Compliance among weak states: Africa and the counter-terrorism regime

BETH ELISE WHITAKER

Abstract. This article examines levels of compliance with the counter-terrorism regime in Africa, where weak states might have been expected to conform. Instead, even under American pressure, some governments have seized the anti-terrorism rhetoric while others have been more reluctant. A comparative analysis of Kenya, Tanzania, and Uganda demonstrates that domestic political factors largely explain this variation; compliance is highest in countries with the least democratic institutions and minimal mobilisation of domestic constituencies. Aid dependence and the perception of a terrorist threat also play a role. To the extent that popular pressures in transitional democracies reduce compliance, the article raises questions about the legitimacy and effectiveness of the counter-terrorism regime.

Beth Elise Whitaker is an Associate Professor of political science at the University of North Carolina at Charlotte. Her research focuses on African international relations, with emphases on refugee migration issues and the politics of counter-terrorism. She was a Fulbright Scholar in Kenya in 2005–2006 and previously conducted field research in Tanzania (1996–1998, 2003) and Botswana (2005). Her articles have appeared in *International Affairs, International Studies Perspectives, Global Governance, Third World Quarterly*, and *African Studies Review*, among others.

The international counter-terrorism regime has been imposed by powerful states that use various strategies to induce cooperation among the less powerful. Through a range of international agreements, governments were pressed to join the 'War on Terror'[1] by adopting domestic legislation, sharing intelligence, and cracking down on target groups. Despite heavy pressure, most obviously from the US, levels of compliance with the regime have varied. Some countries have jumped on board and seized the anti-terrorism rhetoric, others have been reluctant partners, and several have resisted the imposition of the regime. This article examines compliance with the counter-terrorism regime in Africa, where the relative lack of power might have been expected to necessitate conformity; instead, compliance levels have varied even among these weak states.

---

[1] At the time this article was accepted for publication in November 2008, the counter-terrorism policies of the Bush administration were collectively known as the 'War on Terror'. Since then, the Obama administration has stopped using that term, choosing instead the label 'overseas contingency operations'. The counter-terrorism strategies pursued by the Obama administration are not significantly different from those of its predecessor, however, particularly in the region under consideration here (Africa).

The article focuses on three contrasting cases in East Africa. In Uganda, the government readily signed on to the 'War on Terror', partly to gain international support for its struggle against rebels in the north. Tanzania's government has passed domestic counter-terrorism laws to honour international commitments, but has done little to implement their provisions. In Kenya, members of parliament have refused to pass anti-terrorism legislation, mainly because it is backed by the US, while security personnel cooperate with their American counterparts behind the scenes. All three countries have experienced deadly terrorist attacks in recent years, but their responses to the 'War on Terror' have been quite different. By examining several factors, this article seeks to explain varying levels of compliance with the counter-terrorism regime. Although based on a small number of cases in a marginalised region of the world, the study generates hypotheses that can be tested further elsewhere.

In the pages that follow, I start by outlining the contours of the counter-terrorism regime. It is based on a series of international agreements, negotiated mainly through the UN and regional organisations, but cannot realistically be separated from the 'War on Terror' pursued by its hegemonic power, the US. In the second section, I draw on existing approaches to the study of compliance with international commitments to propose four factors that may help explain varying levels of compliance with this regime. They include the government's perception of the terrorist threat, the availability of funding, the nature of domestic political institutions, and the relative influence of competing domestic constituencies. The next section of the article presents the case studies; for each country, I assess the level of compliance and examine the importance of the four factors. Domestic political factors (both institutions and constituencies) are found to be especially important, with democratic pressures seemingly reducing compliance in these cases. In the conclusion, I consider whether countries would have taken similar actions without the regime and suggest areas for future research.

The article seeks to make several contributions to the literature on international regimes. First, it focuses on weak states, where realism would predict a high degree of compliance due to power imbalances within the regime. Instead, the variation in levels of compliance across weak states suggests a more complex picture in which domestic dynamics mitigate structural determinants. In addition, by portraying compliance levels as the result of deliberate choices and not just capacity, I recognise the agency of weak states in the international system. Second, this article explores the impact of domestic political factors on the foreign policies of countries that are at various stages of political liberalisation. In doing so, it complements existing work about the influence of domestic politics on international commitments that draws heavily on the experience of mature democracies. Finally, this article shows that the imposed nature of the counter-terrorism regime can at times generate resistance among its members, suggesting that compliance patterns depend to some extent on how a regime is formed. When imposed regimes start to generate as much non-compliance as they do compliance, questions may emerge about their legitimacy and effectiveness over the long term.

The international counter-terrorism regime

In the study of international relations, international regimes typically are defined as 'sets of implicit or explicit principles, norms, rules, and decision-making

procedures around which actors' expectations converge in a given area of international relations'.[2] This definition falls somewhere between the broad notion of a regime as 'discernibly patterned behavior' among states[3] and the narrower concept of a social institution that governs actions of interested parties.[4] The middle-ground definition is most useful in characterising the nascent international counter-terrorism regime; although more formal than a regularised pattern of behaviour, it has not reached the point that it is regulated by a single international institution. Instead, the regime revolves around a network of international and regional agreements that are designed to coordinate state behaviour on preventing terrorist attacks and cutting off funding for terrorist organisations.

At the centre of the regime lies the UN Counter-Terrorism Committee (CTC), created in 2001 to monitor the implementation of Security Council Resolution 1373.[5] Consisting of all 15 members of the Security Council, the CTC pushes states to ratify all existing UN legal instruments on terrorism[6] (as well as related regional agreements) and to enact the domestic legislation necessary for their enforcement. Resolution 1373 took the unprecedented step of imposing uniform obligations on *all* UN member states.[7] Governments must submit periodic reports to the CTC on their efforts to criminalise, prevent, and punish terrorism-related activities. In 2004, the Counter-Terrorism Committee Executive Directorate (CTED) was created to provide the CTC with expert advice and facilitate technical assistance to governments. By promoting the domestication of the provisions of existing international agreements, the CTC seeks to build a global legal infrastructure against terrorism.

In addition to the Security Council, other UN agencies and multilateral organisations have developed their own counter-terrorism initiatives. To coordinate these efforts, the Secretary-General established the Counter-Terrorism Implementation Task Force (CTITF) in 2005. It has representatives from more than 20 bodies, including the International Atomic Energy Agency (IAEA), the International Criminal Police Organization (INTERPOL), and the World Bank. In September 2006, the UN General Assembly adopted the Global Counter-Terrorism Strategy, a wide-ranging plan of action to build states' capacity to prevent terrorism and to address underlying causes. This document is meant to serve as a unifying framework for multilateral counter-terrorism efforts coordinated by the CTITF, which was institutionalised within the UN Department of Political Affairs in 2009. With respect to tracing the money trail, the intergovernmental Financial Action Task Force has developed nine special recommendations to counter terrorist financing.[8]

---

[2] Stephen D. Krasner, 'Structural causes and regime consequences: regimes as intervening variables', *International Organization*, 36:2 (1982), pp. 185–205.

[3] Donald J. Puchala and Raymond F. Hopkins, 'International regimes: lessons from inductive analysis', *International Organization*, 36:2 (1982), pp. 245–75.

[4] Oran R. Young, 'Regime dynamics: the rise and fall of international regimes', *International Organization*, 36:2 (1982), pp. 277–97.

[5] The CTC's mandate was later expanded to include monitoring the implementation of Security Council Resolution 1624 (2005), which called on states to prohibit incitement to commit acts of terrorism.

[6] There were twelve UN counter-terrorism conventions and protocols at the time of Resolution 1373 in 2001; since then, four more have been added.

[7] Eric Rosand, 'Security Council Resolution 1373, the Counter-Terrorism Committee, and the fight against terror', *American Journal of International Law*, 97:2 (2003), pp. 333–41.

[8] See Peter Romaniuk's article in this issue for a discussion of how the FATF's initial anti-money laundering focus was adapted after 9/11 to address the problem of terrorist financing.

Many regional and sub-regional organisations also have adopted agreements to address the threat of terrorism. These include the European Convention on the Suppression of Terrorism (1977), the South Asian Association for Regional Cooperation (SAARC), Regional Convention on Suppression of Terrorism (1987), the Arab Convention for the Suppression of Terrorism (1998), and the Inter-American Convention Against Terrorism (2002), among others. Most relevant to the cases under consideration here is the Organization of African Unity (OAU) Convention on the Prevention and Combating of Terrorism adopted in 1999. Since 9/11, the African Union (the OAU's successor) has reaffirmed its commitment to fighting terrorism through a protocol to the 1999 convention and the establishment of a terrorism research centre in Algeria. Although these regional agreements rarely include strong enforcement mechanisms, they represent another commitment in the multilayered response to terrorism.

Government policies at the national level are the foundation of global counter-terrorism efforts. Since 2001, there has been a wave of anti-terrorism and counter-terrorist financing (CTF) legislation across Asia, Europe, Africa, the Middle East, and the Americas.[9] In the US, which is the driving force behind the international regime, as discussed below, the USA Patriot Act sparked heated debate over its provisions for enhanced surveillance, information sharing, and indefinite detention.[10] Arguments about the proper balance between liberty and security have been reproduced in many other countries. In addition to domestic legislation, national security strategies have been geared toward combating terrorism. Militaries, police forces, and intelligence agencies have stepped up efforts to identify terrorist cells and disrupt terrorist networks, often through collaboration with counterparts in other countries. From among these many initiatives at the global, regional, and national levels, one sees the rough outlines of an international counter-terrorism regime.

Theorists offer several explanations for the formation and evolution of international regimes.[11] Realists argue that regimes are reflections of state power. Regimes are provided by powerful states to serve their own interests, and they change when those interests change or the distribution of power is altered. They have little to no independent effect on state behaviour. Functionalists see regimes as a response to perceived needs. The uncertainty associated with unregulated patterns of behaviour leads to a demand for international regimes, which are supplied by willing states. Regimes persist as long as they are demanded or until main actors are no longer willing to pay the costs.[12] Constructivists focus on the

---

[9] Dirk Haubrich, 'September 11, Anti-Terror Laws and Civil Liberties: Britain, France and Germany Compared', *Government & Opposition*, 38:1 (2003), pp. 3–28; Rosemary Foot, 'Collateral damage: human rights consequences of counterterrorist action in the Asia-Pacific', *International Affairs*, 81:2 (2005), pp. 411–25; V. V. Ramraj, Michael Hor and Kent Roach (eds), *Global Anti-Terrorism Law and Policy* (New York: Cambridge University Press, 2005); Beth Elise Whitaker, 'Exporting the Patriot Act? Democracy and the 'War on Terror' in the Third World', *Third World Quarterly*, 28:5 (2007), pp. 1017–32.

[10] Christopher C. Joyner, 'The UN and terrorism: rethinking legal tensions between national security, human rights, and civil liberties', *International Studies Perspectives*, 5:3 (2004), pp. 240–57.

[11] For useful reviews of this literature, see Stephan Haggard and Beth A. Simmons, 'Theories of international regimes', *International Organization*, 41:3 (1987), pp. 491–517. See also Andreas Hasenclever, Peter Mayer and Volker Rittberger, *Theories of International Regimes* (New York: Cambridge University Press, 1997).

[12] Robert O. Keohane, 'The demand for international regimes', *International Organization*, 36:2 (1982), pp. 325–55.

importance of ideas in the creation and perpetuation of regimes. Through their control of information and decision-making processes, regimes create knowledge and socialise participants, thus influencing state behaviour.

The emergence of the counter-terrorism regime is explained best by realism. As the global hegemon, the US pushed for, and often demanded ('you're either with us or against us'), international coordination in the fight against terrorism since 9/11. Thus, one cannot separate the counter-terrorism regime from the United States' own 'War on Terror'; especially from the perspective of weak states, the latter is part and parcel of the former. With the help of powerful allies, especially Great Britain, the US effectively forced its approach to counter-terrorism on less powerful states.[13] In this way, the counter-terrorism regime is similar to other 'imposed orders' that 'are deliberately established by dominant actors who succeed in getting others to conform to the requirements of these orders through some combination of coercion, cooptation, and the manipulation of incentives'.[14] While interests and ideas are important, therefore, the concept of power is essential to the international counter-terrorism regime.

Nevertheless, one cannot assume that the regime will continue to function based on the interests and power of the hegemon. In many countries, there is considerable reluctance to go along with the US government's approach to fighting terrorism. Even leaders who share with the US a belief in the threat of terrorism have resisted the emphasis on curtailing civil liberties, increasing surveillance, and securitising international relations. Through domestic legislation and the UN General Assembly, these leaders are trying to shape the future direction of the counter-terrorism regime. The 2006 Global Strategy on Terrorism, for example, gives greater attention to addressing underlying causes such as poverty and marginalisation. Thus, realism may explain regime formation, but its evolution thereafter may be driven by other factors. The dominance of the US in the counter-terrorism regime has generated resistance among some actors. Its status as an 'imposed regime', therefore, may have important implications for compliance and ultimately for the effectiveness of the regime as a whole.

Although the counter-terrorism regime covers a wide range of issues and approaches, it is possible to identify, as Karthika Sasikumar does, underlying principles, norms, rules, and procedures. Key among these is the notion that 'terrorism is a transnational threat and can be tackled only by cooperation among states'.[15] Since 9/11, Peter Romaniuk argues, a 'regime complex' for counter-terrorism has emerged through the extension and adaptation of existing institutions.[16] The 'duplication of efforts, overlapping mandates and lack of coordination' have led some to call for a 'new international body dedicated to counterterrorism',[17] though not everyone is convinced of this prescription. Even without a single institution, the theories developed through regime analysis are useful for examining

---

[13] Of course, as discussed further below, some leaders have been happy to accept the imposition of this regime as a way of gaining greater control over their domestic political space. Even so, the form and shape of the counter-terrorism regime clearly have been laid out by more powerful actors.

[14] Young, 'Regime dynamics', p. 284.

[15] See Karthika Sasikumar's article in this issue.

[16] See Peter Romaniuk's article in this issue.

[17] Eric Rosand, 'The UN-Led Multilateral Institutional Response to Jihadist Terrorism: Is a Global Counterterrorism Body Needed?', *Journal of Conflict and Security Law*, 11:3 (2007), pp. 399–400.

patterns of cooperation among states. The literature on compliance in particular provides insights for better understanding the interplay between international agreements and domestic politics on the issue of counter-terrorism.

Factors influencing compliance

A growing body of research examines the reasons that governments comply (or do not comply) with their international commitments.[18] Simmons identifies four broad approaches in the literature on compliance.[19] For realists, regimes have little effect on state behaviour and thus compliance is simply a reflection of existing power structures and convergent interests.[20] Functionalists argue that states comply with international agreements primarily because of reputation concerns; they fear punishment for defection and want to be considered reliable partners in the future.[21] This may be especially important in economic regimes, where states send signals not only to other states but also to investors. Studies of regulatory and environmental regimes also have identified the technical capacity of governments as a key factor in their ability to comply.[22] A third approach argues that democracies are more likely to comply with international agreements because of their emphasis on the rule of law and the influence of pro-compliance constituencies,[23] though other studies question this relationship.[24] Finally, normative approaches emphasise the perceived legitimacy of the regime and the power of underlying ideas in determining governments' willingness to comply.[25]

[18] Oran R. Young, *Compliance with Public Authority* (Baltimore: Johns Hopkins University Press, 1979); Abram Chayes and Antonia Handler Chayes, 'On compliance', *International Organization*, 47:2 (1993), pp. 175–205; Ronald B. Mitchell, 'Regime design matters: intentional oil pollution and treaty compliance', *International Organization*, 48:3 (1994), pp. 425–58; George Downs, David Rocke and Peter Barsoom, 'Is the Good News about Compliance Good News about Cooperation?', *International Organization*, 50:3 (1996), pp. 379–406.

[19] Beth A. Simmons, 'Compliance with International Agreements', *The Annual Review of Political Science*, 1 (1998), pp. 75–93.

[20] John Mearsheimer, 'The False Promise of International Institutions', *International Security* 19:3 (1994–95), pp. 5–49.

[21] Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton: Princeton University Press, 1984); Beth A. Simmons, 'International Law and State Behavior: Commitment and Compliance in International Monetary Affairs', *American Political Science Review*, 94:4 (2000), pp. 819–35.

[22] Chayes and Chayes, 'On compliance'; Edith Brown Weiss and Harold K. Jacobson (eds), *Engaging Countries: Strengthening Compliance with International Accords* (Cambridge: MIT Press, 1998).

[23] Kathryn Sikkink, 'Human rights, principled issue-networks, and sovereignty in Latin America', *International Organization*, 47:4 (1993), pp. 411–41; Anne-Marie Slaughter, 'International Law in a World of Liberal States', *European Journal of International Law*, 6:4 (1995), pp. 503–38, Lisa L. Martin, *Democratic Commitments: Legislatures and International Cooperation* (Princeton: Princeton University Press, 2000).

[24] Simmons, 'International Law and State Behavior'; Beth A. Simmons, 'The Legalization of International Monetary Affairs', *International Organization*, 54:3 (2000), pp. 573–602; Xinyuan Dai, 'Why Comply? The Domestic Constituency Mechanism', *International Organization*, 59:2 (2005), pp. 363–98; Xinyuan Dai, 'The Conditional Nature of Democratic Compliance', *Journal of Conflict Resolution*, 50:5 (2006), pp. 690–713.

[25] Thomas Franck, *The Power of Legitimacy Among Nations* (New York: Oxford University Press, 1990); Friedrich V. Kratochwil and John Gerard Ruggie, 'International Organization: A State of the Art on an Art of the State', *International Organization*, 40:4 (1986), pp. 753–75; Darren Hawkins, 'Explaining Costly International Institutions: Persuasion and Enforceable Human Rights Norms', *International Studies Quarterly*, 48:4 (2004), pp. 779–804.

Much of the literature in this area explores patterns of compliance in order to understand the reasons for it. Young, for example, recommends looking at 'hard cases' in which countries complied with international institutions when it was not in their interest to do so.[26] Others argue that it is just as important to look at non-compliance and to determine its causes and consequences.[27] Given the breadth and scope of most international regimes, however, 'compliance is rarely a transparent, binary choice'.[28] Instead, it is useful to think in terms of varying *levels* of compliance.[29] It is rare that any state complies fully with all conditions of an international agreement, unless that agreement is focused on only one or two areas of implementation. For whatever reason(s), a state may comply with some conditions of an agreement while failing to comply with others. Thus, the distinction between compliance and non-compliance really is more of a continuum. By locating states along this continuum for the counter-terrorism regime, this article seeks to explore the relative importance of different factors in determining levels of compliance.

From among many factors considered important in the study of compliance, four seem particularly relevant to the international counter-terrorism regime: the perception of a terrorist threat; the availability of funding; the nature of domestic political institutions; and the relative influence of domestic constituencies. These are examined in the following sections. Two other factors are not analysed in depth here because they seem less likely to explain variation in compliance levels. Reputation concerns are fairly constant throughout the regime; few states want to be perceived as supporters of terrorism. The idea of sending a signal may be relevant to specific issue areas (for example, CTF laws can reassure investors), but less so to the regime as a whole. Similarly, technical capacity could be important in specific areas (again CTF comes to mind), but it does not vary significantly among the cases considered here. While there are clear methodological problems with examining four variables in three case countries, this analysis is meant to generate hypotheses that can be tested further in subsequent studies.

Perceived threat of terrorism

One reason that a government may comply with the international counter-terrorism regime is that its leaders believe their country is a possible target. The more threatened leaders feel (whether by terrorists or by political opponents, as explained below), the more likely they are to implement counter-terrorism measures. Presumably, leaders of a country that has experienced a previous

---

[26] Oran R. Young, 'The Effectiveness of International Institutions: Hard Cases and Critical Variables', in James N. Rosenau and Ernst Otto-Czempiel (eds), *Governance without Government: Order and Change in World Politics* (Cambridge: Cambridge University Press, 1979).

[27] Chayes and Chayes, 'On compliance'; Sonia Cardenas, 'Norm Collision: Explaining the Effects of International Human Rights Pressure on State Behavior', *International Studies Review*, 6:2 (2004), pp. 213–31; Nikolay Marinov, 'Do International Institutions Punish Heretics More Than Infidels?', paper prepared for presentation at the International Studies Association annual meeting, Montreal, Canada (2004).

[28] Simmons, 'Compliance with international agreements', p. 78.

[29] Chayes and Chayes ('On compliance') allow for a sort of buffer zone between strict compliance and non-compliance with their notion of an 'acceptable level of compliance'.

terrorist attack will be particularly worried about the possibility of another. In contrast, leaders of a country that has no experience with terrorism may feel less vulnerable. One would expect compliance with the regime to be greater, therefore, in a country that has been the site of previous terrorist attacks.

Past experience with terrorism is relevant to the perception of future risk whether it was international or domestic in nature. A quantitative analysis[30] of compliance with Resolution 1373 tests the impact of experience with terrorism, among other variables, but uses a measure[31] that includes only *transnational* terrorist events. By ignoring domestic terrorist events, the model likely underestimates the extent to which past experience with terrorism influences compliance with the resolution. Indeed, a government that has been the target of *domestic* terrorism may be even more likely to comply with the counter-terrorism regime because its interests and those of the regime converge. In such cases, the government may use the regime to justify, legitimate, and strengthen its own anti-terrorism efforts. In this context, the regime has little impact on state behaviour; instead, it effectively becomes an international seal of approval for policies that the government would have pursued anyway.

Before borrowing too much from realism, however, this variable emphasises the *perception* of a terrorist threat. Leaders have different subjective evaluations of their vulnerability to terrorism and of who counts as a terrorist. Even in countries that have experienced terrorism, leaders may not feel threatened, particularly if they believe previous attacks targeted interests other than their own (those of international actors or predecessor governments, for example). In such cases, terrorism may not be seen as an urgent problem, and leaders may not 'buy into' the regime. On the other hand, some leaders feel especially vulnerable and may perceive threats even when they are unlikely. This could be the case when a leader has survived coup attempts, angered dissidents, or simply lost popularity. In such situations, leaders may portray rebels, opposition politicians, lawyers, and even journalists as terrorist threats, and use the international regime to justify their actions against these groups. The notion of the perceived threat of terrorism thus touches on constructivist approaches. Leaders who believe themselves to be at risk of attack are more likely to comply with the regime.[32]

It is difficult to measure the level of terrorist threat in any country, and even more so to assess the perception of that threat among its leaders. This study examines each country's experience with international terrorist incidents to get some sense of the likelihood of future attacks; a country that has been the target of multiple attacks seems likely to experience more. The article also seeks to understand the urgency of fighting terrorism in each country by looking at political discourse and, when available, public opinion polls. Admittedly, leaders can exaggerate the threat of terrorism to justify their efforts to maintain power, which ties this variable to the subsequent discussion on political institutions, though

---

[30] Kendall W. Stiles and Adam Thayne, 'Compliance with International Law: International Law on Terrorism at the UN', *Cooperation and Conflict*, 41:2 (2006), pp. 153–76.
[31] They use the International Terrorism: Attributes of Terrorist Events (ITERATE) dataset.
[32] Of course, not all leaders who perceive themselves as threatened by terrorism will comply with the counter-terrorism regime. For whatever reason, they may not regard the prescriptions of the regime as appropriate or desirable to address the threat, which raises questions about the legitimacy of the regime.

many people see through such rhetoric. Nevertheless, policymakers' subjective perception of threat – even when that threat is exaggerated – seems likely to influence levels of compliance with the counter-terrorism regime.

Funding

Another factor that may increase compliance with the counter-terrorism regime, especially among less developed countries, is the provision of funding. In the literature on international regimes, relatively little attention has been given to how they are funded and the impact of funding on regime performance.[33] Studies show that the sources of funding for a regime can influence its operations and the conditions placed on participation.[34] Advocates of a managerial approach argue that 'financial assistance may help cure the capacity deficit' that hinders compliance.[35] Moreover, funding can provide an incentive for member states to comply. For example, China's compliance with the Montreal Protocol on phasing out the use of ozone-depleting substances was driven largely by its access to funding through the Multilateral Fund to support such efforts.[36] Conversely, funding cuts within a regime can reduce compliance and threaten its underlying principles, as was the case with international funding to support refugee protection in Tanzania.[37] These studies suggest that powerful states within a regime can provide financial incentives to increase compliance among less powerful partners.

In the case of the counter-terrorism regime, there are two ways in which funding could influence levels of compliance. The first is internal to the regime itself; governments can receive funding (from bilateral or multilateral donors) specifically for the implementation of prescribed counter-terrorism initiatives. These include everything from adding biometric data to passports and maintaining traveller databases to establishing new government coordination bodies and training security forces. Such programmes clearly require funds that some governments do not have, so the regime can increase the likelihood of implementation by footing the bill. Thus, one would expect countries that have received designated funding for counter-terrorism initiatives to demonstrate greater levels of compliance with the regime.

Second, financial incentives for cooperation on counter-terrorism can be external to the regime. In other words, governments may comply with the regime

---

[33] Raimo Väyrynen, 'Funding Dilemmas in Refugee Assistance: Political Interests and Institutional Reforms in UNHCR', *International Migration Review*, 35:1 (2001), pp. 143–67.

[34] Erica R. Gould, 'Money Talks: Supplementary Financiers and International Monetary Fund Conditionality', *International Organization*, 57:3 (2003), pp. 551–86; Daniel L. Nielson and Michael J. Tierney, 'Delegation to International Organizations: Agency Theory and World Bank Environmental Reform', *International Organization*, 57:2 (2003), pp. 241–76.

[35] Chayes and Chayes, 'On compliance', p. 204. Critics of the managerial school argue that incentives do not always work and punitive sanctions can be necessary to enforce compliance. See Downs, Rocke, and Barsoom, 'Is the Good News about Compliance Good News about Cooperation?'; Marinov, 'Do International Institutions Punish Heretics More Than Infidels?'

[36] Jimin Zhao, 'The Multilateral Fund and China's Compliance with the Montreal Protocol', *Journal of Environment and Development*, 11:4 (2002), pp. 331–54.

[37] Beth Elise Whitaker, 'Funding the International Refugee Regime: Implications for Protection', *Global Governance*, 14:2 (2008), pp. 241–58.

because they receive funding from its powerful actors to support programmes in other areas (education, health care, etc.). Many developing countries receive significant assistance from the donor countries that dominate the counter-terrorism regime, most importantly the US. The more that a government depends on such assistance, the more it would be expected to comply with the regime. Dependence is measured as official development assistance (ODA) as a percentage of gross domestic product, which reflects how important aid is to the economy as a whole. It also is useful to look at aid as a percentage of government expenditures; if a government relies on donors to pay a significant portion of its bills, it is more likely to do what those donors ask (whether on counter-terrorism or in other areas).[38] Thus, we expect to see higher levels of regime compliance in countries that are heavily dependent on foreign aid, especially from the US.

Domestic political institutions

There is a growing body of literature about the influence of domestic political institutions on governments' compliance with international commitments.[39] Several studies suggest that democracies are more likely than non-democracies to comply, though for different reasons. One argument is that domestic political constituencies act as an enforcement mechanism by pressuring governments to live up to their international agreements.[40] Leaders may fear punishment at the polls if they back down.[41] Another line of reasoning is that democracies comply because of their commitment to the rule of law.[42] Legislatures in democratic countries also may prevent executives from reneging on international agreements.[43] These arguments suggest that democracies are somewhat more reliable partners for international cooperation.

   Other authors raise questions, however, about the perceived relationship between democratic institutions and compliance.[44] Democracy may allow the mobilisation of domestic constituencies supporting compliance, as discussed below, but it also empowers groups advocating against it.[45] As a result, democracy may reduce compliance.[46] Indeed, authoritarian governments may be better able to comply with international agreements in certain areas. In the literature on economic adjustment, for example, authors stress the need for government

---

[38] Of course, donor governments have a range of foreign assistance priorities, some of which may conflict with and/or override counter-terrorism at times.

[39] Helen V. Milner, *Interests, Institutions, and Information: Domestic Politics and International Relations* (Princeton: Princeton University Press, 1997); Martin, *Democratic Commitments*; Dai, 'Why Comply?'; Dai, 'The Conditional Nature of Democratic Compliance'.

[40] Young, *Compliance with Public Authority*; Sikkink, 'Human rights, principled issue-networks, and sovereignty in Latin America'.

[41] James D. Fearon, 'Domestic political audiences and the escalation of international disputes', *American Political Science Review*, 88:3 (1994), pp. 577–92.

[42] Slaughter, 'International Law in a World of Liberal States'.

[43] Martin, *Democratic Commitments*.

[44] Weiss and Jacobson, *Engaging Countries*.

[45] Miles Kahler, 'Conclusion: The Causes and Consequences of Legalization', *International Organization*, 54:3 (2000), pp. 661–83; Dai, 'The Conditional Nature of Democratic Compliance'.

[46] Simmons, 'The Legalization of International Monetary Affairs'.

autonomy that insulates it from democratic pressures when implementing difficult reforms required by structural adjustment agreements.[47] In such situations, authoritarian governments may achieve greater compliance.

In the context of the counter-terrorism regime, the nature of political institutions conceivably could pull in both directions. Democratically-elected leaders want to live up to their commitments in certain issue areas of the regime, and do not want to be perceived as weak links in the struggle against terrorism (either by their constituents or by international partners). At the same time, though, non-democracies may be better able to comply with the regime. To the extent that counter-terrorism involves limiting personal freedoms and expanding government powers, authoritarian governments already have the inclination and autonomy from public pressures to move further in that direction. Democracies, in contrast, face a variety of political and institutional obstacles (often including their own constitutions) to altering the balance between liberty and security. For this reason, we may expect to see higher levels of compliance with the counter-terrorism regime in less democratic countries. Common measures of democracy are provided by the Polity IV dataset and Freedom House rankings.

Competing domestic constituencies

As we have seen, there have been contradictory findings as to whether democratic institutions increase or decrease compliance with international agreements. One explanation is that compliance decisions in democracies are the result of competition among domestic constituencies. Using a game-theoretic model, Dai considers the domestic distributional consequences of compliance with an international agreement.[48] Groups that expect to benefit from compliance will lobby for it, while groups that expect to become worse off will lobby against. A government's compliance decision is determined by both the electoral leverage and informational endowment of competing domestic constituencies. In other words, 'the more electorally significant [and better informed] the group that favors compliance, the higher the compliance level'.[49]

In order to understand levels of compliance with the counter-terrorism regime, therefore, it is useful to explore competing domestic interests. Pro-compliance constituencies expect to benefit from strong counter-terrorism measures; these groups include military and police officers, prosecutors seeking convictions, and those with a particular preference for security (victims of past attacks, for example). On the other side, non-compliance constituencies (that is, groups that favour non-compliance) expect to be harmed by stronger counter-terrorism measures. These groups include human rights advocates, lawyers concerned about

---

[47] Stephan Haggard, *Pathways from the Periphery: The Politics of Growth in the Newly Industrializing Countries* (Ithaca: Cornell University Press, 1990); Peter Evans, 'The State as Problem and Solution: Predation, Embedded Autonomy, and Structural Change', in Stephan Haggard and Robert R. Kaufman (eds), *The Politics of Economic Adjustment: International Constraints, Distributive Conflicts, and the State* (Princeton: Princeton University Press, 1992).

[48] Dai, 'Why Comply?'; Dai, 'The Conditional Nature of Democratic Compliance'.

[49] Dai, 'The Conditional Nature of Democratic Compliance', p. 701.

constitutional issues, and individuals who expect to be targeted (Muslim popula-
tions in many countries, for example). In situations where pro-compliance
constituencies are politically more important than non-compliance constituencies,
one would expect higher levels of compliance with the regime.

Although such theories have been developed in the context of mature
democracies, in this article I assume that they also apply to countries where
democratic institutions are not yet consolidated. The countries under examination
here are at various stages of political liberalisation, with Uganda best described as
a non-democracy, Kenya as a transitional democracy, and Tanzania somewhere in
between. All three countries hold multiparty elections, though some are more
competitive than others. The point here is that even in such contexts, the relative
influence of competing domestic constituencies may play a role in determining
levels of compliance with the counter-terrorism regime. Though the strength of
interest groups is impossible to measure precisely, an effort is made to assess their
relative influence in each country. The impact of this compliance factor and the
others described above are analysed more fully in the case studies below.

Case studies in East Africa

To understand the influence of these factors on levels of compliance with the
counter-terrorism regime, it is instructive to compare and contrast three cases in
East Africa: Kenya, Tanzania, and Uganda.[50] These are interesting cases for
comparison because they are similar in many ways, as explained below, and yet
have displayed different degrees of willingness to go along with global counter-
terrorism efforts. Thus, the underlying differences among these countries may help
explain the variation in compliance.

At first glance, one would expect high levels of compliance with the regime in
all three countries. These are weak states whose economies rely heavily on
development aid from powerful states within the regime. They are former British
colonies that have become close American allies, with each receiving at least US
$135 million annually in US economic and military assistance. All three countries
have experienced deadly terrorist attacks, most famously the near-simultaneous
bombings of the US embassies in Kenya and Tanzania in August 1998. They have
become the focus of increasing attention from the US intelligence community, both
because of their strategic location in the Horn of Africa and because of the
increasing activism of minority Muslim populations in each country.[51] Along with

---

[50] Admittedly, the selection of these countries is not random; I have conducted field research in both
Kenya and Tanzania and visited Uganda on multiple occasions.
[51] There is some question as to whether this heightened American attention to Muslims in East Africa
is warranted. There is little evidence that Islamic radicalism has gained much support in the region,
and the recent mobilisation of the Muslim communities in Kenya and Tanzania is motivated
primarily by local concerns (political inclusion, economic development, etc.), not by global
ideologies. See Jeffrey Haynes, 'Islamic Militancy in East Africa', *Third World Quarterly*, 26:8 (2005),
pp. 1321–39; William Rosenau, 'Al Qaida Recruitment Trends in Kenya and Tanzania', *Studies in
Conflict & Terrorism*, 28 (2005), pp. 1–10; Abdelkérim Ousman, 'The Potential of Islamist Terrorism
in Sub-Saharan Africa', *International Journal of Politics, Culture and Society*, 18:1 (2004),
pp. 65–105; Rüdiger Seesemann, 'East African Muslims after 9/11', *Bayreuth African Studies
Working Papers*, no. 3 (2005); Felicitas Becker, 'Rural Islamism during the 'War on Terror': A
Tanzanian Case Study', *African Affairs*, 105:421 (2006), pp. 583–603.

three other countries (Djibouti, Eritrea, and Ethiopia), Kenya, Tanzania, and Uganda benefit from the US $100 million East African Counterterrorism Initiative (EACTI) launched by the Bush administration in 2003. Finally, all three countries have shown initial commitments to the regime by ratifying or acceding to almost all of the UN conventions on terrorism[52] and to the 1999 OAU Convention. To date, each country also has submitted three reports to the UN CTC.

Despite these similarities, the three governments have demonstrated varying levels of compliance with the counter-terrorism regime. To be clear, all three cooperate in important ways, but some are more active counter-terrorism partners than others. Of course, measuring compliance with any regime, particularly one as broad as this, is difficult. Stiles and Thayne attempt to quantify compliance with Resolution 1373.[53] By assigning one point for each of seven prescribed government actions, the scores effectively give equal weight to submitting a report to the CTC on time and creating a new domestic anti-terrorism law; clearly, these actions require vastly different levels of commitment from the governments involved. The study also does not account for the extent to which laws are implemented. And because of its focus on Resolution 1373, the study overlooks related counter-terrorism efforts. The resulting scores suggest low levels of compliance in Kenya and Uganda, and slightly higher in Tanzania. A closer examination of these cases, however, paints a somewhat different picture.

For the purposes of this analysis, levels of compliance are determined based on two broad criteria: domestication of international legal provisions and cooperation in the 'War on Terror'. This reflects the point made earlier that the counter-terrorism regime cannot realistically be separated from the pursuits of its hegemon, particularly from the perspective of weak states. With respect to the first criteria, I consider the passage of anti-terrorism laws that criminalise terrorist acts, the passage of CTF legislation, and the subsequent enforcement of such measures. On the second, I look at participation in US counter-terrorism programmes, intelligence cooperation, and support for American military operations. In examining just three cases, I do not quantify their levels of compliance; instead, I rank order the countries in relation to one another. Based on these criteria, as detailed in the case studies below, Uganda has shown the highest level of compliance with the counter-terrorism regime, followed by Tanzania, and then Kenya.

Uganda

The Government of Uganda has embraced the global struggle against terrorism and adopted many of its strategies domestically. In 1999, it established the Joint Anti-Terrorism (JAT) task force to coordinate efforts among military, police, and intelligence officials to counter a series of domestic terrorist attacks. In its first two years, according to government reports to the CTC, the JAT arrested more than

---

[52] As of March 2010, Kenya was party to 14 of the 16 UN legal instruments on terrorism, Tanzania to 10 of 16, and Uganda to 11 of 16, with leaders in all countries reportedly working toward the ratification of the remaining conventions. Each country had ratified or acceded to at least 7 of these conventions since September 2001.
[53] Stiles and Thayne, 'Compliance with International Law'.

60 individuals for terrorist acts; in the absence of counter-terrorism legislation, they were charged with treason. This changed in 2002 with the passage of a strong (some would say draconian) Anti-Terrorism Act that enhanced government powers to investigate and go after terrorist groups and criminalised participation in and financing of terrorism. While comprehensive in addressing the domestic threat, the government says it may need more tools to effectively combat transnational terrorism.[54] Meanwhile, it cooperates closely with other countries on intelligence sharing and efforts to identify and capture terror suspects.

Uganda has been an especially strong ally of the US. It participates in the Anti-Terrorism Assistance (ATA) Program, which trains local police, and the Terrorist Interdiction Program (TIP), which provides technology to screen travellers arriving at airports and borders. With support from the US government, Uganda worked with Kenya and Tanzania to harmonise security aviation regulations. The US also funds police development programmes and built new forensic laboratories in Uganda. President Yoweri Museveni has expressed steadfast support for the US 'War on Terror', including the operations in Afghanistan and Iraq; Uganda was one of just a handful of African members of the original 'coalition of the willing' to go into Iraq. In early 2007, after backing an Ethiopian invasion to remove Islamists from power in Somalia, the US called for (and funded) an African Union peacekeeping mission to contain the escalating violence in that country. Uganda was the first country to respond and sent 1,600 troops to Mogadishu, where some were attacked by Somalis opposed to foreign intervention. Critics accused the Ugandan government of doing mercenary work for the US in exchange for foreign aid.[55]

A clear gap in Uganda's domestication of international counter-terrorism strategies, though, is with respect to counter-terrorist financing (CTF). Although the Anti-Terrorism Act of 2002 criminalises the financing of terrorist activities, it does not establish regulatory and enforcement mechanisms. Recognising this area of weakness, the Ugandan government solicited support from the US Treasury Department to develop anti-money laundering (AML) and CTF legislation. In the meantime, the government issued a policy statement and the Bank of Uganda issued AML/CTF guidelines, but these measures did not carry the weight of law and violations could not be prosecuted. By early 2010, several different anti-money laundering bills had been presented to the Ugandan parliament for consideration, but none had passed. In March 2010, Ugandan bankers held a forum with government officials to push for these reforms, which they believe will address the increasing problem of fraud.[56] Despite delays in this area, Uganda's overall level of compliance with the counter-terrorism regime has been quite high.

A driving factor behind Uganda's compliance is the perception among key policymakers of a terrorist threat. In this case, that threat comes mainly from domestic sources, though with transnational connections. Since the late 1980s, the Lord's Resistance Army (LRA) has fought against Museveni's government in northern Uganda. The group is known for kidnapping local children to serve as soldiers and servants. For years, the LRA was backed by Sudan in retaliation for

---

[54] See Uganda's 2002 report to the CTC found via the committee's website at: {http://www.un.org/sc/ctc/}.
[55] *The Monitor* (28 March 2007).
[56] *New Vision* (31 March 2010).

Uganda's support of Sudanese rebels, but the 2005 peace agreement for South Sudan was supposed to end those ties. In the mid-1990s, a smaller rebel group emerged in western Uganda. The Allied Democratic Forces (ADF) included dissident troops, extremist Muslims, and radical Hutu Rwandans. They allegedly attacked schools, laid land mines, and set off bombs in Kampala. In speeches since 2001, Museveni frequently has referenced these incidents to draw parallels between Uganda and the US.[57] In so doing, he essentially has reframed long-standing domestic conflicts in the language of the 'War on Terror'.

In late 2001, at Museveni's urging, the US State Department added the LRA and the ADF to its list of terrorist groups of concern[58] and put them on the Terrorist Exclusion List.[59] Soon thereafter, Museveni launched major military offensives against both groups, displacing thousands of Ugandan villagers. The ADF was pretty much wiped out, though the LRA continued to fight. In 2006, its leaders entered into negotiations with the Ugandan government[60] and a ceasefire was signed in 2008, but no final peace agreement has yet been reached. A major military offensive starting in late 2008 pushed the LRA out of Uganda into the Democratic Republic of Congo, where they were accused of committing similar atrocities and attacks. In addition to these rebel groups, which could reasonably be described as having used some terrorist tactics, Museveni perceives terrorist threats from other less likely sources. His government has used anti-terrorism legislation to silence journalists and go after non-violent political opponents, including labelling as a terrorist the main opposition candidate in two recent presidential elections. These actions have led critics to accuse Museveni of being opportunistic in his cooperation with the 'War on Terror'. Whether opportunistic or strategic, domestic and international interests converge on this issue.

The availability of funding also helps explain Uganda's high level of compliance with the counter-terrorism regime. Within the regime, Uganda received financial and technical support from the US to improve its capacity to disrupt terrorist networks and prevent attacks. These funds were crucial for the implementation of certain provisions (computer databases at airports, for example). Even without designated funds, though, Uganda's dependence on donors in sectors other than counter-terrorism also pushed it toward compliance. According to data from the Organization for Economic Cooperation and Development (OECD),[61] official development assistance represented 16.9 per cent of Uganda's national income in 2006. Foreign aid regularly accounts for more than 50 per cent of government expenditures. The US is Uganda's largest bilateral donor, providing nearly one-fifth of foreign assistance in any given year. Whether as a reward for its cooperation or for other reasons, Uganda saw generous aid increases. Between 2001 and 2005, total ODA rose by 52 per cent and US aid to Uganda nearly

---

[57] See, for example, the text of Museveni's speech at the Woodrow Wilson International Center for Scholars in Washington, DC, on 14 May 2002, available at: {http://www.wilsoncenter.org}.

[58] This list is distinct from but issued along with the list of Designated Foreign Terrorist Organizations, which are identified through a more complex process involving the US Treasury Department.

[59] Per the terms of the USA Patriot Act of 2001, US immigration authorities can block entrance to the country and/or deport people with known connections to groups on the Terrorist Exclusion List.

[60] LRA leaders argued that they should be removed from the US list of terrorist groups so that their supporters could travel freely to peace negotiations. *Daily Monitor* (27 April 2007).

[61] OECD data can be accessed through the International Development Statistics database at: {www.oecd.org}.

tripled.[62] This compared to a 94 per cent increase in US economic and military assistance globally in the same period. Uganda's heavy dependence on foreign aid, especially from the US, would seem to have influenced its compliance.

With respect to political institutions, Uganda has the most authoritarian government of the countries under examination here. In the Polity IV dataset for 2008, Uganda earns a regime score of -1, placing it on the autocratic side of the continuum.[63] Freedom House scores of 5 for political rights and 4 for civil liberties in the same year qualify the country for a 'partly free' designation.[64] Museveni has been in power since 1986 and shows little desire to relinquish control.[65] After years under a 'no party' system, a constitutional amendment allowed opposition parties to contest the 2006 elections, but the playing field was far from fair. Museveni won re-election, and his National Resistance Movement maintained a strong majority in parliament. Since the beginning of the 'War on Terror', therefore, Museveni essentially has faced no institutional constraints on the implementation of counter-terrorism measures. Although the judiciary threw out some of his charges against specific opponents, the basic legal infrastructure remains in place. A test of Museveni's power (or perhaps his desire)[66] may come when the AML bill is eventually debated in parliament, where opposition parties now have a voice.

Finally, even in an authoritarian context, the relative influence of domestic political constituencies also pushed in the direction of greater compliance with the counter-terrorism regime. In many countries, including Kenya and Tanzania, opposition to anti-terrorism measures has been especially strong among civil society organisations, human rights activists, and Muslim leaders. Similar patterns exist in Uganda, but the lack of political opening there has prevented these groups from mobilising effectively against the policies. With Muslims representing just roughly 15 per cent of the population, their political importance to the leadership is limited, particularly in comparison to military and security interests that favour the enhanced powers that come with greater cooperation in the 'War on Terror'. In addition, given the horrible acts committed by the LRA and the humanitarian impact of the conflict, especially in the north, many Ugandans have been willing to go along with government efforts to eliminate that threat. As a result, pro-compliance constituencies generally have outweighed non-compliance groups. Overall, therefore, all four factors in Uganda favour compliance with the counter-terrorism regime. In particular, the perceived threat of domestic terrorism, as defined by key government officials, has allowed them to gain international

---

[62] The vast majority of US aid to Uganda is economic assistance; military assistance was just US $2.3 million out of US $275 million total in 2005. Data is available from 'The Greenbook' of the US Agency for International Development at: {http://gbk.eads.usaidallnet.gov/index.html}.

[63] Scores range from -10 (full autocracy) to $+10$ (full democracy).

[64] On a scale from 1 (most democratic) to 7 (most authoritarian), countries with an average political rights/civil liberties score of 3.0 to 5.0 are considered partly free. Countries with a lower average score are free, and those with a higher average score are not free.

[65] In 2005, Museveni pushed through a constitutional amendment that allowed him to run for a third term the following year.

[66] Piombo raises doubts about the political will of African leaders to pass AML/CTF legislation when their basis for power often involves illicit financial activities. See Jessica Piombo, 'Terrorist Financing and Government Responses in East Africa', in Jeanne K. Giraldo and Harold A. Trinkunas (eds), *Terrorism Financing and State Responses: A Comparative Perspective* (Stanford: Stanford University Press, 2007).

support for, and deflect local criticism of, measures to promote their own security interests.

Tanzania

Tanzania has cooperated extensively with the counter-terrorism regime. The government has domesticated many international provisions, though its implementation of these measures at times has been seen as weak. The Prevention of Terrorism Act of 2002 made it illegal to commit, finance, or assist terrorist acts and required those with knowledge about terrorist acts to disclose that information. It also increased government powers to investigate and prosecute such offences. Even so, the slow process of investigating the 1998 bombing of the US Embassy in Dar es Salaam and the lack of convictions in the case led US officials to push Tanzania for a stronger implementation of existing laws. In February 2006, the UN CTED paid a visit to the government to provide technical assistance for beefing up counter-terrorism measures.

Tanzania initially addressed the issue of terrorist financing through administrative circulars and existing laws, but was under pressure to develop more extensive regulatory mechanisms. In November 2006, after a four-year drafting process supported by the US, parliament passed the Prevention of Money Laundering Act. The law went into effect in July 2007 and included the creation of a Financial Intelligence Unit (FIU) to track suspicious transactions. To go along with this legislation, the government also enacted new banking laws in 2006 and an anti-corruption law in 2007.

Tanzania has worked with the US to identify and capture terror suspects and to provide evidence for trials related to the 1998 embassy bombing. Tanzanian police have participated in training workshops under the ATA programme, and have created a Counter Terrorism Unit. Through EACTI and other programmes, the US has funded a laser-based passport system, a forensics laboratory, and computers at border entry points to screen arriving travellers. Tanzania established a National Counterterrorism Centre in late 2007. In other aspects of the 'War on Terror', Tanzania's cooperation with the US is more cautious. Tanzania has participated in the US-organised International Somalia Contact Group since June 2006, but strongly condemned the US war in Iraq. Beyond the issue of counter-terrorism but with implications for its implementation, Tanzania refused to sign a bilateral immunity agreement protecting Americans from prosecution before the International Criminal Court (ICC).[67] All told, Tanzania's level of compliance with the counter-terrorism regime is fairly high.

Tanzania's experience with terrorism is limited mainly to the 1998 bombing of the US Embassy in Dar es Salaam, in which 11 Tanzanians were killed and 85 were

---

[67] Worried about the possibility of politically-motivated charges, the Bush administration pushed governments around the world to sign agreements that they would not bring charges against US nationals before the ICC. Several countries, including Kenya and Tanzania, lost some portion of economic and military assistance from the US for their refusal to sign. In 2007, however, as Pentagon officials warned the White House that this approach was undermining US cooperation with the same countries in the 'War on Terror', waivers were signed to restore funding. The Obama administration has stopped asking countries to sign bilateral immunity agreements, but has not yet signed onto the ICC.

injured. Although overshadowed by the simultaneous devastation in neighbouring Kenya, the incident in Tanzania shattered a long-held sense of security and immunity from violence. The attacks targeted American interests, as Tanzanian leaders noted, but non-Americans were the primary victims. The then-President Benjamin Mkapa called on rich countries to help poor countries prevent terrorism and address underlying causes, including poverty. Nevertheless, as time went on without another attack, the perceived threat of terrorism declined. In his 2005 campaign and subsequent speeches, President Jakaya Kikwete rarely addressed the topic nor mentioned it among policy priorities. With no threat from domestic sources and little urgency to strengthen counter-terrorism measures, this factor is secondary in explaining Tanzania's compliance with the regime.

Tanzania's dependence on international donors may have worked in favour of greater compliance, at least to some extent. Within the regime, US counter-terrorism assistance in particular was important to implementing the various measures listed above. Externally, according to OECD statistics, development assistance to Tanzania was 14.5 per cent of national income in 2006; grants and concessionary lending consistently represent about 45 per cent of government expenditures. Of the three countries discussed here, Tanzania receives the most foreign aid (more than US $1.8 billion in 2006),[68] but just 6 per cent comes from the US (fifth on the list of donors to Tanzania). While the diversity of Tanzania's donor base probably gave it some independence from compliance pressures, the government has long been reluctant to harm relations with any of its donors. Between 2001 and 2005, according to USAID, total US assistance to Tanzania increased by 64 per cent, perhaps in part as an incentive for counter-terrorism cooperation.

On the continuum from authoritarianism to democracy, Tanzania's political institutions are only slightly more democratic than Uganda's. The regime has a 2008 Polity IV score of -1 and Freedom House scores of 4 for political rights and 3 for civil liberties. Since opposition parties were legalised in the early 1990s, they have failed to mount a serious challenge to the Chama Cha Mapinduzi (CCM) party that has ruled the country since independence. Multiparty elections have been held every five years, with CCM always retaining the presidency[69] and the vast majority of seats in parliament.[70] As a result of the most recent elections in December 2005, CCM's share of parliamentary seats declined from 89 per cent to 75 per cent, but this had little impact on the legislative process. Thus, in the face of external pressure for counter-terrorism legislation, the Tanzanian government had little difficulty getting such measures passed.

The story about domestic constituencies in Tanzania is interesting. When the anti-terrorism bill was introduced in 2002, groups that might have been expected to fight it (civil society representatives and human rights activists) were busy speaking out against an equally-draconian non-governmental organisation (NGO) bill that was under consideration at the time. Though they succeeded in watering

---

[68] Uganda received US $1.5 billion and Kenya got about US $943 million in 2006. These numbers are from OECD statistics available online at: {www.oecd.org}.

[69] Each president basically serves two five-year terms and then steps down in favour of the next CCM candidate.

[70] Even with irregularities in recent elections in Zanzibar, there is little doubt that the CCM won overall.

down the NGO bill, the anti-terrorism bill sailed through parliament. After it passed, however, opposition to the so-called 'Ashcroft law'[71] increased, especially among civil society organisations and within the Muslim community. When the FBI arrested two local Muslim leaders, activists organised a massive anti-American rally in June 2003; protestors carried signs that read 'FBI get out' and 'Tanzania is not an American colony'. Muslims have been the strongest critics of Tanzanian counter-terrorism cooperation; at roughly 40 per cent of the population, and in the context of deep divisions between mainland Tanzania and Muslim-dominated Zanzibar, their voice is not insignificant politically. This strong non-compliance constituency may explain why the government has appeased external donors by passing counter-terrorism laws but then done little to implement their provisions.

Kenya

Kenya is a reluctant partner in the counter-terrorism regime, cooperating strongly in some areas and resisting compliance in others. With respect to the domestication of international legal provisions, the government has been particularly slow. An anti-terrorism bill introduced in 2003 prompted widespread criticism among politicians and civil society groups, forcing the government to withdraw the measure. A revised bill in 2006 included better protections for civil liberties, but members of parliament blocked it, in part because it was backed by the US.[72] In 2007, to update existing but rarely-enforced AML legislation, the government introduced a bill on terrorist financing. Lawyers challenged the constitutionality of some provisions, and the bill got stuck in committee.[73] The UN CTC repeatedly reminds Kenya about the importance of criminalising participation in and financing of terrorism.[74] Despite this pressure, and given the domestic political situation (discussed below), it is very unlikely that the Kenyan parliament will pass either bill anytime soon.

Kenya also has complicated relations with the US in its 'War on Terror'. Within the security sector (military, intelligence, police), cooperation has been quite high. With US training and assistance, the government established an Anti-Terrorism Police Unit, the Joint Terrorism Task Force (later disbanded), a National Counter-Terrorism Center, and a National Security Advisory Committee. Kenya participates actively in the ATA and TIP programmes, and helped harmonise regional aviation security regulations. Based on longstanding agreements, the US and Kenyan militaries conduct periodic joint training exercises. Kenya has cooperated to capture terrorist suspects fleeing violence in Somalia (due in part to its own security concerns), and has allowed a significant level of US

---

[71] The law's nickname was a direct reference to then US Attorney General John Ashcroft.

[72] For a more detailed discussion of these dynamics, see Beth Elise Whitaker, 'Reluctant Partners: Fighting Terrorism and Promoting Democracy in Kenya', *International Studies Perspectives*, 9:3 (2008), pp. 254–71.

[73] In an interesting twist, the US promoted and provided training for the development of a committee system in the Kenyan parliament. These committees now have the ability to stall counter-terrorism legislation.

[74] In fact, the CTED's second-ever country visit was to Kenya in May 2005 to discuss these issues.

military activity in the eastern part of the country. According to officials in both countries, these various efforts have disrupted terrorist operations in the region.

In other areas, though, cooperation between the US and Kenya is more problematic. US support for anti-terrorism legislation has become a primary obstacle to its passage. Many Kenyans assume that the US will not lift its travel advisory for the country until the bill is passed, though US officials deny a direct linkage. In other domains, Kenyan leaders were critical of the war in Iraq and refused to sign an ICC-related bilateral immunity agreement with the US. In general, the Kenyan government has cooperated with US counter-terrorism efforts behind the scenes, while displaying greater reluctance in areas that receive public attention.[75] Its level of compliance with the counter-terrorism regime on the whole is in the middle range, but is lowest among the countries discussed here.

As the victim of several terrorist attacks, Kenya's perception of threat would presumably push it toward complying with the regime. The 1980 bombing of an Israeli-owned hotel in Nairobi, the 1998 bombing of the US Embassy, and the 2002 attack on an Israeli-owned hotel near Mombasa together killed at least 227 Kenyans and 15 foreigners and wounded thousands more. Periodic threats by terrorist groups suggest that Kenya will be attacked again. Interestingly, though, many Kenyans do not regard their country as the target of such attacks. Instead, as a member of parliament explained, 'we were collateral damage' in attacks against the US and Israel.[76] Most Kenyans are more concerned about security threats in their daily lives (car-jacking, theft, etc.) than they are about the threat of another terrorist attack.[77]

The fact that terrorism is not a pressing concern among many Kenyans is reflected in political discourse. In his 2002 inaugural address, just one month after the attack near Mombasa, President Mwai Kibaki mentioned terrorism last on a lengthy list of policy priorities, and clearly categorised it as an international issue. Subsequently, in annual addresses to parliament, Kibaki named terrorism among government priorities only once. In the 2007 presidential election campaign, terrorism became an issue only when opposition candidates criticised Kibaki's involvement in the 'War on Terror' while campaigning in Muslim areas. The minimal attention given to terrorism in a presidential election year suggests that Kenyans had other issues on their minds. For the time being, there is little sense of urgency to develop stronger counter-terrorism measures.[78]

On the issue of funding, Kenya's comparative lack of dependence on donors gives it somewhat more freedom in working with the counter-terrorism regime. To be sure, Kenya has been the primary beneficiary of the US $100 million US East African Counter-terrorism Initiative; many of its security and intelligence pro- grammes would not have been possible without this funding. Beyond the regime, though, Kenya's dependence on foreign aid has declined in recent years and is much lower than Uganda's or Tanzania's. According to OECD data, development

[75] Whitaker, 'Reluctant Partners'.
[76] Interview with Honorable Paul Muite, Nairobi, Kenya (9 November 2005).
[77] Volker Krause and Eric E. Otenyo, 'Terrorism and the Kenyan Public', *Studies in Conflict & Terrorism*, 28 (2005), pp. 99–112.
[78] A spate of brutal attacks by the local Mungiki sect in 2008 and the death of a Kenyan suicide bomber in Nairobi seemed to have little effect on the perception of the terrorist threat among policymakers.

assistance was just 4.5 per cent of national income in 2006. Increased revenue from aggressive tax collection has allowed the government to cover more than 90 per cent of recurrent government expenditures. Still, total ODA to Kenya rose by 66 per cent between 2001 and 2005, mainly because of the democratic transition in 2002 (discussed below). Economic and military assistance from the US, Kenya's top donor, increased by 34 per cent during the same period, as mandatory funding cuts related to the ICC dispute were more than offset by additional spending on HIV/AIDS. These increases came despite Kenya's mixed record in cooperating with global counter-terrorism efforts, confirming the notion that donors have a wide range of foreign assistance priorities.

Of the countries examined here, despite the controversy surrounding the 2007 elections,[79] Kenya is the most democratic. In 2002, President Daniel arap Moi gave into decades of domestic and international pressure and allowed competitive multiparty elections.[80] The opposition finally united behind a single candidate, resulting in a coalition government under President Mwai Kibaki. As it became clear that Kibaki was not radically different from his predecessors,[81] his coalition fell apart and criticism increased, setting the stage for contested elections in 2007. With a new power-sharing arrangement now in place, Kenya is clearly a transitional democracy. The 2008 Polity IV dataset gives the regime a score of 7 (down slightly from 8 because of the 2007 election), and Freedom House classifies it as partly free. Indeed, Kenya's middle level of compliance with the counter-terrorism regime is due largely to its democratic institutions. In the context of unstable coalitions and continued wrangling, President Kibaki does not have the political capital to push legislation through parliament unopposed. This is particularly true for controversial measures like the anti-terrorism bill. As a result, Kibaki's cooperation on counter-terrorism has been limited to areas that are controlled by the executive branch and do not require parliamentary approval.

One reason that parliament has blocked stronger counter-terrorism measures is the influence of domestic constituencies. Groups that favour non-compliance with the counter-terrorism regime are louder and more politically important than those pushing the other way. The Muslim community has been especially outspoken against anti-terrorism legislation and cooperation in the 'War on Terror'. Muslims represent only 15 per cent of the population (though this figure is debated) and historically have been marginalised, but political liberalisation since the early 1990s has allowed for their mobilisation.[82] As a result of their geographic concentration

---

[79] The officially-announced results of the December 2007 elections in Kenya showed Kibaki narrowly winning re-election, while many ministers and members of parliament from his party were defeated. Significant irregularities in the vote-counting process led to charges of rigging and widespread violence during which more than 1,300 Kenyans were killed and approximately 300,000 were displaced. At the end of February 2008, through the mediation efforts of former UN Secretary General Kofi Annan, Kibaki and the main opposition candidate, Raila Odinga, reached a power-sharing agreement that was still holding (though at times just barely) by early 2010.

[80] Multiparty elections were held in 1992 and 1997, but state-sponsored violence and other machinations prevented them from being free and fair.

[81] Frank Holmquist, 'Kenya's Antipolitics', *Current History* (May 2005), pp. 209–15; Godwin R. Murunga and Shadrack W. Nasong'o, 'Bent on Self-Destruction: The Kibaki Regime in Kenya', *Journal of Contemporary African Studies*, 24:1 (2006), pp. 1–28.

[82] Thomas P. Wolf, 'Contemporary Politics', in Jan Hoorweg, Dick Foeken and R. A. Obudho (eds), *Kenya Coast Handbook: Culture, resources and development in the East African littoral* (Leiden: LIT African Studies Centre, 2000).

and election procedures that require a presidential candidate to win 25 per cent of the vote in five provinces, the Muslim minority has become an important swing vote in recent elections.[83] Importantly, though, Muslims are not alone; they have worked together with human rights activists, lawyers, church leaders, and opposition parties to prevent passage of rights-limiting legislation and increased government powers. In a country that so recently made the transition to democracy (however flawed), no one is anxious to go back. With the exception of security forces and members of the executive branch, few voices have spoken publicly in favour of stronger counter-terrorism initiatives.[84] Domestic politics thus are especially important in explaining Kenya's lukewarm compliance with the regime.

Overall, these cases provide support for each of the four compliance factors. All three countries have experienced terrorist attacks, but the perceived threat is highest in Uganda where rebels have targeted civilians; in Tanzania and Kenya, terrorism often is seen as a foreign problem. Funding has enabled implementation of counter-terrorism measures in all three countries, while heavy donor dependence has provided additional incentive for compliance in Uganda and Tanzania. The nature of domestic institutions corresponds quite closely with compliance levels, with compliance highest in the least democratic country (Uganda) and lowest in the most democratic (Kenya). Domestic constituencies against compliance have been very vocal in Kenya, and to a lesser extent Tanzania, but have had little voice in Uganda. In sum, the nature of political institutions and the relative power of domestic constituencies go a long way toward understanding levels of compliance with the counter-terrorism regime in East Africa; the perception of threat and the availability of funding provide additional explanation in some cases but are not the determining factors.

Conclusion

In recent years, the US and its allies have sought to strengthen and coordinate global counter-terrorism efforts through a series of multilateral and bilateral agreements. The resulting international counter-terrorism regime promotes the adoption of similar laws and strategies in countries around the world. Despite clear power imbalances within the regime, governments of weak states have not been uniform in their response; their levels of compliance have varied significantly. Some countries have readily embraced the regime's prescribed strategies, others have adopted them more reluctantly, and still others have resisted the imposition of the regime. The three East African cases examined here show that domestic political factors (both institutions and constituencies) are especially important in under-standing this variation.

---

[83] Indeed, in the run-up to the 2007 election, the top two presidential candidates both campaigned in predominantly-Muslim areas along the coast wearing traditional Muslim clothing.
[84] There has been some public support for proposed AML legislation, though little among members of parliament. As Piombo argues, stricter financial regulations may affect the illicit activities of many Kenyan politicians. See Piombo, 'Terrorist Financing and Government Responses in East Africa'.

This article generates several hypotheses to be explored further in other contexts. First, countries facing a domestic terrorist threat may be more likely to comply with global counter-terrorism efforts than those where the threat comes from international sources or where there is no perceived threat. This is primarily due to the convergence of domestic and international security interests, though constituencies also may be more supportive of strong counter-terrorism measures. In such situations, leaders strategically employ the prescriptions of the international regime to address domestic concerns. Thus, as David Leheny finds with respect to Japan, 'local application [of international norms] requires local threats; the globalization of security rests on the "glocalization" of fear'.[85] In this sense, the counter-terrorism regime may encourage leaders to emphasise (and perhaps exaggerate) local security threats to justify strengthening state power.

Second, funding within the counter-terrorism regime can assist governments to implement certain provisions, especially those requiring specific technology or skills, but probably will not determine overall compliance. Uganda, Tanzania, and Kenya all received designated funding for counter-terrorism programmes, but varied in their levels of cooperation. Instead, it is important to look at funding patterns outside the regime, including the extent to which governments are dependent upon foreign aid from powerful donors. In this way, funding in one regime may increase compliance in another. Even so, as donors' priorities shift (from democracy promotion to counter-terrorism, for example), recipient governments may respond accordingly, choosing to comply in areas that will earn the greatest reward and to resist complying in areas that are less lucrative. Thus, although funding may not directly determine compliance, the messages sent by donors through their funding patterns may alter the political landscape in recipient countries in such a way as to increase (or decrease) cooperation with the regime.

Third, transitional democracies may be less likely to comply with the counter-terrorism regime. This is due in part to institutional obstacles (parliaments, committees, etc.) blocking counter-terrorism measures and to the greater mobilisation of non-compliance constituencies, but such factors exist in many established democracies as well (including the architects of the regime). In countries that have emerged only recently from authoritarian rule, however, newly-empowered political groups may be especially reluctant to grant governments additional powers that threaten hard-won freedoms. Recent efforts to block anti-terrorism measures in South Africa, South Korea, and the Philippines (at least until the incorporation of civil liberties protections) show that Kenya is not the only transitional democracy experiencing such debates. Interestingly, counter-terrorism and democracy promotion are both important goals of US foreign policy. If it is true that transitional democracies are less likely to comply with the counter-terrorism regime, and that non-democracies are more cooperative, US emphasis on democratisation may fade (just as it did during the Cold War).[86]

In the regimes literature, there is always a lingering question: does the regime induce countries to behave differently than they would without it? In the East

---

[85] David Leheny, *Think Global, Fear Local: Sex, Violence, and Anxiety in Contemporary Japan* (Ithaca: Cornell University Press, 2006), p. 187.

[86] For further discussion on the tension between democracy promotion and counter-terrorism, both of which were explicit goals of US foreign policy under the Bush administration, see Whitaker, 'Exporting the Patriot Act?' and Whitaker, 'Reluctant Partners'.

African cases, it seems clear that the regime caused countries to implement certain counter-terrorism provisions. Without pressure (and funding) from the US in particular, it is unlikely that any of the countries would have updated passport systems, altered aviation security regulations, and set up computer databases at border crossings. In other areas, though, the influence of the regime is less obvious. Given the domestic threat in Uganda, the government probably would have adopted stronger laws; the regime simply provided external validation. In Tanzania, the government may have cooperated on intelligence matters, but may not have passed anti-terrorism and money laundering legislation without donor pressure. The Kenyan government might not even have introduced such legislation, but at this point external pressure may be working against its passage. Not surprisingly, as realists would predict, compliance is highest in countries with convergent interests; even so, the regime induces greater cooperation in some areas.

In the end, the counter-terrorism regime has been imposed on weak states by more powerful states in the international system. For strategic and political reasons, often within the domestic arena, some states have complied with nearly all of its prescriptions; others have resisted the imposition of the regime by rejecting some conditions even as they comply with others. The finding that transitional democracies may be less likely to comply with the counter-terrorism regime raises concerns about its legitimacy and effectiveness in the long term. If an imposed regime starts to generate more non-compliance than it does compliance, people increasingly will question the desirability of its approach toward addressing the shared global problem of terrorism.