

4. Case Study: Kenya

I. Introduction

Of all the countries in the Horn of Africa, Kenya boasts the most stable, most effective, and most democratic government. Kenya has also experienced the most terrorist attacks against Western targets and has been the most useful operational base for al-Qa'ida.¹ This 'Kenyan Paradox' is driven by the convergence of four factors. First, Kenya provides a target-rich environment for terrorists because of its relatively advanced economy and its long-standing ties with the United Kingdom, United States, and Israel. Second, Kenya maintains a functioning sovereign government, one increasingly subject to public opinion. The former limits the operational freedom of Western intelligence and counterterrorism units, and the latter heightens the cost of being seen to be doing others' bidding in the "War on Terror." Third, Kenya suffers from weak governance in a number of critical areas, including security and the criminal justice system. This discourages those Kenyans who might have relevant information from providing it to the authorities. Fourth, the presence of a disaffected minority Muslim population,² especially along the Kenyan coast, provides al-Qa'ida operatives an environment in which they can operate with less security pressure than elsewhere in the region.³ Simply put, Kenya is an attractive place for al-Qa'ida to operate.⁴ The level of development and stability have increased the density of targets and logistical convenience of conducting operations in Kenya while the combination of a more responsive political leadership and weak governance reduce the security costs of doing so.⁵

Some of these factors can be ameliorated by adjusting existing policies to account for the complex forces at work in Kenya. Others are background conditions that cannot be changed but must be understood. Section II begins our analysis by reviewing Kenya's history as a target for terrorist activity. Section III examines structural factors that make Kenya an attractive place for terrorists. We focus mainly on the governance challenge in Kenya, drawing on theoretical insights developed in the last section of Chapter 2. The next two sections draw on a series of recent interviews along with other sources. Section IV looks at the historical and current status of Kenyan Muslims. Section V briefly reviews how current counterterrorism initiatives are

¹ Since 1990 Kenya has suffered seven terrorist attacks, three of which were conducted by al-Qa'ida. The other four have not been linked to foreigners, or even specifically to Muslims. During the same period there were: four terrorist attacks in Eritrea, none of which involved al-Qa'ida; 34 attacks in Ethiopia, only two of which are attributable to jihadi groups, the rest being conducted by groups involved in political or territorial struggles with the Ethiopian state; and 21 attacks in Sudan, all of which were committed by groups involved in the Sudanese civil war or other local conflicts in which Sudan was involved. MIPT Terrorism Knowledge Base, available at <http://www.tkb.org> [accessed March 30, 2007].

² Various surveys put the country's Muslim population at 8-10 percent, though (as noted below) with particular and significant regional concentrations.

³ In the documents surveyed for the two Harmony reports, al-Qa'ida operatives in the 1990s reported greater security pressure in Nairobi and in Somalia than along the Kenyan coast.

⁴ For a somewhat different take on al-Qa'ida's experiences in Kenya and the recruiting potential for East Africa, see William Rosenau, "Al Qa'ida Recruitment Trends in Kenya and Tanzania," *Studies in Conflict & Terrorism*, Vol.28, (2005), 1-20.

⁵ See chapters 2 and 3 for a summary of the disadvantages of operating from a failed state. At the same time, al-Qa'ida documents reveal considerable concerns with both the level of criminal-insecurity in Kenya and its potential for (eventual) political instability, if not an actual "explosion." Harmony, AFGP-2002-800597, 7.

perceived by both the incumbent government and its citizens. Section VI attempts to explain the complex set of policy games played in Kenya. Section VII concludes by discussing the future prospects for terrorism in Kenya.

II. Terrorism in Kenya: A Brief History

Until very recently, terrorism in Kenya was mostly a foreign affair.⁶ Operatives from elsewhere saw Kenya as a permissive, target-rich environment. The first major attack of the modern era was the Norfolk Hotel bombing in December, 1980, which killed sixteen people and injured more than one hundred. The Palestine Liberation Organization (PLO) claimed responsibility. Most believe the attack served as retaliation for Kenya's decision to allow the launch of the 1972 Israeli military raid on Entebbe, Uganda from Kenyan soil.⁷

Nearly two decades later, on August 7, 1998, al-Qa'ida attacked the American Embassy in Nairobi with a truck-bomb. This attack killed some 220 people and injured roughly 5,000 Embassy staff, passers-by and people in neighboring buildings.⁸ Al-Qa'ida simultaneously attacked the U.S. Embassy in Dar-es-Salaam, Tanzania, killing 11 and injuring another 70. An attempt to destroy the American Embassy in Kampala, Uganda, was reportedly foiled on this same date.⁹ All three embassies were accessible and relatively unprotected, making them particularly attractive targets. The Kenyan attack also produced the first known al-Qa'ida operative from Kenya, Sheikh Ahmad Salem Swedan, from Mombasa, as well as Abdullah Muhammad Fazul (henceforth 'Fazul'), a Comorian who reportedly holds a Kenyan passport, though his legal citizenship remains unclear.¹⁰

Al-Qa'ida executed Kenya's third major terrorist attack on November 28, 2002. Two SAM-7 missiles were fired at, but narrowly missed, an Israeli passenger jet taking off from Moi International Airport in Mombasa. Five minutes later, a truck-bomb detonated just outside the lobby of the Israeli-owned and frequented Paradise Hotel in Kikambala along the beach north of Mombasa. Fifteen people were killed and another 35 injured in that attack.¹¹ Clearly, in this case

⁶ We use 'terrorism' with reference to Islamic 'extremism,' but recognize the high level of violence associated with the Mau-Mau uprising/"freedom-struggle" of the 1950s.

⁷ The choice of the specific target appears to reflect the fact that the hotel was then owned by a well-known Jewish-Kenyan family; ironically, today it is owned by a prince in the Saudi royal family.

⁸ The bomb-laden vehicle attempted to enter the underground parking area, but security guards prevented it from doing so. Had they not, the number of Embassy casualties would have been far higher, and the "collateral damage" far less.

⁹ All 20 people arrested in connection with the alleged Kampala plot were apparently released after being held for a month. "All but one of nine arrested over blasts to be released," *Agence France Press: International News*, February 17, 1999; Arye Oded, *Islam & Politics in Kenya* (Boulder, CO: Lynne Rienner Publishers, 2000), 82.

David H. Shinn, "Fighting Terrorism in East Africa and the Horn," *Foreign Service Journal* (September, 2004).

¹⁰ Swedan was among those indicted, as was Fazul. *United States of America vs. Usama Bin Laden, et al.*, Indictment S (9) 98 cr. 1023 (LBS), available at <http://cns.miis.edu/pubs/reports/pdfs/binladen/indict.pdf>. Both of these individuals remain at large. See Appendix B-I for an in-depth profile of Fazul.

¹¹ The truck had just crashed through the entrance barrier after being denied entry by security guards. Most of the casualties were local dancers performing a welcome dance for the tourists; three Israelis were killed. For a detailed picture of the devastating economic impact of this attack on the local victims' families and the surrounding area, see Susan Richards, "More trouble in paradise," *OpenDemocracy* (Internet), 17 December, 2002.

al-Qa'ida's attention shifted from the U.S. to Israel with the perceived vulnerability of both targets a clear incentive for their selection.¹²

Shortly thereafter, in June 2003, Kenyan authorities foiled a plot to attack the temporary U.S. Embassy in Nairobi using a truck-bomb and an explosive-laden plane. The plane was to be taken from Nairobi's Wilson Airport. This same airport acted as the staging base for al-Qa'ida operatives' entry flights to Somalia in the early 1990s.¹³ One of the suspects arrested by Kenyan police indicated a number of the same individuals involved in the November 2002 attacks on the Paradise Hotel planned this failed attack.¹⁴

A final incident, not associated with al-Qa'ida, occurred on May 12, 2006, when three assailants fire-bombed the Nairobi offices of the Christian radio station Hope-FM after gaining entry to the station's premises by killing a private security guard. An inner security door prevented the attackers from reaching the upper floor where several staff members were hiding. Little is known about their identity, but their motives appear less opaque. The station's weekly program, "Jesus is the Way", which many believe was explicitly designed to win converts to Christianity from the Muslim community, had just been aired.¹⁵ Although minor in scale, this attack marked Kenya's first entirely domestic case of Muslim-based terrorism.¹⁶

Despite two major al-Qa'ida attacks on Western targets in 1998 and 2002, the group's operatives continued to move about the country freely, establish businesses in Mombasa, Nairobi and Lamu, operate Islamic charities, find local brides, rent light aircraft to come and go from Somalia, hold meetings, communicate with al-Qa'ida figures outside the country, transfer money, stockpile weapons and engage in years of undetected reconnoitering of possible targets.¹⁷ The next two sections explore the factors which make Kenya a relatively safe haven for al-Qa'ida.

¹² The killing of a policeman in Mombasa on August 1, 2003 is also connected to these twin attacks. An alleged accomplice of Fazul (the latter wanted in connection with the making of the bombs used in both the U.S. Embassy attack and that of the Paradise Hotel; see Appendix II) set off a grenade as he was about to be seated in a police vehicle, killing a police officer. According to a local press report, he was Feisal Ali, "the son of a prominent businessman in Kenya" and a Yemeni national whose wife is described as of "Somali origin." Reportedly, Fazul and Ali, "escaped in the confusion." "US lauds Kenya's fight against terrorism," *East African Standard* (Internet Edition), August 5, 2003.

¹³ Matthew Rosenberg, "Al-Qaida plotted to destroy U.S. Embassy in Kenya in June," *Associated Press*, October 24, 2003; Harmony, AFGP-2002-600104, 3.

¹⁴ See Appendix C-III, the disallowed confession of Omar Said Omar, a suspect in the 2002 attacks. As a result of this information, the Embassy was closed during June 20-24, 2003. A U.S. 'terrorist alert' had been issued the previous month when Fazul was reportedly sighted in Mombasa; Desmond Butter, "Threats and Responses: 5-Year Hunt Fails to Net Qaeda Suspect in Africa," *The New York Times*, June 14, 2003.

¹⁵ According to reports and conversation with the station's staff, text-message cell-phone threats had been received at the station during the program's broadcast. In addition, several guests on the program were recent converts from Islam, who explained why they had decided to change faiths and encouraged Muslim listeners to do the same, mainly by extolling the Bible while disparaging the Koran.

¹⁶ On the other hand, religious conflict – on occasion of a violent nature – is not unheard of in Kenya's recent past. David C. Sperling, "Islam and the Religious Dimension of Conflict in Kenya," paper presented at USAID Conference on Conflict and Conflict-Resolution in Kenya, Nairobi, May, 1998.

¹⁷ Appendix B-I and Appendix C-III detail how Fazul, an indicted al-Qa'ida operative, operated in Kenya from 1998 until very recently.

III. Why Foreign Terrorists Like Kenya

Though few in number, the above attacks demonstrate Kenya's significance in terms of recent global terrorism. Moreover, the scale and complexity of attacks in Kenya strongly suggests a permissive environment exists for terror group operations. Understanding what it is about democratic, economically successful Kenya that makes it a relatively frequent target of jihadi terrorism is of paramount importance. A combination of international and domestic factors result in Kenya's targeting. Two specific international factors enhance Kenya's attractiveness. First, the country's foreign policy reflects a long history of close relations with the United States and Israel, as well as the United Kingdom—the former colonial power. Both the United States and Israel maintain a significant official and private-sector presence in Kenya.¹⁸ In addition to current foreign policy issues, these historical relationships provide both an ideological justification for attacks in Kenya and a range of targets. The use of Mombasa as a supply-station for Western military operations and patrols in the Indian Ocean and Persian Gulf brought increased attention from al-Qa'ida beginning in the early 1990's.¹⁹ During his infiltration into Somalia, Saif al-Adl illustrates his interests in a trip report along the Kenyan coast. Here he describes Mombasa as, “an island that teems with foreigners who stroll all over the place. It is said that the American army soldiers take their R&R there. Mombasa's security situation is terrible.”²⁰

Second, the country's geography puts it in close proximity to long-running conflicts in northern Uganda, Sudan, Ethiopia, Somalia, and Rwanda. Kenya's porous borders permitted al-Qa'ida operatives to enter and leave the country clandestinely. However, the expense of doing so may explain why most al-Qa'ida operatives traveled to and from Kenya using normal channels.²¹ The exception was travel to Somalia. Throughout the early to mid-1990s, members of al-Qa'ida traveled to Somalia from Kenya by sea and land through the coastal route of Mombasa-Witu-Kiunga in Kenya to Ras Kamboni, Somalia.²²

¹⁸ See Oded, *Islam & Politics in Kenya*; and Erik E. Otenyo, “New Terrorism, Toward an Explanation of Cases in Kenya,” *African Security Review* 13: 3 (2004). Kenya also has a tiny but visible Jewish community. In recent years, some “surveillance” of the Nairobi synagogue has occurred but no specific threat of an attack has materialized. Author interview, Nairobi, March 23, 2007. In his confession statement, Omar refers to instructions from his al-Qa'ida mentors “to fight all Americans, British, Israelites and Australians,” the latter presumably because of their contribution to current operations in Iraq (See Appendix VI).

¹⁹ Otenyo, “New Terrorism”; Johnnie Carson, “Kenya: The Struggle Against Terrorism,” in Robert Rotberg, ed., *Battling Terrorism in the Horn of Africa* (Washington, D.C.: Brookings Institution Press, 2005), 173-192. Carson notes the U.S. military Access Agreement with Kenya for naval facilities there, in place since 1980. Well before the 1998 attacks on the U.S. Embassy, al-Qa'ida operatives recorded their observation of American forces using the port city for “R & R,” and their view of the security situation as being extremely lax. See Harmony, AFGP-2002-600111, 2.

²⁰ Harmony, AFGP-2002-600113, 3.

²¹ As both the trial transcript from the 1998 embassy bombings trial and the Harmony documents show, al-Qa'ida operatives tended to move in and out of Kenya, with the exception of trips to Somalia, via commercial airlines. See “FBI Trial Transcripts,” U.S. Federal Court, Southern District of New York. See also *United States of America vs. Usama Bin Laden, et al.*, S (9) 98 cr., 1023, 1301, 1302, 1305. Even though they had problems using commercial air travel with forged passports, traveling by land from Kenya does not appear to have been a common practice for foreign jihadis. See also Harmony, AFGP-2002-600104, AFGP-2002-600113, AFGP-2002-800081, AFGP-2002-800083, AFGP-2002-800088, and AFGP-2002-800089.

²² Harmony, AFGP-2002-600104 and AFGP-2002-600113. In the words of former Kenya International Security Permanent Secretary Dave Mwangi (at least as of 2003), “our most serious vulnerability is that we are neighboring the Somali Republic, a land with no government” (Butler, *op. cit.*).

Turning to domestic factors, Kenya appears, at first glance, to be an unattractive environment for terrorists. In contrast to neighboring Somalia, Kenya boasts a relatively robust state equipped with a national police force, capable intelligence services, and a pervasive system of provincial administration.²³ Its overwhelmingly Christian population would also seem to bolster its capacity to deter terrorist activity.

Yet a number of domestic factors appear to trump such disincentives, making Kenya a more positive environment for al-Qa'ida. One is the presence of small but significant Arab, Arab-Swahili and Somali minorities concentrated in coastal Kenya, Nairobi and several other urban centers.²⁴ Some of these, especially those with Arab lines of descent, maintain closer ties with their home countries. Indeed, many residents of Mombasa, Malindi and Lamu hold stronger ties with the Arabian Peninsula than with Kenya's own interior.²⁵ These historical connections and the cover provided by a diverse population significantly reduce the visibility of foreign operatives.

Deep-rooted and continuing shared economic interests strengthen the Coastal Kenya-Arab relationship still further.²⁶ The centuries-old maritime culture along the East African coast has given rise to many interlocking networks of kinship and commerce that the "modern" national borders of the Comoros, Zanzibar, mainland Tanzania, Kenya, Somalia, Oman and Yemen have not obliterated.²⁷ Further, modern transportation and communication that fosters rapid and detailed transmission of both political and religious information and messages significantly bolster this situation.²⁸ The net effect of all the above is that al-Qa'ida operatives have been able to employ a mixture of "mosque, madrasah, marriage"²⁹ and money to move about relatively freely while establishing more permanent local roots.³⁰

Beyond these regional, historical and demographic factors, Kenya's weak governance climate makes a considerable contribution to the country's terrorist threat. Central here is its lack of effectiveness in investigating, arresting and convicting terrorists as well as more ordinary

²³ Indeed, it may be this very stability, accommodating, among other things, an extremely high U.S. diplomatic interest and presence that has served to attract terrorists. See Carson, *op. cit.*, 178 and 192. On terrorists, see Otenyo, "New Terrorism," 8.

²⁴ North Eastern Province, inhabited almost entirely of ethnic Somalis, has apparently produced no al-Qa'ida outposts or associates, possibly due to the relative dearth of attractive targets.

²⁵ Carson, "Kenya," 186.

²⁶ Such shared interests sometimes overlapped with terrorist connections. Omar Said Omar had a "friend" from his home city of Mombasa (Issa Osman Issa) who "had relatives in Somalia." The friend took him to Mdoa where the two set up a lobster business in 1998. "Statement Under Inquiry of Omar Said Omar," Recorded by Superintendent John Mulalulu, Kenya Anti-Terrorist Police Unit, n.d. (but almost certainly August, 2003). See Appendix V.

²⁷ On historical ties, see R. A. Obudho, "Urbanization," in J. Hoorveg, D. Foeken and R. A. Obudho, eds., *Kenya Coast Handbook* (Munster: Lit Verlag, 2000), 85-97.

²⁸ The influence of external Islamic teaching is described in Mohamed Bakari, "The New 'Ulama in Kenya," in Mohamed Bakari and Saad S. Yahya, eds., *Islam in Kenya: Proceedings of the National Seminar on Contemporary Islam in Kenya* (Nairobi: Mewa Publications, 1995), 168-193.

²⁹ See Andrew England, "FBI's most wanted leader of al-Qaida cell indicted for U.S. Embassy bombings, escaped," *Associated Press*, June 14, 2004.

³⁰ Recall here the case of one of the first al-Qa'ida operatives in Kenya, Mohamed Sadeek Odeh (see below), a Palestinian from Jordan who arrived in the mid-1990s. He settled in Witu, Lamu District. He later married there and set up a seafood supply business, obtaining a supply contract at Nairobi's 5-star Grand Regency Hotel. He was arrested in Pakistan the day after the 1998 U.S. Embassy bombing, having flown out of Kenya the day before, and later convicted in connection with that attack at a trial in New York. See Appendix III.

criminals. While mundane bureaucratic ineptitude no doubt accounts for some of this, the general “culture of impunity” that has been said to reign in Kenya may be equally responsible.³¹ For example, not a single (credible) conviction has been obtained with regard to the several assassinations and mysterious deaths of leading political figures.³² The same applies to the “mass” killings of the 1990s that killed 1,500 and displaced several hundred thousand, as well as to the countless victims of torture in various detention centers and police cells, beginning after the failed Air Force coup attempt of 1982 and continuing well into the 1990s.³³ The current government shelved recommendations from a recent Presidential Commission for a “transitional-justice” process of exposure, confession and national healing.³⁴ In addition, despite local and diplomatic demands, the Kenyan government provided no explanation for either the March 2006 police raid on the offices of *The Standard* newspaper and its sister company Kenya Television Network, or for the breach of security at Nairobi’s international airport several months later. At the airport, the same pair of mysterious “Armenian brothers” who led *The Standard* raid—allegedly business partners of Kibaki family members—stormed the Customs area to insure that associates arriving from abroad would not have their luggage searched.³⁵

This history of impunity extends in particular to those involved in large-scale corruption. Kenya repeatedly finds itself among the most corrupt countries in the world. According to Transparency International, bribery “costs Kenyans about US \$1 billion each year, yet more than half live on less than US \$2 per day.”³⁶ No senior public figure in either politics or the civil service has ever been convicted, let alone gone to prison, for abuse of office.³⁷ The current government’s own former anti-corruption “czar” now resides in self-imposed exile in the UK, having feared for his life as he attempted to investigate corruption among the very government he was serving.³⁸ Corruption also makes it easier for terrorists to use airports and other official

³¹ Joel D. Barkan, “Kenya After Moi,” *Foreign Affairs* 83:1 (2004): 87-101.

³² Prominent examples are: Pia Gama Pinto (a key advisor to Kenya’s first vice-president, Oginga Odinga, in 1965); Tom Mboya (Minister for Economic Development, in 1969); J. M. Kariuki (‘renegade’ MP and President Kenyatta’s former Personal Secretary, in 1975); and Robert Ouko (Minister for Foreign Affairs, in 1990).

³³ Peter M. Kagwanja, *Killing the Vote: State-Sponsored Violence and Flawed Elections in Kenya* (Nairobi: Kenya Human Rights Commission, 1998); Republic of Kenya, “Report of the Judicial Commission appointed to inquire into tribal clashes in Kenya” (Nairobi: Government Printer, 2002); People Against Torture, *Never Again: Profiles in Courage* (Nairobi: People Against Torture, 2005).

³⁴ Republic of Kenya, “Report of the Task Force on the Establishment of a Truth Justice and Reconciliation Commission” (Nairobi: Government Printer, 2003). The commission’s recommendations were reportedly never even brought to Cabinet for discussion.

³⁵ The police raids involved the roughing-up of staff, destruction and theft of valuable equipment, and burning of newspapers. See John Kamau and Cyrus Ombati, “Armenians: The Inside Story.” *Sunday Standard*, June 11, 2006; “Artur brothers arrested after airport gun drama,” *Saturday Standard*, June 10, 2006.

³⁶ *Transparency International Corruption Perceptions Index 2006*, 3 (6 November 2006). Available at: http://www.transparency.org/policy_research/surveys_indices/cpi/2006.

³⁷ Ironically, al-Qa’ida operatives in Kenya during the early 1990s complained about the costs imposed on them by corruption: “Kenya is not a good place ... as the cost of living is high, plus corruption is dangerously prevalent” (Harmony, AFGP-2002-800597, 7).

³⁸ John Githongo, former Executive Director of Transparency International-Kenya. For details on corruption issues during Kibaki’s first two years in office, see S. Kichamu Akivaga, “Anti-Corruption Politics in the Post-KANU Era,” in Ben Sihanya, ed., *Control of Corruption in Kenya: Legal-Political Dimensions, 2001-2004* (Nairobi: Claripress, 2005), 242-283. Regarding the Kibaki government’s failure (so far) to hold to account former President Moi or anyone connected with his 24-year rule, see Thomas P. Wolf “Accountability or Immunity?: Daniel Toroitich arap Moi, Kenya’s First Retired President,” in Roger Southall and Henning Melber, eds., *Legacies of Power: Leadership Change and Former Presidents in African Politics*, (Upsalla: Nordic Africa Institute, 2006) 197-

border points and to obtain identity papers and travel documents.³⁹ Testimony in the 1998 Embassy bombing trial revealed that Mohamed Sadeek Odeh used fake travel documents obtained at a government Immigration office to leave Kenya the night before the attack.⁴⁰ Omar Said Omar, one of those allegedly involved in the 2002 coast attacks, also claimed he used a fake Ethiopian passport to get back into Kenya in December 2001 after completing his al-Qa'ida weapons training in Mogadishu.⁴¹

Corruption may also have played a part in the failure to arrest and/or prosecute non-al-Qa'ida terrorists and other international criminals. Two examples stand out. The first is Abdallah Ocalan, for many years the leader of the Kurdistan Workers Party (PKK), the main Kurdish rebel group. According to reports, a foreign security team arrested him while he was being escorted to Nairobi's airport to board a "safe flight" out of the country. Reports alleged that two senior figures in the Moi government received \$40 million from the Turkish government for allowing this.⁴² The second example is Felicien Kabuga; previously Rwanda's wealthiest private businessman and today its most wanted genocide fugitive.⁴³ Despite a large US government bounty of \$5 million for his arrest, Kabuga reportedly made his home in Kenya for many years with the knowledge and support of senior figures in first the Moi government, and now that of his successor Kibeki.⁴⁴

The examples above, taken together with Kenya's weak record in apprehending, holding and prosecuting high-profile terrorism suspects,⁴⁵ apparently serves as a serious disincentive for Kenyans contemplating going to the authorities, whether with regard to issues of general "public safety"⁴⁶ or indeed, their own problems.⁴⁷ A final governance issue that also seems to contribute to the government's inadequacies in this area, is, ironically, a reflection of the recent expansion

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³⁹ See Harmony, AFGP-2002-800611, for an example of a Kenyan document seized in Afghanistan.

⁴⁰ *U.S. v. Usama Bin Laden et al.*, S(9) 98 Cr. 1023, S.D.N.Y. Indictment, 29-31.

⁴¹ See his confession-statement in Appendix C-III.

⁴² Author interview, Nairobi, October 12, 2006. Another analyst claimed that Turkey paid an unnamed private mercenary group to capture Ocalan. Eric Margolis, "Freedom, Not Fake Autonomy for Kosovo," February, 1999. Available at www.ericmargolis.com/archives/1999/02.

⁴³ He is also said to have been one of the main sponsors of the Hutu *Interahamwe* killing-squads who, by some accounts, were involved in the pre-election killing-raids at the Kenya coast in August, 1997; Human Rights Watch, *Playing With Fire: Weapons Proliferation, Political Violence, and Human Rights in Kenya* (New York: Human Rights Watch, 2002), 55-56.

⁴⁴ "Disguised Kabuga still hiding in Kenya," *Weekly Citizen*, 10:14 (14-19 March 2007): 2; Evans Wafula, *Africa News*, February 21, 2007; Dedan Walsh, "Informant killed in failed sting to trap genocide suspect," *The Independent*, January 22, 2003.

⁴⁵ The case of Fazul's escape a day after his June 2004 arrest in Mombasa is relevant here (England, *op. cit.*), as is the acquittal of all suspects in the twin 2002 Coast attacks. See "A Year Later, Two Mombasa Attacks Suspects Released," *IslamOnline.net*, Article 2, November 28, 2003. See also Republic of Kenya, Criminal Division, High Court of Kenya, "Ruling," Criminal Case No. 91 of 2003, June 8, 2005.

⁴⁶ Whether the recent arrest of a high-profile al-Qa'ida suspect in Mombasa marks a change in this regard remains to be seen. In this case, a foreign-exchange dealer pressed a "panic" button because of "nervous behavior" of the customer in front of him. See "Kenyans make arrest in 2002 Israeli plane, hotel attacks," CNN.com (AP), March 19, 2006. Identified in this report as Saleh Ali Nabhan, it later emerged he was Mohamed Abdul Malik, identified by Omar as the driver of the vehicle involved in the missile attack on the Israeli airliner in 2002. See Appendix VI, and below.

⁴⁷ A nationally representative survey undertaken on behalf of the government found that only 40 percent of the victims of all types of crime report these to the police, for a variety of reasons. Republic of Kenya, Ministry of Justice and Constitutional Affairs, "GJLOS National Household Baseline Survey," 2006, 49.

of the country's "democratic space." Kenya returned to competitive, multi-party politics in 1992 after more than three decades of either de facto or de jure one-party rule. Over the last three national elections, intense competition for votes in both parliamentary and presidential contests reflects in part the country's highly fluid partisan political landscape. According to Kenyan election law, victory in presidential contests requires a candidate obtain both an overall plurality and a minimum of 25 percent of the vote in at least five of Kenya's eight provinces. Muslims currently hold a great deal of collective political "clout" as they constitute at least 90 percent of inhabitants in North Eastern Province and over a quarter of the population in Coast Province. Because any incumbent or would-be government can ill-afford to ignore Muslim voters, counterterrorism policies that antagonize this section of the population are unlikely to be pursued with anything but considerable reluctance.

This issue of political sensitivity may well have influenced the government's response to one of the attacks described above: that on the HOPE-FM station in May 2006. Notwithstanding its clearly religious overtones, the official government spokesman, Dr. Alfred Mutua, called the attack "normal thuggery," going on to claim the attackers were the "same gang" that had been "molesting motorists" in the area, a view immediately disputed by the Minister for Information.⁴⁸ Although Mutua simultaneously promised "a thorough investigation," nothing more has been heard of the matter.⁴⁹ In this context, one Western diplomat may be justified in his view that, "even if the Kenyan government were seriously committed to apprehending and convicting these terrorists, whether they are foreigners or locals, it fears antagonizing the entire Muslim community."⁵⁰

One particular element of the reform program with which the current Kibaki government came to power appears particularly relevant to terrorism. In July 2003, new rules of evidence were established for criminal trials setting stricter requirements for the admission of confessions as evidence in court. Specifically, the rules require that these confessions be made before judges and magistrates (and only before the former, in the case of murder), rather than before police officers, who were said to commonly use torture. This new requirement resulted in the prosecution's main evidence in the 2002 Coast attacks case, a confession made to the police by one of the suspects during the first week of August, being thrown out after it was challenged by the defense attorneys.⁵¹

IV. The Wider Context: The Muslim Situation in Kenya

Previously, we noted that foreign jihadis can move relatively unnoticed and may receive at least some sympathy for their objectives from certain parts of the Kenyan population.⁵² This section takes a more focused look at the political character of Kenya's Muslims, especially at the Coast. Much of this population nurses a profound sense of grievance against the Kenyan state. While

⁴⁸ Cyrus Ombati, "Hooded thugs strike radio station, kill guard," *Sunday Standard*, May 14, 2006.

⁴⁹ In this case, it was reported that several Christian and Muslim leaders were brought together by the Mombasa police to "deal with this matter quietly." Exactly what was resolved remains unclear. Author interview, Nairobi, 14 March 2007.

⁵⁰ Author interview, Nairobi, February 20, 2007.

⁵¹ The law came into effect on July 25. How soon the police learned about this change, and whether during the course of the trial any attempt was made to have the accused re-state this confession in accordance with the new rules, is not known; for other aspects of this issue, see a copy of this confession in Appendix C-III.

⁵² Certain portions of the population may support the ends but not necessarily the means of foreign terrorists.

most assert that terrorists tend not to be especially disadvantaged, there is some connection between such grievances and support for terrorism in cross-national studies.⁵³ At the very least, such disaffection increases the probability that foreign jihadis will be tolerated.

The poverty affecting so many Kenyans combined with the history of the coast in relation to the rest of Kenya comprises the root of this disaffection.⁵⁴ Its foundation lies in the “status inversion” that an important section of the coastal community experienced following the transition from colonial rule to independence.⁵⁵ To simplify a very complex reality, its Arab and Arab-Swahili leadership went from being highly privileged under the British, to being subjects of a largely alien, up-country, and non-Muslim political elite.⁵⁶ A critical aspect of this reversal of relative status was the aversion to Christian mission-dominated education, so that Muslims became, in retrospect, “the first to read (i.e., the Koran), but the last to go to school.” This placed Muslims at a distinct disadvantage in the post-independence competition for formal employment in both the public and private sectors.⁵⁷

More recently, the opening up of the political space since the return to multi-party politics in 1992 has had an ambiguous effect on Kenya’s Muslims. On the one hand, it led to increased participation in public life through attendance at public meetings and demonstrations, the initiation of civic education programs, and contributions to the effort to revise or replace the country’s constitution.⁵⁸ Such opportunities give Muslims greater influence in national political life, and thus should reduce the frustrations of exclusion and marginalization. However, given the community’s inferior competitive power, especially in the economic sphere, it is unclear whether increased “voice” will lead to more radicalism as a consequence of the frustration of popular demands, or more support for the current system.⁵⁹

That some Kenyan Muslim leaders, such as Mombasa Imam Sheikh Ali Shee, call bin Laden “a hero” should not be taken as a sign that a radicalization process that legitimizes

⁵³ For a good recent piece of research on grievances, poverty, and support for terrorism see C. Christine Fair and Bryan Shepherd, “Who Supports Terrorism? Evidence from Fourteen Muslim Countries,” *Studies in Conflict and Terrorism* 29 (2006):51-74.

⁵⁴ Over half of the population is said to remain below the official poverty line.

⁵⁵ Donal B. Cruise O'Brien, “Coping With the Christians: The Muslim Predicament in Kenya,” in Holger Bernt Hansen, and Michael Twaddle, eds., *Religion and Politics in East Africa*, (London: James Currey, 1995), 204, 201-2.

⁵⁶ Thomas P. Wolf, “Contemporary Politics,” in Hoorveg et al., *op. cit.*, 129-155.

⁵⁷ Some have also argued that the academic burden of following two courses of study at the same time (one in school, the other in the madrasa) also constitutes an impediment to secular educational success.

⁵⁸ Mohamed Bakari, “A Place at the Table: The Political Integration of Kenyan Muslims, 1992-2003,” paper presented at the International Conference on “The Political Economy of Kenya,” St. Anthony’s College, Oxford, June, 2004. This is so notwithstanding the government of Kenya’s refusal in the early 1990s to register the Coast-based Islamic Party of Kenya that nevertheless found opportunities to determine a number of races through an alliance with another (non-sectarian) political party. Thomas P. Wolf, “Contemporary Politics,” in Hoorveg et al., *op. cit.*, 141-143.

⁵⁹ Both currents were clearly visible in the recent constitutional reform debates concerning a number of issues, including both the secular one of devolution, and the religious one of the position of the qadis’ courts (i.e., the *sharia* courts).

violence is winning out.⁶⁰ In the view of one Western scholar who has spent considerable time among the Coast's Muslim community:

Bin Laden may have garnered admiration in Tanzania and Kenya, but he has not won the sympathy of Muslims.... [H]e symbolizes for East African Muslims the resistance against the global political and economic hegemony of the United States. Bin Laden is known as someone who has dared to stand up on his own against the world's No. 1 superpower. The people praise his courage, but not his actions. They admire him as a pop icon, but not as a "holy warrior." How strongly Bin Laden's Islamic legitimization for terror is rejected in the East African region is reflected in the fact that Kenyan and Tanzanian Muslims continue to argue that the true perpetrators of the World Trade Center attack could never be Muslims, as Islam prohibits such violence.⁶¹

Few Kenyan Muslim leaders or their followers appear willing to condone violence.⁶² Indeed, they see it as inimical to their individual and collective purposes, if not simply morally wrong. Yet the perceived lack of integrity in the country's security and judicial apparatus, combined with an antipathy to being seen as a partner with "the enemies of Islam" makes a true partnership with the government on the terrorism issue even more problematic.

Despite the basically pacifistic inclinations of most of the population, the Kenyan coastal Islamic "sea" is certainly one that a few stealthy al-Qa'ida zealots used to good advantage. Taking this portrait into account with the inciting impact of external issues,⁶³ one might ask why so few attacks have occurred in Kenya and why so few Kenyans have been involved; rather than why they have occurred at all.⁶⁴

⁶⁰ Ironically, Shee is among a select group of Kenyans selected as "Democracy Fellows" during the 1990s by a USAID-funded study program in the U.S. aimed at acquainting current and potential future leaders with the institutions and processes of American democracy.

⁶¹ Rudiger Seeseman, "East African Muslims After 9/11," paper presented at the African Studies Association Annual Conference, New Orleans, November 17-20, 2004. At the same time, it could be argued that an even greater distancing from at least the methods employed by al-Qa'ida would be needed before these same people were to accept that the perpetrators of these attacks *were* Muslims, and then disown them.

⁶² The recent interviews transcribed in Appendix C-II provide a portrait of Kenyan Muslims' views on relevant issues. Comparing these interviews with the results of other surveys of this section of the Kenyan population contributes to a more accurate and nuanced understanding of Muslim grievances in Kenya.

⁶³ Oded notes three factors he considers more salient here: the oil boom of the 1970s and concomitant petro-dollars in the hands of Arab/Muslim benefactors for supporting communal causes throughout the Islamic world; the 1979 Iranian revolution with its impact on Islamic expansionist activity generally; and Kenya's own more recent process of democratization, in which the mobilizing of public support behind all issues becomes a more valuable "good." Oded, *op. cit.*, 8. Other factors include the ongoing Israel-Palestinian conflict and the highly visible (and controversial) use of American military power in such settings as Kuwait (1991), Afghanistan (2001-present), and Iraq (2003-present).

⁶⁴ For an analysis of this question with regard to the U.S. itself, see John Mueller, "Is There Still a Terrorist Threat?: The Myth of the Omnipresent Enemy," *Foreign Affairs* 85:5 (2006): 2-8.

V. The US-Kenya Anti-Terror Partnership: Protecting Kenyans, or Targeting Kenya's Muslims?

United States counterterrorism efforts in Kenya expanded significantly after the 1998 Embassy bombing.⁶⁵ In addition to joint military training exercises in North Eastern Province and in the Coast Province's Lamu District, U.S.-Kenyan counterterrorism efforts include: the establishment of the National Security Intelligence Service with support from the U.S. Anti-Terrorism Assistance (ATA) Program; creation of the Anti-Terrorism Police Unit (ATPU) in 1998, a Joint Terrorism Task Force (JTTF) and the National Counter-Terrorism Center (NCTC) in 2003;⁶⁶ and the National Security Advisory Committee (NSAC) in 2004. Altogether, these measures aimed to improve Kenyan capacity to investigate incidents, identify operatives and coordinate relevant work across agencies involved in counterterrorism.⁶⁷ Additional measures include participation in the U.S. Terrorist Interdiction Program (TIP), which provides technology to screen travelers arriving at airports and border crossings. With support from the Federal Aviation Administration, Kenya has improved airport security and worked with Uganda and Tanzania to harmonize regional aviation security regulations. Kenya also ratified or acceded to all twelve United Nations conventions on terrorism and continues to submit regular reports to the UN Counter-Terrorism Committee. Finally, beyond its bilateral cooperation with the United States, Kenya continues as an active member of the African Union. In this endeavor, Kenya reaffirmed its commitment to the 1999 Organization of African Unity Convention on Preventing and Combating Terrorism and established the African Centre for Studies and Research on Terrorism.

However impressive this list may appear, it is not clear how deep the Kenyan government's participation in the "War on Terror" can actually be. Kenyan leaders must take into account a key issue that goes beyond 'security': their political standing among their own citizens, both Muslim and non-Muslim.⁶⁸ Close cooperation with America creates serious political liabilities stemming from a number of grievances.⁶⁹ First, the periodic and visible presence of FBI agents and U.S. Marines along the coast has left many Muslims feeling targeted by U.S. policy. Recent U.S. military actions just over the Kenyan border in Somalia, combined

⁶⁵ Beth Elize Whitaker, "Reluctant Partners: The United States and Kenya in the War on Terror," paper presented at the International Studies Association Annual Conference, Chicago, February 28-March 3, 2007; Carson, *op. cit.*, 176-80.

⁶⁶ The JTTF basically ceased to function after the Kenya Commissioner of Police, General Hussein Ali, removed the Anti-Terrorist Police Unit from it in 2005, to the dismay of American and several other diplomatic missions. Author interview, Nairobi, March 24, 2007.

⁶⁷ It is likely that absent these steps, the planned June 2003 attack on the U.S. Embassy would not have been foiled. A Western diplomat who has followed more recent anti-terrorist efforts of the Kenyan government was unimpressed with them, though he was unable to explain their general failure in terms of a single factor. "More likely," he said, "it is a combination of (1) turf-struggles between competing bureaucratic (and thus financial) interests and thus an inability to concentrate decision-making authority effectively in one place, (2) incompetence in terms of insufficient resources, and (3) corruption." Author interview, Nairobi, February 9, 2007.

⁶⁸ In a recent nationally representative public opinion poll, the government received a combined positive rating of 42 percent ("very satisfied"; "satisfied") on its handling of terrorism issues. This constituted 9th place out of the 15 policy-areas so ranked. "March SPEC Poll," The Steadman Group, Nairobi, 2007.

⁶⁹ Much of the following material is taken from Beth Elize Whitaker, "Reluctant Partners: The United States and Kenya in the War on Terror."

with the Kenyan government's unsympathetic response to Somalis seeking refuge in Kenya, reinforce this sentiment.⁷⁰

Second, there is lingering bitterness about the level of compensation for the Kenyan victims of the 1998 Embassy bombing. This relates to the more general conviction among Kenyans that their country has become a terrorist target specifically because of its close relationship with the United States. Reflecting this belief, 5,000 Kenyans filed a class action lawsuit in a U.S. district court in 2002 seeking compensation for their losses.⁷¹

Third, the focus on terrorism angers Kenyans who see their country suffering from a variety of ills. Of these ills, terrorism places low on their list of concerns.⁷² The U.S. State Department's frequent travel advisories reinforce this grievance. Many Kenyans see them as economic punishment to their tourist industry, now the country's leading foreign-exchange earner, while serving to divide Kenyans on a sectarian basis.⁷³

Fourth, the perceived hand of the U.S. in the Kenyan government's efforts to steer unpopular anti-terrorism legislation through the National Assembly has not made open cooperation easier. Many Kenyans viewed the initial version of the bill as an effort to roll back vital human rights gains of recent years. Even after heated protests from both Muslim and non-Muslim human rights organizations led to the removal of its most abrasive provisions, resistance to the bill remains sufficient to deter the government from backing it with any real commitment.⁷⁴ Nevertheless, the association of such legislation with U.S. policy damages the credibility of both the American and Kenyan governments.

The final issue concerns just how much information about the two countries' anti-terrorist efforts should be made public. American officials seem inclined towards more disclosure than their Kenyan counterparts. Given that any successes achieved constitute clear political gains for Washington, this is not surprising. However, when Kenya is seen to be "caving-in" to pressure by violating Kenyan law, the cost is considerable. The recent capture of M.A. Malik, a participant in the 2002 Paradise Hotel attack, provides an illustrative example of this phenomenon. Reportedly, Malik's transfer to American custody for relocation to Guantanamo

⁷⁰ Numerous press reports detailed both the military action, the plight of the refugees, and the public (including Muslim) reaction. These were expressed by several speakers and numerous members of the audience at a recent public event. Kenya National Commission of Human Rights' forum, Hilton Hotel, Nairobi, February 9, 2007. Out of 76 cases tracked, 17 of these refugees are known to have been 'deported' to Somalia (most to unknown fates both there and in Ethiopia to which a number were subsequently sent), with the remainder still in Kenyan custody, as of the end of January ('Somali Crisis: Arrests Data', Muslim Human Rights Forum, Nairobi, n.d.).

⁷¹ The suit was thrown out on the grounds that the claimants had provided no proof that the U.S. was responsible or had violated a specific law or policy. Similar unhappiness remains among those affected by the Kikambala hotel bombing, though in this case it is directed at Israel. Author interview, Majengo, Kikambala, March 8, 2007.

⁷² Beth Elize Whitaker, "Reluctant Partners," 23.

⁷³ Salim Lone, "Terror alerts provide cause to alienate some communities," *Daily Nation*, March 9, 2007, 11. The advisories do not seem to be having much of an effect; according to just-released figures, 78,000 Americans arrived in Kenya last year, an all-time high; Statement by Minister of Foreign Affairs, R. Tuju, on the Nation TV (NTV) program, "On the Spot," 8 March, 2007.

⁷⁴ Whitaker, "Reluctant Partners," 11-13. Ironically, according to a prominent human rights lawyer-activist, it is the very absence of such a law, that, however onerous, has encouraged even more deleterious consequences, as the Kenyan police operate "totally outside current law" as they pursue "a U.S.-driven agenda." Author interview, Nairobi, March 9, 2007.

Bay came with an understanding that the transfer would not be made public. Malik's arrival in Cuba became headline news triggering considerable outrage in Kenya.⁷⁵ Likewise, Malik's arrest reportedly led to the discovery of plans to stage an attack in Mombasa during the international cross-country championships to be held there a few days later.⁷⁶ The U.S. Embassy felt obliged to announce the possibility of "a serious terrorist threat" during the forthcoming event. However, Kenya's Internal Security Minister, with his eyes clearly on the international gallery associated with the event, rejected the warning as without justification.⁷⁷

Altogether, such issues underscore the divergence of interests between Kenya and the U.S.⁷⁸ As Whitaker points out, the U.S., in deed if not in word, "has made clear that its top priority in Kenya is counter-terrorism."⁷⁹ However, most Kenyans seek a combination of improved security regarding "normal" criminal activity, economic development, and further consolidation of their fledgling democracy.⁸⁰ Even when U.S. support for these other goals is forthcoming, the American focus on counterterrorism encourages cynical Kenyans to see any investment in these areas as diplomatic-donor "bribery."⁸¹

VI. Different Games in the War on Terror

One way to think about the War on Terrorism in Kenya is as a set of three related games. In one game, the players are the U.S. and Kenyan governments. For the U.S., the game is about undermining al-Qa'ida and its local adjuncts. In Kenya, this entails convincing the Kenyan authorities and ordinary people of the importance of American anti-terrorism objectives. For Kenya, this game is more problematic. On the one hand, Kenya seeks to maximize the material benefits derived from its partnership with the United States which they employ for well-established neo-patrimonial purposes.⁸² At the same time, however, Kenya seeks to minimize three accompanying costs: (1) the loss of political support from its citizens in an increasingly

⁷⁵ "Family demands suspect's return: Pentagon confirms man in Cuba as US envoy in Nairobi alleges speculation," *Daily Nation*, March 29, 2007.

⁷⁶ Author interview, international news agency representative, Nairobi, March 26, 2007.

⁷⁷ "Kenya indignant over U.S. terror alert ahead of global sports event," *People's Daily Online* (Xinhua), March 8, 2007. The attack plans were never made public. The fact that no incident occurred made the Americans look unduly alarmist, and thus uncaring about the positive publicity Kenya would gain from the successful holding of this event. However, the possibility of an attack might have been quite likely. See Appendix C-IV for an account of Muslim grievances and its relation to this event.

⁷⁸ Such divergence has not gone completely unrecognized. The U.S. military commander in Djibouti is reported as having resolved "never to use the word 'terror' in meetings with African security heads." Rather, "he speaks only about 'insecurity' and 'extremism' when he meets such officials." Author interview, Nairobi, March 23, 2007.

⁷⁹ Whitaker, "Reluctant Partners," 23.

⁸⁰ In a recent national survey undertaken on behalf of the Ministry of Justice's Governance, Justice, Law and Order Sector (GJLOS) program, not one of the 12,442 respondents mentioned terrorism as a threat, even in Coast Province. This includes all responses grouped in the "other" category as well. Republic of Kenya, Ministry of Justice and Constitutional Affairs, GJLOS National Household Baseline Survey, 2006, 56. See the largely similar results in Volker Krause, and Eric E. Otenyo, "Terrorism and the Kenyan Public," *Studies in Conflict and Terrorism* 28:2 (2005): 99-112.

⁸¹ Whitaker, "Reluctant Partners," 5.

⁸² Kenya was one of only 5 states to receive special training through the Anti-Terrorism Assistance Program in the 2005 budget. The program divided \$88 million among these states in 2005 and \$122 million was requested for the program in the 2006 budget. Kenya was the only country in the Horn to receive these funds. See <http://www.state.gov/documents/organization/60647.pdf> [accessed March 31, 2007]. On this phenomenon more generally in Third World states, see, Christopher Clapham, *Third World Politics: An Introduction* (London: Croom Helm, 1985).

competitive electoral environment;⁸³ (2) their higher profile as a legitimate target which accompanies close association with the U.S.; and (3) the concern that too much of a “buy-in” to terrorism concerns will hurt the vital tourism industry.⁸⁴

Less visibly, reducing cooperation with American anti-terrorism efforts may also be a card to be played with regard to other distant issues. The Commissioner of Police in 2005 pulled the Anti-Terrorist Police Unit out of the Joint Terrorism Task Force. Some saw this as a jab at the U.S. and its allies who were pressuring the Kibaki government to move firmly against corruption involving some of his closest associates.⁸⁵ Kenya successfully parlayed its centrality in the War on Terror into other diplomatic advantages. In mid-2005, Kenya refused to ratify a bilateral immunity agreement promising not to turn American citizens over to the International Criminal Court in The Hague. In response, the Bush administration initially mandated substantial cuts to military and governance programs in Kenya. Later, the U.S. restored much of the money in late 2006.⁸⁶ As these examples show, the Global War on Terror provides a most welcome resource-pool. However, Kenya’s incentives in that war are not fully aligned with those of the U.S.

The second game occurs between the Kenyan government and the Muslim community.⁸⁷ For its part, the Government would prefer to avoid antagonizing its Muslim citizens. Beyond the obvious electoral disadvantages, officials fear that doing so will make Kenyan Muslims more sympathetic to the terrorists’ agenda(s). For their part, significant sections of the Muslim leadership see the often-clumsy efforts of the Government’s security apparatus and its partnership with the U.S. more generally as a useful means of bolstering their own status as defenders of Islam and Muslims’ human rights. That no Kenyan has yet been convicted on any charge directly related to the terrorist attacks that have occurred makes such posturing much more credible.⁸⁸ At the same time, playing the role of sectarian defender attracts applause and valuable resources from certain philanthropic individuals, organizations and even governments

⁸³ With the opposition quick to call for greater attention to national pride and “sovereignty” in Kenya’s relations with foreign powers, aggressively supporting American counterterrorism efforts risks alienating several important voting blocs. Non-Muslim aspirants are equally adept at taking advantage of such grievances, as opposition presidential aspirant M. Mudavadi did recently at a public rally in Lamu Town. Public Rally, Orange Democratic Movement-Kenya, Lamu Town, March 4, 2007.

⁸⁴ It’s not clear that close U.S. allies are targeted more often, but this is certainly the perception in Kenya, especially in light of the Madrid and London attacks which appeared to be clearly linked to support for U.S. policies.

⁸⁵ This came in the wake of anti-corruption “czar” Githongo’s flight into exile. “Clay’s Parting Shot,” *The People Daily*, July 2, 2005. Indeed, some well-placed individuals even viewed the government’s “mis-handling” of the Mombasa/Kikambala attacks’ trial as a “lesson to the Americans” in these terms. Author interview, Nairobi, March 26, 2007. More generally, such distaste for the West’s governance agenda has been evident in efforts to develop ties with China. Leading government figures have recently boasted that Western donors’ contribution to the Kenyan budget has been reduced to only about 5 percent.

⁸⁶ Whitaker, *op. cit.*, 15-17: *Africa Research Bulletin* 16639.

⁸⁷ Although there is some overlap, there are actually three largely separate games involved: with the ethnic Somali population of North Eastern Province, the mainly ethnic Somali (and Somali refugee) population of the Eastleigh section of Nairobi, and the Coastal Swahili and Arab communities, both of which have their own important boundaries/divisions. See Appendix VI for a Mombasa example of the rhetoric employed by Muslim leaders in their exchanges with the government.

⁸⁸ This failure made it possible for one Nairobi-based Muslim NGO official to claim, for example, that “we did our own investigation of the Mombasa attacks and found that no Kenyans were involved.” (Author interview, Nairobi, March 2, 2007).

in the wider Islamic world.⁸⁹ Taken together, this implies that Kenya's Muslim terrorism threat-level is not without some benefit to its Muslim leaders (whether or not this is consciously recognized as such). That is, the Government's propensity to engage in or allow periodic provocative actions provides various opportunities for them to mobilize their followers.⁹⁰

The U.S. and Kenyan Muslims play a third game. American intelligence forces are presumably trying to penetrate certain sections of the country's Muslim communities so as to discover and apprehend terrorists and their sympathizers. Meanwhile other American agencies seek to mollify the Muslim population at the Coast and elsewhere, through a combination of community aid projects, meetings with local leaders and more general public pronouncements.⁹¹ Such efforts appear to be generally appreciated. Most Muslims are not averse to receiving material assistance from the U.S.⁹² At the same time, as with the Kenya government, Muslim leaders know they can gain extra points among their followers and foreign benefactors by "standing up" to U.S. actions when provided with opportunities that encourage them to do so.

In each game, there are strong reasons why the best outcome from a counterterrorism perspective is unlikely to occur. However, some repackaging of desirable policies can reduce the incentives for Kenyan leaders, both in the government and in Muslim communities, to behave differently than the U.S. would like. In Chapter 6, we will outline some recommendations the U.S. might consider when designing policy with regard to Kenya.

VII: Conclusion: A Fragile Present and an Uncertain Future

Kenya's location on the map of international terrorism is not likely to change in the foreseeable future. Kenya remains only peripheral in al-Qa'ida's grand scheme, seen more as a battlefield than a future stronghold. The goal in Kenya seems limited to attacking symbols of "enemy" power and conducting logistical operations. Notwithstanding such modest aims, their capacity for attacks remains considerable, especially when compared with other Horn of Africa settings. Kenya provides attractive and numerous Western targets in a vulnerable security and governance environment. With rampant corruption, porous borders, weak investigative and prosecutorial systems, and a population within which foreign jihadis can move with a fair degree of anonymity while finding some sympathy for their causes, Kenya hosts all the necessary elements for a terrorist safe haven.

While investment by the United States can increase the Kenyan government's counterterrorism capacity, its commitment to this agenda remains somewhat equivocal. The central dilemma is that the incentives of the two governments are not aligned. As described in Chapter 2, efforts to combat terrorism generate a considerable supply of resources for the Kenyan government. Because aid appears to have been pegged to the perceived terrorism risk

⁸⁹ Not all such philanthropists feel this way. One group in the Gulf was hesitant to help fund a new Islamic University at the Coast without U.S. Embassy assurances that this would not be seen as support for "Islamic radicalism" in Kenya. Author interview, Nairobi, August 4, 2006.

⁹⁰ See Appendix C-IV for a copy of a letter from the Council of Imams in Mombasa to the Kenyan Minister of Defense.

⁹¹ Most recently, this involved arranging discussion-meetings between New York Times analyst and author Thomas Friedman and various Muslim leaders. Author interview, April 3, 2007.

⁹² Several civic leaders and other respondents in Lamu recently expressed nothing but satisfaction with the projects undertaken by U.S. Marines in the area which mainly involve physical repairs/improvements to local schools and health centers. Author interviews: Mombasa, March 8, 2007; Lamu, March 5, 2007.

rather than to the level of counterterrorism effort, Kenyan officials have incentives to tolerate a low level of terrorism. Moreover, close cooperation with the U.S. entails significant costs for the Kenyan government.⁹³ Terrorism is simply a much higher priority for the U.S. and certain other Western diplomatic missions in Kenya than it is for Kenyans themselves.⁹⁴ For them, insecurity, disease, and above all, poverty are the most ominous threats. Addressing these threats more aggressively may pay great counterterrorism dividends by reducing the political costs of supporting U.S. policy and thereby aligning the preferences of the Kenyan and American governments which would also be most welcomed by the Kenyan people.

Even if few Kenyans have joined the jihadi cause (some have), others are likely to continue to do so. But this seems to depend much more upon issues and contacts elsewhere than inside Kenya itself. To this extent, efforts to ameliorate the conditions in which Kenyan Muslims find themselves may bear little fruit in terms of direct deterrence. Similarly, it is not clear whether socio-economic improvement per se would eliminate the kind of religious motivation that prompted the HOPE-FM attack, the only entirely indigenous attack to date.

One final issue bears consideration. In the previous Harmony report, we stressed the importance of efforts that would help alienate terrorists from the local population. The lack of consideration given to local Muslims by the perpetrators of the attacks in Kenya and Tanzania suggests the willingness of jihadis to exploit African Muslims. Any terrorist could have predicted that there would be some fellow Muslims among the casualties, and there were. That the attacks went ahead suggests the perpetrators held the local Muslim population in low regard given the primacy of the wider, global goals. Alternatively, they may have expected that either: (1) since the vast majority of those killed would be non-Muslims, the attacks would create exploitable rifts between the local Christian and Muslim populations; or (2) a clumsy, heavy-handed response would further alienate Muslims, thus increasing the pool of local recruits. Our analysis suggests both, which bodes poorly for future efforts to deter jihadis from exploiting Kenya as an operational base on account of any such “sympathetic consideration” to their local co-religionists.

Painting Kenya as a stronghold for al-Qa’ida and other terrorist activity is an overstatement. In many ways, it remains East Africa’s leader in both political and economic terms. Yet it is Kenya’s very stature that makes it such a decisive battleground between al-Qa’ida and the West in the Horn of Africa as a whole. Its track record as a target for terrorists, combined with the underlying conditions of weak governance and religious-ideological influence on the Coast, suggest that future terrorist attacks are likely. Efforts to defeat al-Qa’ida will require the U.S. and its allies to wade through a complicated set of actors and issues. Without the predictable operating environment offered by Kenya, it is unlikely that al-Qa’ida would have been able to mount effective operations in the Horn in the past. We therefore believe Kenya is the decisive point in the Horn of Africa.

⁹³ The policy concessions required to sustain Kenyan cooperation on counterterrorism issues also cut against other U.S. priorities such as promoting human rights and exempting military personnel from the International Criminal Court.

⁹⁴ This minimal level of concern reflects the fact that the targets have been largely foreign, though the vast majority of the victims are Kenyan, and that attacks have been infrequent enough so as not to damage the economy.