and mutually reinforcing (Boyle (1995) and Donnelly (1999a) in Brown, 2016, p. 29; Foot, 2007, p. 499; Hoffman, 2004, p. 934; Jawad, 2015, p. 109; Khan, 2016, p. 9; Kielsgard, 2005, p. 262; Landman, 2003, p. 10; Omotola, 2008, p. 42; Warbrick, 2004, p. 999). Therefore, there is no ontological basis for empirical research to study macro-social conditions that only facilitate or impede certain categories of rights exclusive of others. See Brown (2016, p. 29); Boyle (1995) and Donnelly (1999a) in Landman (2003, p. 10); Warbrick (2004, p. 999).

Based on this reasoning, here the measurement of the outcome 'human rights' (H) is based on data obtained from Freedom House '*Freedom in the World* index'. The index is an annual combined measure of political rights (PL) and civil liberties (CL) enjoyed by individuals rather than governments for countries and a select group of territories rated according to their degrees of freedom or human rights status where free = 1.0 - 2.5; partly free = 3.0 - 5.0 and not free = 5.5 - 7.0[57]. While this rating scheme is widely applied in academic and policy analysis without modification, it is not amenable to csQCA analysis which requires binary coding of data. In this case, the outcome human rights must be coded as 1 = 'free/present' or 0 = 'not free/absent'.

The difficulty in dichotomising *Freedom in the World* index data arises because countries with political rights (PL) and civil liberties (CL) scores that range between 2.6 – 5.4 which includes countries that are ranked as partly free = 3.0 - 5.0 present a third category which obviously has no coding reference consistent with csQCA. In our data, twenty-seven countries fall into this category. To dichotomise the data for these countries, the median value of their average political rights (PL) and civil liberties (CL) scores for the period of analysis (1998 – 2017) is used as a numerical threshold below which countries are coded 1 = 'free/present' and above which they coded 0 = 'not free/absent'. Liberia whose average political rights (PL) and civil liberties (CL) score is 4.1 is not coded and therefore excluded from the analysis that follows. This calibration strategy is optimal and free of

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[57] See https://freedomhouse.org/report/methodology-freedom-world-2019 for detailed information on methodology.

bias because the median is considered a neutral statistic which distributes the cases in question evenly on both extremes.

Table 5.1. illustrates the dichotomisation of the outcome human rights for the group of countries that were not amenable to binary coding based on the on *Freedom in the World* index data.

Table 5.1: Binary coding for countries with intermediate human rights scores

Country	Average PL + CL	Binary code
1. Senegal	2.7	1
2. Lesotho	3	1
3. Seychelles	3	1
4. Mali	3.1	1
5. Sierra Leone	3.4	1
6. Malawi	3.5	1
7. Mozambique	3.5	1
8. Tanzania	3.5	1
9. Madagascar	3.7	1
10. Zambia	3.8	1
11. Niger	3.9	1
12. Burkina Faso	4	1
13. Kenya	4	1
14. Liberia	**4.1**	**Median**
15. Nigeria	4.2	0
16. Guinea-Bissau	4.5	0
17. Togo	4.8	0
18. Uganda	4.8	0
19. Gabon	5.1	0
20. Gambia, The	5.2	0
21. Central African Republic	5.3	0
22. Cote d'Ivoire	5.3	0
23. Mauritania	5.3	0
24. Burundi	5.4	0
25. Congo, Rep.	5.4	0
26. Ethiopia	5.4	0
27. Guinea	5.4	0

Source: (House, 2018)

5.4.2. Independent Variables/Explanatory Conditions

Based on theoretical and empirical propositions, chapter four concluded that in sub-Saharan Africa, states' human rights behaviour in relation to counterterrorist policies can be predicted by variables that fall into five broad categories of macro social conditions i.e. democracy, economic and administrative capacity, state and human security, international integration, terrorism and internal unrest (see table 4.1).

For each of these implicated macro social conditions there are at least three suggested variables. That would mean that the QCA analysis would have at least 15 variables. As observed earlier, in QCA combinations of causal and outcome variables grow exponentially from a base of two. As a result, many causal variables would make the analysis wildly and less likely that any given combination will have an empirical referent or will have only one case and therefore not theoretically interpretable (Amenta & Poulsen, 1994, p. 29; Mahoney & Goertz, 2006, p. 238; C. C. Ragin, 1998, p. 106). As a first step to solve this problem, only variables suggested by theory and found to be significant in extant empirical studies are included in the QCA analysis as suggested by Amenta and Poulsen (1994, p. 25); Mahoney and Goertz (2006, p. 244); B. G. Peters (1998, pp. 168-170); C. C. Ragin (1999, pp. 1230-1231); Rihoux et al. (2011, p. 16).

Other factors also come into play to determine which variables are included in the final analysis. In sub-Saharan Africa, publicly available

information and data on security agencies is generally brief, accompanied with caveats on usage, difficult to verify, shrouded in secrecy and normally protected by secrecy laws, making it scarce (Gupta et al., 2001, pp. 752-753; Pyman, 2017, p. 513; Sidibe, 2018, p. 47; Sigsworth, 2019, pp. 3, 7; Thuo, 2009, pp. 155-156). Based on lack of adequate and useful data some variables such as military control, size of the military and size of the police must be excluded. For some variables such human rights NGOs, rights protective constitutional provisions and population of lawyers, no centralised data exists making collection of data for all the cases logistically difficult and expensive. Others such as level of democracy and elected legislature are plagued by measurement and endogeneity problems. While elected legislature is a component of democracy, level of democracy is open to bias and prone to the danger of conceptual stretching. Besides, democracy is endogenous to the outcome variable 'human rights' and other explanatory variables. The macro social condition that has a generous amount of data available for most variables is economic and administrative capacity. Over the years the World Bank, International Monetary Fund (IMF), Transparency International (TI) and many UN agencies such as the United Nations Department of Economic and Social Affairs (UNDESA) have collected and centralised country level data on GDP, corruption, poverty levels, inequality, population etc. Except for poverty levels, full data is available on these variables for nearly all countries in sub-Saharan Africa. However, Cross (1999, p. 93); Park (1987, p. 407); Poe and Tate (1994, p. 867) find the effect of economic capacity or development on lowering repression as reflected by growth in GDP is modest and insufficient. Some studies such as Henderson (1991, pp. 125, 132); Park (1987, p. 410) find that high levels of inequality are associated with

repression and argue that the gap between the rich and poor in society creates strife and instability provoking governments to respond to with brute force. However, there is much empirical disagreement about the effect of inequality on economic growth and vice versa (Mo, 2000, p. 312; Nel, 2003, p. 611), therefore suggesting that the pathways through which economic variables affect human rights outcomes are unclear and may even work in opposing directions. The effect of corruption on human rights outcomes has been found to be significant in most studies. Besides, it is reasonable to argue that no matter the level of economic resources at the disposal of governments, prudent use and transparent management of such resources not only extends the boundary of possibilities but also generates political support that is necessary to win the war against terrorism. The effects of ratification of international human rights instruments and repression levels of neighbouring countries on human rights outcomes are also plagued by inconsistent findings and lack of significance in extant empirical studies.

Based on these insights and the fact that version 3.0. of fsQCA software used for this analysis can only accommodate up to 5 explanatory conditions (in line with the QCA imperative to keep the number of variables low), corruption (C), net expenditure on welfare over military (M), judicial independence (J), terrorism (T) and anti-terror legislation (A) are used as proxies for the macro social conditions suggested in chapter four. For each of these variables, the source of data and dichotomous coding (calibration) are explained.

5.4.2.1. Corruption

Corruption (C) is used as a proxy for economic and administrative capacity. It is measured using the annual transparency, accountability, and corruption in the public-sector (CPIA) index of the World Bank[58]. According to the World Bank, CPIA assesses the extent to which the executive can be held accountable for its use of funds, and the extent to which public employees within the executive are required to account for administrative decisions, use of resources, and results obtained. The CPIA rates states on a scale that ranges from 1=low to 6=high. For our measurement, states with an average CPIA rating for the period 1998 – 2017 ranging between 3.1 – 6.0 are coded 1 and those between 1.0 – 3.0 are coded 0. CPIA data for eight states (Botswana, Equatorial Guinea, Eswatini, Gabon, Mauritius, Namibia, Seychelles and South Africa) is not available. The problem of missing data is not unique to this study. Previous studies suggest imputing missing data from closely correlated dataset. For example, Acuña and Rodriguez (2004); Elbadawi and Sambanis (2000, pp. 6, 26); Kalton (1983); Kalton and Kasprzyk (1986); Kim and Curry (1977); Tarling (2008); Tsikriktsis (2005); Yaffee and McGee (2000) have employed or suggest this solution for populating variables with missing data.

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[58] World Bank CPIA database accessed from http://www.worldbank.org/ida on 14/2/2019

Here we impute missing data from Transparency International (TI)[59] Corruption Perception Index (CPI) dataset. CPI is a country-year assessment of the perceptions of corruption in the public sector, measuring how corrupt country public sectors are seen to be according to experts and business people. It rates countries on a 100-point scale where 0 = highest level of perceived corruption and 100 = lowest level of perceived corruption. states with an average CPI rating for the period 1998 – 2017 ranging between 40 – 100 are coded 1 and those between 0 – 39 are coded 0. Though our preferred dataset for corruption is World Bank's CPIA index because of its broader operational definition which covers a wider spectrum of governance parameters, Transparency International's CPI index does not differ much from the World Bank's CPIA index. The two datasets have a high correlation coefficient of 0.78. This indicates that they are qualitatively similar and roughly measure the same empirical fact.

5.4.2.2. Net Expenditure on Welfare Over Military

Net expenditure on welfare over military (M) is used as a proxy for the preference between state and human security. It is measured and dichotomised using data from the World Bank Group. The World Bank compiles annual data on the average government expenditure on welfare and military as percentages of total government expenditure. Because there is no data on an aggregate measure of welfare, the average government expenditure on health is used as a proxy for overall government expenditure on welfare for two reasons. First, only data on health expenditure is complete. Second, according to Maslow and Lewis (1987), health needs precede all other needs in

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the hierarchy of human needs. Ordinarily therefore, it would be expected that faced with budgetary constraints, governments would prioritise the fulfilment of the health needs for their citizens. The net difference between the average government domestic expenditure on heath and the average government domestic expenditure on military for the period 1998-2017 is used to dichotomise this condition. If the difference has a positive sign (+) a state is coded 1, and if the sign is negative (-) a state is coded 0.

5.4.2.3. Judicial Independence

Judicial independence (J) is used as a proxy for democracy. It is measured using the Mo Ibrahim Foundation's Ibrahim Index of African Governance (IIAG). The IIAG is a tool that measures and monitors governance performance in African countries since 2008. It defines governance as the provision of political, social and economic public goods and services that every citizen has the right to expect from their state, and which a state has the responsibility to deliver to its citizens. Judicial independence is one of the governance measures of the safety & rule of law component. See Foundation (2018, 2019). Using 2008 as the base year, states which recorded improvement in judicial independence in 2017 are coded 1 and states whose judicial independence declined are coded 0.

5.4.2.4. Anti-terror Legislation

Anti-terror legislation (A) is used as a proxy for international integration. This is because among other things, the UN Global Counter-Terrorism Strategy (2006) and UN Security Council Resolutions 1267 (1999), 1373 (2001) and 1540 (2004) adopted under chapter VII of the UN Charter require member states to draft

comprehensive national and regional strategies; develop legislation to criminalise acts and the financing of terrorism; implement legislation through law enforcement and criminal justice processes etc. Andrew and Silke (2018, p. 8); (Ford, 2011, p. 24; Sigsworth, 2019, p. 5; Sturman, 2002, p. 104; Whitaker, 2007, p. 1018). It is measured and coded using existing information on national counterterrorist legislations obtained from the United Nation Office on Drugs and Crime counterterrorism legislation database. Additional information is obtained from the Center for Strategic & International Studies (CSIS). See (Counterterrorism, 2019; Studies & CSIS, 2018). A state is coded 1 if it has legislation explicitly focusing on terrorism and 0 if such legislation is lacking.

5.4.2.5.   Terrorism

Terrorism (T) is used as a proxy for internal unrest. Besides existence of empirical evidence showing that terrorism pushes governments towards repressive tendencies (James A. Piazza, 2015; James A Piazza & Walsh, 2009), it was established in section 2.4 in chapter two that much of what manifests as terrorism in sub-Saharan Africa occurs in the context of communal and organized armed violence where none of the parties is the government of a state. See table 2. This not only shows the correlation between non-state conflicts and terrorism ($r = .83$, $p = .00$, 1-tailed) but it also implies that in the context of sub-Saharan Africa, the incidence of terrorism is a good proxy for internal unrest. This variable is measured using data obtained from the Global Terrorism Database (GTD), which is the largest and most extensive open source of information on domestic and international terrorist attacks around the world since 1970 (LaFree & Dugan, 2007, p. 198). The GTD defines a terrorist attack as the threatened or actual use of

illegal force and violence by a non-state actor to attain a political, economic, religious, or social goal through fear, coercion, or intimidation. The GTD provides a mechanism for researchers to filter and truncate data according to definitions of terrorism that meet their research needs. Here, only successful incidents of essentially no doubt of terrorism that resulted into at least ten deaths are included. This assumes that, states are more likely to impede human rights if the intensity and severity of terror attacks is high. States that record at least 10 incidents in the period 1998-2017 are coded 1 and states have less than 10 incidents of terrorism for this period are coded 0.

Table 5.2 summarises the descriptive statistics of the variables; tables 5.3 and 5.4 display the raw and dichotomised data respectively for all the countries included in the analysis where N = 43.

5.5. Primary Data

To understand in depth the nature of terrorism, counterterrorism and human rights in sub-Saharan Africa, primary data and information is was obtained through key informant interview at the African Union Commission in Addis Ababa Ethiopia, the African Center for the Study and Research on Terrorism (ACSRT) in Algiers Algeria, the African Commission on Human and Peoples' Rights (ACHPR) in Banjul Gambia and in Mali for the case study. See the anonymised interview transcripts in annex 2.

Table 5.2:Descriptive statistics of variables

Condition *Outcome*	Description	Source	N	Years	Mean	Std. Dev.	Min	Max
Human rights (H) < 4.1 = 1 > 4.1 = 0	Annual measure of political rights (PL) and civil liberties (CL), where 1.0 - 2.5 = free, 3.0 - 5.0 = partly free, and 5.5 - 7.0 = not free.	Freedom House	43	1998-2017	9.99	16.18	1.1	7
Necessary Conditions								
Corruption (C) CPIA 3.1 – 6.0 = 1 1.0 – 3.0 = 0	Annual transparency, accountability, and corruption in the public-sector (CPIA) index. Extent to which the executive can be held accountable for its use of funds (1=low, 6=high)	World Bank	43	1998-2017	-0.47	3.73	1.5	60
CPI 50 – 100 = 1 0 – 49 = 0.	Corruption perception index (CPI). How corrupt country public sectors are seen to be according to experts and business people (0 = highest, 100 = lowest)	Transparency International						
Net expenditure on welfare over military (M) Positive sign (+) = 1 Negative sign (-) = 0.	Average government expenditure on health as a percentage of total government expenditure minus average government expenditure on military as a percentage of total government	World Bank	43	1998-2017	0.87	9.08	-23.2	2.7
Judicial independence (J) Improvement = 1 Decline = 0	Ibrahim Index of African Governance (IIAG). The average improvement or decline in judicial independence between 2008 and 2017	Mo Ibrahim Foundation	43	2008 -2017	16.93	58.63	-24.2	23.5
Terrorism (T) More than 10 = 1 Less than 10 = 0	Annual number of successful domestic and international terrorist attacks of essentially no doubt of terrorism that resulted into at least 10 deaths.	Global Terrorism Database	43	1998-2017	4.32	1.53	0	389
Anti-terror legislation (A) Present = 1 Absent = 0	National counterterrorist legislation explicitly focusing on terrorism	UNODC CSIS	43	-	-	-	-	-

Table 5.3:Raw data for the sample where N = 43

state	Code	C	M	J	A	T	H
Angola	AGO	2.5	-2.1	9.7	0	21	5.7
Benin	BEN	3.5	0.1	-0.8	0	0	2.1
Botswana	BWA	60*	0.8	-5.7	0	0	2.2
Burkina Faso	BFA	3.4	0.2	4.9	1	3	4
Burundi	BDI	2.2	-2.5	-24.2	1	18	5.4
Cabo Verde	CPV	4.5	2.6	1.8	0	0	1.1
Cameroon	CMR	2.5	-0.6	-6.1	1	30	6.1
Central African Republic	CAF	2.5	-0.7	-1.4	0	36	5.3
Chad	TCD	2.2	-2	3.8	1	16	6.1
Congo, Dem. Rep.	COD	2	-0.7	-5.2	1	72	6.1
Congo, Rep.	COG	2.3	-1.7	-4.3	0	3	5.4
Cote d'Ivoire	CIV	2.6	-0.7	22.6	1	2	5.3
Equatorial Guinea	GNQ	19*	-1.2	-1.6	0	0	6.8
Eritrea	ERI	2.1	-23.2	-11.3	0	2	6.6
Eswatini	SWZ	35*	2.2	-3.4	0	0	5.9
Ethiopia	ETH	2.8	-1.1	0.2	1	15	5.4
Gabon	GAB	33*	-0.2	-4.5	0	0	5.1
Gambia, The	GMB	2.1	1.1	16.7	1	0	5.2
Ghana	GHA	3.8	1.4	4.7	1	0	1.9
Guinea	GIN	2.4	-2.2	23.5	0	3	5.4
Guinea-Bissau	GNB	2.3	0.5	-3.6	0	1	4.5
Kenya	KEN	3	0.3	6.6	1	21	4
Lesotho	LSO	3.4	1.1	-1.2	0	0	3
Madagascar	MDG	2.8	1	2	1	0	3.7
Malawi	MWI	2.9	1	4.3	0	0	3.5
Mali	MLI	3.3	-0.5	-3.1	1	11	3.1
Mauritania	MRT	2.7	-2.4	3.9	1	1	5.3
Mauritius	MUS	52*	1.7	-2.7	1	0	1.5
Mozambique	MOZ	2.9	1	-6.6	1	0	3.5
Namibia	NAM	46*	2.7	-7.3	0	0	2.2
Niger	NER	3	0.6	-0.3	1	14	3.9
Nigeria	NGA	3	-0.2	-3.3	1	389	4.2
Rwanda	RWA	3.5	1.2	-9.5	0	2	5.9
Senegal	SEN	3.3	0.1	8.2	1	2	2.7
Seychelles	SYC	50*	2	-0.3	1	0	3
Sierra Leone	SLE	2.9	0.1	14.2	1	5	3.4
South Africa	ZAF	45*	2.2	-1.4	1	0	1.8
Sudan	SDN	1.7	-2.1	3.2	1	48	7
Tanzania	TZA	3.1	1.5	1.7	1	2	3.5
Togo	TGO	2.4	-0.6	-6.7	0	0	4.8
Uganda	UGA	2.5	-0.5	-11	1	28	4.8
Zambia	ZMB	3	-0.1	-0.7	0	0	3.8
Zimbabwe	ZIM	1.5	-1.4	14.6	0	0	5.9

Source: Own table (see table 5.2 for sources of data). Data marked with asterisks
(*) in the column C is CPI index from Transparency International.

Table 5.4:Dichotomised data for csQCA

State	C	M	J	A	T	H
Angola	0	0	1	0	1	0
Benin	1	1	1	0	0	1
Botswana	1	1	0	0	0	1
Burkina Faso	1	1	0	1	0	1
Burundi	0	0	1	1	1	0
Cabo Verde	1	1	0	0	0	1
Cameroon	0	0	1	1	1	0
Central African Republic	0	0	0	0	1	0
Chad	0	0	0	1	1	0
Congo, Dem. Rep.	0	0	1	1	1	0
Congo, Rep.	0	0	0	0	0	0
Cote d'Ivoire	0	0	1	1	0	0
Equatorial Guinea	0	0	0	0	0	0
Eritrea	0	0	0	0	0	0
Eswatini	0	1	0	0	0	0
Ethiopia	0	0	1	1	1	0
Gabon	0	0	0	0	0	0
Gambia, The	0	1	1	1	0	0
Ghana	1	1	1	1	0	1
Guinea	0	0	1	0	0	0
Guinea-Bissau	0	1	0	0	0	0
Kenya	0	1	1	1	1	1
Lesotho	1	1	0	0	0	1
Madagascar	0	1	1	1	0	1
Malawi	0	1	1	0	0	1
Mali	1	0	0	1	1	1
Mauritania	0	0	1	1	0	0
Mauritius	1	1	0	1	0	1
Mozambique	0	1	0	1	0	1
Namibia	1	1	0	0	0	1
Niger	0	1	0	1	1	1
Nigeria	0	0	0	1	1	0
Rwanda	1	1	0	0	0	0
Senegal	1	1	1	1	0	1
Seychelles	1	1	0	1	0	1
Sierra Leone	0	1	1	1	0	1
South Africa	1	1	0	1	0	1
Sudan	0	0	1	1	1	0
Tanzania	1	1	0	1	0	1
Togo	0	0	1	0	0	0
Uganda	0	0	0	1	1	0
Zambia	0	0	0	0	0	1
Zimbabwe	0	0	0	0	0	0

Source: Own table.

5.6. Summary

This chapter has outlined the empirical procedure for establishing which macro social conditions or combinations of conditions identified in a review of extant theoretical and empirical propositions in chapter four i.e. democracy, economic and administrative capacity, state and human security, international integration and terrorism and internal unrest are necessary to facilitate or impede human rights in counterterrorist policies in sub-Saharan Africa.

Since it is a regional study involving a small number of cases, the chapter has described in depth a research design that combines the comparative method, specifically Qualitative Comparative Analysis (QCA) with the application of Crisp Set Qualitative Comparative Analysis (csQCA) using version 3.0. of fsQCA software, and an in-depth case analysis. The operational mechanics of QCA, its application in academic and policy spheres, its strengths and limitations have been discussed. Based on ontological and epistemological considerations and the technical requirements of fsQCA version 3.0. software, a set of five explanatory variables that proxy each of the hypothesised macro social conditions have been identified for the ensuing QCA analysis. These are i.e. corruption (C), net expenditure on welfare over military (M), judicial independence (J), terrorism (T) and anti-terror legislation (A). For each variable, the source of data and procedure for dichotomous coding (calibration) have been explained.

The chapter has also highlighted the method for collecting primary data and presented raw and dichotomised data for all variables, for all countries included in the analysis where N=43.

6. ANALYSIS AND RESULTS

6.1. Introduction

Relying on version 3.0 of the open source fsQCA software developed by C. C. Ragin and Davey (2016) and five explanatory variables/conditions i.e. corruption (C), net expenditure on welfare over military (M), judicial independence (J), terrorism (T) and anti-terror legislation (A), this chapter begins with an analysis of necessary conditions followed by an analysis of combinations of conditions sufficient for the outcome variable/condition 'human rights' and an in depth analysis of one case.

In QCA an identified relationship between a condition and the outcome does not mean that the inverse relationship must also be true or that the results for one analysis can be inferred from the other (Greckhamer et al., 2008, p. 697; Hicks, 1994, p. 97; Kruck & Schneiker, 2017, pp. 127-128; Legewie, 2013, p. 3; Mahoney & Goertz, 2006; Mello, 2012, p. 436; Rihoux et al., 2011, p. 13; C. Q. Schneider & Wagemann, 2012, p. 382). In this case therefore, the ensuing csQCA analysis tests for both conditions that facilitate and conditions that impede human rights outcomes in counterterrorist policies in sub-Saharan Africa.

QCA stands in the middle of quantitative and qualitative analysis, incorporating aspects of traditional statistical analysis to the understanding of qualitative relationships between variables. Like the notion of parameters of fit in statistical analysis, QCA uses consistency and coverage scores to assess how well cases in a data set fit a relation of necessity or sufficiency. The consistency score resembles the notion of significance in statistical models and measures the degree to which

a relation of necessity or sufficiency between a causal condition or combination of conditions and an outcome is met within a given data set, where 0 = no consistency and 1 = perfect consistency (Legewie, 2013, p. 9; Mello, 2019a, 2019b; C. C. Ragin, 2006, p. 293). The coverage score is analogous to the notion of R^2 and measures the degree to which a condition or combination of conditions accounts for instances of an outcome i.e. its empirical relevance or importance, where 0 = no empirical relevance and 1 = perfect empirical relevance (Ibid). Based on the recommendation that thresholds for necessary conditions should be placed as close to 1.0 and not below 0.75 (Legewie, 2013, p. 19; C. C. Ragin, 2006, p. 293)[60] and following Legewie (2013, p. 19); Mello (2012, p. 436); C. C. Ragin (2006, p. 293), in this analysis, the threshold for consistency scores set at a 0.90 and coverage of 0.75. According to C. C. Ragin (2006, p. 293) below 0.75 it is difficult on substantive grounds to maintain that even a very rough subset relation exists.

6.2. Necessary Conditions for Human Rights

It is recommend that the analysis for necessary conditions precedes the analysis for sufficient conditions (Legewie, 2013, p. 19; C. C. Ragin, 2009, p. 110). The results of this analysis are displayed in table 6.1 below.

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[60] Legewie and Ragin argue that this is because claiming that a condition is necessary is a bold statement.

Table 6.1:Analysis of necessary conditions for human rights

Condition/ Outcome	Facilitate (H)		Impede (~H)	
	Consistency	Coverage	Consistency	Coverage
M*	0.90*	0.82*	0.17	0.18
~M	0.10	0.10	0.83	0.90
C	0.65	0.93	0.04	0.07
~C*	0.35	0.24	0.96*	0.76*
J	0.35	0.39	0.48	0.61
~J	0.65	0.52	0.52	0.48
A	0.65	0.54	0.48	0.46
~A	0.35	0.37	0.52	0.63
T	0.15	0.23	0.43	0.77
~T	0.85	0.57	0.57	0.43

Notes: Corruption (C), Net Government Expenditure on Welfare over Military (M), Terrorism (T), Judicial Independence (J), Anti-Terror legislation explicitly focusing on terrorism (A), Human Rights (H). Tilde (~) indicates the absence of a condition. An asterisks (*) indicates a necessary condition.

Results in table 6.1 show that more government expenditure on welfare than military (M) is a necessary condition to facilitate human rights in counterterrorist policies at a consistency of 0.90 and coverage of 0.82. The absence of transparency and accountability coupled with a high level of corruption in the public sector (~C) is a necessary condition for the impediment of human rights at a consistency of 0.96 and coverage of 0.76. Since both conditions have consistency and coverage scores greater than or equal to 0.90 and 0.75 respectively, we can conclude that they are 'almost' necessary to facilitate or impede human rights in counterterrorist policies in sub-Saharan Africa.

6.3. Sufficient Conditions for Human Rights

The basic instrument used for the analysis of sufficient conditions is the truth table which identifies pathways that are sufficient for the outcome i.e. produce the outcome (Legewie, 2013, p. 11; C. C. Ragin, 2009, p. 110). In the truth table, each logical configuration corresponds to an individual path towards the outcome or combination of conditions leading to the outcome and is represented by each row in the table.

Each truth table represents a property space with 2^k potential logical configurations, where k is the number of explanatory conditions included in the model. Here, each truth table with five explanatory conditions i.e. net expenditure on welfare over military (M), corruption (C), independence of the judiciary (J), anti-terror legislation explicitly focusing on terrorism (A) and terrorism (T) i.e. $2^{(M, C, T, J, A)}$ contains 32 potential logical configurations. In each truth table, only 18 out of the 32 logical configurations (rows) representing empirically established paths towards either of the outcomes are displayed. The remaining 14 rows not displayed in the truth tables (because they are not filled with cases) represent hypothetical configurations (paths) that would exist under specific logical assumptions. They are however useful in generating parsimonious solutions (not presented here) of the outcome in question from which theoretical prepositions can be derived. The consistency column in each truth table indicates the proportion of cases in each row that display the outcome.

After constructing the truth table, the second step in the fsQCA 3.0 software is the preparation of the table for analysis by selecting the

rows to be analysed based on a frequency threshold and a consistency threshold. Because the total number of cases in the analysis is relatively small, the frequency threshold i.e. the number of cases in a row is set at 1 and the consistency threshold is set at 0.80 C. C. Ragin (2009, pp. 106-107); See C. C. Ragin (2010, pp. 39-41). Based on this rule, all rows with no case are deleted and in the outcome column, each configuration whose consistency level is above 0.80 is coded 1 and those below 0.80 are coded 0.

In the final step of the analysis, sufficient combinations of conditions for the outcome are identified by the software using Boolean algebra to minimise the truth table to complex, parsimonious, and intermediate solution terms (Legewie, 2013, pp. 13-15; Mello, 2012; C. C. Ragin, 2009, p. 111; C. Q. Schneider & Wagemann, 2012, p. 172). Here only complex solution terms are presented. In each table representing the complex solution, to the left are listed combinations of conditions that comprise alternative sufficient paths that lead to the outcome. The third column shows the relation of each causal path to the outcome i.e. whether it is sufficient to cause the outcome. The fourth column shows the consistency score of each path i.e. the extent to which each path can explain the outcome. The fifth column displays the paths' raw and unique coverage i.e. the proportion of cases that can be explained exclusively by that path. Finally, the sixth column shows the countries that display each casual path.

Below the list of causal paths is the solution consistency and coverage scores which indicate the overall fit and empirical relevance of the solution term or model (Legewie, 2013, p. 21). The higher the consistency and coverage scores, the higher the empirical relevance of

a causal path and or solution term/model. See Legewie (2013, p. 19); C. C. Ragin (2006, p. 293)

6.3.1. Facilitating

Table 6.2 displays the truth table for conditions that facilitate human rights in counterterrorist policies in sub-Saharan Africa and table 6.3 displays the complex solution for sufficient combinations of conditions.

Consistent with the analysis of necessary conditions, theoretical and empirical expectations, more government expenditure on welfare than on military (M) is present in all paths except path 4. Path 1 (M*C*~T) where more government expenditure on welfare than on military (M) combines with a low level of corruption (C) and a low level of terrorism (~T) is the most empirically relevant at a consistency of 0.92 and a coverage of 0.60. Path 3 (M*~C*A*T) representing Kenya and Niger and Path 4 (~M*C*~J*A*T) representing Mali are empirically interesting because they incorporate a high incidence of terrorism contrary to theoretical expectations and previous empirical studies suggesting that terrorism pushes governments towards repression. The only other similarity between the paths is that they incorporate anti-terror legislation explicitly focusing on terrorism (A). It appears that the presence of anti-terror legislation explicitly focusing on terrorism (A) present in all the three countries with a high incidence of terrorism has a facilitating effect on the human rights outcomes. This reasoning is consistent with the UN Global Counter-Terrorism Strategy (2006) and the UN Security Council Resolutions 1267 (1999), 1373 (2001) and 1540 (2004) which requires states to draft and implement comprehensive legislations to criminalise acts and the

financing of terrorism as legal tools for protecting human rights during counterterrorism.

Overall, the model is robust at a consistency of 0.94 and coverage 0.85.

Table 6.2:Truth table for conditions that facilitate human rights

Row	M	C	J	A	T	H	Consistency	N	Cases
1.	1	1	0	1	0	1	1	5	Burkina Faso, Mauritius, Seychelles, South Africa, Tanzania,
2.	1	1	1	1	0	1	1	2	Ghana, Senegal
3.	1	0	1	0	0	1	1	1	Malawi
4.	1	1	1	0	0	1	1	1	Benin
5.	1	0	0	1	0	1	1	1	Mozambique
6.	1	0	0	1	1	1	1	1	Niger
7.	0	1	0	1	1	1	1	1	Mali
8.	1	0	1	1	1	1	1	1	Kenya
9.	1	1	0	0	0	1	0.8	5	Botswana, Cabo Verde, Lesotho, Namibia, Rwanda
10.	1	0	1	1	0	0	0.67	3	Gambia The, Madagascar, Sierra Leone,
11.	0	0	0	0	0	0	0.17	6	Congo,Rep., Equatorial Guinea, Eritrea, Gabon, Zambia, Zimbabwe
12.	0	0	1	1	1	0	0	5	Burundi, Cameroon, Congo,Dem.Rep., Ethiopia, Sudan
13.	0	0	0	1	1	0	0	3	Chad, Nigeria, Uganda
14.	1	0	0	0	0	0	0	2	Eswatini, Guinea-Bissau
15.	0	0	1	0	0	0	0	2	Guinea, Togo
16.	0	0	1	1	0	0	0	2	Cote d'Ivoire, Mauritania
17.	0	0	0	0	1	0	0	1	Central African Republic
18.	0	0	1	0	1	0	0	1	Angola

Corruption (C), Net Government Expenditure on Welfare over Military (M), Terrorism (T), Judicial Independence (J), Anti-Terror legislation explicitly focusing on terrorism (A), Human Rights (H). Countries in italics have a positive human right outcome. Rows with logical remainders are not shown.

Table 6.3:Complex solution for conditions that facilitate human rights

| Path | Configuration | Relation | Consistency | Coverage | | Cases |
				Raw	Unique	
1	M*C*~T	→H	0.92	0.60	0.30	Benin, Botswana, BurkinaFaso, CaboVerde, Ghana, Lesotho, Mauritius, Namibia, Rwanda, Senegal, Seychelles, South Africa, Tanzania
2	M*J*~A*~T	→H	1.00	0.10	0.05	Benin, Malawi
3	M*~C*A*T	→H	1.00	0.10	0.05	Kenya, Niger
4	~M*C*~J*A*T	→H	1.00	0.05	0.05	Mali
5	M*~J*A*~T	→H	1.00	0.30	0.00	Burkina Faso, Mauritius, Mozambique, Seychelles, South Africa, Tanzania
6	M*~C*~J*A	→H	1.00	0.10	0.00	Mozambique, Niger

Solution consistency: 0.94
Solution coverage: 0.85

Tilde (~) indicates the absence of a condition; multiplication (*) refers to a logical 'and'; addition (+) represents a logical or'; (←) indicates a necessary condition; (→) indicates sufficient configuration (alternate paths). Corruption (C), Net Government Expenditure on Welfare over Military (M), Terrorism (T), Judicial Independence (J), Anti-Terror legislation explicitly focusing on terrorism (A), Human Rights (H).

6.3.2. Impeding

Table 6.4 displays the truth table for conditions that impede human rights in counterterrorist policies in sub-Saharan Africa and table 6.5 displays the complex solution for sufficient combinations of conditions.

Consistent with the analysis of necessary conditions, theoretical expectations and previous empirical findings, a high level of corruption (~C) is presents in all the three paths in table 19. This implies that a high level of corruption is almost absolutely required for the impediment of human rights in counterterrorist policies in sub-Saharan Africa. In terms of empirical relevance, paths 1 and 2 are the most relevant, each having a consistency score of 1 and coverage of 0.43. Both paths display in common the configuration ~M*~C i.e. a combination of less government expenditure on welfare than on military (~M) and a high level of corruption (~C).

Path 2 which combines less government expenditure on welfare than on military (~M) and a high level of corruption (~C) with a high level of terrorism is the most theoretically and empirically relevant despite having the same consistency and coverage score as path 1. The implication of path 1 (~M*~C*J) is that in an environment where the state spends more on military than on welfare (~M) and state agents are highly corrupt (~C), independence of the judiciary cannot safeguard human rights as the last gatekeeper. Court orders may be ignored and justice miscarried even before matters reach courts. Path 3 (~C*~J*~A*~T) is particularly interesting. This path combines a low level of terrorism (~T) with a high level of corruption (~C), lack of judicial independence (~J) and absence of anti-terror legislation

explicitly focusing on terrorism (~A). Except for Zambia, the countries in this path (Congo,Rep., Equatorial Guinea, Eritrea, Eswatini, Gabon, Guinea-Bissau, Zimbabwe) are essentially dictatorships seemingly supporting the argument that extremely authoritarian regimes experience lower levels of terrorism. See for example Li (2005, pp. 278-279).

Overall, the model is robust at a consistency of 0.95 and coverage 0.91.

Table 6.4: Truth table for conditions that impede human rights

Row	M	C	J	A	T	~H	Consistency	N	Cases
1	0	0	1	1	1	1	1	5	Burundi, Cameroon, Congo,Dem.Rep., Ethiopia, Sudan
2	0	0	0	1	1	1	1	3	Chad, Nigeria, Uganda,
3	1	0	0	0	0	1	1	2	Eswatini, Guinea-Bissau
4	0	0	1	0	0	1	1	2	Guinea, Togo
5	0	0	1	1	0	1	1	2	Cote d'Ivoire, Mauritania
6	0	0	0	0	1	1	1	1	Central African Republic
7	0	0	1	0	1	1	1	1	Angola
8	0	0	0	0	0	1	0.83	6	Congo,Rep., Equatorial Guinea, Eritrea, Gabon, Zambia, Zimbabwe
9	1	0	1	1	0	0	0.33	3	Gambia The, Madagascar, Sierra Leone
10	1	1	0	0	0	0	0.2	5	Botswana, Cabo Verde, Lesotho, Namibia, Rwanda
11	1	1	0	1	0	0	0	5	Burkina Faso, Mauritius, Seychelles, South Africa, Tanzania
12	1	1	1	1	0	0	0	2	Ghana, Senegal
13	1	0	1	0	0	0	0	1	Malawi
14	1	1	1	0	0	0	0	1	Benin
15	1	0	0	1	0	0	0	1	Mozambique
16	1	0	0	1	1	0	0	1	Niger
17	0	1	0	1	1	0	0	1	Mali
18	1	0	1	1	1	0	0	1	Kenya

Corruption (C), Net Government Expenditure on Welfare over Military (M), Terrorism (T), Judicial Independence (J), Anti-Terror legislation explicitly focusing on terrorism (A), Human Rights (~H). Countries in italics have a negative human right outcome. Rows with logical remainders are not shown.

Table 6.5:Complex solution for conditions that impede human rights

Path	Configuration	Relation	Consistency	Coverage		Cases
				Raw	Unique	
1	~M*~C*J	→~H	1	0.43	0.17	Angola, Burundi, Cameroon, Congo,Dem.Rep., Cote d'Ivoire, Ethiopia, Guinea, Mauritania, Sudan, Togo
2	~M*~C*T	→~H	1	0.43	0.17	Angola, Burundi, Cameroon, Central African Republic, Chad, Congo, Dem.Rep., Ethiopia, Nigeria, Sudan, Uganda
3	~C*~J*~A*~T	→~H	0.88	0.30	0.30	Congo,Rep., Equatorial Guinea, Eritrea, Eswatini, Gabon, Guinea-Bissau, Zambia, Zimbabwe

Solution consistency: 0.95

Solution coverage: 0.91

Tilde [~] indicates the absence of a condition; multiplication [*] refers to a logical 'and'; addition [+] represents a logical or'; [←] indicates a necessary condition; [→] indicates sufficient configuration (alternate paths). Corruption (C), Net Government Expenditure on Welfare over Military (M), Terrorism (T), Judicial Independence (J), Anti-Terror legislation explicitly focusing on terrorism (A), Human Rights (H).

6.4. Case Study (Mali)

6.4.1. Case Selection

Since the results of the analysis of conditions that are sufficient to facilitate human rights in counterterrorist policies cannot be used to infer the inverse conditions that are sufficient to impede human rights and vice versa, analysis of both outcomes was done. Ideally therefore, the in-depth case analysis should include at least one case that displays conditions that are sufficient to facilitate human rights and one case that displays conditions that are sufficient to impede human rights. However due to cost and logistical constraints, the analysis must be restricted to only one case.

Several theoretical and empirical considerations weigh on the selection of the case. Extant theories and findings of empirical studies such as James A. Piazza (2015); James A Piazza and Walsh (2009); Poe and Tate (1994); Walsh and Piazza (2010) suggest that violations of human rights are positively associated with the intensity and scope of terrorism. In chapter three it was observed that the main concern for sub-Saharan Africa is since 2005, nearly two thirds of countries in the region are either 'partly free or not free' and therefore cannot guarantee respect for human rights in counterterrorist policies. it was established that countries which are 'not free' experience three times as many terrorism incidents as countries which are 'partly free'. Thus, it was concluded that as far as counterterrorism and human rights in sub-Saharan Africa are concerned, the key task for empirical research is to identify factors that facilitate human rights in counterterrorist policies. Based on this conclusion, the case can only be selected from the group of countries displayed in the complex solution for conditions that facilitate human rights in table 6.3.

Since our principal interest is on conditions that facilitate human rights in times of counterterrorism, the selection must further be limited to those countries that display the presence of terrorism as operationally defined i.e. countries that recorded at least one successful incident of essentially no doubt of terrorism that resulted into at least ten deaths per incident for the period 1998 – 2017. Only three countries in table 6.3 meet this criterion i.e. Kenya and Niger which display the configuration represented by path 3 (M*~C*A*T) and Mali which displays the configuration represented by path 4 (~M*C*~J*A*T).

Compared to Kenya and Niger, Mali presents a more complex theatre of terrorism (arguably the most complex in the region). It lies along the historic transatlantic trade route passing through the vast Sahara Desert, generating a complex insecurity mixture of terrorism, banditry, illegal trade, transnational crime, local community conflicts, Taureg insurgencies etc. These factors alone would compel a good researcher to find out why Mali displays relatively better human rights outcomes when ordinarily it is expected that the government in Bamako would adopt repressive policies to deal with a complex security threat that it faces.

In any case also, considering the group of countries in the complex solution for conditions that facilitate human rights in table 6.3, Mali is a deviant case because it is the only case that displays less government expenditure on welfare than on military (~M). It is therefore academically interesting to study it in depth as a deviant case.

6.4.2. Objective

Contrary to theoretical expectations and findings of extant empirical studies, Mali displays a combination of more expenditure on the military than on welfare (~M) and a judiciary that is not independent (~J). These factors are expected to impede human rights in the country. However, it also displays low levels for corruption (C) and the presence of anti-terror legislation explicitly focusing on terrorism (A) which are expected to facilitate human rights in the country even though they have been found not to be necessary. Given that these two conditions were not found to be necessary for improvement of human rights, the empirical question is, what else seems to explain human rights outcomes in Mali? Thus, the main objective of the case study is to uncover relevant additional variables not previously considered or predicted by theory that probably add to the explanation of Mali's relatively better human rights outcome. The analysis will also endeavour arrive at meaningful explanations for the configuration displayed by Mali i.e. ~M*C*~J*A*T.

6.4.3. Country Background

6.4.3.1.   Geography, Society and People

Mali is a landlocked country covering an area of 482,077 sq miles or 1,248,574 sq km, sharing long porous borders with Algeria (1,376-km, 855 miles) on the north, Niger (821-km, 510 miles) and Burkina Faso (1,000-km, 621 miles) on the east, Ivory Coast (532-km, 330 miles) and Guinea (858-km, 533 miles) on the south and Senegal (419-km, 260 miles) and Mauritania (2,237-km, 1390 miles) on the west (Francis, 2013, p. 4; Heisbourg, 2013; Schulz, 2012, p. 1; Stewart, 2013, p. 6). The capital Bamako is located on West Africa's largest

river (the Niger) which originates in the highland of Guinea, flowing more than 1,000 miles in the country through Bamako, Ségou and Mopti in the south and Timbuktu and Gao in the north (Heisbourg, 2013, pp. 7-8; Keita, 1998, p. 5; Schulz, 2012, p. 2; Stewart, 2013, p. 5). Administratively, the country is divided into eight (8) regions: Tombouctou, Koulikoro, Mopti, Kidal, Segou, Gao, Sikasso and Kayes. French is the official language for administration, business, education and mass media.

Three distinct vegetation and climate zones characterise its largely harsh ecology. To the north is the desert or semi-desert where rainfall is virtually absent, daytime temperatures range from 117° F to nearly 140°F (40°C to 60°C) and night-time temperature drops to 39° F (4°C); To the south the arid Sahelian zone where average temperatures rage between 73° F and 94° F (23°C and 36°C) and at the canter is the Sudanic zone where temperatures range between 75° F and 86°F (24°C to 30°C) and has alternating dry and rainy seasons (Diarra, 2012, p. 6; Heisbourg, 2013, pp. 7-8; Keita, 1998, p. 5; Schulz, 2012, p. 3; Stewart, 2013, p. 5).

According to the United Nations, Department of Economic and Social Affairs, Population Division, as at the end of 2018, Mali had a mid-year population of ca. 19.7 million, which is predominantly (90 percent) Sufi Muslim and which Ethnologists classify into five or six separate ethno-linguistic groupings subdivided further into about 12 ethnic groups, each speaking its own language (Francis, 2013, p. 10; Keita, 1998, p. 5; Schulz, 2012, pp. 4-6; Stewart, 2013, pp. 25-27). These are Manding, Mandé, Bambara or Malinka speaking peoples found in the South (50%), the Peulh (also called Fula or Fulani) found alone the Niger delta (11%); Seina or Senoufo in the South-East (10%); the Soghai or Soninké in the North-west (8%); the Berber (Tuareg, Maure or Moor) speaking peoples in the North

(10%) and minority groups (11%) such as the Dogon, Bozo, Diawara and Xaasongaxango (Heisbourg, 2013, pp. 7-8; Keita, 1998, p. 5; Schulz, 2012, p. 7; Stewart, 2013, pp. 25-27).

Figure 6.1:Map of Mali

Source: Encyclopaedia Britannica, Inc. copied from
https://www.britannica.com/place/Mali on 26/03/2020

6.4.3.2. Political Development

Mali as we know it today is a successor of the Mali empire founded by Sundjata Keita (c. 1217-55) after he led the Mandingo to conquer the Soussou led by Sounangourou at the battle of Kirina in 1235 (Heisbourg, 2013, p. 7; Imperato & Imperato, 2008; Ki-Zerbo, Mokhtar, Niane, Boahen, & El Fasi, 1984, p. 118; McCall & Stewart, 1974, p. 41; Roberto et al., 2013, p. 71; Stewart, 2013, pp. 9, 16). At the time, Mali Empire was the epicentre of West Africa's great empires i.e. Empire of Ghana, the Empire of Mali, and the Songhai Empire

that chronologically succeeded one another from the 9th to the 17th Century ending with the arrival of French colonialists (Diarra, 2012, p. 6). At its peak, under the reigns of Mansa Müsä I and Mansa Sulaymän, Mali Empire was a hegemony wielding political, military and economic influence over the entire Sudan-Sahel region of West Africa, stretching from the central Sahara to the Atlantic Ocean, an area covering present day Mali, Ghana, Senegal, Gambia, and Southern Mauritania (Keita, 1998, p. 2; Ki-Zerbo et al., 1984, p. 156; Roberto et al., 2013, p. 71; Schulz, 2012, p. xiii; Stewart, 2013, pp. 9, 16). In 1998, its great cities of Timbuktu, Gao and Djenne renowned in the Islamic world for wealth and scholarship were recognized as world heritage sites by the United Nations Educational, Cultural and Scientific Organization (UNESCO) (Arieff, 2013, p. 6; Keita, 1998, p. 2; McCall & Stewart, 1974, p. 41; Schulz, 2012, p. xiii; Stewart, 2013, p. 10).

In 1892, France declared the area of contemporary Mali a distinct colony named the French Sudan, and later granted it limited self-government in 1956, before joining contemporary Mali with Senegal in January 1959 to constitute the Sudanese Republic which jointly achieved independence from the French as the Mali Federation on June 20, 1960 (Keita, 1998, p. 2; Roberto et al., 2013, p. 73; Schulz, 2012, p. xiv; Stewart, 2013, pp. 9, 16-23). Disagreements over political orientation and economic policy, led to the dissolution of the federation two months later, and on September 22, 1960, Mali declared its independence as the Republic of Mali and in 1961 established a national army (Roberto et al., 2013, p. 73; Schulz, 2012, pp. XV-2).

Mali's post-independence political landscape is marked chronologically by a shift from civilian dictatorship (first president Modibo Keita, 1960 – 1968); to a military/civilian dictatorship

(Colonel Moussa Traore, 1968 – 1991); to military/civilian democratic rule (Colonel Amadou Toumani Touré (ATT), 1991 – 1992; Alpha Oumar Konare, 1992 – 2002; Amadou Toumani Touré (ATT), 2002 – 2012); back to military dictatorship (Captain Amadou Sanogo, 2012 – 2013) and then back to civilian democratic rule (Ibrahim Boubacar Keita (IBK), 2013 to 2023) (Arieff, 2013, p. 6; Bøås, Diallo, & Cissé, 2019, p. 5; Coulibaly et al., 2019, p. 20; Filiu, 2015, pp. 110-111; Heisbourg, 2013, p. 12; Keita, 1998, p. 4; Lecocq, 2013, p. 59; Schulz, 2012, p. 2; Stewart, 2013, p. 23; Stigall, 2015, p. 10; Tull, 2019, p. 409; Wing, 2013, p. 477). Since returning to democratic rule in 1992, many considered Mali as a "beacon" of democratic example in Africa, especially because until recently, many states in sub-Saharan Africa were plagued by civil war, authoritarian regimes and political crises for which Mali had largely avoided (Arieff, 2013, p. 4; Boeke, 2016, p. 915; Boeke & de Valk, 2019, p. 2; Francis, 2013, p. 4; Keita, 1998, p. 5; Schulz, 2012, p. 2; Stewart, 2013, p. 24; Stigall, 2015, p. 10; Venter, 2018, p. 75; Wing, 2013, p. 476).

6.4.4. Emergence and Proliferation of Terrorism

6.4.4.1. Taureg Insurgency

Terrorism in Mali is rooted in five decades of Taureg insurgency and criminality in the north of the country (Kone, 2017, p. 53). Tuaregs[61], 'Lords of the Desert' (also known as the "Blue Men of the Desert" because of the indigo traditional garments used by men to cover their faces); are a nomadic Berber ethnic minority, who historically live in and dominate the geographically remote Sahel and Central Sahara desert region (Ajjer, Hoggar, Aïr, and Adagh n

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[61] The word 'taureg'is an Arabic term that means 'abandoned by God', 'but the Taureg refer to themselves as 'Imohag' which translates to 'free men'(Venter, 2018, p. 65).

Ifoghas—as well as the adjacent Sahel-Saharan plains on the southern edge of the desert and the interior bend of the Niger River); but are divided along colonial boundaries among five territorial states (southern Algeria, western Libya, northern Mali, northern Niger and northeast Burkina) and call the Tuareg homeland 'Azawad' (Arieff, 2013, p. 6; Atallah, 2013; Francis, 2013, p. 4; Keita, 1998, p. 6; Kone, 2017, p. 56; Lecocq & Klute, 2013, p. 424; Lecocq et al., 2013, pp. 21-22; Roberto et al., 2013, p. 74; Stewart, 2013, p. 31; Stigall, 2015, p. 5; Venter, 2018, p. 65). Similar to Somali irredentism in the Horn of Africa, Tuareg irredentism and insurgency in the Sahelian states (Niger, Burkina Faso, Algeria, Libya and Mauritania), is characterised by over a century of viscous resistance to separation; interference into the Taureg way of life and neglect by both colonial and post-colonial governments (Arieff, 2013, p. 6; Atallah, 2013, p. 66; Boutellis & Zahar, 2017, p. 7; Diarra, 2012, p. 11; Lecocq & Klute, 2013, p. 424; Lecocq et al., 2013, p. 22; Roberto et al., 2013; Solomon, 2015, p. 68; Stewart, 2013, p. 28; Stigall, 2015, p. 5; Venter, 2018, p. 66). Since independence from France in 1960, Taureg rebellions in Mali have always been grounded on long-standing grievances over the concentration of political and economic resources in the south and its non-Tuareg population, and the projection of Malian identity as synonymous only to that of Bambara and other Mande ethnicities (Boutellis & Zahar, 2017, pp. 4-7; Francis, 2013, p. 4; Schulz, 2012, p. 5; Solomon, 2015, p. 68; Stewart, 2013, p. 31; Stigall, 2015, p. 5; Venter, 2018, p. 72). One key informant during the field research in Bamako on 22 May 2019 observed that:
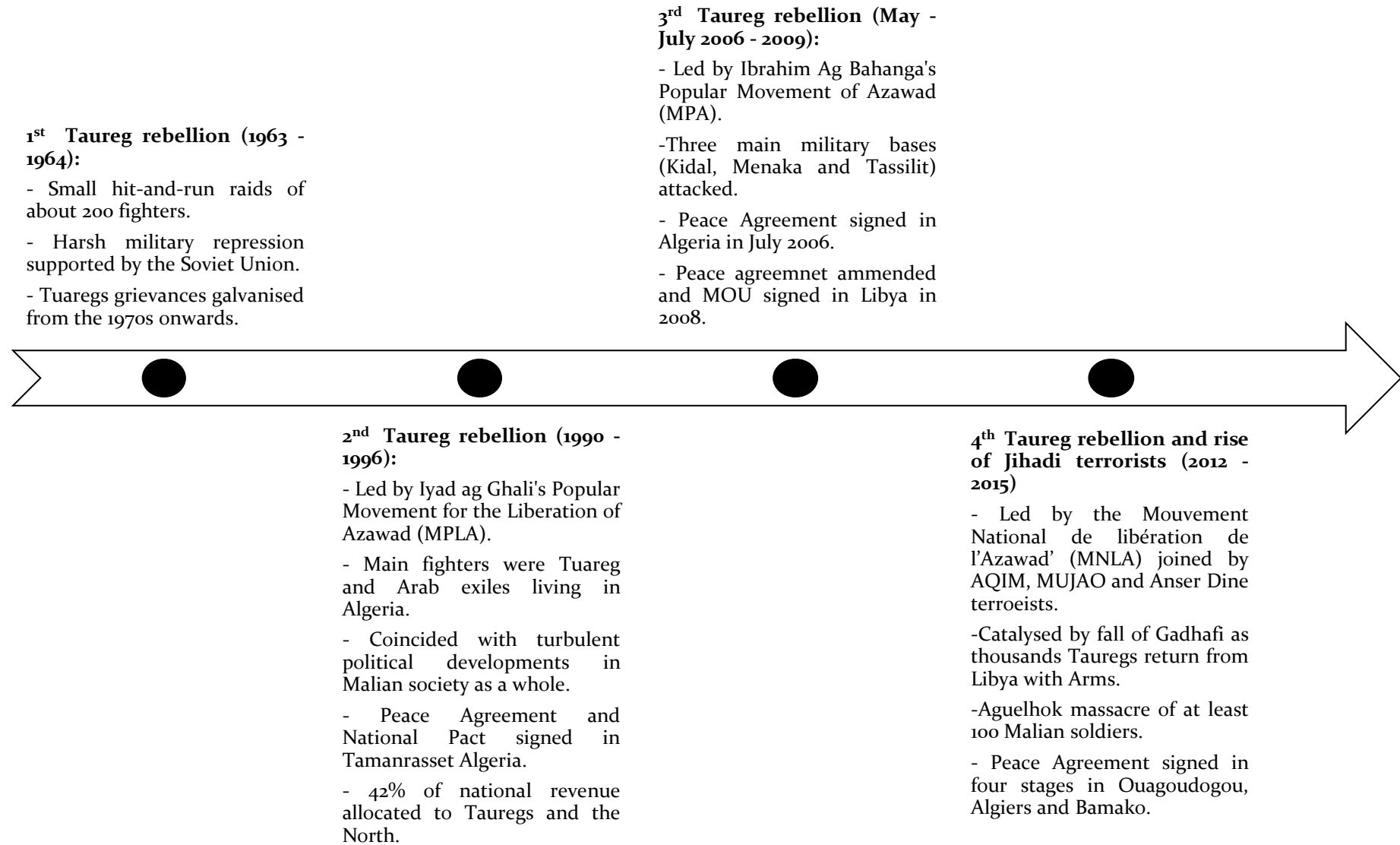
> *'Some ethnic groups are marginalised e.g. the Touareg group. Most people feel that most of the country resources have been invested in central and south part of the country, this is their feeling.*

Concerning the sharing of resources of the country, there is a gap in the north and south of the country.'

To date, Mali has experienced four waves of Taureg rebellions i.e. the first wave (1963 – 1964), the second wave (2006 - 2009), the third wave (1990 - 1996) and the forth wave (2012 - 2015) that also ushered in the current Jihadi terrorism crisis (Atallah, 2013, p. 67; Boutellis & Zahar, 2017, p. 3; Briscoe, 2014, p. 20; Diarra, 2012, p. 10; Dowd & Raleigh, 2013, p. 506; Heisbourg, 2013, p. 9; Lecocq, 2013, p. 65; Lecocq & Klute, 2013, p. 426; Lecocq et al., 2013, p. 22; Maïga, 2016, pp. 1-2, 6-8; Schulz, 2012, pp. xv-i; Stewart, 2013, pp. 31-32; Stigall, 2015, p. 8; Venter, 2018, p. 72). See figure 6.2.

It was during the third wave that internationally affiliated jihadi terrorist groups (namely Al Qaeda) began to mobilise in northern Mali, later proliferating and consolidating their presence during the fourth wave.

Figure 6.2:Timeline of Taureg insurgency and rise of jihadi terrorism in Mali

3rd Taureg rebellion (May - July 2006 - 2009):

- Led by Ibrahim Ag Bahanga's Popular Movement of Azawad (MPA).

-Three main military bases (Kidal, Menaka and Tassilit) attacked.

- Peace Agreement signed in Algeria in July 2006.

- Peace agreemnet ammended and MOU signed in Libya in 2008.

1st Taureg rebellion (1963 - 1964):

- Small hit-and-run raids of about 200 fighters.

- Harsh military repression supported by the Soviet Union.

- Tuaregs grievances galvanised from the 1970s onwards.

2nd Taureg rebellion (1990 - 1996):

- Led by Iyad ag Ghali's Popular Movement for the Liberation of Azawad (MPLA).

- Main fighters were Tuareg and Arab exiles living in Algeria.

- Coincided with turbulent political developments in Malian society as a whole.

- Peace Agreement and National Pact signed in Tamanrasset Algeria.

- 42% of national revenue allocated to Tauregs and the North.

4th Taureg rebellion and rise of Jihadi terrorists (2012 - 2015)

- Led by the Mouvement National de libération de l'Azawad' (MNLA) joined by AQIM, MUJAO and Anser Dine terroeists.

-Catalysed by fall of Gadhafi as thousands Tauregs return from Libya with Arms.

-Aguelhok massacre of at least 100 Malian soldiers.

- Peace Agreement signed in four stages in Ouagoudogou, Algiers and Bamako.

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6.4.4.2. Proliferation of Jihadi Terrorism

Jihadi terrorism in Mali has its origin in the Algerian civil war that broke out in 1992 after a broad Islamist movement (the Front Islamique du Salut) and its armed wing the Armed Islamic Group (GIA) were robbed of an impending election victory by a military coup that cancelled the elections, leading to the death of approximately 200,000 people (Bassou, 2018, p. 5; Boeke, 2016, pp. 916-919; Venter, 2018, pp. 25, 104). It was during this civil war, the Salafist for Preaching and Combat group- GSPC (Salafist pour la Predication et le Combat) split from GIA in 2006 and rebranded itself to 'Al Qaeda in the Land of the Islamic Maghreb (AQIM) on 26 January 2007 (Bassou, 2018, p. 5; Boeke, 2016, p. 919; Laub & Masters, 2015, p. 3; Stewart, 2013, pp. 39-40). Thereafter AQIM was pushed out of Algeria by successful Algerian counterterrorism forcing its militant to flee into northern Mali where they began to engage in criminal and social activities e.g. kidnapping for ransom, recruiting militants, imposing transit fees and providing security escorts to criminal enterprises, building reliable community relations with local populations through kinship and provision of social welfare programmes etc. (Boeke, 2016, pp. 927-928; Diarra, 2012, p. 14; Filiu, 2015, 2017; Laub & Masters, 2015, pp. 2-3; Stewart, 2013, pp. 39-40).

Later, as the fourth wave of the Taureg rebellion that coincided with a military coup led by Captain Amadou Sanogo was underway, AQIM and its jihadi allies (Ansar Dine and the Movement for Oneness and Jihad in West Africa-MOJWA) joined Taureg MNLA fighters to root out government forces from major cities in the north (Boeke, 2016, p. 915; de Orellana, 2017, pp. 1021-1022; Francis, 2013, p. 2; Lecocq & Klute, 2013; Maïga, 2016; Stewart,

2013, pp. 25, 31-27; Stigall, 2015, p. 10; Wing, 2013, p. 476). Soon after, the coalition of Jihadists turned against their secular partner MNLA, expelled its fighters from Gao, Kidal, and Timbuktu and instituted a punitive brand of Sharia law in northern Mali (Arieff, 2013, p. 1; Atallah, 2013, p. 73; Boeke, 2016, p. 923; Francis, 2013, p. 4; Maïga, 2016, p. 3; Stewart, 2013, pp. 31-37; Stigall, 2015, p. 11; Venter, 2018, p. 79). Since then, terrorism in Mali has been characterised by a multidimensional complex mixture of long as well as short-term grievances, strategic agendas, criminal motivations (trafficking of drug[62], humans and arms; smuggling of cigarettes and other contrabands; kidnapping for ransom, mostly Western nationals for ransom etc.) and an endless cycle of mutation, formulation, reformulation and fragmentation of terrorist groups (Arieff, 2013, p. 7; Boeke, 2016, p. 915; Briscoe, 2014, pp. 20-22; Dao, 2019, p. 23; Diarra, 2012, pp. 1-2; Dowd & Raleigh, 2013, pp. 499, 507; Stewart, 2013, p. 25; Stigall, 2015, pp. 2, 5; Venter, 2018, p. 26). This complexity is made worse by geographic (large swathes of ungovernable spaces, vast desolate stretches of desert sand, rock, rugged mountain ranges and porous borders), ethnographic and political realities present in the north of the country and the Sahel-Sahara region in general (Boeke, 2016, p. 915; Bullejos, 2019; Dowd & Raleigh, 2013, pp. 499, 507). Worse still, northern Mali's strategic location along the historic transatlantic trade route makes it a lucrative hub that attracts foreign fighters and Islamist extremists committed to establishing an Islamic theocracy in Mali specifically, and Western Sahel Sahara generally (Boeke, 2016, pp. 923, 927; Francis, 2013, pp. 4-5; Wing, 2013, p. 481). In addition, the ability of jihadi terrorist groups operating in

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[62] The example of "Air Cocaine" in 2009 at Kidal is illustrative, in which an airplane, containing ten tons of cocaine, was easily discharged and dispatched in the desert of Mali and neither did security forces seize the drug nor the investigations into achieved any successful results (Dao, 2019, p. 24).

Northern Mali to harness local issues, conflicts, agendas and establish kinship ties enables them to remain clandestine threats and recruit militants along ethnic lines catalysing deadly ancestral 'tit-for-tat' local conflicts e.g. between the Dogon who are traditionally farmers and hunters and the Fulani who are traditionally semi-nomadic herders (Boeke, 2016, p. 925; Diarra, 2012, p. 14; Lecocq & Klute, 2013, pp. 431-432; Maiga, 2018, p. 3; News, 2019a, 2019b, 2019c; Sangaré & McSparren, 2018, pp. 22-23; Stewart, 2013, pp. 31-37; Tronc et al., 2019, pp. 10-11).

In sum, it was the arrival of AQIM in northern Mali during the third wave of the Taureg rebellion (2006 – 2009) and circumstances of the fourth wave (2012 - 2015) that transformed Mali into a complex theatre of jihadi terrorism whose variables constantly change and remain unknown (Ammour, 2013, p. 6; Francis, 2013, p. 4; Lecocq et al., 2013, p. 23; Maïga, 2016, p. 6; Venter, 2018, p. 70). Figure 6.3 displays a non-exhaustive network of terrorist and armed groups operating in Mali as at January 2020.

Figure 6.3:Non-exhaustive network of terrorist and armed groups in Mali

Legend:

········▶ Splinter to new group

———▶ Merger to new group

AQIM: Al-Qaeda in the Land of the Islamic Maghreb

MNLA: Mouvement National de Libération de l'Azawad'

MUJWA: Movement for Unity and Jihad in West Africa

ISGS: Islamic state in the Greater Sahara

IMA: Islamic Movement for Azawad

MLF: Macina Liberation Front

KKiW: Katibat Khalid ibn Walid

JNIM: Jamaat Nusrat al-Islam Wa al-Muslimin

HCUA: High Council for Unity in Azawad

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6.4.5. Counterterrorism and Human Rights

6.4.5.1.   Negotiated Peace Agreements

Any discussions of counterterrorism in Mali must begin with the government response to Taureg rebellions since 1963.

Analytically, only the first wave of the rebellion (1963-1964) ended with a decisive but 'repressive' military solution (Atallah, 2013, p. 68; Boutellis & Zahar, 2017, p. 1; Keita, 1998, p. 1; Schulz, 2012, pp. xv-i; Stewart, 2013, pp. 23, 31-27). The other three waves (1990 - 1996; 2006 - 2009 and 2012 - 2015) ended with negotiated peace agreements hampered by continuously mutating and multiplying numbers of armed groups, lack of will on both sides, poorly and hurriedly designed programs[63], conflicting interests, suspicions over the real agendas of parties and mediators and the legacy of each round of agreement affecting successive rounds of rebellion and negotiations (Alexander, 2015, p. 10; Ammour, 2013, p. 2; Arieff, 2013, p. 14; Boeke & de Valk, 2019, p. 11; Boutellis & Zahar, 2017, pp. 1, 6; Briscoe, 2014, p. 46; DeRouen et al., 2010, p. 341; Diarra, 2012, p. 4; Kone, 2017, pp. 55, 66-57; Laub & Masters, 2015, p. 3; Sow, 2018, p. 17; Stewart, 2013, pp. 39-40; Venter, 2018, p. 31; Wing, 2013, p. 478).

Some legacies of negotiated peace agreements have been linked to the proliferation of organised crime and terrorism in northern Mali. For example, Boeke (2016, pp. 923-927); Diarra (2012, pp. 1-2, 9,16); Francis (2013, pp. 4-5, 12); Marchal (2013, p. 493); Stigall (2015, p. 2); Thurston (2013, p. 4) observe that among other things, the

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[63] Such as Programme Spécial pour la Paix, la Sécurité et le Développement du Nord-Mali - Special Programme for Peace, Security and Development in Northern Mali, PSPSDN

Tamanrasset accord provided for complete withdrawal of military forces from the north which freed the region for criminal activities, illicit trafficking, corruption and entrenchment of terrorist elements, most notably the entry of AQIM. See also DeRouen et al. (2010) who discusses in depth advantages and disadvantages of peace negotiations as strategies of ending armed conflicts where the state is a party to the conflict.

6.4.5.2. Military Measures

Apart from Mali's military (Forces Armées et de Sécurité du Mali - FAMA) counterinsurgency efforts in the north, there are several international military interventions that have existed on the scene since the emergence of AQIM in the region. For example, the Common Operational Joint Chiefs of Staff Committee (CEMOC) spearheaded by Algeria and the Trans-Saharan Counterterrorism Partnership (TSCTP) established in 2005 by the United states (Boutellis & Zahar, 2017, p. 9; Chauzal & van Damme, 2015, p. 22; Cold-Ravnkilde, 2013, pp. 34-35; Diarra, 2012, p. 19; Gilmour, 2019, pp. 2-5; Laub & Masters, 2015, pp. 6-7; Lecocq et al., 2013, p. 23). Recent international military interventions include the French led operation Barkane (Sahel, 2014) which moped up previous French military operations in the Sahel Sahara i.e. operations Serval (Mali, 2013); Licorne (ivory coast, 2002-14); Èpervier (chad, 1986-2014); Sabre (Burkina Faso, 2012-2014); the UN Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) and the G5 - Sahel initiative comprising of the Sahalian states (Burkina Faso, Chad, Mali, Mauritania and Niger) established in 2014 under the auspices of France (Boeke, 2014, p. 19; Boeke & de Valk, 2019, p. 11; Boutellis & Zahar, 2017; Diarra, 2012, p. 20; Heisbourg, 2013; Laub & Masters, 2015, pp. 6-7; Lecocq et al., 2013, p. 23; Lounnas, 2018; Venter, 2018, p. 19). Some scholars have raised critical questions

over international military operations in the region. For instance, other than the intervention in Mali on invitation of the caretaker President in 2013, Busher (2014, p. 2); Ford (2013, pp. 1, 4); Shuriye and Ibrahim (2013) argue that previous French military exploits in the Sahel Sahara, were motivated by the need to prevent terrorist sanctuaries from thriving close to its uranium exploits in Niger.

During the field visit in Bamako in May 2019, some respondents also raised concerns over recent international military interventions in Mali. For example, some noted that:

> *'I sometimes ask myself this question. It is as if they are taking profit from the situation. Look at MUNISMA, they should be in the battle field to prevent terrorist attacks in the north. But they are not doing this. They are accommodated in Bamako driving big cars and I wonder how they can do peace keeping if they are not between the terrorist and the population. So how can you explain this, that they have so many people, financial and material resources and still the population is under the fire of terrorists. This I cannot understand these people who may protect us are here to go to the night clubs in the district of Bamako, taking more beautiful girls, eating in big restaurants because they are well paid. I think honestly they should not be here.'*

> *'The international organisations made their best but really Malians are disappointed. We see no improvement in the security situation. They are*

here but the populations do not see any impact. There is always attack, violations, everywhere in Mali despite their presence practically there are always the killings.'

'Apparently MINUSMA is here to establish peace in the country but we see the contrast. The arriving of MINUSMA and G5 Sahel has created more violations. And we ask ourselves are they here to maintaining peace or what are they doing? Sometimes they impose things on us. For example, the Malian army does not allow them to go in Meneka, in Kidal and nevertheless even if there is an attack there, they say that this is not in our mandate. So how can they establish peace and secure human right?'

However, another respondent expressed a different opinion.

'If they were not here the situation would have been worse. MINUSMA don't have many forces to protect the population, they support the government and play a great role and have great influence on the government. They also put a check on the government so they cannot act as they like.'

At different times Malian, French and MINUSMA forces have incorporated non state armed groups e.g. MNLA, Ganda Koy and Ganda Iso in counterinsurgency operations against jihadi terrorist groups in the North (Arieff, 2013, p. 10; Boeke, 2016, p. 923; Dao,

2019, pp. 73-74; Kone, 2017, p. 58; Kozera, 2018, p. 20; Maïga, 2016, pp. 3, 7; Sow, 2018, p. 25; Thurston, 2013, p. 5).

6.4.5.3. Criminal Justice Measures

Mali has enacted 18 pieces of legislation to combat terrorism and its financing. These legislations are spread out in the following laws:

– Law No. 08/025 of July 23, 2008 on the Suppression of Terrorism in Mali;
– Decree No. 2015-0723 / P-RM of November 9, 2015 establishing the organization and operating procedures of the specialized judicial center for combating terrorism and transnational organized crime; Code of Criminal Procedure (Law No. 01-80 of August 20, 2001);
– The 2016 Uniform Act on the Fight against Money Laundering and the Financing of Terrorism (2016) and the Penal Code.

Some agency measures include the creation of specialised anti-terrorism units such as the Intelligence Center for Terrorism and Organizational Crime (CITCO) created by decree No. 873/2014 by merging two intelligence services, namely the National Center for Anti-Terrorist Coordination and the Intelligence Center for Organized Crime and the Special Counter-Terrorism Security Force (FORSAT) composed of members of the National Police, the National Gendarmerie, and the National Guard created by decree No. 2016-0592 / MSPC-SG (Dao, 2019, p. 93; Maiga, 2018, p. 38; Tour, 2018, p. 37). According to Telisinghe et al. (2016, pp. 3-4), in 2014 Mali had 58 prison facilities with a prison population of 5,209 (222%

of full capacity) of which remand prisoners accounted for 52.8%. The 2018 country report by Human Rights Watch observes that the Malian judiciary is plagued by neglect, mismanagement and inability to adequately process cases leading to hundreds of detainees being held in extended pre-trial detention[64]. It also notes that insecurity led many judicial personnel to abandon their posts in northern and central Mali. The state of neglect and mismanagement explains Mali's display of an absence of judicial independence (-J).

The European Union (EU) through the police, rule of law mission (EUCAP-Sahel Mali) and the EU military training mission in Mali-EUTM is involved in training of civilian and police staff engaged in counterterrorism especially in the area of human rights (Bøås et al., 2019, p. 5; Briscoe, 2014, p. 44; Sangaré & McSparren, 2018, p. 15; Shuriye & Ibrahim, 2013; Tull, 2019, p. 407)

6.4.5.4.   State of Human Rights and Emerging Issues

Since returning to democratic rule in 1992, Mali many have been regarded as a hopeful and stable African democracy, where political and civil liberties enjoy much progress. One of the key informants noted that:

> *'Like revolutions that occurred in the Arab world e.g. in Egypt in Algeria...we fought the dictator President Moussa Traoré in 1991. Since that time there is a conscious awakening among the citizen to defend their rights. For example, in 2012 when rebels and terrorists encroached in Gao, the first*

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[64] See https://www.hrw.org/world-report/2018/country-chapters/mali

people who stood up against violations of human right, were children, youths and women and until now these structures exist in Gao, in Timbuctu, everywhere in Mali'.

Constitutional provisions guarantee the sanctity of life, integrity and privacy of the person; prohibit torture or inhuman, cruel, or ill-treatment; freedoms of thought, conscience, religion, worship, opinion, expression, creation, press, information, association, assembly, procession and demonstration (Arieff, 2013, p. 4; Bleck, 2011, pp. 1-5; Cold-Ravnkilde, 2013, p. 17; International, 2017, p. 7; Keita, 1998, p. 5; Schulz, 2012, p. 2; Wing, 2013, p. 476). An important feature of Mali's constitution is that human rights precede the provisions that establish the state and any other provisions[65]. This attribute was expressed by one of the key informant (a senior judge with over 30 years in the judiciary) who noted as follows:

'Human rights in Mali finds its essence in our constitution. The first 22 articles of our constitution focus on the rights and duties of the human being. Yes correct. In the constitution, human right come before the whole constitution. That means human right comes before the president and the republic institutions. The first 20 articles are on state obligations for human rights and the remaining two articles are on the duties imposed to people. So, it's our choice we have done it this way. This came during our revolution of 1991.

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[65] See https://www.constituteproject.org/constitution/Mali_1992.pdf?lang=en

It's extremely important. That is why there is a resilience in Mali that concern on human right'.

According to this key informant, the constitutions of Mali and Benin are the most rigid constitutions in West Africa.

'The constitution did not change. Presidents have tried to change the constitution but they are failed to change it. Let me tell you the most rigid constitutions are in West Africa: Mali and Benin. The two constitutions we cannot change without referendum even one iota. In France the constitution is flexible, they change it 24 times but in Mali none since 1991 till now Presidents try to change but no.'

Mali has ratified all relevant United Nations (UN) and African Union (AU) human rights instruments except the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty.

The institutional framework for the protection of human rights is made up of the following agencies:

– The National Commission for Human Rights or Commission Nationale des Droits De L'homme du Mali (CNDH) created by law n ° 09-042 of November 19, 2009. According to one key informant:

'The commission is a national institution in accordance with the France principle and the UN resolutions. Our work is to ensure effective

protection and the promotion of human rights. We coordinate all activities of human right in Mali. We work within the framework of peace, security and development'.

- The Truth, Justice and Reconciliation Commission, created by law n ° 2014-003/PR-M of 2014, with a mandate to investigate crimes and root causes of violence dating back to 1960;
- The Ministry for the Management of National Reconciliation and Social Cohesion and the Ministry of Human Rights. There is national policy on human rights that was developed by the ministry in 2017.
- A vibrant network of civil society organisations that freely engage in human rights work in the country. At the end of March 2020, there were three Malian NGOs with observer status at the African Commission on Human and Peoples' Rights (ACHPR).

One key informant noted that:

'I think the civil society in Mali is very powerful but there is also another movement called Islamic movement. This is also very powerful and they led the revolution in Mali in 1991. When they remove the former president Moussa Traoré until now people don't want to miss democracy, so I think this why any attempt to change the constitution, the civil society organs, political party and the Islamic movement block these attempts.'

Though it was not possible to establish the exact number, it is estimated that there are at least 40 NGOs and civil society groups

engaged in the protection and promotion of human rights in Mali. According to two key informants:

> 'Sometimes the 51 Associations of human right do not agree with the different international community demands and their supporting of human right in Mali.'

> 'There more than 42 human rights organisations in Mali.'

Terrorism has poses the greatest threat to human rights in Mali. As shows in figure 14, increases in the number of terrorism attacks have consistently been accompanied by a deterioration of human rights outcomes. Between 1998 and 2006 (at the start of the third Taureg rebellion and entry of jihadi terrorism in the north) Mali experienced continuous improvements in human rights as shown by the falling line in figure 6.4.

Figure 6.4: Terrorism and Human rights in Mali (1998 – 2017)
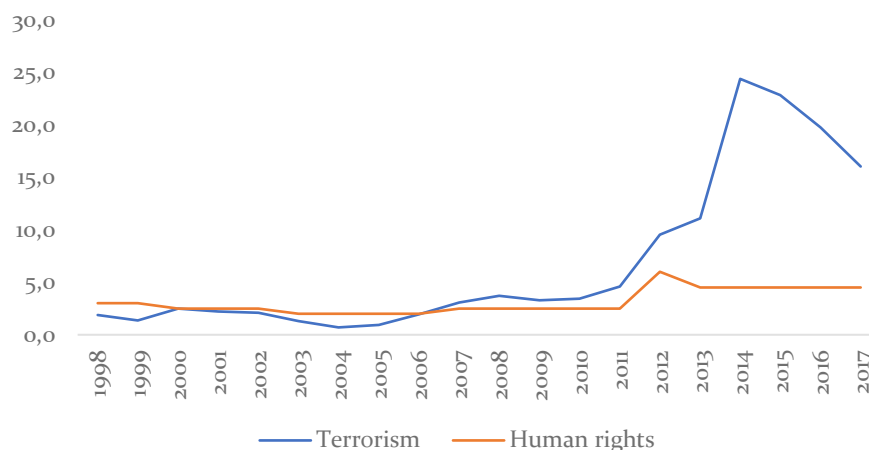
Source: Freedom House https://freedomhouse.org/report/freedom-world/2019/mali accessed on 24/02/2020

From 2006, onwards proliferation of jihadi terrorism in the north triggered a decline in human rights outcomes as indicated by the rising line, hitting a peak in 2011 when the terrorism crisis nearly spiralled out of control accompanied by a military coup. As the level of terrorism began to fall in 2013 following decisive international intervention, human rights outcomes improved as indicated by the falling human rights scores and line between 2013 to 2017.

A similar observation has been made by the Ibrahim Index of African Governance (IIAG), which shows that Mali's score on protection of human rights declined from a score of 66.5 in 2008 to 51.9 in 2013 and improving to 53.4 in 2017.

Counterterrorism in Mali has been accompanied by several instances of human rights violations involving Mali security forces and international (French, MINUSMA and G5) military interventions. These include but not limited to: extrajudicial executions, enforced disappearances, torture, arbitrary arrests and holding suspected militants incommunicado without charge or trial in official and unofficial places of detention (e.g. military camps, General Directorate of Public Security and the National Youth Service, Mobile Security Group or Groupement mobile de sécurité, GMS), inhumane prison conditions (overcrowding, insufficient medical care and poor sanitation), racial and indiscriminate attacks on Tuareg, Arabs and Peul civilian population, sexual violence including rape, inhumane prison conditions (overcrowding, insufficient medical care and poor sanitation), arrests and intimidation of journalists, inhumane and degrading methods of interrogation, detaining child soldiers with adults without any rehabilitation safeguards in place etc. (Caparini, 2015, p. 13; Cold-Ravnkilde, 2013, p. 19; Gilmour, 2019, pp.

7-8; International, 1991a, p. 2; 1991b, pp. 1-2; 1994a, p. 1; 1994b, p. 1; 2012a, p. 6; 2012b, p. 5; 2012c, p. 13; 2012d, p. 1; 2012e, pp. 4-5; 2013a, p. 17; 2013b; 2013c, p. 8; 2013d, pp. 17-18; 2014a, p. 6; 2017, p. 7; Mills, Lang, & Lunn, p. 1; Tour, 2018, p. 28; Tull, 2019, p. 406).

Some violations have been attributed to non-state armed groups that join the Malian military, the French Army and MINUSMA in counterinsurgency at different times e.g. indiscriminate reprisals against Tuareg populations, demanding money from Tuaregs before killing them, confiscating livestock of victims, recruitment and use of child soldiers, sexual violence against women and girls etc. (Dao, 2019, pp. 73-74; International, 2012b, p. 12; 2012c, p. 20; 2012e, p. 6; 2014a, p. 11; Rupesinghe et al., 2019, p. 4). See also Cigar (2014); Kozera (2018)

6.4.6. Conditions for Human Rights in Counterterrorism

The analysis of sufficient conditions showed that Mali's relatively better human rights outcomes result from the configuration ~M*C*~J*A*T represented by path 4 in table 17 which combines less government expenditure on welfare than on military (~M), low levels of corruption (C), absence of judicial independence (~J), presence of anti-terror legislation explicitly focusing on terrorism (A) and a high level of terrorism (T).

This section explores how and why these factors manifest in Mali and the pathways through which they affect the overall human rights outcomes for the country.

6.4.6.1.   Necessary Conditions

It was established that more government expenditure on welfare than military (M) is a necessary condition to facilitate human rights in counterterrorist policies. In Mali, the government spend more on military than on welfare (~M). In figure 6.5, the deleterious effect on human rights outcomes by Mali's higher expenditures on the military than on welfare (~M) does not appear to be obvious. For example, between 2013 and 2017 there was massive investment in the military as opposed to welfare but the human rights scores dropped compared to 2012 indicating improving human rights outcomes.

Figure 6.5: Human rights, health and military expenditure in Mali

Source: (House, 2018); Transparency International (TI) accessed from https://www.transparency.org/ on 14/2/2019

Between 2010 and 2012 Mali's higher investments in welfare as opposed to military do not appear to have yielded positive dividends because human rights outcomes continued to deteriorate as indicated by rising scores. Though higher investments in the military than on welfare we accompanied by better human rights outcomes, it is possible that improvements in human rights conditions were because of the presence of international actors who intervened in the country in 2013. According to one key informant:

> *'If they were not here the situation would have been worse. MINUSMA don't have many forces to protect the population, they support the government and play a great role and have great influence on the government. They also put a check on the government so they cannot act as they like.'*

Analysis of necessary conditions also established that a high level of corruption in the public sector (~C) is a necessary condition for the impediment of human rights. Mali displays a relatively low level of corruption (C). According to Transparency International's (TI) corruption perception index (CPI), higher scores indicate lower levels of corruption. Based on the results of the test for necessary conditions, we would expect by inference that Mali's low levels of corruption (C) would have a facilitating effect on human rights outcomes. However, based on figure 15, the facilitating relation of a low-level corruption does not also appear to be clearly obvious. For example, a decrease in the level of corruption between 2006 and 2007 was accompanied by a deterioration of human rights outcomes similar to the years 2011 and 2012. On the contrary, increased levels of corruption between 2012 and 2013 were accompanied by a significant improvement in human rights

outcomes. Again, this is probably because of international intervention.

This examination of necessary conditions in the case of Mali underlines QCA's logic that though necessary conditions must be present for an outcome, their presence does not guarantee that the expected outcome will be observed i.e. they are not sufficient to cause observed changes in social phenomena.

Ordinarily, when corruption is not evenly distributed in the security sector, it exposes poorly paid, equipped and trained security agents to the brutality of security threats causing them to express their frustrations and low morale as sadistic passions that violate human rights indiscriminately (Ayodeji, 2016, p. 22; Bohara et al., 2008, p. 4; Clutterbuck, 1995, p. 83; Miller, 2014, p. 173; Newham, 2002, pp. 2-3; Pearson, 2001, p. 33; Pilapitaya, 2005, p. 18); Vorster (2012, p. 137). However, in Mali's case, it appears that even though the level of corruption (C) in the country is generally relatively lower, it may be argued that it is the combined effect of more expenditure on military than on welfare (~M) and a culture of wide spread corruption in the military that for some time mitigated against repressive impulses among the rank and file of security agents. Allocating more resources to the disposal of corrupt military officers who allow their juniors to benefit from illegal enterprise in the north of the country, enabled the rank and file of security agencies to compensate for their 'insufficient' salaries to escape frustrations (poor training, lack of adequate equipment, work in dangerous environment etc.) that would otherwise invite repressive impulses.

For example, during the term of deposed President Amadou Toumani Touré also known in short as ATT (2002-2012), particularly the second term (2007-2012), patronage networks,

political elites and cronies enriched themselves, by among other things, participating in the growing international drug trade passing through the country, in connections that linked customs officers, soldiers, bureaucrats, politicians and armed groups e.g. AQIM, Ganda Koy and Ganda Izo (Amadou, 2019, pp. 149-150; Bleck & Michelitch, 2015, pp. 602-603; Briscoe, 2014, p. 28; Cold-Ravnkilde, 2013, p. 18; Lecocq et al., 2013, pp. 25, 65; Shelley, 2014, p. 16; Shipley, 2017, pp. 8-9; Sordi, 2019, p. 38; Varga, 2018, p. 65). Military officers appointed through corrupt and patronage links could indulge in wheeling and dealing in exchange for their loyalty to the regime and return of rents to Bamako with little or no consequence (Bøås & Torheim, 2013, p. 1284; Briscoe, 2014, pp. 35-36; Caparini, 2015, p. 17). The most widely cited case is that of the Boeing 727, the so-called "Air Cocaine" whose burnt wreckage was discovered in the desert near Tarkint in 2009, in the region of Gao that could not have landed and off loaded up to 10 tonnes of cocaine without the government's knowledge (Briscoe, 2014, p. 38; Caparini, 2015, p. 17; Shelley, 2014, p. 249).

In some countries, secrecy around high military expenditures is designed to present more opportunities for corrupt use of the funds (Mauro (1997), (1998); Morgan (1998) in Ayodeji, 2016, p. 23; Gray, 2015, p. 387; Pearson, 2001, p. 35; A. Peters, 2015, p. 17). In Mali's case, prior to the wide-ranging reforms that began after the election of a new president in 2013, the situation had been compounded by weak parliamentary oversight due to lack of expertise and information about military expenditure (Maiga, 2018, pp. 24-28; Sidibe, 2018, p. 50; Tour, 2018, pp. 38-39).

Recent security sector and general reforms beneficial to counterterrorism, anti corruption and human rights can be noted.

For example, in 2012, a new military law, the 'Loi d'orientation et de programmation militaire-LOPM (2012) and its amendment Ordinance No. 2016-020 (2016) are designed to improve management, functioning of the military and the situation of Malian soldiers (Caparini, 2015, p. 19; Tour, 2018, pp. 43-44). Other include: amendments to the penal code through Law No.2016-039 to strengthen the anti-money laundering framework (2016); Law on the Prevention and Repression of Illicit Enrichment requiring government officials to declare their assets (2014); the 2016 Uniform Act on the Fight against Money Laundering and the Financing of Terrorism (2016); creation of an independent oversight body, *'the Bureau du Vérificateur Général (BVG)'* to combat financial and economic crime; the strengthening of the auditor general's office; the creation of and appointment of senior staff to the anti-corruption agency *'l'Office central de lutte contre l'enrichissement illicite (OCLEI) - Central Office in the Fight against Illicit Enrichment'*; establishment in 2007 of the La Cellule nationale de traitement des informations financières (CENTIF) - the financial intelligence unit and the economic and financial unit of the public prosecutor's office responsible for the administration of intelligence relating to money laundering and terrorist financing etc. (Bleck, 2011, p. 11; Caparini, 2015, p. 19; Mathieu, 2017, p. 74; Shipley, 2017, pp. 6, 16; Sidibe, 2018, p. 53; Tour, 2018, p. 29; Tull, 2019, p. 410).

Asked what some of characteristics of the legal system that promote human right in Mali, one key informant observed that:

> *'First there is the constitution. It is the principle*
> *guardian of human rights. We also have a penal*
> *code. Police are not allowed to hold any suspect in*

custody beyond 24hrs without charge. For crimes, whose maximum sentence is 3 years, our laws do not allow suspects to be held in remand without a sentence beyond 6 months. As a commission, the law allows us to visit any penal institution e.g. prisons, without informing the Attorney General or the examining magistrate, for ensuring there is no human right violation at the level of the prisons.'

6.4.6.2. Sufficient Combination of Conditions

Mali configuration of sufficient conditions i.e. ~M*C*~J*A*T includes the absence of judicial independence (~J) and the presence of anti-terror legislation explicitly focusing on terrorism (A).

Judicial independence is compromised by the fact that it is the President who appoints the President of the Supreme Court, three members of the Constitutional Court (others appointed by the National Assembly and the Superior Council of the Magistracy) and the Minister of Justice, who in turn appoints and supervises judges and law enforcement (Bleck, 2011, p. 9; Shipley, 2017, pp. 9-10). This kind of arrangement obviously violates the principle of separation of powers between the executive and the judiciary. The 2018 country report by Human Rights Watch observes that the Malian judiciary is plagued by neglect, mismanagement and inability to adequately process cases leading to hundreds of detainees being held in extended pre-trial detention[66]. It also notes that insecurity led many judicial personnel to abandon their posts

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[66] See https://www.hrw.org/world-report/2018/country-chapters/mali

in northern and central Mali. The state of neglect and mismanagement explains why Mali's configuration of sufficient conditions for human rights includes the absence of judicial independence (-J).

Theoretical expectations and assumptions of the UN Global Counterterrorism Strategy (2006) and UN Security Council Resolutions 1267 (1999), 1373 (2001) and 1540 (2004) adopted under chapter VII of the UN Charter suggest that anti-terror legislations are important legal tools for the protection of human rights in the fight against terrorism through law enforcement and respect for the rule of law (RoL) Andrew and Silke (2018, p. 8); (Ford, 2011, p. 24; Sigsworth, 2019, p. 5; Sturman, 2002, p. 104; Whitaker, 2007, p. 1018). According to the United Nations Office for Drugs and Crime (UNODC) *'Database of Legislation on Terrorism',* Mali has 18 legislation explicitly focusing on terrorism (A). See SHERLOC (2019). The pathways through which the presence of legislation explicitly focusing on terrorism (A) impact favourably on human rights outcomes is not clear. This is because judicial independence cannot be guaranteed (~J). In chapter three sub-section 3.2.2.2.2 it was noted that the principle role of courts in modern democracies is to review legislation, policies and actions of other arms of government (legislature and executive) to ensure that they comply with the law (Fabbrini, 2009, p. 666; Krebs, 2016, p. 42; Mersel, 2005, pp. 68, 91; Scheinin, 2016). It was also noted that as guardians of the constitution, courts set limits on counterterrorism measures by clarifying, tracking and interpreting applicable sources of authorization for executive power or action which include the constitution, statutes, international laws, human rights laws and administrative regulations (Benvenisti, 2007, pp. 1, 7-8; Boateng & Adjorlolo, 2018, p. 1692; Fabbrini, 2009, pp. 666, 694; Krebs, 2016, pp. 42, 49-51; Mersel, 2005, pp. 90-92; Murray, 2016, p. 91; Scheinin,

2016). Given that judicial independence cannot be guaranteed in Mali, the ability of courts to maximise the gains attributable to the presence of legislation explicitly focusing on terrorism (A) is limited. However, we observed that Mali as a strong constitutional provision for human rights which precedes all other provisions[67]. Given that this constitution is rigid and there exists a vibrant civil society and strong religious movement, it could be the case that these factors mitigate against possible infringements of anti-terrorism legislations that would otherwise lead to worse off human rights outcomes.

6.4.6.3.   Additional Variables that Facilitate Human Rights

The only variables in Mali's configuration of sufficient conditions that appear to have a facilitating effect on human rights in counterterrorist policies are a relatively low level of corruption (C) and the presence of anti-terror legislation explicitly focusing on terrorism (A). However, based on the analysis this far, the pathways through which these factors enhance human rights in counterterrorism in Mali are not clear. In any case, results of the analysis of necessary conditions shows that none of them is necessary.

Field research in Bamako in May 2019 suggests that ancient cultural norms and traditional value systems that emphasise consensus and mutual respect make significant additions to explanations of Mali's relatively better human rights outcomes. According to one respondent:

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[67] See https://www.constituteproject.org/constitution/Mali_1992.pdf?lang=en

There are some common historical factors. We used to have historic empire that connect people to each other: Manding Empire, Shongoi Empire, Ghana Empire.... They contained more than two or three Ethnics group so since those times people were living together, they are sharing some values and most people have the same religion "Muslim" this is one factor.

The basis of these cultural norms and traditional values is found in Mande peoples ancient oral constitutions known as the Charter of Mandé (1222) and the Kurukan Fuga (1236) which are Mande people ancient oral constitutions (de Sardan, 2015, p. 2; Diabaté, 2018; Jansen, 2016; Nesbitt, 2014, p. 11; Niang, 2006; Odamtten, 2016, p. 152; UNESCO, 2006; Uwizeyimana, 2016, p. 44; R. Weber, 2010, p. 136). The Charter of Mandé (1222) also known as the Donsolu Kalikan, (the "Oath of the Hunters") traces its origin to present day Guinea and was first transcribed by Youssouf Tata Cissé in 1965 who later translated it into French in 2003 (Nesbitt, 2014, p. 11; R. Weber, 2010, p. 137). The Kurukan Fuga (1236) traces its origin to the establishment of the great empire of Mali (which is the basis of present day Mali), by Mansa (Emperor) Sundjata Keita (Mali), who proclaimed it at the assembly of 12 allies at Kurukan Fuga (in the Circle of Kangaba, two kilometers north of Kangaba and ninety five kilometers south of Mali's capital Bamako, close to the border with Guinea) one day after his victory in Kirina over the Soussou led by their witch king Sounangourou Kanté (de Sardan, 2015, p. 2; Diabaté, 2018; Diarra, 2012, p. 6; Keita, 1998, p. 2; Ki-Zerbo et al., 1984, p. 118; Niang, 2006; Odamtten, 2016, p. 152; Schulz, 2012, p. xiii; UNESCO, 2006; Uwizeyimana, 2016, p. 44; R. Weber, 2010, p. 136). Both oral constitutions are thought to precede the Bill of Rights (1689), the Declaration of the Rights of Man and

of the Citizen (1789) and the Magna Carta (1215-1297) (Amselle, 2013, pp. 79, 81; Nesbitt, 2014, p. 11). According to one key informant:

> *'What you must understand is that the 1236 charter is the oldest constitution that was not written. It is an old tradition.*

Their discoveries are also widely considered the most significant cultural events of the late twentieth century in contemporary sub-Saharan Africa and foundations of political thought in Africa that paved way for the African Charter on Human and Peoples' Rights (Amselle, 2013, pp. 84-85; de Sardan, 2015, p. 2; Diabaté, 2018; Jansen, 2014, p. 110; Nesbitt, 2014, pp. 11-12; Niang, 2006). Because of its links to the formation of the Mali Empire, the Charter of Kurukan Fuga receives more cultural prominence and national attention (celebrated as a national heritage) in Mali as compared to the Charter of Mandé (Amselle, 2013, p. 86; Heisbourg, 2013, pp. 7-8; Keita, 1998, p. 5; Nesbitt, 2014; Schulz, 2012, p. 7; Stewart, 2013, pp. 25-27). One key informant observed that:

> *'Generally, in society, respect for other human beings is linked to our history of the KOUROUKANFUGA'.*

The Charter of Kurukan Fuga contains seven chapters and forty four articles advocating for social peace in diversity, the inviolability of the human being, education, the integrity of the motherland, food security, the abolition of slavery by razzia (or raid), freedom of expression and trade, tolerance, individual rights

and duties, the right of sanankunya (the rights of jokes)[68], the rights of women in the society, material possessions and ways of obtaining and transmitting them, marriage and the question of dowries, inheritance, the organisation of labour within families and according to age, land rights, the prohibition of human sacrifice, the safeguard of foreigners, succession to chiefdom, rules concerning violent conflict and murder, oaths and ordeals, the calendar etc. (Amselle, 2013, pp. 81, 84-85; Diabaté, 2018; UNESCO, 2006; R. Weber, 2010, pp. 136-137). See appendix 2 for the reconstructed Charter of Kouroukan Fuga, as published by Siriman Kouyaté.

One key informant observed that:

> *'First our country was led by the king during the time of the Empire of Mali. We had Kouroukanfuga charter. This charter Mali had already written the defenders of human right, the population was ruled as: the hunters had their rules and right, the story tellers had their rules and right, the children, women, Marabous were so structured and everyone had his duty.'*

Nevertheless, both charters contain provisions that refer to human rights issues that contemporary Social Science research has established to be strongly correlated to the effectiveness of counterterrorism. For example, James A Piazza and Walsh (2010); Poe and Tate (1994); Walsh and Piazza (2010) find that protecting

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[68] The right to ridicule is a social practice which allows members of one family, or members of certain ethnic groups to mock or insult each other, but this will have consequences: these verbal barbs are actually forms of social strife and conflicts management.

physical integrity rights increases the effectiveness of counterterrorist policies. In the Charter of Kurukan Fuga, several articles refer to physical integrity rights.

For example: -

- Article 5: *"Everybody has a right to life and to the preservation of its physical integrity. Accordingly, any attempt to deprive one's fellow being of life is punished with death"*;
- Article 24: the twenty fourth clause *"In Mande do never wrong foreigners"* and
- Article 40: forty first clause *"You can kill the enemy, but not humiliate him"*

One respondent observed that:

> *'In the charter, the human being is sacred and must not be violated.'*

According to Nesbitt (2014, p. 13), the first clause of the Mande Charter of 1222 states that *"Every life is one life"* and the second clause, *"every wrong caused to a life demands reparation. If every life is one life, if every life counts as one, then all injustice, anything that renders humans' unequal, must cease."*

In contemporary Mali, cultural norms and traditional values associated with the Charter of Kouroukan Fuga are conveyed orally through generations by elders or Djelis or griots (custodians of the Malinke history) in form of oral history, storytelling, poems, and musicians (Amselle, 2013, pp. 81, 84-85; Diabaté, 2018; UNESCO, 2006; R. Weber, 2010, pp. 136-137). The elders or Djelis or griots are

seen as a source of law and as promoting a message of love, peace and fraternity, which has survived through the ages (UNESCO, 2006). The Malian association of griots and the Nko literacy movement[69] provide important institutional structures through which the traditions of the Kouroukan Fuga are socialised in contemporary Malian society Amselle (2013); Jansen (2014, p. 111). The Malian association of griots is also an influential political actor in the country. The social and political influence of the Malian association of griots was aptly captured by two key informants who observed that:

> *'Usually in the society everyone tries to do his or her duties and pass on these traditions down the generations through oral history.'*

> *'Yeah, traditional leaders are officially recognised in government because there is a national association of all those stories tellers and whenever the government has difficulties in dealing with conflict or in dealing with social demand like strikes or protests, they call on these association to send their delegation trying to speak to the government. e.g. the conflict between Teachers and government or ethnics group.'*

> *'We have also Story Tellers who intervene in the resolution in conflicts, marriages, naming ceremonies, funeral ceremonies. They have a large place in society and we called them peacemakers.'*

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[69] According to Jansen, Nko literacy movement is based on the Nko alphabet invented by Souleymane Kante (1922-1987), a Guinean marabout who was inspired by the Kurukan

Referring to the influence of religious leaders, two key informants noted that:

> 'Religious leaders have a great capacity of mobilisation more than the politicians. Like Mahmoud Dicko the president of the national Muslim council. This leader called for a meeting and a great number of people come out to support Islam in the Ogosagou massacre.'

> 'I think the civil society in Mali is very powerful but there is also another movement called Islamic movement. This is also very powerful and they led the revolution in Mali in 1991.

The influence cultural and traditional factors in contemporary politics of Mali has been widely canvased in the scholarship. For example, Arieff (2013, p. 14); Bleck (2011, pp. 4, 9); Chauzal and van Damme (2015, p. 20); Jansen (2014, p. 111); Kone (2017, p. 59); Stewart (2013, p. 27); Wing (2013, p. 477) observe that Mali's democratic foundation is built on the 13th century Soundjata Keita political philosophy that advances dialogue as a central aspect of the political culture and conflict resolution mechanism, which empathizes forgiveness and is suspicious of actions that avoid dialogue. Concerned about ethnic violence between the Fulani and the Dogon, one respondent observed that:

> 'In the past people would not think about regions. In each region you can have two, three ethnicities living together. But now all this is vanishing and what is coming up is ethnicity for example: I am

Fulani and you are Dogon so Fulani is shepherd Dogon is a farmer, we have been living for centuries together, as Fulani is keeping the cattle: cows' sheep, goats of those Dogon will share with Fulani what they harvest after Dogon let Fulani come and settle in their farm but now regarding the situation they are against one another.'

Other respondents observed that:

'Though there are many ethnics groups, we still have a kind of connection between all those ethnics group. Even in the armies it is difficult to them to eliminate one specific ethnic group. This social connection and cultural values maintain people together.'

'The second reason is that we have tolerance between ethnic groups. We have managed between different ethnics group so this helps to maintain people together.'

It is not surprising therefore that according to Bleck (2011, p. 4), the 2005 Afrobarometer survey, Malians prefer consensus (70 percent) more than most African citizens (compared to only 40 percent in Namibia, Uganda, Kenya, and Botswana). According to Bleck (2011, p. 4); Kone (2017, p. 59); Stewart (2013, p. 27), Mali's contemporary social and political culture also incorporates a system of cousinage i.e. a cross-cutting cleavage of joking relationships between different ethnic and social groups that enhances mutual respect and mitigate against conflicts. This system is based on the tradition of the *"sanankunya (joking*

relationship) and the tanamannyonya (blood pact)" stipulated in article 7 of the Kurukan Fuga.

Some of key informants observed that:

> *'At that time there were cousinship, tolerance, human being respect, on quarrel, no conflict.'*

> *'I think we have two keys factors. The first one is how the society is built. In Mali, you will see that people are interlinked and the family system is strong. If you have such strong connections, it prevents you from violating others because if I want to hurt you and at the end of the day I realise that you are my long cousin or so, then I would think twice before hurting you. So, this is the social link in Mali which helps to have this kind of human right that we talk it about. The second key issue is we have strong human right institutions e.g. CNDH, NCHR and civil society organisations.'*

> *'If you come to Mali ...... people are interlinked because there are some ethnic group who marry to another group, ... we are all living together which is called joking with your cousin, this is very important in the society.'*

> *Another factor is what we call in French cousinship, there are ethnics group, or family names, a kind of historic convention between these two groups that our ancestors agreed not to violate each other. This existed among the Songhai, Ghana in the north and Dogon in the centre, for example:*

*between Songhai- Dogon, coulibaly and Doumbia
so on and so forth, start joking and no right to
abuse or insult one another. We can just play and
when there was a conflict we can easily resolve it
because the elders in the villages had a meeting find
the solutions. This cousinship has brought in the
country solidarity, prosperity, honesty, all kind of
happiness.'*

*'With cousinship for example: I am Keita, you are
Coulibaly if we quarrel in Downtown once I
remember about that we are cousins and I am
sorry.'*

To many Malians, the charter of Kurukan Fuga and the traditions that derive from it generate intense and intimate feelings of belonging and heritage (Amselle, 2013, p. 86; Jansen, 2014, p. 112). This is why every year, the heritage of the Kouroukan Fuga is commemorated in a ceremony organized in the village of Kangaba which is the site of the historic assembly of 12 allies in a ceremony fully supported by government and traditional authorities (UNESCO, 2006). It is during this commemoration that the EID, a forum which allows individuals to bring human rights violations before responsible government official is held and broadcast by the local media. See also Wing (2013, p. 478). A huge monument to signify the value of the Kurukan Fuga in the Malian society is built in the village of Kangaba at the famous Kurukan Fuga open grounds.

Figure 6.6: Monument of the Kurukan Fuga in Mali

© DNPC, déc. 2008 retrieve from https://ich.unesco.org/en/RL/manden-charter-proclaimed-in-kurukan-fuga-00290 on 21/02/2020. Located in the village of Karaba at the grounds where the assembly of 12 allies was held by Sounjata Keita, the founder of the empire of Mali.

6.5. Discussions

Based on review of theoretical perspectives and extant empirical studies in chapter four, it was initially expected that democracy; economic and administrative capacity; preference for human over state security; high levels of integration into the international community and a low level of terrorism and internal unrest are necessary conditions to facilitate human rights in counterterrorist policies in sub-Saharan Africa. See figure 4.1.

However, relying on version 3.0 of the open source fsQCA software developed by C. C. Ragin and Davey (2016), the analysis in this chapter shows that only government preference for human over state security measured by more government expenditure on

welfare than on military (M) is a necessary condition to facilitate human rights in counterterrorist policies sub-Saharan Africa at a consistency of 0.90 and coverage of 0.82. In addition, the results show that poor economic and administrative capacity measured by the absence of transparency and accountability coupled with a high level of corruption in the public sector (~C) is a necessary condition for the impediment of human rights in counterterrorist policies sub-Saharan Africa at a consistency of 0.96 and coverage of 0.76. See table 6.1. Both conditions are necessary but not sufficient to facilitate or impede human rights when governments respond to terrorism in the region. According to Dale (1984); Mackie (1965), they are INUS conditions for human rights outcomes in sub-Saharan Africa. This implies that they are the most significant macro social conditions that come to bear on whether states in sub-Saharan Africa will facilitate or impede human rights when responding to terrorism. In addition, the in-depth case analysis of Mali suggests that ancient African social norms, cultural practices and traditions that promote justice and human rights passed down the generations through socialization play an important role in facilitating human rights in counterterrorist policies in sub-Saharan Africa.

These findings have theoretical and policy implication that are worth noting. Theoretically, the results imply that in the context of sub-Saharan Africa, explanations for the relationship between counterterrorism and human rights must be based on theoretical frameworks that at the very least include variables that measure human and state security; economic and administrative capacity of government and rights protective African social norms, cultural and traditional practices as exemplified in figure 6.7 below.

Figure 6.7: Suggested conceptual framework
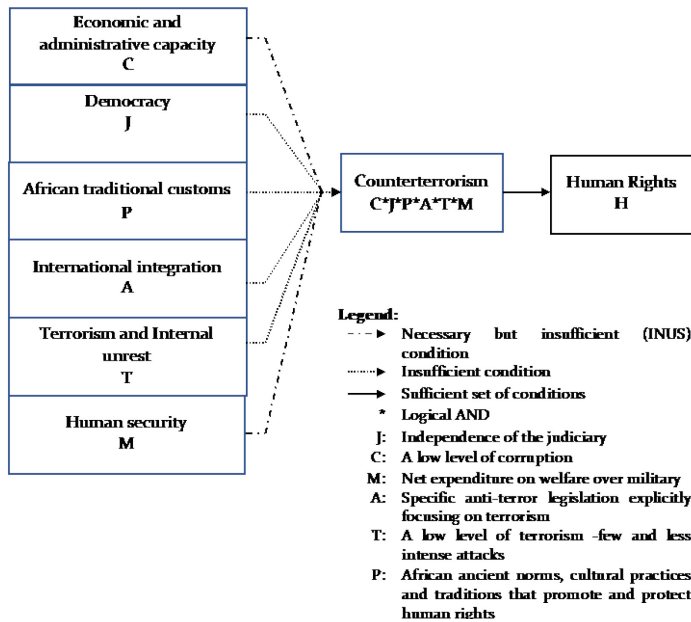
Own figure

The findings in this study show that mixed methods research designs are particularly powerful in the study of under researched complex social phenomena. For example, with a limit of only 5 variables per analysis at a time, with csQCA it was difficult to discover additional factors seemingly significant in facilitating human rights in counterterrorist policies in sub-Saharan Africa. This discovery was aided by an in-depth case study of Mali. What this implies for the application of QCA is that, researchers using QCA need to be aware of the limitation that with QCA, it is sometimes difficult to formulate the "larger picture" beyond the results produced. Especially in the study of social and political systems that are highly diverse such as sub-Saharan Africa.

In terms of counterterrorist policy, the finding that more government expenditure on welfare than on military (M) is a necessary condition to facilitate human rights in counterterrorist

policies implies that governments in the region will be more effective in preventing and responding to terrorism if they prioritise criminal justice over military measures to counterterrorism. In other words, terrorism in the region should be considered a threat to human rather than state security, whose effective response is anchored on the rule of law (RoL) and consists of a compendium of policies that address the welfare needs citizens rather than the political and military interests of the state. The finding that lack of transparency and accountability coupled with a high level of corruption in the public sector ($\sim$C) is a necessary condition for the impediment of human rights in counterterrorist policies implies that regardless of other good things done by governments in the name of counterterrorism in the region, corruption has a significant deleterious effect on the effectiveness of counterterrorist policies. For example, in the complex solution for conditions that facilitate human rights displayed in table 6.5, path 3 (M*$\sim$C*A*T) which combines more government expenditure on welfare than on military (M); a high level of corruption in the public sector ($\sim$C); presence of anti-terror legislation explicitly focusing on terrorism (A) and a high level of terrorism (T) suggests that, though the countries represented by this path (Kenya and Niger) have relatively better human rights outcomes, the facilitating effect of efforts to protect human rights appears to be deleted by a high level of corruption in the public sector. This renders counterterrorism ineffective if not impotent, hence the high level of terrorism (T) experienced in these two countries despite the relatively better human rights outcomes.

Some scholars have discussed the pathways through which corruption erodes otherwise effective security policies. Bohara et al. (2008, p. 9); Miller (2014, p. 165); Pilapitaya (2005, p. 18) observe that systemic corruption indicates slackness in bureaucratic

control and presents opportunities for government agents to pursue hidden private goals e.g. embezzlement of security sector funds, fabricating evidence, protecting terrorists and organised criminal gangs including smuggling and selling them weapons, taking drug money etc. often motivated by poor pay, greed, lack of punishment, peer pressure etc. Clutterbuck (1995, p. 87); Feng (2004, p. 16); Pilapitaya (2005, p. 16); Rajagopal (1999, p. 499); H. Williams (2002, pp. 14-17) argue that where the judiciary and police are corrupt, organized crime groups can take over whole countries, not only paying off judges and police, but also threaten and intimidate honest judges and police officers as well as litigants in terrorism related cases. Thus, even if the judiciary is independent of political influence from the executive, corruption renders fair trial and justice a pipe dream (Pearson, 2001, p. 55; H. Williams, 2002, p. 3). This observation probably sheds some light on why in our findings judicial independence did not turn out as a necessary condition to facilitate or impede human right in counterterrorist policies in sub-Saharan Africa. Bohara et al. (2008, p. 7); A. Peters (2015, p. 8); Rajagopal (1999, p. 499) note that corruption is often accompanied by impunity which refers to the exemption from punishment or freedom from injurious consequences of an action. In such circumstances, terrorist may walk free despite having committed serious crimes. Bundled together, the observations by these scholars point to the fact that, even if a country may be deemed to have a relatively good human rights record, corruption is likely to embolden terrorists by making government agents to look the other way or turn a blind eye to the actions of terrorists and magnitude of the dangers posed by terrorism. See also Cilliers (2003, p. 91); Edwards and Gill (2002, p. 207); Finckenauer (2005, p. 65); Ignatieff (2002, p. 1146); Miraglia et al. (2012, p. 6); P. Williams (1997, p. 1).

7. CONCLUSIONS AND RECOMMENDATIONS

Assuming that human rights violations co-vary with certain macrosocial conditions mutable in the structure of society, this doctoral study sort to establish the conditions or set of conditions necessary to facilitate or impede human rights when governments respond to terrorism in sub-Saharan Africa.

First, the study explored the nature of terrorism in the region and what distinguishes it from terrorism in other regions. Based on extensive review of academic, policy and journalistic literature as well as secondary and primary data from key informant interviews, what manifests as terrorism in the region corresponds to certain aspects and methods of violence that feature in conflicts that punctuate the social and political development of the region. Thus, based on an interpretation of ethnically, politically and religiously motivated conflicts in the region, terrorism in sub-Saharan Africa can be classified into four broad categories or typologies i.e. anti-colonial terrorism, terrorism in national conflicts, terrorism in regional conflicts and jihadi terrorism. See figure 2.2.

Among the four typologies, only anti-colonial terrorism managed to come to a logical end with the attainment of full independence of the region. This makes anti-colonial terrorism the only type of terrorism that has ever achieved its stated objectives in sub-Saharan Africa and in deed the rest of the once colonised world i.e. national independence. What seems to have replaced anti-colonial terrorism in sub-Saharan Africa is what we may refer to as 'secession terrorism' which features terrorist like violent strategies in separatist/irredentist conflicts. These types of conflicts are

ongoing in the English-speaking regions of Bamenda and Buea in Western Cameroon, the Somali dominated Oromia region in Ethiopia and the Taureg dominated Northern region of Mali. In these places, insurgents continue to wage violent separatist and irredentist campaigns against the state, justifying their actions using arguments that are based on claims of a distinct heritage and exclusion.

The other three categories of terrorism continue to manifest with varying degrees of complexity and prevalence. Until the late 1990s, terrorism in national conflicts was the most prevalent form of terrorism in sub-Saharan Africa, whose key feature is the heavy presence of politically motivated ethnic violence. Many scholars interested in the study of conflict in sub-Saharan Africa have generally missed out on terrorism that occurs in the context of politically motivated ethnic violence. A point that has also been canvased by Kaplan (2011). Here, it has been demonstrated that there is no qualitative difference between terrorist methods manifest in politically motivated ethnic conflicts in sub-Saharan Africa and methods employed by terrorist groups proscribed by the UN Security Council and which have been extensively researched in terrorism scholarship. For example, decapitation has featured in politically motivated ethnic violence in sub-Saharan Africa perpetrated by groups such as Mungiki, Liberians United for Reconciliation and Democracy (LURD) and the Revolutionary United Front (RUF) in Kenya, Liberia and Sierra Leon respectively. Similarly, proscribed international terrorist groups such as the Islamic state of Iraq and the Levant (ISIL) also known as the Islamic state of Iraq and Syria (ISIS) commonly decapitate their victims. Further, ethnic violence in sub-Saharan Africa where crude grotesque terrorist like killings occurs is not conceptually and qualitatively different from gross racial violence perpetrated

by armed groups such as Black Panthers, Ku Klux Klan, Aryan Nation, Posse Comitatus, neo-Nazi which at one time or another have been proscribed as terrorist organisations in Europe and the U.S. The only difference between the two contexts is that while sub-Saharan African groups commonly use the machete as the weapon of choice, the groups in Europe and the U.S employ guns and bombs in their mass killings. Evidently, terrorism in politically motivated ethnic conflicts in sub-Saharan Africa is an academic terrain that is under researched.

Nevertheless, the good news is that as democratisation which began to gain momentum in the early 1990s continues to consolidate in the region, many national conflicts that began to de-escalate around the same time have either ended or significantly de-escalated. The bad news is that these developments coincided with the arrival of Osama bin Laden in Sudan in December 1991 who used the country to establish his al Qaeda international terrorist network and the region as a laboratory for the manufacture, testing and launching of contemporary global jihadi terrorism.

As it stands today, jihadi terrorism presents sub-Saharan Africa with the most complex and serious security challenge ever in the history of its social and political development. Its metamorphosis is a function of unknown variables except for the commitment to Islamist ideologies and the goal of establishing a sub-Saharan Africa Islamic theocracy or caliphate. The formation and reformation of jihadi terrorist groups is an endless cycle determined by any configuration of hostilities, collaboration, mergers and splits. Local jihadi terrorist groups do not fight one but many terrorisms that assume multiple local versions of global Jihadi influenced by competition between al Qaeda and ISIL/ISIS

and incorporate in their way a universe of local opportunities, issues, agendas, concerns, conflicts, criminal enterprise, community relations and kinships etc. Because of high overall populations and high Muslim populations which make the diffusion of jihadi ideologies faster and easier, jihadi terrorism is mainly prevalent in Eastern and Western sub-regions.

Notwithstanding the complexity of jihadi terrorism in sub-Saharan Africa, it is not likely that an indigenous sub-Saharan African variant will develop and engulf the region. This is because increased democratisation gives opportunity for legitimate political expression of religious and non-religious grievances; many states in the region are secular in nature; there is a high degree of ethnic, linguistic and religious heterogeneity in the region, Sufi Islam which is predominant in the region was peacefully spread and Muslim populations in the region generally remain on the periphery of major issues affecting the global Muslim Umma such as the Israeli-Palestinian conflict. However, governments and policy practitioners in sub-Saharan Africa need to be weary that signs of the spread of jihadi terrorism outside its traditional bases in Eastern and Western sub-regions have begun to emerge in the South. This concern is underlined by the formation of ISIS/ISIL affiliated terrorist groups in Mozambique which have carried out deadly attacks since 2018 e.g. the Islamic State Central Africa Province (ISCAP) and Ahlu Sunnah Wa-Jamâ often abbreviated to al-Sunnah.

Generally, what makes terrorism in sub-Saharan African distinct is its inward-looking nature even when it is directed towards distant targets geographically located outside the region. This conclusion is supported by the fact that no indigenous sub-Saharan Africa

terrorist organization has so far ever been associated with a terrorist attack outside the region.

Counterterrorism in the region is made up of a mix of military and criminal justice measures. Military measures take the shape of regional and international peace support operations, special security operations and counterinsurgency. Criminal justice measures are based on the notion of 'the rule of law' (RoL) and rely on enforcement of the law by criminal justice agencies i.e. parliament, police, courts, corrections and other government and community agencies involved in preventing or countering violent extremism (P/CVE). Several challenges plague the ability of criminal justice agencies to effectively implement counterterrorist policies. Many police organisations in the region do not meet the minimum threshold of 300 police officers per 100,000 suggested in a UN report. Compared to other regions, police organisations in sub-Saharan Africa have the lowest level of responsiveness to internal security issues; are perceived to be corrupt; are under-resourced; stretched by terrorist organisations and insurgencies and the effectiveness of criminal investigations is below average. However, there is growing evidence that most police organisations in the region are undergoing large and fast improvements across various dimension. For example, in places like Ghana, Kenya and Mali significant reforms that might benefit counterterrorism have been noted. The most significant challenge that affects many judiciaries in the region as far as counterterrorism is concerned is lack of independence and backlog of cases. Nevertheless, though significant variations exist between countries, there is progressive overall improvement in judicial governance as indicated by the Ibrahim Index of African Governance (IIAG). In the case of correctional agencies i.e. prison and probation, not much can be canvased about probation because it is not well developed in the

region. The main challenge that affects prison facilities in the region is the problem of overcrowding and the risk posed by holding terrorism convicts. Overcrowding poses the danger of radicalisation of extremist violent ideologies among prisoners. Holding terrorism convicts exposes prison facilities to the danger of attack by terrorists e.g. the attack by Boko Haram and Movement for Unity and Jihad in West Africa (MUJWA) on prisons in Nigeria and Niger respectively freeing their militants and other convicts.

In examining the nexus between counterterrorism and human rights in sub-Saharan Africa, several important facts, issues and concerns take centre stage. First, it is important to note that, long before the arrival in sub-Saharan Africa of contemporary notions of human rights codified in the International Bill of Human Rights and other international human rights statues, there existed early notions of human rights that protected individual and community rights, even in times of grave danger e.g. the Charter of Mandé (1222) and the Kurukan Fuga (1236). These early ingenious African conceptions of human rights generally correspond with contemporary notions of human rights especially on rights that touch on the integrity of the person. For both academic and policy purposes, as far as the nexus between counterterrorist policies and human rights in sub-Saharan Africa is concerned, the main worry is that overall human rights outcomes in the region have been on a steady decline since 2005 with nearly two thirds of countries in the region being either 'partly free or not free' and therefore cannot guarantee respect for human rights in counterterrorist policies. As a result, several instances of wide spread violations in counterterrorism have been documented by local and international human rights NGO.

Since empirical evidence shows that increasing the space occupied human rights in counterterrorist policies increases their effectiveness in the fight against terrorism (See figure 3.5), the task for academic and policy communities is to establish and enhance factors and conditions that facilitate human rights in counterterrorist policies. For its contribution towards filling this gap, this study has established that government preference for human over state security (here measured by more government expenditure on welfare than on military) and poor economic and administrative capacity (here measured by the absence of transparency and accountability coupled with a high level of corruption in the public sector) are necessary conditions that facilitate and impede human rights in counterterrorist policies respectively in sub-Saharan Africa. This means that governments in the region will be more effective in the fight against terrorism if they prioritise criminal justice over military measures by allocating more budgetary resources to policing; functions and operations that increase judicial independence and the legislative capacity of parliament e.g. through increased allocations for legal and policy research into counterterrorism and human rights. They will also perform better if they consistently invest more resources into sectors that meet the needs for human security and address the root causes of terrorism. In simple terms, governments in the region should approach terrorism as a threat to human rather than state security, whose effective response resides in policies and actions that address the welfare needs of citizens rather than the political and military interests of the state.

However, this study is not exhaustive. Future research might be interested in replicating it to establish the validity of the findings. For example, different variables and data might be used to operationalise and measure the macro social conditions

hypothesised in this study to determine if those found to be necessary will still hold or a different/additional set of conditions will emerge as necessary to facilitate or impede human rights in counterterrorist polices in sub-Saharan Africa. In addition, since this is a regional study, the findings cannot be generalised to a global level. Thus, future research might be interested in replicating it in other contexts to establish the generalisability of theoretical prepositions suggested here. For example, the preposition that in a culturally rich society, indigenous cultural practices are important determinants of whether state agents will protect and promote human rights when responding to terrorism requires further empirical research to determine its theoretical value. Even within sub-Saharan Africa alone, this preposition requires further empirical testing beyond the case studied here i.e. Mali because sub-Saharan Africa is a highly diverse region with many cultures and sub-cultures. See Alesina et al. (2003, p. 163). This diversity offers a rich context in which future research has a great potential to generate significant empirical findings that can shape theoretical thinking around counterterrorism, human rights and response mechanisms embedded in indigenous cultural practices. Generally, replicating the study in diverse contexts would make significant contributions toward the theoretical understanding of conditions that facilitate or impede human rights in counterterrorist policies.

Nevertheless, scholars interested in replicating this study or generally advancing academic research on counterterrorism in sub-Saharan Africa should be cognisant of the constraint that access to reliable primary data is limited and verifying secondary data is equally challenging. This is because in many countries in the region, counterterrorism and information on security agencies is shrouded in secrecy and often protected by security of

information laws. Also, as noted by Newham (2002, p. 2); Pearson (2001, p. 39); A. Peters (2015, p. 14) future research should be weary that researching concepts such as corruption in a quantitative and empirical manner is difficult because in many societies, corruption is considered a taboo subject and most incidents are never reported or recorded. Same problems affect researching human rights in sub-Saharan Africa. This is because in some countries, human rights issues evoke volatile political actions and reactions. As a result, many instances of violations also go unreported for fear of further or secondary violations. Researchers are therefore often left to rely on reports of local and international human rights NGOs whose findings are usual general and qualitative in nature. Still because of fear of victimisation verifying claims made in such reports and obtaining quantitative data may be a challenge. Nevertheless, these challenges do not preclude researchers from developing innovative, ethical, valid, reliable and replicable methods and strategies of data collection to advance academic research on terrorism, counterterrorism and human rights in sub-Saharan Africa.

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APPENDIX 1: TRANSCRIBED INTERVIEWS

Researcher: Thank you for accepting to discuss with me about my research. My name is Steve Wakhu from Kenya. I read my doctorate at the Willy Brandt School of Public Policy at the University of Erfurt in Germany. My research is on post conflict reconstruction in the sub-Saharan Africa. My analysis shows that Mali has a better human right record than other countries despite facing a huge security challenge. That why I am here in Mali and I'd like to understand why. First I would like to know how the structure of protection of human right is organised generally in Mali? Second what this commission does to advance human rights

xxxxxx: Thank you that you have come from Kenya and interested in the security challenges in Sub-Saharan Africa and witnessed that Mali has better human rights. I think that's a good observation you have done and thank you for this remark. I am a magistrate and I have worked in judiciary for 30 years. I was prosecutor, attorney and now I am commissioner of human right in the commission and overseer in the territory of Mali.

The commission is a national institution in accordance with the France principle and the UN resolutions. Our work is to insuring effective protection and the promotion of human rights. However, I will you show you the law, here this is how the text is writing that makes the institution. We coordinate all activities of human right in Mali. We have a law and a group at the level of CNDH that I preside the work of coordinating the whole network of defenders of human right in Mali. We work within the framework of peace, security and development.

Researcher: How does the commission deal with human right issues that arise from counterterrorism?

xxxxxxxxx: Human right in Mali finds its essence in our constitution. The first 22 articles of our constitution focus on the rights and duties of the human being.

Researcher: If I understand you correctly, you say that the first 22 articles of the constitution are dedicated on human rights?

xxxxxxxxx: Yes correct. In the constitution, human right come before the whole constitution. That means human right comes before the president and the republic institutions. So, it's our choice we have done. This came during our revolution of 1991. It's extremely important. That is why there is a resilience in Mali that concern on human right. The first 22 articles are as follows: the first 20 articles are on human right and the remaining two articles are on the duties imposed to people.

We have a national policy on human right in Mali and an action plan 2017-2023. We have also a transitive national policy on justice. We have a national policy on the treatment of victims and suspects of traffic of human, violent extremism and religious radicalism.

Researcher: Is there any relationship between the first 22 articles of the constitution and the 1236 charter of KOUROUKANFUGA?

xxxxxx: Mali has the advantage that we have inherit the great kingdom, great empires and in 1236 we had the KOUROUKANFUGA. Our constitution is inspired by the charter.

Researcher: What are the specific factors that we can identify that contribute to Mali having better human rights?

xxxxxx: Generally, in society, respect for other human beings is linked to our history of the KOUROUKANFUGA. Things like stealing, killing, rape, these are emphasis in the charter and are very frowned upon in our society.

Like revolutions that occurred in the Arab world e.g. in Egypt in Algeria...we fought the dictator President *Moussa Traoré* in 1991. Since that time there is a conscious awakening among the citizen to defend their rights. For example, in 2012 when rebels and terrorists encroached in Gao, the first people who stood up against violations of human right, were children, youths and women and until now these structures exist in Gao, in Timbuctu, everywhere in Mali.

There is a vibrant association of human rights organisations and civil society organizations that play the different roles as human rights defenders at the level of children, women, handicaps, all the field of health, education We also have a system of volunteer human rights defenders. When a human rights issue is raised, and has significant public attention we do communication at TV, at Radio to say our position regarding to the issue. We also regularly brief the country on the status of human rights through the media. We also create the G5 of human right "Mali, Niger, Burkina Faso, Mauritania, and Chad". These countries to combat terrorism.

Researcher: What are some of characteristic of the legal system that promote human right?

xxxxxx: First there is the constitution. It is the principle guardian of human rights. We also have a penal code. Police are not allowed

to hold any suspect in custody beyond 24hrs without charge. For crimes, whose maximum sentence is 3 years, our laws do not allow suspects to be held in remand without a sentence beyond 6 months. This time frame is renewable upon application to the court by the prosecutor. These provisions are in place to prevent abuse of the judicial process. As a commission, the law allows us to visit any penal institution e.g. prisons, without informing the Attorney General or the examining magistrate, for insuring there is no human right violation at the level of the prisons.

Researcher: In 1991 Mali transitioned into democracy. But in 2012 there was a military coup d'état and soon after went back to civilian rule. What are your views regarding these political events in relation to human rights?

xxxxxxx: The constitution did not change. Presidents have tried to change the constitution but they are failed to change it. Let me tell you the most rigid constitutions are in West Africa: Mali and Benin. The two constitutions we cannot change without referendum even one iota. In France the constitution is flexible, they change it 24 times but in Mali none since 1991 till now Presidents try to change but no.

Researcher: Do you think that if the international community was not present in Mali the human right would be poor?

xxxxxxxxx: First our country is fragile and faces a terrorism threat. The international community is here to support the country, so they cannot diminish human right in Mali.

But there there's a problem. The population feel that there is a kind of federalism they want to impose in Mali and we are very watchful

concerning on human right. International human rights organisation has produced many reports. Amnesty international has also produced at least five or six reports. The Secretary general of UN produced their report. The international community complements the national human rights structure.

We have a little problem at the political level. We feel that the international community is pushing so much for the peace agreement. But we think peace must be discussed between Malians themselves and the armed groups. Sometimes the 51 Associations of human right do not agree with the different international community demands and their supporting of human right in Mali.

Researchers: What can you say the factors that limit the realisation of human right in Mali?

xxxxxx: The main limitation is lack of means. Defenders of human right heavily rely on donor funding which limits the dignity of their independence. Another difficulty is the power sharing at the leadership level and it is not always secure, there is many perception, vision.

23 May 2019 (B)

Researcher: My research is interested in finding out how Mali responds to human rights despite facing serious security challenges.

xxxxxx: Our program here is supporting youth and youth organisation to get involved in citizen action, good governance and human right. It is supported by the Danish government and the objective is to build a peaceful Mali.

Steve: Why do you think Mali has a better human right records even though she faces more security challenges than most countries in sub-Saharan Africa?

xxxxxx: I think we have two keys factors. The first one is how the society is built. In Mali, you will see that people are interlinked and the family system is strong. If you have such strong connections, it prevents you from violating others because if I want to hurt you and at the end of the day I realise that you are my long cousin or so, then I would think twice before hurting you. So, this is the social link in Mali which helps to have this kind of human right that we talk it about. The second key issue is we have strong human right institutions e.g. CNDH, NCHR and civil society organisations.

Researcher: Please elaborate further what you mean by strong interlinked family system?

xxxxxxx: If you come to Mali the family would help people to stay link because you this usage of families: until I married if not I would not go out to the compound, I would stay in meaning that in a modern society, I would say you cannot impose to someone at the age of 20, 24, 25 years to stay with his family but here in Mali you are 50 60, you are married or not you will still stay in the family every time. To get this strong tied but also people are interlinked because there are some ethnic group who marry to another group, you cannot imagine I will go to hurt you because they come to another family no we are all living together which is called joking with your cousin, this is very important in the society.

Researcher: Would I be correct to say that ethnic competition has not featured much in the Malian society?

xxxxxxxxx: I don't think so. Right now, we are facing a problem. In the past people would not think about regions. In each region you can have two, three ethnicities living together. But now all this is vanishing and what is coming up is ethnicity for example: I am Fulani and you are Dogon so Fulani is shepherd Dogon is a farmer, we have been living for centuries together, as Fulani is keeping the cattle: cows' sheep, goats of those Dogon will share with Fulani what they harvest after Dogon let Fulani come and settle in their farm but now regarding the situation they are against one another.

Researcher: Why did the PM resign where there is a conflict between Dogon and Fulani?

xxxxxxx: There are pressures of the political parties and civil society organisations. He didn't resign by himself. He made an analysis saying including the ruling party because they are not bee able to handle this ethnical conflict and prevent killing so many people this was the issue.

Researcher: Do you think there will be another conflict issue may be: for example something happen or the economy becomes poor next year and people feel the pinch of economy?

xxxxxxx: It would depend on the force of each group because one of the factor which lead the army, there is a quarrel of frustration coming to some population or other group of society but the key problem is insecurity in the regions, I don't think personally the performance in the economy was not inch up and the PM resigned. As I say all the economies in sub-Saharan Africa are not performing except some countries like Senegal, cote d'ivoire, but when you are in power, you will do all to demonstrate that you are performing

very well but if it goes to security people are away because it is their lives and more dangerous for you, if you are not performing in security and protecting your people being killed every day, soldiers are killing all the time, and the coalition like this one, the population asks you to resign.

Researcher: they have tried to change the constitution three or four times which they were unsuccessful, so could you say something about that?

xxxxxx: I think the civil society in Mali is very powerful but there is also another movement calls Islamic movement this is also very powerful and they led the revolution in Mali in 1991. When they remove the former president Moussa Traoré until now people don't want to miss democracy, so I think this why any attempt to change the constitution, the civil society organs, political party and the Islamic movement block these attempts.

Researcher: Is the Islamic Movement a major human rights actor or more political?

xxxxxxx: We must consider two points of Islamic movement. There are the jihadist movement and the normal one. Islamic people are facing problem not with guns but with reflection and talk about the last one. I think that they are doing good things in the past but they are more and more getting into politics and this is not their role. I think when religion mixes with politics it is not right for democratic countries. They risk imposing Islamic laws to the people which becomes very dangerous.

Researcher: Do you think religion contribution into civil society, at the same time it makes people fear and violate human rights?

xxxxxx: If you take the Islamic religion, it's based-on promotion of sharing more than other things. Islam does not mean what they are imposing in the north but as people used to say these people were not the real Islamic. So, the real one is sharing friendship, tolerance and other things and those who are practising the real religion will be guided by the movement. Islamic means that Muslims pray outside and inside the mosque and those religious are the same way in sub-Saharan Africa. Generally, on Friday you are avoided to take some streets near the mosques because people will pray and the none Muslims accept them it is like in Christianity everywhere in sub-Saharan Africa.

Researcher: What would you say as the factors that have threaten human right?

xxxxxxxxx: For me politic is a key factor because it will bring people within the same family to fight against themselves because of the power and corruption.

The second is poverty. In the past, there were rich and poor people. But they were helping each other. But now, the rich one will have a kind of show off to demonstrate that they are rich. Do everything they want and no one will say nothing. It brings a frustration in the society and people would try to violate human right.

Third is Corruption: We go to vote on election days but things are not done according to the will of the people. This also brings frustration to human right.

Fourth is Extremism: If I am a Muslim and I think everybody should be Muslim it is a kind of extremism or I am a catholic and I

force someone to be a Christian then human right are not observed.

Researcher: Do you think the presence of international organisations has contributed to better human right records in Mali?

xxxxxxx: I sometimes ask myself this question. It is as if they are taking profit from the situation. Look at MUNISMA, they should be in the battle field to prevent terrorist attack in the north. But they are not doing this. They are accommodated in Bamako driving big cars and I wonder how they can do peace keeping if they are not between the terrorist and the population. So how can you explain this, that they have so many people, financial and material resources and still the population is under the fire of terrorists. This I cannot understand these people who may protect us are here to go to the night clubs in the district of Bamako, taking more beautiful girls, eating in big restaurants because they are well paid. I think honestly it should not be here.

22 May 2019 (A)

Reseacher: The principle objective of my visit here in Mali is to find out how the government in the country can be able to respond to security challenges but at the same protect human rights?

xxxxxxxx: Your questions already assume that we have good human right situation in Mali. We have some deterioration of human right in some specific areas. So, this observation is valuable generally for the whole country, but in the region of Mopti, Segou and when you go up in the north Kidal we still have serious

violation of human right. I think we have a balance this assumption.

Though there are many ethnics groups, we still have a kind of connection between all those ethnics group. Even in the armies it is difficult to them to eliminate one specific ethnic group. This social connection and cultural values maintain people together.

Researcher: Are there some specifics ethnics group who share the national resources at the expense of others?

xxxxxx: Some ethnic groups are marginalised e.g. the Touareg group. Most people feel that most of the capital of the country resources have been invested in central and south part of the country this is their feeling. Concerning the sharing of resources of the country, there is a gap in the north and south of the country.

Researcher: Are there any social and cultural issues that affect how the Malian society approaches human rights issues?

xxxxxxxx: There are some common historical factors. We used to have historic empire that connect people to each other: Manding Empire, Shongoi Empire, Ghana Empire.... They contained more than two or three Ethnics group so since those times people were living together, they are sharing some values and most people have the same religion "Muslim" this is one factor.

The second reason we have tolerance between ethnic groups. We have managed between different ethnics group so this helps to maintain people together.

Another factor is what we call in French cousinship, there are ethnics group, or family names, a kind of historic convention between these two groups that our ancestors agreed not to violate each other. This existed among the Songhai, Ghana in the north and Dogon in the centre, for example: between Songhai- Dogon, coulibaly and Doumbia so on and so forth, start joking and no right to abuse or insult one another. We can just play and when there was a conflict we can easily resolve it because the elders in the villages had a meeting find the solutions. This cousinship has brought in the country solidarity, prosperity, honesty, all kind of happiness. We have also Story Tellers who intervene in the resolution in conflicts, marriages, naming ceremonies, funeral ceremonies. They have a large place in society and we called them peacemakers.

Researcher: Do you think the traditional systems in modern Mali politics?

xxxxxx: yeah, traditional leaders are officially recognised in government because there is a national association of all those stories Tellers and whenever the government has difficulties in dealing with conflict or in dealing with social demand like strikes or protests, they call on these Association to send their delegation trying to speak to the government. E.g. the conflict between Teachers and government or ethnics group.

xxxx: Do you think traditional Association of story tellers influenced the resignation of the PM?

xxxxxxxxx: I don't any connection. The resignation of PM was rather political. But religious leaders put pressure. Religious leaders have a great capacity of mobilisation more than the

politicians. Like Mahmoud Dicko the president of the national Muslim council. This leader called for a meeting and a great number of people come out to support Islam in the Ogosagou massacre.

Researcher: What you can say is the effect of international community regarding human right outcomes in Mali?

xxxxxxxx: Globally the international community like Sweden, EU incorporate human right in their interventions and in every development program or project. Always they ask for accountability.

Researcher: What would you say regarding MINUSMA?

xxxxxxxxxx: If they were not here the situation would have been worse. MINUSMA don't have many forces to protect the population, they support the government and play a great role and have great influence on the government. They also put a check on the government so they cannot act as they like.

22 May 2019 (B)

Researcher: My research interest is to establish how Mali balances protection of human rights and response to terrorism?

xxxxxxxxx: We have a national policy of human right which was developed in 2017. The policy incorporates all segments of society. The second one is the opening of government toward the international community.

Researcher: What would you about the nature of the Mali civil society and human right?

xxxxxxxxxxx: We have three categories of human right defenders. The first is the institution of defenders which is in formal framework, the second category which constitutes the civil society organisation and the last one constitutes the individual which is the pillar in the framework of human right defenders in Mali.

Researcher: Based on the Freedom House index, over the last ten years, Mali human rights score has deteriorated. Why do you think this has been so?

xxxxxxxx: There are many factors: First the terrorist's attacks created a lot of sudden fear. There is also a financial aspect. Human right organisation that already work in place dominated by terrorists could not to receive financial support.

21 MAY 2019

Researcher: Why do you think Mali is able to maintain a good human right records while still facing security challenges and better than the others?

xxxxxxxxx: We have been facing security challenges for years but the problem is increased in 2012. There is Association AMDH and this Association is located everywhere in the regions of Mali in case of human right violation, our committee member can raise the issue the head office in Bamako and we bring to the attention of the government.

Researcher: Would be able to tell how many human rights organisations are there in Mali?

xxxxxxxxx: there more than 42.

Researcher: Is there anything generally in the society that you would say makes Malian have more respect for human rights?

xxxxxxx: We are a tolerant society and try to resolve problems together or find solutions together.

Researcher: What can you say about ethnic competition in Mali?

xxxxxxxxx: Until a recent period, the ethnics group live in a great harmony in Mali.

Researcher: What would you say is the state of Mali's democracy since independence?

xxxxxxxx: In 1960, we had our independence. After that was the President Modibo Keita's regime. He was a socialist and at that time there was violations of human right. Filly Dabo Sissoko was killed, he was a great intellectual. Since 1992 we have a tolerance culture.

Researcher: can you say something about the 1236 Charter?

xxxxxxx: Yes, this is the first constitution in the world even though the western world could not recognize it. As a country, we hold that every president must be elected like Soundiata Keita was elected. With cousinship for example: I am Keita, you are Coulibaly

if we quarrel in Downtown once I remember about that we are cousins and I am sorry.

Researcher: What do you think about the UN, EU, MINUSMA and others international partners regarding human right outcomes in Mali?

xxxxxxxx: The international organisations made their best but really Malians are disappointed. We see no improvement in the security situation. They are here but the populations do not see any impact, there is always attack, violations, everywhere in Mali despite their presence practically there are always the killings.

21 MAY 2019 (B)

Researcher: Why do you think Mali is able to maintain a good human right records while still facing security challenges and better than the others?

xxxxxxxxxxx: First our country was led by the king during the time of the Empire of Mali. We had kouroukanfuga charter. This charter Mali had already written the defenders of human right, the population was ruled as: the hunters had their rules and right, the story tellers had their rules and right, the children, women, Marabous were so structured and everyone had his duty. In the charter, the human being is sacred and must not be violated. At that time there were cousinship, tolerance, human being respect, on quarrel, no conflict.

Researcher: Do we have articles from that charter of 1236 that are in the present-day constitution of Mali?

xxxxxxx: What you must understand is that the 1236 charter is the oldest constitution that was not written. It is an old tradition. Usually in the society everyone tries to do his or her duties and pass on these traditions down the generations through oral history.

Researcher: what can you say about the security challenges in the North of Mali? How does it affect human right overall in Mali?

xxxxxxxxx: This security situation is difficult but we have many Association of human right for the Malians that created by the state, the armies group. There is the national committee of human right and two organisations that fight for human right respect and these are our responsibility to bring peace.

Researcher: If the MUNISMA was not present in Mali, do you think Mali would still have better human right outcomes?

xxxxxxxxx: Apparently MINUSMA is here to establish peace in the country but we see the contrast. The arriving of MINUSMA and G5 Sahel has created more violations. And we ask ourselves are they here to maintaining peace or what are they doing? Sometimes they impose things on us. For example, the Malians army does not allow them to go in Meneka, in Kidal and even if there is an attack there, they say that this is not in our mandate. So how can they establish peace and secure human right?

Researcher: Do people feel insecurity in Bamako? Do they feel that may be those terrorists can come up to Bamako?

xxxxxxxxx: Yeah it is like an asymmetric war. You don't see the enemies and the enemies see where you are. So, these people can come at any moment, they don't come in group but they come by group of four or six persons and target the place and attack.

Researcher: What could you say are the factors that prevent Mali from achieving good human rights outcomes?

xxxxxxxxxx: It's easy, we must dispense justice to avoid the impunity and bad governance. The militaries and the population trust each other to fight insecurity because terrorists are hidden among the population. If the armies consider these same population as terrorists, the struggle is going to be very difficult. We must create a climate of confidence between armies and population, and the population have to know that armies are there to protect them and not to persecute them.

APPENDIX 2: THE CHARTER OF KURUKAN FUGA

The *Charter of Kurukan Fuga*, re-published here, is a version collected in Guinea at the end of a concerting regional workshop between traditional and modern communicators (Kankan: 3- 12 March 1998). The traditionists are those who declined the text; then it has been transcribed and translated, with the help of Guinea linguists and under the supervision of Mr. Siriman Kouyaté – Magistrate and traditionist (his family is guardian of the Sosobala, in Niagasole, Guinea). Afterwards S. Kouyaté structured The Charter, without falsifying the essential point, talking here about the modern juridical texts with a view to make it readable for contemporaries (*the original text in Malinke is available on the digital data bank ARTO*).

The Charter of Kurukan Fuga

1. The Great Mande Society is divided into sixteen clans of quiver carriers, five clans of marabouts, four groups of "nyamakalas" and one group of slaves. Each one has a specific activity and role.

2. The "nyamakalas" have to devote themselves to tell the truth to the chiefs, to be their counsellors and to defend by the speech the established rulers and the order upon the whole territory.

3. The five clans of marabouts are our teachers and our educators in Islam. Everyone has to hold them in respect and consideration.

4. The society is divided into age groups. Belong to the same age-group the people (men or women) who are born during a period of three years in succession. The members of the intermediary class between young and old people, should be invited to take part in taking important decisions concerning the society.

5. Everybody has a right to life and to the preservation of its physical integrity. Accordingly, any attempt to deprive one's fellow being of life is punished with death.

6. To win the battle of prosperity, the general system of supervision has been established in order to fight against

laziness and idleness.

7. It has been established among the Mandenkas, the sanankunya (joking relationship) and the tanamannyonya (blood pact). Consequently, any contention that occurs among these groups should not degenerate, the respect for one another being the rule. Between brothers-in-law and sisters-in-law, between grandparents and grand-children, tolerance and rag should be the principle.

8. The Keïta's family is nominated reigning family upon the empire.

9. The children's education behoves the entire society. The paternal authority in consequence falls to everyone.

10. We should offer condolences mutually.

11. When your wife or your child runs away stop running after her/him in the neighbour's house.

12. The succession being patrilineary, do never give up the power to a son when one of his fathers is still alive. Do never give up the power to a minor just because he has goods.

13. Do never offend the Nyaras.

14. Do never offend women, our mothers.

15. Do never beat a married woman before having her husband interfere unsuccessfully.

16. Women, apart from their everyday occupations, should be associated with all our managements.

17. Lies that have lived for 40 years should be considered like truths.

18. We should respect the law of primogeniture.

19. Any man has two parents-in-law: the parents of the girl we failed to have and the speech we deliver without any constraint. We have to hold them in respect and consideration.

20. Do not ill-treat the slaves. We are the master of the slave but not of the bag he carries.

21. Do not follow up with your constant attentions the wives of the chief, of the neighbour, of the marabout, of the priest, of the friend and of the partner.

22. Vanity if the token of weakness and humility is the one of nobility.

23. Do never betray one another. Respect your word of honour.

24. In Mande do never wrong foreigners.

25. The ambassador does not risk anything in Mande.

26. The bull confided to your care should not lead the cattle-pen.

27. The young lady can get married early as she is pubescent.

28. The young man can get married from 20 years old.

29. The amount of the dowry is 3 bovines: one for the girl, two for her father and mother.

30. In Mande, the divorce is tolerated for one of the following reasons: the impotence of the husband, the madness of one of the spouses, the husband's incapability of assuming the obligations due to the marriage. The divorce should occur out of the village.

31. We should help those who are in need.

32. There are five ways to acquire the property: the buying, the donation, the exchange, the work and the inheriting. Any other form without convincing testimony is doubtful.

33. Any object found without known owner becomes common property only after four years.

34. The fourth bringing forth of a heifer confided is the property of the guardian.

    One egg out of four is the property of the guardian of the laying hen.

35. One bovine should be exchanged for four sheep or four goats.

36. To satisfy one's hunger is not a robbery if you don't take away anything in your bag or your pocket.

37. Fakombè is nominated chief of hunters.

38. Before setting fire to the bush, don't look at the ground, rise your head in the direction of the top of the trees to see if they don't bear fruits or flowers.

39. Domestic animals should be tied during cultivation moment and freed after the harvest. The dog, the cat, the duck and the poultry are not bound by the measure.

40. Respect the kinship, the marriage and the neighbourhood

41. You can kill the enemy, but not humiliate him.

42. In big assemblies, be satisfied with your lawful representatives.

43. Balla Fassèkè Kouyaté is nominated big chief of ceremonies and main mediator in Mande. He is allowed to joke with all groups, in priority with the royal family.

44. All those who will transgress these rules will be punished. Everyone is bound to make effective their implementation.

APPENDIX 3: CURRICULUM VITAE

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Nationality	Kenya
ORCID iD	https://orcid.org/0000-0002-8324-593X

Current Positions

2016	Candidate - Doctor of Social Sciences (Dr.rer.Pol)
	Faculty of Law, Social Sciences and Economics,
	Willy Brandt School of Public Policy, University of Erfurt
2013	Senior Probation Officer
	Government of Kenya, Office of the Vice President & Ministry of Home Affairs, Department of Probation and Aftercare Services

Former Positions

2005 - 2006	Junior Associate Consultant (Sociologist)
	Rural Focus Limited/World Bank Group
	Contract No 7137856
2004 - 2005	Junior Associate Consultant (Rural Sociologist)
	Inter-Governmental Authority on Development (IGAD)/Guiding Systems Consult

Education

2012 - 2014	Master of Public Policy (International Conflict Management)
	Erfurt University, Willy Brandt School of Public Policy
	„With Distinction" (1.6)
1999 - 2003	Bachelor of Arts Degree in Social Sciences (Sociology)
	Moi University, Eldoret Kenya„With Distinction" (Second Upper Class)

Short Courses

2018	Comparative Research Designs: Bamberg Graduate School of Social Sciences (BAGSS) / European Consortium of Political Research (ECPR) Methods School
2015	Urban Crime and Violence Prevention: The World Bank Group
2009	Statistics: Jomo Kenyatta University of Agriculture and Technology, Kenya
2008	Conflict Management, Resolution and Transformation: Center for Conflict Resolution, Kenya.

Scholarships, Awards and Prizes

2016   DAAD - Deutscher Akademischer Austauschdienst
Graduate School Scholarship Program (GSSP) Managing Fragility:
Critical Perspectives on Good Governance PhD Program at the Willy
Brandt School of Public Policy in Erfurt

2014   3rd prize, Commitment Award 2014
http://www.brandtschool.de/news-and-media/in-the-media/news-single-view/news/commitment-award-ceremony-2014/   ;
http://anjasolalasw.wixsite.com/almasi/about_us

2012   DAAD - Deutscher Akademischer Austauschdienst
Public Policy and Good Governance Masters Program at the Willy
Brandt School of Public Policy, University of Erfurt

Publications

2020   Yousaf, F., & Wakhu, S. (2020). Security in the 'Periphery 'of post-colonial states: analysing Pakistan's 'tribal 'Pashtuns and Kenyan-Somalis. Social Identities, 1-18.
https://doi.org/10.1080/13504630.2020.1776599

2017   Steve Wakhu (2017). Dynamics of Terrorism in Multi-Ethnic states
in Sub-Saharan
Africa. http://caert.org.dz/Publications/Journal/ACSRT%20Journal%20-2017%20Issue.pdf

2012   Steve Wakhu (2012). Handbook on How to Write a Good Pre-sentence Report: A Practical Guide for Professionals Working in the
Criminal Justice System. Saarbrücken. ISBN: 978-3-659-16184-1

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