

MOUNT KENYA UNIVERSITY

SCHOOL OF LAW

THE PREVENTION OF TERRORISM ACT, 2012: IS IT THE SOLUTION
TO THE CURRENT WAVE OF TERRORISM IN THE COUNTRY?

Rakita, Elijah Nkeyasha

Blaw/Nrp/103/0021

Research Project Presented in Partial fulfillment of the requirement for the
award of degree of Bachelor of Laws, School of Law, Mount Kenya University.

August, 2013.

Mount Kenya University
NAIROBI CAMPUS LIBRARY



Abstract

Addressing the terrorism phenomenon is a very complex and challenging task. While condemnation of terrorist activities by the international community has been unanimous and unequivocal, efforts to regulate this phenomenon have been marred by differences of approach and competing concerns. A number of key issues remain unresolved and the solution has been further complicated by the new forms of terrorism.¹

This study therefore attempts to analyze the extent of terrorism with particular emphasis in Kenya and the strides the latter has made in counter terrorism measures. The study also acknowledges that Kenya has borne the brunt of many terror related activities in the recent past, many of which have resulted in loss of lives and massive destruction of property. Consequent to the above, various schools of thought emerged as to why Kenya is vulnerable to terrorist activities more than her counterparts in East Africa. Key among the reasons advanced are Kenya's porous borders; internal conflicts; failed states; lax financial systems; poverty; corruption and socio cultural diversity amongst others.

As cases of local, regional and international terrorism increased, Kenya embarked on a legislative process culminating in the passing of the Prevention of Terrorism Act 2012 (Kenya Gazette Supplement No. 149) into law. Though the name of the Act is 'The Prevention of Terrorism Act, 2012' the short title of the Act states that it is an Act of Parliament to provide measures for the detection and prevention of terrorist activities; to amend the Extradition (Commonwealth Countries) Act and the Extradition (Contiguous and Foreign Countries) Act and for connected purposes. The Act contains 53 sections and is divided into six parts. Part I deals with preliminary, Part II with specified entities, Part III with offences, Part IV investigation of offences, Part V trial of offences and Part VI miscellaneous.

The process leading to the passing of the Prevention of Terrorism Act 2012 into law, and the contents of the Act have been the subject of criticism on grounds that there was no basis established for the need for a terror-specific legislation; that Kenya has only danced to the

¹ J Patrnoic 'Terrorism and International Law: Challenges and Responses' (Contributions presented at the meeting of independent experts on terrorism and international law organized by the International Institute of Humanitarian Law, Sanremo, Italy 30 May- 1 June 2002)

whims and quirks of her colonial masters thus the Act may not achieve much in countering terrorism.

This study therefore attempts to find out if the need for a terror specific legislation was justified and if so whether the Prevention of Terrorism Act, 2012 is sufficient to address the factors raised as contributing to the ever increasing cases of terrorism related activities in the country.