

U.S. Policy Toward Kenya in the Wake of September 11: Can New Antiterrorist Imperatives Be Reconciled with Enduring U.S. Foreign Policy Goals?

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Introduction

As President George W. Bush's administration expands its global war against terrorism, Kenya is likely to assume added significance in the hierarchy of U.S. security interests. In the wake of September 11, the Horn of Africa has gained renewed salience in U.S. geopolitical calculations. Kenya, which shares borders with Ethiopia, Sudan, and Somalia, emerges as a relatively stable anchor state in a volatile and violent subregion. The new global context thus adds a dimension to the U.S.-Kenya bilateral relationship: the United States will almost certainly look to Kenya for enhanced cooperation and assistance in its counterterrorism efforts, and the Kenyan government in turn will look to the United States for financial support and a good word with the international financial institutions.

At the same time, Kenya has entered a period of increasing domestic fragility, with continuing economic stagnation compounded by political uncertainty in the run-up to the 2002 presidential and parliamentary elections. Tensions within and between the ruling party and the opposition are likely to mount as party alliances shift, as competition for political space increases, and as debate over President Daniel arap Moi's successor intensifies. Endemic corruption, a burgeoning HIV/AIDS crisis, and the residual and enduring humanitarian impacts of a severe four-year drought sap already scarce sources.

Cooperation on the security front clearly should not eclipse U.S. engagement on deeper issues of

democratization, human rights, economic transparency, and revitalization, issues that are fundamental to Kenya's long-term stability and prosperity and to its viability as a steadfast security partner of the United States. How the United States balances its need to build an international coalition against terrorism with its enduring interests in fostering democratic governance, accountability, and economic revitalization will be a difficult and important question in its relations with the developing world. In Africa, Kenya will provide a significant test for U.S. policymakers.

U.S. Interests

The events of September 11 enhance Kenya's attractiveness as a partner and anchor, particularly if deeper connections between Al Qaeda and the Somalia-based Al-Itihaad come to light. Kenya's porous northern border and proximity to Somalia-based Al-Itihaad enclaves will require heightened attention among U.S. policymakers in coming months, as will the presence of a large Somali refugee population in Nairobi. The Muslim fundamentalist Al-Itihaad movement was among the first groups identified by Bush as connected to bin Laden, and Somalia has already become a focus of global counterterrorism efforts.

Kenya is the principal gateway to East Africa and the southern Horn, with a major seaport at Mombasa, extensive rail, road, and communications infrastructures, and international airports in Nairobi and Mombasa. To date the United States and Kenya have enjoyed an excellent security relationship. Kenya has received training under the U.S. Department of Defense IMET program, and participated in U.S.-conducted joint military exercises in Kenya's North Eastern Province and, with Tanzania and Uganda, off the Kenyan coast. Since 1970, the United States has maintained military access agreements with the Kenyan government that permit the U.S. military to use Kenyan sea and air bases. These facilities were used extensively in administering humanitarian assistance to Somalia in the early 1990s, to Rwanda post-1994, and to Sudan. Mombasa was used as

a port of call for U.S. carriers during the Gulf War. Kenya's location near the Gulf became even more important to U.S. interests with the closing of the Berbera air base in Somalia in the early 1990s.

The relative sophistication of Kenya's transportation and communication infrastructure makes it attractive both as a base for counterterrorism efforts and as a potential conduit for illegal (including terrorism-related) materiel and narcotics. East Africa has become a key transit point for illicit drugs because of its geographic proximity to South Asia, porous borders, long and largely unmonitored coast lines, and frequent international flights to Europe, the Indian subcontinent, and the Middle East. Drug traffickers based in Afghanistan and Pakistan have reportedly established hubs in the predominately Muslim coastal city of Mombasa, and in nearby Zanzibar, Tanzania. The minimal oversight and regulation of Kenya's banking and financial institutions make it vulnerable to misuse by Al-Itihaad and other potentially dangerous groups. Also, the trust-based *hawala* or *hundi* banking system, which leaves no paper trail, is deeply entrenched in Somalia and in Somali enclaves within Kenya and the United States.

Beyond these immediate security interests, Kenya's trajectory has important implications for a broad range of enduring U.S. policy interests in Africa. Kenya was the first African country to be "publicly" castigated in 1990 by the Consultative Group of international donors for its governance practices and high levels of corruption. In 1991 the donors subsequently suspended more than \$250 million in quick disbursing aid. Aid was resumed in 1993, suspended again in 1997, renewed in 2000, and suspended yet again in 2001. In the process, Kenya has become a critical testing ground for economic and political reform through multilateral and bilateral aid conditionality.

Kenya has also become a key zone in the HIV/AIDS pandemic—more than 2 million Kenyans are HIV-positive—and is a center of international activity by AIDS researchers, activists, pharmaceutical companies, and NGOs. Kenya is home to the Centers for Disease Control and Prevention's largest operation outside the United States and one of four countries targeted by USAID to receive significant increases in resources to fight HIV/AIDS.

Finally, Kenya is moving, however haltingly, toward greater political openness and participation. It is now in a contentious period in which vested interests endeavor to

stave off growing pressures for change, and the current situation presents an opportunity for United States and the international community to use their leverage to tip the balance in favor of further democratization. President Moi recently announced his intention to retire at the end of his present term at the end of 2002, but the run-up to the elections will be a period of intense jockeying and political fluidity.

What Quid? What Quo?

The United States faces a dilemma in Kenya. Although the United States wants the cooperation of Moi (and his successors) on the counterterrorism front, Moi, in return, will want the U.S. administration to tread lightly on issues of democratization, the 2002 presidential and parliamentary elections, and the succession question. Above all the Kenyan president will want U.S. support with the international financial institutions (IFIs) to recommence funding flows—primarily to shore up the ruling party's campaign coffers, keep the Kenyan economy from precipitous collapse in a preelection period, and demonstrate his continued ability to obtain funding from outside donors.

IFI funding flows were suspended in 2001 because of Kenya's failure to fulfill promises on privatization and tackling corruption. A bill to reestablish the Kenya Anti-Corruption Authority, a key condition for the release of \$198 million in IMF funding, was rejected by the Kenyan parliament in mid-August, on the grounds that it lacked teeth and would prove ineffectual. In the last year the United States has been more adamant than previously that the World Bank and IMF hold the Kenyan government stringently to the conditions required for renewed funding, and for now, it appears that these institutions are standing firm on the requirement that legislation on economic crimes be enacted and a credible anticorruption authority established. U.S. bilateral assistance flows, meanwhile, have been channeled primarily through NGO and civil society organizations, deliberately bypassing the Kenyan government.

The Moi regime will undoubtedly cooperate with United States in the coalition against terrorism. Following the September 11 attacks, Moi was quick to assure Bush of Kenya's fullest cooperation. On geostrategic matters, Moi has been a reliable ally to the United States, and will continue to support the United States—partly to ingratiate himself and gain some leverage, partly because there are few other potential benefactors to which he can turn, and to a large extent because he supports U.S. antiterror

objectives. Thus, in the current context, he knows that if Kenya does not cooperate, the chances of increased support from the United States are slim; if Kenya does cooperate, the chances are better although not guaranteed. Kenya is not Pakistan: it faces fewer risks by assisting the United States, and cooperation will greatly enhance the potential for added assistance. The United States should therefore be able to secure Kenya's cooperation without postponing or conceding a great deal on other objectives.

What can Kenya offer the United States? Unlike President Meles Zenawi in next-door Ethiopia, Moi almost certainly will not be in a position to mount Kenyan military operations against the Al-Itihaad in Somalia. Nevertheless, Moi does have several things to offer. First, even if direct military participation in a Somalia intervention is unlikely, he would in all likelihood be prepared to let the United States use Kenya as a platform for ground operations or carrier-based operations offshore. Second, he can provide open-ended and greater cooperation and support on the intelligence front—shared intelligence, freer rein for U.S. investigators in Kenya, greater access to the financial and banking system. Freer rein for U.S. investigators will be extremely valuable, but will need to be arranged carefully with adequate acquiescence from local communities. Given the direction of current U.S. investigations, the United States will likely need intensive intelligence along the Kenyan coast, in Somalia, and in Somali communities within Kenya. It is not entirely clear what Moi can actually deliver in this regard, since many of them—like the Nairobi suburb of Eastleigh—are rife with illegal gun-running and money changing operations and remain largely impenetrable to the Kenyan police.

The United States will also likely look for improvements in port and airport security, greater vigilance in tracking illegal arms and narcotics flows, and greater activism in tracking down and seizing financial assets linked to terrorist networks. Moi can also offer continued use of Kenya's facilities of military value under the current agreement on base rights, which permits the United States to land large transport aircraft at 24 hours notice, and use Mombasa as a port stop for U.S. Navy personnel. Moi has welcomed the latter, as it brings in a sizeable infusion of cash.

Although Moi will likely be a willing partner to the United States in the fight against terrorism, the United States should not overlook the costs to Kenya that enhanced cooperation with the United States may entail. Kenya's economy is already in a precipitous decline,

likely to be exacerbated by a global economic downturn in the wake of the events of September 11. Shipping and airline charges are expected to rise sharply as war risk surcharges drive up insurance costs. Export revenues are expected to fall as commodity prices, which were forecast to decline by 7.4 percent on average this year, are likely to be driven down even further. Pakistan and Afghanistan are respectively the world's second- and third-largest buyers of Kenyan tea, and major disruptions in tea exports to these markets may occur. The three-month closure of the Kenyan-Somali border (from late July to early November) is estimated to have cost khat traders and farmers in the impoverished northeastern region millions of shillings. The border has now been reopened, but should it be resealed for longer periods of time for security reasons, further losses would presumably follow. The tourism industry, also in decline, is also likely to be negatively affected as Europeans and Americans curtail travel, both for security and economic reasons. Even a minor incident, let alone a terrorist-inspired attack, that threatens the safety of tourists will have serious ripple effects on the industry, and there is some concern on the Kenyan coast that tourists themselves may become targets.

There are political risks for the Kenyan government in engaging in the fight against terrorism. Within Kenya, several groups, some of which already feel marginalized and aggrieved by the Moi regime, are reluctant to accept open-ended military cooperation with the United States and have urged the government to deny the use of Kenyan bases for operations. Kenya's Muslims—variously estimated from 15 to 30 percent of the population—are divided on this issue. The United States should not dismiss the risk of a potentially destabilizing backlash among more radical elements of Kenya's Muslim population, a risk that Moi himself may underestimate.

In Mombasa and other coastal towns that are largely Muslim, there have already been protests against U.S. FBI agents sent to hunt for suspected allies of those responsible for the Sept. 11 attacks. Local religious leaders have asked that Kenyan security officers accompany the FBI investigators and have said that Muslims will not allow the FBI to visit their homes, conduct unwarranted searches, or subject them to unnecessary questioning as they allegedly did after the 1998 bombing in Nairobi. Others fear that cooperation with the United States will endanger Kenyan security. Sheikh Ali Shee, chair of the Kenyan Council of Imams, warned, "The government's pledge to support American military operations against the terrorists might put our

country into a precarious situation that concerns us... Kenyans will be an easy target for the terrorists again.” This fear is well-founded—more than 200 Kenyans (and 11 U.S. citizens) were killed when terrorists attacked the U.S. embassy in Nairobi, more than 4,000 were injured, and reconstruction in downtown Nairobi is still not completed.

How Best Should the United States Respond?

The main challenge for the United States in its relations with Kenya is to be forthcoming with assistance and support but not to slip back into the mode of inadvertently using assistance to buoy a corrupt, patronage-based regime. Clearly, although the United States wants Moi’s cooperation, it is not in the United States’ interest to contribute to further instability in Kenya. Rather, supporting an improvement in governance, including a well-managed aid program, as well as an orderly transition to the next generation of leaders, will serve long-term U.S. interests. In the long “war” on terrorism, the United States will need the support of the next generation of Kenya’s leaders as much as it needs the support of Moi and his regime now.

A comprehensive package of support for Kenya that facilitates Kenya’s cooperation on counterterrorism while preserving incentives for political and economic reform is required. This package should include a multilateral push to help Kenya meet the conditionalities of the Bretton Woods institutions; expanded access to U.S. markets; bolstered bilateral assistance that is targeted and closely monitored; public diplomacy to encourage both the government and opposition parties to work together on substantive issues affecting Kenya’s economic and political future; and assiduous outreach beyond the political elite, to religious and ethnic groups not adequately represented in the political arena or in civil society. In all of these measures, the United States should work, to the greatest extent possible with the international donor community.

The United States first should work with the donor community to assist and encourage Kenyans to meet the conditions for resumed funding set forth by the international financial institutions (IFIs). The United States should support resumption of closely monitored funding, but only when existing conditionalities, including an adequate anticorruption mechanism and stricter budgetary controls, are met. Changing the eligibility requirements for short-term political

expedience damages U.S. and IFI credibility and undermines the effectiveness of conditionality as a future lever for political and economic reform. Although the United States would be loath to see Kenya’s already precarious economy collapse, resumed IFI support will serve little positive purpose if adequate checks and anticorruption measures are not firmly in place. The United States should use the current impetus for deeper bilateral engagement as an opportunity to challenge Kenya’s ruling party, members of the opposition, and civil society groups to come forward with a viable and effective anticorruption strategy that is acceptable to all stakeholders. The United States should also be forthcoming with technical assistance and willing to facilitate dialogue toward this end.

Second, expanding U.S.-Kenyan trade opportunities is a relatively painless measure for the United States, and U.S. policymakers should continue to certify Kenya for the full benefits of the U.S. African Growth and Opportunity Act (AGOA) and work to broaden and deepen those benefits. Kenya has realized significant gains from AGOA, nearly doubling its exports to the United States during the first year of the legislation. The legislation has created new opportunities for Kenya, a fact that Moi has publicly acknowledged, even though Kenyan businesses and Kenyan workers—not Moi and his associates—are its main beneficiaries. On the U.S. side, the question of Kenya’s continued eligibility is open to debate, given the current impasse over legislation to reconstitute the Kenya Anti-Corruption Authority and Kenya’s failure to comply fully with AGOA requirements. (Hearings to be held by the Senate Foreign Relations Subcommittee on Africa to address this issue were postponed after the September 11 attacks). In Kenya (and elsewhere in Africa), the United States should be flexible and exercise leniency in granting AGOA certification, and should push for legislation to expand and deepen benefits available under the act. Denying Kenyan goods access to the U.S. market will only hurt Kenyan manufacturers and workers, the very people whom bad governance has hurt for the last 20 years. Granting Kenya continued certification is an easy way of showing support for Kenya without channeling funds directly to the regime.

Third, the United States should consider increasing U.S. bilateral assistance to the Kenyan government itself. Excluding food aid, U.S. assistance to Kenya in FY2001 was approximately \$30 million, down from a high of roughly \$60 million in 1990. Moreover, in recent years, most direct assistance has been channeled through NGO and civil society organizations. Bolstered direct assistance

to the government clearly must be accompanied by adequate monitoring and undertaken in close collaboration with other donors. Most importantly, it should be carefully vetted for potential political or partisan impact, or the appearance thereof.

As a priority, the United States can provide nonmilitary support and technical assistance to upgrade Kenya's port and airport security and tighten its border controls. Ongoing security assistance—ACRI and joint military exercises—should be reconfigured to strengthen counterterrorist and security capacities. The Kenyan military is professional and relatively apolitical, and the United States could bolster provision of supplies, particularly replacement parts for obsolescent airforce and army transport equipment.

The United States should also seek to build capacity in Kenya's law enforcement and judicial institutions to investigate and check money-laundering, narcotics trafficking, and illegal arms flows. To the extent that these will include assistance to the Kenyan police, these measures require congressional attention to those sections of the Foreign Assistance Act dealing with assistance to police and other law enforcement agencies. Most Kenyans perceive both the Kenyan police force and judicial system as corrupt and vulnerable to political manipulation. The United States must work in concert with Kenyans to enhance police accountability.

The current context provides an opportunity to forge new avenues of cooperation to oblige Moi, while ensuring accountability by releasing funds only on a highly treasured and monitored basis. The United States can boost funding for clearly defined elements of Kenya's HIV/AIDS response for example, either through direct supply of medical products such as testing kits, medicines, components of health infrastructure, expanded technical assistance, and training. The United States should also consider increased technical assistance to strengthen sectoral policy in those areas where the Kenyan government is initiating promising reforms, for example in agriculture and energy. In these areas, training in budgetary management and accounting are sorely needed.

On governance issues, the United States can offer nonpartisan assistance. It can, for example, give technical and financial support to Kenya's electoral commission, aiding the commission's efforts to streamline voter registration and helping insulate the commission from political manipulation. The United States should continue

its support, begun in 1992, of domestic monitoring groups and encourage their activities in the forthcoming elections. It should work to strengthen Kenya's media infrastructure and supplement current efforts to broaden access to electronic media and the Internet. And, it should continue its current program to strengthen the Kenyan National Assembly. In every area of engagement, U.S. programs should redouble their commitment to reach, and be sensitive to the views of, Kenya's Muslim populations and other heretofore marginalized groups, encouraging minority group participation in both civil society and in political discourse.

A final area for heightened engagement is public diplomacy, which must consistently send a message in support of a level political playing field and an inclusionary, substantive dialogue on questions of constitutional and economic reform. Part of keeping Kenya stable is to ensure that the 2002 elections are reasonably free and fair. This is unlikely to happen, however, until some basic agreement is reached on a new constitution or limited reforms, as was the case in 1997. In this regard, the United States can be more proactive in pushing the opposition to recognize that they will need to be more forthcoming vis-à-vis Moi and KANU if they truly want an end game and presidential succession in Kenya. Amnesty for Moi—and even perhaps for some of his most objectionable cohorts—may be a small price to pay if it helps ensure that Moi recedes to quiet retirement and thereby opens a window of opportunity for genuine political reform. The United States should avoid taking a dogmatic stance on the issue of presidential amnesty, and should instead follow the lead of Kenyans themselves. However, it should actively seek to facilitate dialogue between the principal stakeholders in the amnesty debate.

Similarly, the United States should do its best to encourage the opposition, the ruling party, and nongovernmental opinion leaders alike to engage in good-faith dialogue on a new constitutional framework, under the auspices of the Constitutional Review Commission led by Professor Yash Ghai. A critical issue for the review commission to tackle is the enduring tension between group rights and the rights of individuals, a tension that has played itself out in competing demands for and opposition to political decentralization or "*majimbo*." Striking a viable balance between the powers of the central government and regional polities and coming up with constitutional mechanisms for power-sharing and political decentralization ultimately must be the decision and responsibility of Kenyans themselves. Nevertheless, the United States can offer to provide such

technical assistance as might be requested by the review commission on such issues as the budgetary and fiscal implications of different forms of decentralization, civil service requirements, the mapping of local resources, and so forth. The United States should share with Kenyans its own difficult history of striking an appropriate balance between federal and state powers, and minority and individual rights. It should work to encourage dialogue and compromise among competing viewpoints and encourage opposition and government alike to look for solutions that give expression to popular will writ large, but at the same time guarantee the rights of minority and disadvantaged groups.

Conclusion

A new U.S.-Kenyan partnership to combat terrorism in the Horn need not derail current U.S. efforts to encourage political and economic liberalization in Kenya. In fact the tragedy of September 11, like that of August 1998, offers new opportunities for engagement and discourse. Cooperation in confronting terrorists adds a layer of complexity to the U.S.-Kenyan relationship, but the relationship will almost certainly be sufficiently strong to withstand complex—and sometimes seemingly competing—policy interests. There is sufficient room for maneuver in the relationship for the United States to provide President Moi a much greater level of rhetorical and even financial support while strongly encouraging him to step down, as promised, at the end of his current term. The United States should engage a broad spectrum of Kenyan public opinion, by pushing the opposition to play a more effective and constructive role, facilitating when possible dialogue across ethnic and religious divides, and sending a strong and consistent message that the United States intends to support free and fair elections in 2002 on a cooperative basis with other members of the donor community.

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