



# BLOOPS AND BLUNDERS: Has Kenya learned anything from terror attacks?

By Patrick Gathara



On August 7, Kenya marked the 20<sup>th</sup> anniversary of the 1998 United States embassy bombing with commemorations held at the site. It was a time to remember the victims of what was then the Al Qaeda terror network's most audacious and deadly attack, targeting the US embassy buildings in Nairobi and Dar-es-Salaam. The simultaneous truck bombs killed 224 people and injured over 4,500, most of the casualties being Kenyans who died or were wounded when a building adjacent to the embassy collapsed under the explosive force of 2000 pounds of TNT.

However, relatively little attention was paid to the actions taken by the Kenyan government in the days, years and decades following the attack to bring those responsible to justice and to prevent future atrocities. In the aftermath of the attack, at least four people involved in the attack were given life terms in the US. Tanzania prosecuted two others, though charges were dropped against one, an Egyptian, who was subsequently deported; the other was acquitted after a four-year trial.

In Kenya, though, where 213 people had died, there were no prosecutions. If anything, the government seemed to be in a hurry to wash its hands off the whole affair. [Two of the terrorists](#) eventually tried and convicted in the US were extradited from Kenya, including Mohammed Saddiq Odeh, who had been arrested in Karachi on the day of the bombings and returned to Kenya where he was interrogated for two weeks before being renditioned to the US. The other, Rashed Daoud Al-

'Owhali, was one of the attackers who had been injured as he escaped the scene and who was arrested five days later.

Why were the two not tried in Kenya? After all, they had killed Kenyans and broken Kenyan laws. At the time, a traumatised country was afraid that putting them on trial in Nairobi would invite more attacks. There may also have been doubts about the country's capacity to carry out proper investigations as well the ability of its then compromised judiciary to adequately try the cases.

This was not the first terror attack in the city. On New Year's Eve 18 years before, a bomb blast at the Norfolk hotel in Nairobi had killed 20 people and injured close to 100. The attack also caught Kenya's security forces napping and the attacker, a Palestinian militant, escaped. No one was tried for the incident. Further, there were no repercussions against the security officials. Similarly, no one was ever held accountable for an earlier [spate of bombings](#), this time linked to the government itself, which killed 27 people in February 1975.

A disturbing pattern begins to emerge. There is no record of security officials being held to account for their failure to detect and stop the 1998 bombing, despite the fact that Mustafa Mahmoud Said Ahmed, the Egyptian later tried and [deported](#) by Tanzania, had 9 months before the attack walked into the embassy and provided details on the impending attack. He was turned over to Kenyan authorities who interrogated and deported him but who seemed to have done little to follow up on the information he had provided.

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In fact, [as reported by the New York Times](#), the attack happened almost exactly as he had detailed. Writing [in The Elephant last year](#), the former US marine and security consultant, Andrew Franklin, also noted that "investigations into the Nairobi attack showed that an Al Qaeda sleeper cell had entered Kenya in 1993/94, acquired Kenyan IDs and passports, registered companies, opened bank accounts, established families and conducted business at the coast; all their documentation had either been obtained fraudulently or lawfully because of lapses and oversights in enforcing regulations and applicable laws in place 20 years before". In fact, Ahmed had told his Kenyan interrogators in 1997 that he had "in the past ... provided information about Islamic radicals because he wanted to see them arrested and rehabilitated rather than caught committing a crime for which they would be executed".

Regardless, Kenya did not conduct any formal inquiry into the obvious security failures. The same would be replicated 4 years later when in November 2002, 13 people, including 10 Kenyans, were killed and 80 others wounded by a car bomb at the Israeli-owned Paradise Hotel on the country's coast. Simultaneously, a surface-to-air missile was fired at but missed a plane carrying 271 passengers and crew as it took off from the Mombasa airport. However, this time there were attempts at local prosecutions which, though, were [ultimately unsuccessful](#).

By 2007, the Kenyan government had reverted to type. [Mohammed Abdul Malik Bajabu](#), a Kenyan who was arrested that year in Mombasa and who later "admitted that he participated in the planning and execution" of the two attacks, was quickly turned over to the Americans and sent to Guantanamo Bay. According to [Samuel Aronson](#) of the London School of Economics, "he was handed

over to the American government because Kenya did not have the means to further investigate or prosecute the case. ... the untrained law enforcement personnel and lack of proper legislation in Kenya make the amount of counterterrorism aid flowing into the country largely irrelevant”.

A decade later, following Kenya’s ill-advised invasion of neighbouring Somalia, terror returned to the country and again, the authorities were found wanting. By August of 2014, [as reported by The Standard](#), at least 370 people had died and over a thousand been injured by the Al Shabaab terrorist group. However, “most investigations ... remain unresolved, with police blaming loopholes in the law and judges for returning suspects on the streets due to weak investigations and inconclusive evidence. Top security organs have been more reactionary than proactive”.

“There was never a review meeting on how we handled incidents,” a senior police officer [told the Daily Nation](#). Kenya’s security forces “basically learnt nothing” from the terror attacks, including the one on the Westgate Mall, which killed 68 people in September 2013, and the one on Garissa University College in April 2014, which left 147 students dead.

It was clear that nothing had been learnt from the 1998 tragedy. When the four-storey Ufundi Cooperative building adjacent to the US embassy collapsed following the explosion, panicked and clueless police initially attempted to stop would-be rescuers, arresting some in the process. Fifteen years later, when the Westgate Mall attack happened, it took most of the day for the authorities to organise a response. As journalist Tristan McConnell wrote in his [award-winning reconstruction of the attack](#), “Kenyan security forces did not launch their operation until 4:00 p.m., by which time it was already too late: Most of those who would escape had already escaped; most of those who would be wounded had already been struck; and most of those who would die were already dead. It is likely that many of the victims bled to death in the slow hours between the start of the attack and the arrival of help.”

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Sadly, not even the country’s soldiers are safe. In January 2016, Al Shabaab overran a Kenyan base in El Adde, slaughtering [anywhere from 141 to 200 troops](#). Almost exactly a year later, they sacked another camp, this time at Kulbiyow, leaving 68 dead. As the *Standard* [editorialised](#), “losing more than 250 soldiers in 54 weeks in two identical attacks speaks not to the consequence of going to war but the utter incompetence of the high command.”

Yet, to date, the country has not instituted an independent public inquiry into any of these failures. A promise by President Uhuru Kenyatta to set up such an inquiry to look into the Westgate attack was [reportedly](#) shelved “after he was advised it could expose sensitive details and lead to the passing of a no-confidence vote in security chiefs in the middle of an anti-terror war”. A similar [promise](#) by the Chief of Defence Forces, General Samson Mwathethe, to “give Kenyans answers to questions they have been asking” following the El Adde attack also came to naught. As a result, just as in the past, no senior officials, military generals or officers have been held to account.

The situation is a little better as far as prosecutions are concerned. Cases against four Westgate suspects have been ongoing for nearly four years. Another five people – four Kenyans and a Tanzanian – are on trial in relation with the Garissa University attacks in a case that has been

plagued by administrative delays. Last year, Abdiaziz Abdullahi was sentenced to [22 years' imprisonment](#) by a Mombasa court after he was convicted with regards to a foiled Al Shabaab attack. However, his case remains in a distinct minority. [Relatively few terrorists](#) have actually been convicted in Kenyan courts for the taking of Kenyan lives and for the violation of Kenyan laws. According to a [report](#) in *The Star*, 90 per cent of terror-related cases filed between 2012 and 2016 were dismissed for lack of sufficient evidence. Only 2 of the 30 cases filed in 2016 resulted in a conviction. Further, many terror suspects never make it to the courtroom, the state either preferring [extrajudicial executions and disappearances](#) or, as we have seen above, outsourcing its justice to the US.

Martin Kimani, the head of Kenya's National Counter Terrorism Centre, [told AFP](#) that in recent years, the country had enacted new laws, improved coordination between security forces and was working to build trust with marginalised communities where the terrorists hide. These have managed to restrict Al Shabaab attacks to remote areas. "The threat is still there, believe me, but 20 years later we have become much better at dealing with terrorism than we used to be," he said.

It seems that as long as they can be kept away from major urban centres like Nairobi, the government is willing to tolerate a degree of attacks by terrorists. However, this is of little comfort to the Kenyans in these "remote areas" who many times suffer the double jeopardy of being targeted both by Al Shabaab and by the state response. Neither is it comforting to the officers and troops who are regular victims of terror attacks in these areas - more than 100 security agents have been [killed in IED attacks](#) in the four counties bordering Somalia since 2015. Besides, such an attitude only increases the risk of a future major attack.

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In 2011, Jeremy Prestholdt of the University of California [noted](#) that US assistance had "allowed Kenyan authorities to expand their security infrastructure significantly; however this infrastructure has yet to be seen to affect authorities' ability to identify terrorists, foil terrorist plots, and bring criminals to justice." While this situation may have improved in some respects, there is still much work to be done.

A country either works for all its citizens or it will eventually work for none of them. The choice between protecting the centre or the periphery is a false one. If Kenya means to defend all its citizens regardless of where they live, it will need to foster accountability within its security establishment, build up its capacity to successfully investigate and prosecute terrorist acts, and develop a culture of studying and learning from previous mistakes.

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