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Tallahassee, where he obtained a PhD in Sociology, majoring in Demography. He taught Population Dynamics and advanced Demographic Techniques at the Population Studies and Research Institute (PSRI) at the University of Nairobi for 7 years. He joined the International Planned Parenthood Federation (IPPF), Africa Region, where he served for 15 years in various senior capacities in the

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On leaving IPPF, he joined the Nairobi Evangelical Graduate School of Theology (NEGST) (now Africa International University), as Director of the Institute of African Realities (ISAR). He served as Deputy Vice-Chancellor for Administration and Finance, the Presbyterian University of East Africa. He now serves as Professor and Senior Research Scientist at the International Peace Support Training Centre (IPSTC).



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Prof. Clara Momanyi is a professor of Kiswahili in the Department of Kiswahili, Faculty of Arts and Social Sciences, The Catholic University of Eastern Africa. She holds a Bachelor of Education degree in Kiswahili and History from the University of Nairobi, a Master of Arts degree and a PhD both in Kiswahili literary studies from Kenyatta University. Prof. Momanyi has served in national boards as director and has translated both national and international documents and policies into Kiswahili. She is a member of several Kiswahili national and international associations and served as a member of editorial boards in academic journals like RUWAZA

AFRIKA, Journal of Contemporary Discourse in Language, Literature, Culture and the Arts, Egerton University, CHEMCHEMI, a Journal of the School of Humanities and Social Sciences, Kenyatta University and KUMEKUCHA, a Journal of the Faculty of Arts in Catholic University, among others. She has also peer-reviewed articles for other publications in both English and Kiswahili. Prof. Momanyi is a Kiswahili literary writer who has published widely in the area of Kiswahili novels and short stories, and has widely published academic articles in national and international journals. In 2006, she was awarded the Fulbright Senior Scholars Program where she did a postdoctoral research on Teaching Kiswahili as a foreign language in USA. In 2007 she was also recognized by Ford Foundation International Fellowship Program for promoting leadership for social justice. In 2010, she received presidential commendation as the Elder of the Burning Spear (EBS) in recognition for her efforts in the development of national language, culture and human rights. Prof. Momanyi is also a researcher especially in the area of gender, culture and history.

Editorial



In this special review edition, the editorial looks back at some of the salient articles that were contributed by contributors. It is the sixth edition of the Journal, that sets the stage for advance towards the tenth edition, a target that is foreseen in the next two years. These articles received wide commentary and discussion.

One of the earliest contributions to the Journal was the work by Dr. Kimani on protection of civilians and protection of civilians in the context of the 'Standby Force'. The force was a remarkable idea and was seen as a critical element in the disarmament, demobilization and re-integration to lasting peace in Africa region.

The works on terrorism and counter-terrorism by Mumo Nzau within the context of human rights set an early stage for continued writing on the subject. Later works in this footstep followed as the challenge of terrorism, extreme violence and counter violence initiatives.

In addition to contributing to academic content to peace and security, the work done by Nyanchoga reminded readers early enough that the area of peace and security is a highly strategic endeavour that required thought and explanations that befit the academic rigour. Hence his contribution on social conflict theory and its applications to peace and security.

The above notion of academic 'rigour mortis' in the journal was re-enforced by the contribution of Gatara, who set the standard for the journal by producing a positivistic paper on 'predicting state fragility' in Africa. It integrated theory, methodology and statistics to demonstrate the level that the journal should attain in the future. It may not be there yet but the standard is set.

Gender and peace also broke ground in the journal through the contributions by Njambi, Gatimu, Momanyi and Gatara. Other than sensitizing readers on the importance of gender integration in all issues peace and security, the works strengthened policy and practice evolution in peace support operations.

A future area that is increasingly gaining salience is the threat of bio-terrorism. The stage for this area is set by the work of Philip Emase. In attempting to answer the question whether pandemics such as Ebola can be weaponised, he leads the journal into a new field. More articles on this subject are welcome.

The Journal welcomes all to the readership of this special edition as the editorial focuses on the future.

Prof. Timothy Gatara
Editor

Forward



Retracing landmarks of the Amani Journal

The journey to found a peace journal at IPSTC started in earnest in 2014. With humble beginnings and belief that it is an undertaking that the Research Department could sustain, the effort has taken us to the 6th edition.

As the future beckons, challenges to peace and security in the region remain daunting. Electoral violence threatens peace on the continent; sexual and gender based violence are as pervasive as ever, especially in the conflict zones of South Sudan and the Great Lakes Region; terrorism and its mutating nature accompanied by virulent radicalisation have reached alarming proportions; not least among these are the threats of piracy, human and weapons trafficking, cyber crimes and environmentally triggered conflicts rotating around access to vital life sustaining and development resources such as water, food and oil.

In retrospect, the publication appreciates all the partners who have believed in IPSTC as a centre of excellence in peace and security. Special mention goes to the Government of Japan and UNDP for their unwavering support for the journal. The many contributors who made time to write and to spur the journal on its growth path to becoming a centre peace in the promotion of peace and security in Africa.

The current issue of the journal is a watershed moment, as the centre enhances its academic growth and promotes serious research and its publication in peace and security. It is hoped that the journey will become a critical tool in the creation, dissemination and application of knowledge in the search for solutions to lasting peace in both Africa and the world.

I take the opportunity to appreciate the editorial board and the editor of the journal and encouraged advance to higher ground in advancing the journal.

**Director.
IPSTC.**

Protection of civilians in disarmament initiative within the context of the African standby force (ASF)

Kimani M. J. PhD

Abstract

Disarmament, Demobilization and Reintegration (DDR), usually undertaken to immediately reduce violence and stabilize post-conflict situations, is among the first interventions in a larger assemblage of activities within a framework under which the concept of the Protection of Civilians (PoC) is realized. For various reasons, not least, diverse contexts, threats to civilian safety and security and differences among practitioners involved in post conflict situations, have rendered traditional approaches to DDR largely ineffective. Fortunately, different practitioners are increasingly embracing Practical Disarmament (PD). As opposed to traditional DDR, PD is a more comprehensive approach. This paper looks at various approaches used in PD and in what circumstances they are best applied to facilitate and enhance the PoC .

Introduction and background

*'... between 20 and 30 November 2012. At least 97 women and 33 girls (aged between 6 and 17) were raped and a further five women were victims of attempted rape in and around Minova, Kalehe territory, South Kivu province... [perpetrators] entered houses, usually in groups of three to six, and, after threatening the inhabitants, looted whatever they could find... [they] would leave with the looted goods and at least one would stand guard as the remaining [perpetrators] raped women and girls in the house. Victims were threatened with death if they shouted; some were raped at gunpoint.'*¹

The enormity of this incident, among others, is by any measure, profound. While the violent conflict in Eastern Democratic Republic of Congo can be categorized as one of the catastrophes of the present times, it is not lost that at the time these incidences took place, the international community, through the United Nations, had a large peacekeeping operation on the ground.²

The same scenario, albeit in different forms and intensity, is repeated in nearly all the on-going violent conflicts in the African continent, be it in Mali, Central African Republic, Sudan and South Sudan or Somalia.

This phenomenon of conflict largely speaks to the question of safety and security of people caught in violent conflicts. Briefly, 'safety and security of communities means the protection and securing of residents and their property, and prevention of anything that may threaten them...'³

The threat to safety and security is prevalent in many post-conflict situations, where 'humanitarian problems, issues of disarmament, demobilization and reintegration (DDR), small arms and light weapons collection and management, security sector reform/governance (SSR/G), the rule of law, transitional justice, reconstruction and socio-economic issues...'⁴

present critical challenges to stabilization efforts and the realization of sustainable peace.

To ensure and guarantee sustainable peace, in conflict and non-conflict situations, different approaches are adopted. These approaches entail a variety of activities with an aggregate and overarching goal to contribute and attain, what is popularly referred to as, human security. As a concept, the Commission for Human Security in 2003, postulated that “human security means protecting vital freedoms. ... Protecting people from critical and pervasive threats and situations, [and] building on their strengths and aspirations. ...human security connects different types of freedoms – freedom from want, freedom from fear and freedom to take action on one’s own behalf”.⁵

This definition of human security is different from the traditional definition of security that focused on the state, that is, securing sovereignty. The same concept of human security is owned by the African Union whose predecessor, the Organization of African unity (OAU) averred, in a 1991 document – Towards a Conference on Security, Stability Development and Cooperation in Africa that: “security embraces all aspects of the society including economic, political and social dimensions of individual, family, community, local and national life.”⁶ The report went further to suggest that ‘the security of a nation must be constructed in terms of the security of the individual citizen to live in peace with access to basic necessities of life while fully participating in the affairs of his/her society in freedom and enjoying all fundamental human rights’.⁷

The problem of the presence and proliferation of Small Arms and Light Weapons (SALW) is captured in details in the June 2013 AU draft Aide-Mémoire for the Consideration of Issues Pertaining to the Protection of Civilians in Africa. The Aide-Mémoire highlights the

detrimental impact of Small Arms and Light Weapons, Mines and Explosive Remnants of War and more particularly small arms on the civilian population and their contribution in fueling armed conflict. As a result, the Aide-Mémoire notes the importance of ensuring that Peace Support Operations (PSOs) have in their mandates practical measures aimed at monitoring and preventing the proliferation and secure collection and disposal of illicit SALW among other measures.⁸

In all present day AU PSOs, the PoC is a core element of the mandates. Indeed, PoC is increasingly being perceived as the basic measure of the success of PSOs. The urgency and centrality of civilian protection especially at the end of armed conflict is a key determinant of the extent to which all the stakeholders see the PSO as a useful tool in post-conflict situations. In other words, the stakeholders, especially the local civilian population, apportion legitimacy and credibility of the PSOs on their ability to protect civilians.⁹

This paper aims to explore how activities carried out under PSO mandates in African Peacekeeping missions can be enhanced to contribute better to the realization of the concept of Protection of Civilians (PoC). Specifically, the paper focuses on the role of Disarmament, Demobilization and Reintegration (DDR) as one of the long-term consolidation activities in post-conflict situations.

Statement of the problem

One of the problems with the realization of PoC in PSOs is the fact that to date, there is no clear standard agreed definition of the concept of PoC. The lack of clarity effectively means that stakeholders working within peacekeeping missions, humanitarian and peacekeeping

communities have their own interpretation of the civilian protection mandate.¹⁰

This disparity cascades down to the specific activities implemented by the stakeholders. This gets complicated when the activities in question, for example, entails diverse components. The emphasis placed on the individual components, if not properly balanced, can result in disparities in the benefits accrued from the interventions. In the worst-case scenario these disparities can be a source of conflict that result in the outbreak or resurgence of violent confrontations and ultimately insecurity.¹¹

Purpose and Objectives

The purpose of this study is to first understand the interface between PSOs and the concept of PoC especially in the Tier Frameworks of the UN and AU. Second, is to understand which activities are conceived under the different Tiers. Specifically, is to anchor disarmament to the concepts of PSO and PoC. Once anchored, the study explores the best approaches for realizing PoC in disarmament interventions.

In sum, the objectives of the study are:

1. To explore the aspect of PoC in Peace Support Operations
2. To establish the nexus between disarmament and PoC
3. To interrogate how PoC can be realized in disarmament interventions
4. To identify salient PoC elements and challenges in disarmament interventions

Significance, methodology, scope, delimitations and limitations

It is important to concretely understand how different elements in any given concepts reinforce and/or contradict each other. This is especially important where the different concepts aim to contribute to the same end

goal, for example, PoC. Equally significant, is the need to identify the best approaches for realizing the successful implementation of specific interventions like DDR and, as well, understand how each approach affects the successful realization of other complementing activities.

The study adopts a purely desk study approach. The focus of the study is mainly African Union Peace Support Operations but will also draw from experiences of UN peacekeeping operations especially because that is where AU approaches are benchmarked. The study is purposely delimited to disarmament initiatives even though there exists critical complementary initiatives like Security Sector Reforms (SSR), Rule of Law (RoL) among others that, together, contribute towards the realization of sustainable conflict resolution and peace especially in post-conflict situations. The value of interactions with practitioners with first hand experience is immense; however, in this study there were no opportunities to undertake any field study.

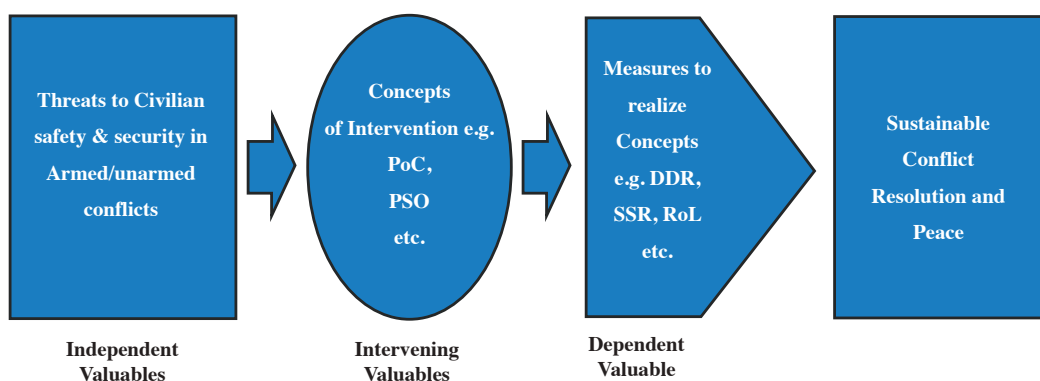
Theoretical Framework/Conceptual Framework

In both armed, and unarmed conflicts, civilians face a diverse array of threats including violence (killings, torture, sexual violence), coercion (arbitrary displacement, forced recruitment, abduction), deprivation (denial of access to humanitarian assistance, discrimination in the provision of basic services) and, as has been witnessed in the DRC, the peace-keepers can also be a threat. The civilian population experiences these varied threats in different contexts and intensities. The more divergent the threats, different context and intensities, the more varied are the interventions and stakeholders. The succeeding sections one and two of this report endeavor to interrogate the intricacies intertwining the concepts of PSOs, PoC and their nexus with disarmament.

The conceptual framework is based on the contention that it is important within a given conflict or post-conflict context to follow a logical process that starts with (i) exploring and understanding all the factors that threaten the safety and security of the civilian populations, (ii) framing these in any of the given operational concepts (PSO or PoC), (iii) identifying the various measures necessary to

operationalize the concepts (DDR, RoL, SSR) and exploring the best strategies to implement them for purposes of (iv) realizing the desired sustainable conflict resolution and peace. In this logical diagram, items (i) constitute the independent variable; item (iii) the intervening variable; and, (iv) the dependent variable. This paper focuses on the intervening variables (item (iii)) alone.

Conceptual Framework of the Study



Definition of Concepts

The detailed description of the key concepts and terminologies used in the paper is given in the endnotes but briefly include:

The AU Draft Guidelines on the Protection of Civilians in African Union Peace Support Operations defines the Protection of Civilians as activities undertaken to improve the security of the population and people at risk, and to ensure the full respect for the rights of groups and the individual recognised under various regional instruments.

The Concept of R2P emerged in 2005 from recommendations by the UN International Commission on Intervention and State Sovereignty (ICISS) in view of the setbacks

with the full realization of the PoC concept in violent conflicts experienced in the 1990s e.g. in Liberia, Somalia, Rwanda, Sierra Leone, Burundi, the DRC, Sudan among others. The R2P Concept applies in situations where atrocious crimes e.g. genocide, crimes against humanity, war crimes, ethnic cleansing are systematic and planed as part of the war strategy.

Traditional peacekeeping operations involved authorized military operations undertaken with the consent of the major parties to a dispute that were designed to monitor and facilitate implementation of peace agreements e.g. a ceasefire, truce etc. Peacekeeping was also aimed at supporting diplomatic efforts to

reach long-term political settlements. Second generation peacekeeping operations (often referred to as Peace Support Operations (PSOs)) are more complex and multidimensional where in addition to traditional military functions, police and civilian components are an integral part of the operation.

Broadly defined, Small Arms are those weapons designed for personal use while light weapons are those designed for use by several persons serving as a crew.

The concept of Practical Disarmament can be traced to as far back as 1995, through the UN's "Supplement to an Agenda for Peace" that, for the first time, recognized and acknowledged the phenomenon of armed non-state actors; and, called for practical disarmament measures, different from the regulations and sanctions applicable to nation-states.

Broadly, combatants are persons who are members of a national army or an irregular military organization/structure and who are actively participating in military activities and hostilities. Ex-combatants are defined as persons who have laid down or surrendered their arms with a view to entering a DDR process.

Rule of Law (RoL) refer to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.

Security Sector Reform (SSR) refers to a dynamic concept involving the design and implementation of a strategy for the

management of security functions in a democratically accountable, efficient and effective manner to initiate and support reform of the national security infra-structure.

Peacebuilding involves a range of measures targeted to reduce the risk of lapsing or relapsing into conflict by strengthening national capacities at all levels for conflict management, and to lay the foundations for sustainable peace and development.

Theoretical Frameworks: Situating PoC

Protection of civilians in Conflict Situations

Parts of the African continent continue to experience and grapple with situations of violent conflicts. These conflicts arise out of a range of factors including skewed governance; rampant quest for political power; inequitable distribution, use and ownership of national resources; negative ethnicity; and religious clefts among others. The conflicts are largely intra-state in nature and increasingly involve non-state actors that employ asymmetric tactics of execution including use of improvised explosive devices, grenades and other explosive ordinances. In these types of violent conflicts, it is increasingly difficult to distinguish the real combatants or what exactly is the root causes of the violence.

In any violent conflict situation, some sections of the civilian population might also be combatants but what is clear is that the majority of the victims are civilians who include vulnerable sections of the community including the elderly, women and children. Depending on the conflict and if not accidentally caught between fighters, the combatants can directly

target these vulnerable groups, use them as shields, recruit them into fighting and subject them to other forms of violence not least, sexual violence and general human rights abuse. Indeed, in protracted violent conflicts, the civilian population experience serious threats such as genocide, war crimes, crimes against humanity and ethnic cleansing.

Peace Support Operations (PSO) are a tool used by the UN and the AU to assist countries in or emerging from violent conflict to end the conflict, restore peace and facilitate peacebuilding interventions that ensure that the affected countries do not relapse into conflict. As a result of the hostilities and the diverse number and interests of parties involved in conflict, PSOs are considered to be an important intervention in ending conflict and restoring peace as it is considered or expected to be an impartial tool. The civilians who are usually most affected by the conflict place high hopes on the PSOs to not only protect them but also to help them get justice and facilitate a return to normalcy.

Protection of civilian mandates are anchored on the principles of peacekeeping¹² – consent of the host government and main parties to the conflict, impartiality, non-use of force except in self defense or defense of the mandate, legitimacy and credibility among the relevant stakeholders. Equally important is the recognition that even though the primary responsibility for PoC lies with the host governments there are also many other different actors with distinct roles and responsibilities.

The extent to which the PSOs are able to protect and assist the civilian population return to normal life determines the perception and acceptance of the intervention; that is, the

legitimacy and credibility of the PSO. If the civilian population does not experience any levels of security or have their rights protected, they will withdraw their support to the PSO. The PSOs can then not be effective in building and sustaining the necessary political goodwill towards the peace process. Thus, a key primary responsibility of any PSO is to protect the civilian population.

The UN and AU engagement in PoC

Consideration of aspects of PoC in UN peacekeeping activities can be traced as far back as the Operational Directive No. 8 of the 1960 UN Operation in the Congo (ONUC). In 1992 the UN Protection Force deployed to the former Yugoslavia (UNPROFOR) was the next attempt by the UN to embrace elements of PoC but the mission was neither mandated nor resourced to provide direct physical protection to civilians.¹³ Drawing from lessons learned, the UN in 1999 took the first bold step to specifically incorporate aspects of PoC in a peacekeeping mission by mandating the UN Mission in Sierra Leone (UNAMSIL) to ‘take the necessary action...within its capabilities and areas of deployment, to accord protection to civilians under imminent threat of physical violence, taking into account the responsibilities of the Government of Sierra Leone and the ECOMOG’.¹⁴ Since then, and given the many conflicts on the continent, especially intra-state ones, that are exceedingly violent and have devastating negative impacts on civilian populations, the UN has endeavoured to mainstream PoC in its peacekeeping missions’ mandates as reflected in different Security Council Resolutions (SCR) including SCR 1265 (1999), 1674 (2006), 1894 (2009) among others.¹⁵ The UN has further considered protection against specific threats in particular sexual and gender-based violence that usually

targets women and children.¹⁶ Indeed, the present-day UN peacekeeping mandates have explicit authority ‘to use all necessary means to protect civilians under imminent threat of physical violence, without prejudice to the responsibility of the host Government, within the limits of its capacity and areas of deployment’.¹⁷

Pursuant to its mandate, the African Union Peace and Security Council (AUPSC) respond to conflicts on the continent through various mechanisms delineated within the African Peace and Security Architecture (APSA). The mandate of the AU to intervene in conflict situations is legally founded in its Constitutive Act where, Article 4(h) legitimizes ‘the right of the Union to intervene in a member state pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity’.¹⁸ In addition, the AU embraces the principle of non-indifference and endeavors to offer ‘African solutions to African problems’.¹⁹ Indeed, its harmonized doctrine for PSOs clearly states that ‘the protection of a non-combatant’s basic right to life and dignity is a fundamental element of all peace support operations’.²⁰ The AU further embraces the doctrine of Responsibility-to-Protect (R2P)²¹ and will intervene in conflict situations where the host government is unable or unwilling to protect its citizens in times of violent conflict. Thus, working with the national government and other relevant stakeholders, a key intervention by the AU ensures that the civilian populations are adequately protected in situations of violent conflicts.

The continental engagement in PoC is informed by the changes in operational environment of PSOs especially after the setbacks experienced

with the protection of civilians e.g. in Rwanda in the 1990s.²² Present-day PSOs are increasingly integrated, multidisciplinary and multidimensional²³ as noted by the AU 2010 *Draft Guidelines on the Protection of Civilians in African Union Peace Support Operations*’ that states: ‘protection of civilians in a peace support mission requires a multidimensional and coordinated approach with clear and differentiated responsibilities for military, police and civilian components [...]’²⁴ The AU defines the Protection of Civilians as:

*‘Activities undertaken to improve the security of the population and people at risk, and to ensure the full respect for the rights of groups and the individual recognised under regional instruments, including the African Charter of Human and Peoples’ Rights, the African Union Convention for the Protection and Assistance of Internally Displaced Persons, and the Convention Governing the Specific Aspects of Refugee Problems in Africa, and international law, including humanitarian, human rights and refugee law’.*²⁵

The AU has over time developed several instruments that address the protection of civilians. These include, among others, the AU Constitutive Act (2000), the African Charter on Human and People’s Rights (1986), the African Charter on the Rights and Welfare of the Child (1999), the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (2003), the Protocol Relating to the Establishment of the Peace and Security Council of the African Union (2002) and the AU Convention for the Protection and Assistance to Internally Displaced Persons (2009).²⁶

Realizing PoC in PSOs

The UN and the AU have adopted a basic three (UN) and four-tiered (AU) framework used in its PSOs to realize the concept of PoC:²⁷

1. Protection as part of the political process: that aims to ensure that a State emerging from conflict establishes sustainable peace by making sure that situations that give rise to armed violence are eliminated and that issues of justice and accountability are adequately addressed;
2. Protection from physical violence: through the undertaking of activities that minimize the risk of escalation of conflict (prevention); mitigate the imminent threat by combatants (pre-emption); effectively neutralize combatants after an outbreak of violence (response); and, managing post-conflict situations e.g. DDR activities (consolidation);
3. Establishment of a protective environment: that includes the peace building initiatives to mitigate against potential relapse into violent conflicts; and,
4. Rights-based protection: applicable to both individuals and groups and that may include, for example, the monitoring and reporting of human rights violations and the promotion and protection of human rights.

The mutually reinforcing tiered approach and the diverse activities it encompasses stems from the acknowledgement that protection should be a far more reaching intervention that goes beyond the immediate protection from imminent physical threat. Rather, protection is a shared responsibility between host

governments, local and external stakeholders and the communities involved.

Full realization of the concept of PoC is closely tied to the successful implementation of the many different tasks undertaken under PSOs.²⁸

These include:

- Support to the political processes: lasting peace requires a sound political foundation that ensures that post-conflict countries do not relapse into violent conflict and that there is justice and accountability which are key factors of protection.
- Conflict management and support to reconciliation: capacity building of local conflict resolution and reconciliation processes is a critical element that contributes towards stability and lasting peace.
- Protection from physical violence: civilians must be protected from the effects of physical violence or the imminent threat to violence.
- Creating conditions conducive to the delivery of humanitarian assistance: humanitarian assistance to civilians must be guaranteed and necessary actions must be taken to ensure that such provision is not threatened.
- Promotion of the Protection of Human Rights: it is important to facilitate the necessary infrastructures and capacities that ensure that human rights violations are investigated, monitored and reported in order to assist in ending the culture of impunity.

- Mitigating involuntary displacements: forceful displacement of populations is a violation of human rights and where it has occurred, the refugees and the Internally Displaced Persons (IDPs) require to be facilitated to voluntarily return home and live in dignity.
- Rule of Law, Security Sector Reform and DDR: to ensure lasting peace, illicit armaments should be removed from unauthorised hands. The capacities of the military and police institutions require support and re-orientation if the rule of law is to be observed and that all are accountable to laws that are publicly promulgated, equally enforced, independently enforced and that are consistent with international norms and standards.

Theoretical Framework: Nexus between Disarmament and PoC

SALW in Conflict Situations

A key aspect of the many of the protracted intra-state conflicts witnessed since the early 1990s, is the diversity of the perpetrators especially non-state actors that include warlords, private militias, armed civilians and other criminal elements. Another phenomenon is the increased level of indiscriminate violence in the conflicts and their ability to spill over across national and international borders. It has been suggested that the growing use of information communication technologies and the ease in national and international travel are some of the factors contributing to the fluid transformation of conflict. However, it is the availability and (mis-)use of sophisticated Small Arms and Light Weapons (SALW)²⁹ that is attributed with the exacerbation of violence in the conflicts.

The proliferation and application of illicit SALW is prevalent in both non-violent and violent conflict situations. In both situations, there are diverse socio-political, economic and cultural factors that drive the proliferation of SALW not least including: absent/inept/discriminatory governance structures and political authority; porous international borders; in-equitable distribution of natural resources and government services; and, retrogressive cultural practices e.g. cattle rustling among pastoralist communities; among others.³⁰ In post conflict situations, proliferation can be fuelled by such factors as: the breakdown of the rule of law, collapsed administrative and physical infrastructure, lack of productive economic opportunities especially for the youth, presence of remnant SALWs, threat from internal and external insurgency groups; among others.

SALW sustains and exacerbates violent conflicts, threatens the functions of legitimate governments, threatens the application and observance of international human rights and humanitarian laws, endangers humanitarian relief and general development and can entrench a culture of violence and impunity.³¹ In sum, illicit SALWs are a threat to peace, security and economic development to any country but are especially worse for countries emerging from conflict.³² The AU has posited that the availability and use of illicit SALW give rise to social violence, corruption and other criminal enterprises that can also be attributed to terrorism, mercenary activities and trans-national organized crime like drug and human trafficking. In addition, in post-conflict situations, the use of illicit SALW complicates reconstruction and peacebuilding initiatives; indeed, illicit SALW constitute part of the factors that threaten continental peace, development and stability.³³ For this reason,

the Constitutive Act of the AU and the Protocol establishing the Peace and Security Council, that have very clear principles regarding peace and security on the continent, have detailed principles on the management of the challenge of SALW in the continent.³⁴

Disarmament and PoC

Countries emerging from violent conflicts are characterised by instability and a general threat to security. In these countries, it is imperative that immediate interventions to stabilize and mitigate against insecurity are undertaken. This is critical in order to facilitate the implementation of needed activities such as relief and humanitarian activities, reconciliation, peacebuilding and the start of general reconstruction. At the end of hostilities the first-line of intervention is usually the Disarmament, Demobilization and Reintegration (DDR) of former combatants. However, as a result of the urgency to end insecurity, the initial DDR initiatives focused on the immediate need to stabilize the situations as opposed to comprehensively addressing the pertinent underlying issues contributing to insecurity and instability.³⁵ Fortunately, this has changed and the present-day DDR initiatives are more comprehensive.

DDR initiatives are undertaken within the larger context of wide-ranging activities outlined in AUPSO mandates. The aggregate outcome of the successful implementation of these activities ensures that communities affected by violent conflicts can revert to situations of normalcy where their human security is facilitated and guaranteed. It has been pointed out that in an effort to realize PoC objectives, the AU adopts a Four-Tier approach in its PSO missions. Briefly these include: Protection as part of the political process; Protection from

physical violence; Establishment of a protective environment; and, Rights-based protection. While the successful implementation of a comprehensive DDR initiative contributes to the overall realization of PoC, it is the activities under Tier Two that benefit most.

The removal of illicit SALW can minimize the risk of a potential escalation of violence (prevention) especially given the fact that combatants no longer have weapons in their possession (pre-emption). However, should violence break out, it is easier to contain it (response) and to continue implementing reconstruction and peace-building activities (consolidation). The DDR initiatives are complemented by other closely related activities including Rule of Law and Security Sector Reforms that aim to capacitate law enforcement institutions to adopt and embrace approaches, that are accountable and consistent with acceptable international norms and standards, in their work. These initiatives, proposed under Tier Two, demonstrate the clear link between disarmament and PoC.

Anchoring Disarmament in PSO mandates and PoC concept

To address the illicit proliferation and application of SALW, the AU approaches are founded on two principal documents. The first document is the African Common Position on the Illicit Proliferation, Circulation and Trafficking of SALW (Bamako Declaration) that was adopted by the Council of Ministers of the OAU in December 2000.³⁶ The Declaration provides for the identification, seizure and destruction of illicit arms and the establishment of measures to control the circulation, transfer and use of SALW. The second document is the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade

in Small Arms and Light Weapons in All Its Aspects, adopted in New York in July 2001.³⁷ In addition to these two documents, the AU subscribes to other protocols and conventions.³⁸

Substantively, DDR activities within the AU can be traced to the Solemn Declaration on a Common African Defence and Security Policy (CADSP) that was adopted in February 2004.³⁹ The AU Peace and Security Council (PSC) is charged with the responsibility of realizing the objectives of the Declaration and has since, 2006, under the Policy Framework on Post Conflict Reconstruction and Development Policy (PCRD)⁴⁰ engaged in strengthening its own capacity and that of the member states on DDR. The AU advocates for the integration of and engagement in DDR throughout the entire spectrum of peace processes - peace negotiations, peacekeeping and peace building initiatives. This is reflected in various AU African Peace and Security Architecture (AU APSA) Roadmaps; for example, APSA Road Map (2011-2013) states that DDR must *'be integrated into the entire peace processes, from the initial peace negotiations through peacekeeping and follow-on peace building activities [and]... calls for collaboration with relevant Units within the Peace and Security Department, and also with other relevant Departments'*.⁴¹

A key activity by the AU towards the unpacking of the APSA Roadmaps, is a response to a decision by the Assembly (Decision of the Assembly/AU/Dec.369(XVII). In its response, the AU developed a draft 'AU Strategy on the Control of Illicit Proliferation, Circulation and Trafficking of SALW'. This draft, considered and adopted at a meeting from 26-29 September 2011 in Lome, Togo⁴², has the overall objective of preventing, combating and eradicating the

illicit proliferation, circulation and trafficking of SALW in an integrated and holistic manner. The AU further elaborated a comprehensive Action Plan to facilitate the implementation and realization of the strategy.⁴³

The availability and application of illicit SALW are a threat to general peace and security because, besides exacerbating conflict, threatening peaceful reconciliation and long-term peacebuilding, they also cement cultures of violence and impunity. In such circumstances, human security cannot be realized or guaranteed whether in peace, conflict or post-conflict situations.

In post conflict-situations in particular, the primary mandate of POC initiatives is to safeguard and mitigate against threats to human security through the implementation of *'...activities aimed at obtaining full respect for the rights of the individual in accordance with international humanitarian, human rights and refugee law'*.⁴⁴ The removal of SALW from unauthorized hands, mitigates fear and insecurity of armed violence in a society and is thus one of the activities that contributes towards the realization of the rights of individuals.

Tier two, Protection from Physical Violence, of the UN and AU Framework for operationalizing the concept of PoC, points out that DDR is one of the key activities that contribute significantly to the realization of peace in post-conflict situations (consolidation).

Several UN resolutions are explicit on the need to address the question of SALW in integrated approaches aimed at the realization of sustainable peace. For example, in its focus on the 'root causes of armed conflict and threats to the security of women and girls', the UNSCR

2122 (2013), ‘...links disarmament and gender equality and addresses the Arms Trade Treaty (ATT); acknowledging its adoption and looking forward to its contribution to reducing violence... builds on ...UNSCR 2117 in urging member states to ensure women’s full and meaningful participation in combating illicit Small Arms and Light Weapons transfer and misuse’.

Important UN and AU documents on conflict resolution and peace-building have underscored the primacy of removing SALW from (Ex-)combatants and have ensured that the necessary activities are an integral part of their PSO mandates. One of these is the African Union/UN hybrid operation/mission in Darfur (UNAMID) whose mandate, among others include: ‘Protection of civilians’ and ‘Contributing to the promotion of human rights and the rule of law’. Towards this, UNAMID undertakes a comprehensive DDR programme within the provisions of Article 29 of the May 2006 Darfur Peace Agreement – Final Security Arrangements that ‘...provides for integration, disarmament, demobilization and social and economic reintegration and the reform of selected national security institutions’⁴⁵; and the July 2011 Doha Document for Peace in Darfur peace Agreement (DDPD) that extensively outlines the necessary activities to be considered in DDR.⁴⁶

From the foregoing, it is clear that DDR activities are firmly anchored in PSO mandates and PoC concepts.

Realizing PoC in Disarmament Operations

In many conflict situations, there are different actors (aggrieved and spoilers) behind each of

the factors that drive the proliferation and use of illicit SALW. These actors may include: ordinary civilians who feel insecure/threatened (politically, economically or culturally), armed ex-combatants (state and non-state), war lords, individual criminals (singularly or as an organized group), terrorists, gun merchants/profiteers and criminal cartels (smugglers, human/drug traffickers), amongst others. Undoubtedly, the motives, organization and resources of these groups are different.

The nature of many post-conflict situations is such that many of these armed/profitteering groups are present and all have significant contributions to the general instability and insecurity. This is the scenario that faces PSO missions with mandates for DDR. Indeed, PSO DDR initiatives can be complicated given the need to develop specific and targeted approaches for each different armed group.

It has been pointed out that traditional DDR activities were more concerned with the immediate reduction of violence and the need to stabilize the conflict situations. Increasingly, DDR activities have embraced additional elements aimed at enhancing their contribution towards reconstruction and peacebuilding initiatives. The more comprehensive DDR approach is usually referred to as Practical Disarmament (PD).⁴⁷ In brief, PD is an approach that goes beyond the hitherto technical interventions of arms collection. PD is more comprehensive and endeavors to take into consideration demand factors (why people are armed), accountability (of processes and end results) and the reform of state security frameworks/institutions (rule of law, human rights etc.).⁴⁸

Identifying PoC elements and challenges in Practical Disarmament

Approaches to practical disarmament

In practical disarmament, the approaches employed are largely dependent on the specific group that is targeted by the process. In any of the PD approaches used, there are different PoC concerns that require to be taken into account.

Voluntary Surrender

In Voluntary surrender, individuals or groups holding unauthorised SALW return them to a legally mandated body. The return of the arms is purely on the individuals' own accord and there are no sanctions imposed for having held the arms. This is usually guaranteed in specified provisions of the law. The government will usually specify where the arms should be taken, the time frame for surrender or any other modalities deemed necessary.

In many instances, this being a voluntary process, there are no major protection concerns. However, it is often that not all the armed persons are willing to surrender their arms. Such people can be hostile against those that voluntarily wish to surrender their weapons. This is especially out of the fear that they may be reported as having arms in their possession. In such circumstances, it is incumbent on the mandated authorities to accord those volunteering to return firearms security from intimidation and threats to their safety. In addition, the government should ensure that the collection centres are safe and secure to avoid potential theft of the returned weapons or accidents arising from poor handling.

Amnesty

There are circumstances where individuals self-arm for what they consider as 'genuine' reasons; e.g. where the government is not able

to provide security. However, the presence of arms in unauthorized hands constitutes a general security threat both to those holding the arms and the country in general. Under such circumstances governments often extend amnesties to those holding arms to return them to a designated authority. In many post conflict situations governments set up Amnesty Commissions to oversee this process.⁴⁹ The responsible authority sets the time frame, location where the arms are to be returned and provides the necessary security. The protection concerns in this approach are similar to those under the 'Voluntary Surrender'.

Forceful Disarmament

In many instances, voluntary surrender or the offer of amnesty to those returning arms might not result in the return of all the illegally held arms. An escalation of armed violence might still prevail and/or the government might be of the opinion that the number of arms in illegal hands is far greater than what was returned. In such circumstances, the government uses its legitimate authority to forcefully look for and collect the firearms either from armed individuals or groups.

In nearly all the cases of forceful disarmament, there are reported cases of violence and general abuse of human rights by those carrying out the disarmament. It is important to pay attention to PoC concerns during forceful disarmament.

This usually starts with carrying out a careful determination of the number of illegal arms in unauthorized hands. This is important in order to avoid situations where people are harassed to return or surrender weapons that they actually do not have. As a result of the many shortfalls with forceful disarmament, practical disarmament discourages this approach. However, where it must be carried out, it is important that the entire exercise is carefully planned and coordinated and that the appropriate policy and legal provisions are put in place and adhered to.

Weapons in Exchange for Development (WfD)

As a way of encouraging the voluntary return of illegally held arms, governments and its' partners link the surrender of arms and the development opportunities extended to the community. This is a complicated approach especially given the fact that it is the right of every citizen to enjoy or benefit from social amenities that the government is obligated to provide. In the same vein, the approach can be misconstrued as tantamount to blackmail of the community by a weak government that has been unable to undertake its obligations in disarmament. In addition, the measure and determination of the level of development and the number or types of arms returned can be contended. Finally, not everybody in a community holds an illegal weapon and thus, the collective punishment or denial of development when it is linked to the number of arms surrendered is discriminatory. This disarmament approach is not recommended in practical disarmament but where it is employed, PoC concerns must be taken into account. In particular, it is important that the community is involved in all the steps of the process and that general security is guaranteed.

Weapons Linked to Development (WLD)

As opposed to the weapons in exchange of development approach, the government can directly link the voluntary community surrender of arms to an increase of inputs into already ongoing development initiatives. Additional or complementary development initiatives are undertaken without any pre-conditions but the level of engagement by government corresponds to an agreed number of surrendered weapons – the more weapons returned the higher the engagement. This approach can encourage community participation in development and security as they see the benefits of voluntary surrender of illegally held arms. The cooperation by the community ensures that protection concerns are integral to the disarmament process.

Weapons in Exchange for Incentives (WEI)

The 'Weapons in exchange of development (WfD)' and 'Weapons Linked to Development (WLD)' approaches are community based. There might be circumstances where the mandated authority might wish to focus on individuals holding illegal arms. The 'Weapons in Exchange for Incentives (WEI)' initiative directly link voluntary surrender of weapons to the provision of pre-determined benefits or material goods to individuals. Determining the value of the incentive against the number or type of weapon returned is not easy and, in many instances, people return the unserviceable weapons in their possession and retain the functional ones. In addition, the offer of incentives might lead unscrupulous individuals using unorthodox means to acquire weapons to exchange for incentives. Such people would be committing a criminal offense and the award of the incentive can be construed

as rewarding their criminality. There are grave protection concerns tied to this approach not least being the risk of insecurity arising from a renewed proliferation of arms in anticipation of incentives. This is especially critical if the government is unable to match the incentive programme with equivalent strict enforcement of legislation on possession and use of arms.⁵⁰

Buy-Back

Another approach that targets individuals as opposed to the community is that of buying arms held in unauthorized hands. It is usually recommended as a short-term intervention as it is open to serious abuse. Setting the value of the arms returned is critical as the value should be higher than the amount of money offered. If not, serious proliferation of arms will occur and criminals will even connive with officials to steal government stocks and resell to the same government. The approach requires careful planning and adequate measures should be put in place to proof ownership of returned weapons and also to account and secure all the returned arms.⁵¹ The protection concerns are similar to those under 'Weapons in Exchange for Incentives (WEI)'.

Other PoC concerns

It has been pointed out that practical disarmament entails many different aspects and goes beyond the mere removal of illegally held weapons in a community. The foregoing section has outlined the kind and type of protection concerns that require to be attended to for purposes of achieving successful disarmament. Besides the actual disarmament approaches that are adopted, there are other disarmament processes that, while not directly applicable to civilians have and can impact on their security. For example, activities carried out under 'Demobilization' or 'Integration' even though

directed at (Ex-)combatants can have profound impact on PoC. A few of these activities are highlighted below:

Cantonment

Briefly, cantonment is the process of assembling combatants in designated areas in preparation for disarmament and demobilization. It is not unusual that these designated areas are public spaces e.g. school grounds. In addition, the combatants have to be transported and catered for within public spaces. In protracted armed conflicts, the trauma from violence meted out by the combatants on civilians is immense. It is natural for affected communities to want instant justice, maybe in the form of revenge, or, if not properly prepared, as hostility towards ex-combatants in cantonment. Conversely, the people in cantonment might not have had any interaction with the ordinary people for a long time. Therefore, they may, inadvertently, exhibit emotions that are construed as hostile by the community especially if physical interactions with the ex-combatants are unavoidable. In such situations, the government must prepare and educate the civilians on the process of cantonment to mitigate potential conflict. In addition, it is possible that ex-leaders of the armed groups may take advantage of the cantonment to re-mobilise for criminal activities. This has a direct impact on the civilian population; thus, the government must set in place the right regulations to address potential protection concerns.

Re-insertion, resettlement and reintegration

Reinsertion involves the provision of appropriate packages, either in cash or in material form, to enable people who demobilised to sustain themselves as they assume civilian life. The type and kind of packages offered for reinsertion can

be a source of conflict between the demobilized persons and the rest of the community. The community can look at the packages as a reward to people who caused their misery during the conflict. The demobilized persons might also misuse their reinsertion packages and involve themselves, for example, in the abuse of drugs or prostitution among other negative behavior.

Resettlement involves the physical translocation of those who have been disarmed and demobilized. Ideally, the resettlement should be to new environments of one's choice, but it may happen that the government selects where the ex-combatant are resettled. If the receiving communities are not properly consulted and counseled to receive the ex-combatants, conflicts will be imminent. Even where open hostility against the ex-combatants⁵² might not be witnessed, seeds of discord are planted and can affect the intended long-term peacebuilding processes.

Reintegration of the ex-combatants is usually either into reconstituted national armies or into the society. If the reintegration is back into civilian life, there are pertinent protection concerns to be addressed. The ex-combatants might have committed grave acts of violence in the communities where they are integrated. The receiving communities might harbor genuine concerns over their security, especially given the fact that ex-combatants are not necessarily immediately absorbed into productive lives but will idle the time away and/or engage in petty jobs that do not occupy them fully. There are also issues of health. Many ex-combatants are faced with diverse health challenges including serious communicable diseases that can be easily passed on to the general public. It is important that besides tackling the necessary socio-economic needs of the reintegrated

ex-combatants, the government should also address the overall political governance in the country e.g. participation, representation, sharing of resources among others, especially because this is what might have given rise to the armed conflict.

Rule of Law, Security Sector Reforms and long-term peacebuilding

Realizing PoC in disarmament initiatives is greatly complemented by presence and observation of the rule of law⁵³, comprehensive security sector reforms⁵⁴ and dedicated activities geared towards long-term peacebuilding⁵⁵. How the rules are developed, enacted and applied impacts on the security of the population. It is important to protect communities from discrimination in service delivery, sharing of resources, political representation and in all other socio-economic and cultural interventions by government. In doing this, the concept of PoC, as envisaged in the Tiered Framework used in PSOs, will largely be achieved.

Challenges with PoC in Disarmament Initiatives

PoC in disarmament initiatives faces a number of challenges; some of these are highlighted in the foregoing section on the specific disarmament approaches employed. These include, ensuring that the security of the people being disarmed is guaranteed and that adequate measures are put in place to prevent the re-circulation of surrendered or recovered weapons. The activities undertaken under the disarmament approaches; for example, under a Weapons in Exchange for Development/ Incentive programme, must take into consideration the aspects of equity and equality and careful gender disaggregation among other aspects. The aim of doing this is, for example,

to encourage peaceful conflict management and reconciliation and protection of human rights, which are all important for the promotion of sustainable peace.

Another challenge to the PoC is the operational environment in which disarmament is undertaken. If done in post-conflict situations the general instability and insecurity presents challenges to PoC. This is especially so, because of the many competing needs and the urgency with which the needs should be implemented. The resulting compromises in terms of resource allocation or emphasis or thoroughness required in any one factor e.g. capacity building during disarmament, can affect the overall effective realization of the PoC.

A key challenge to PoC in disarmament initiatives can also be attributed to the specific mandate of a PSO. This can, for example, take two forms: (1) the framing and resourcing of the PSO or (2) the understanding and interpretation of the Concept of PoC. To date, there has never been a PSO that is sufficiently resourced. In addition, there is presently no universally agreed definition of PoC and the different interpretation by different stakeholders involved in a PSO can present challenges.

Probably the fundamental challenge that faces PoC especially in post conflict situations is the high expectations by the people and what the PSO mandate can actually deliver. Given that this mainly arises from the inadequacy or mismatch of the expectations and the resources

allocated to the PSO, the same mis-match is transferred to the specific activities e.g. disarmament; consequently, the contribution of the specific activities to overall PoC is affected.

Conclusion

Present day PSOs are categorical on protection⁵⁶ and often, the success of the missions are measured against their ability and success in the protection of civilians. The difficulty in effective realization of PoC arises from many factors stemming from the diverse and unique situations under which different missions are carried out.

Within a PSO, disarmament initiatives fall under Tier Two 'Protection from Physical violence' of the framework used to realize PoC. For disarmament to be effective and contribute to PoC, there must be clear links and complementarity of activities under each of the other pillars or Tiers - Protection as part of the Political Process, Establishment of a protective environment; and, Rights-based protection. This is not always easy as different emphasis is usually given to either of the Tiers depending on the context under which the PSO is undertaken. Fortunately, PSOs, PoC and disarmament initiatives are properly founded on various UN and AU provisions as well as national legislations. This provides the opportunity to engage with the PoC concerns in every activity or intervention, such as disarmament, undertaken under PSO.

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Theoretical Approaches to Transitional Justice and Post-Civil War Peace-building:

A Thematic Survey

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Abstract

The main aim in this paper is to dig into the literature that directly addresses theoretical questions associated with ‘Transitional Justice and Post-Civil War Peace.’ To this end, literature that speaks directly to the ‘challenges of post-civil war transitions’ is reviewed. The main focus here is the theoretical context of intra-state conflict as opposed to the inter-state domain. For starters, the discipline is rich with works that grapple with questions regarding the circumstances under which post-civil war materializes once civil wars are terminated. An analysis of extant theoretical and empirical literature on this topic exhibits *main thematic areas*- the challenges of post-civil war transitions, sustainability of interventions and the management of such interventions. The paper concludes that no single general approach explains post-conflict transitions and the entailed intricacies of post-conflict transitions all play a key role.

To Understand War is to Understand Peace

The first thematic area has to do with works that address the challenges of post-civil war transitions as predicated on the nature of the civil wars themselves- their underlying causes, actors’ interests, ferocity, duration etcetera. These works generally contend that “*before we understand peace, we must first understand why the civil wars [and war in general] occur in the first place.*”

Social science is not short of literature on war and armed conflict. It is noteworthy however that no single discipline holds the monopoly of knowledge as far as the analysis of conflict is concerned. Some approaches are of the normative character, while others base their predictions on empirical findings. Modern political science has increasingly tended to

lean towards the latter context, where theories have more often than not been judged based not only on their logical consistency, but also their empirical validity and heuristic value. When Waltz wrote *Man, The State and War* in 1959, he proposed three *levels of analysis*- the individual, state and international- as far as the analysis of conflict is concerned. Following on this tradition, the levels of analysis argument has evolved with some works laying more emphasis on the two main levels: national (intra-state) and international (inter-state) as far as the analysis of conflict and war is concerned. As such, this study is interested in the *intra-state* context of conflict. It is noteworthy however that various theorizations associated with the inter-state context of war have found applicability in the analysis of civil wars/ intra-state wars.

Take for instance the general argument that conflict is best understood from as the result of *informational* as well as *commitment* problems. These concepts have been variously invoked to explain why international conflicts happen, why they persist and further how they end and/or can be prevented from recurring. Some theoretical approaches present war as the result of uncertainty occasioned by informational as well as commitment problems (Danilovic and Clare 2010). Various strands of theory illuminate these domains from different premises. On the whole however, conflict (whether inter-state or intra-state) occurs, persists and recurs not because of material and motivational factors *per se*, but because actors have private knowledge on the actual nature, extent and intent behind these factors. This is the province of the theories of deterrence and crisis bargaining, which associate war with the inability to pass information about capabilities, resolve and how much cost adversaries are willing to bear in a conflict. Deterrence theory approaches the information problem by asking: how best can one party credibly convince another to alter their position on a certain action they are planning to take (Schelling, 1966: 35). Sescher (2010, 627) contributes to this debate by arguing that military strength contributes to the information problems that make challengers more likely to underestimate their targets' reputation costs and insufficiently compensate them, thereby undermining the effectiveness of threats. The result to violence is supposed to communicate the resolve and capability of such a state to the adversary and perhaps make the adversary change their mind about the *type* of opponent they are challenging (Chan, 2010). Wagner (2000, 478) however argues that in the context of war, fighting as a source of information can be very costly.

Under conditions of equal chance of winning or losing a contest, informational uncertainties about relative bargaining power are heightened, leading to disagreements about which side is going to win a war (Huth, 1988: 438-439). Further, war can last longer if the bargaining process is unable to resolve informational uncertainties during the war- hence war becomes an extension of the bargaining process. Hence, from a *rationalist* point of view, war results from private information and incentives to misinterpret it (Slantchev, 2003: 123).

Fearon (1994) on the other hand pegs the prevalence of war on the degree to which leaders are able to convey or signal credible commitments and resolve- especially to their domestic constituencies. Since, they would pay high "audience costs" if they fail on their policy promises and/or stances; democratic leaders are better able to signal resolve, a fact that other democracies would take seriously, hence avoiding war amongst democracies. Non-democratic leaders have little or no "audience costs to pay" and that their policy failures may therefore be inconsequential and neither their non-democratic counterparts, nor democratic adversaries would take them seriously, since their war declarations lack the ability to credibly communicate resolve.

Fearon (1995, 381) singles out miscalculation due to lack of information. War occurs because rational leaders may miss the opportunity for a negotiated settlement when lack of information leads them to miscalculate relative power or resolve. Refining his position further in order to give it stronger empirical validity in terms of causal logic, Fearon (1995, 381) points to lack of private information about the relative capabilities or resolve and incentives to misinterpret such information. The cause of

war is not simply lack of information- since the parties to the conflict can in principle communicate to avoid costly miscalculations- but specifically, whatever it is that prevents the disclosure of this information (Fearon, 1995: 391). Incentives to misinterpret military strength can undermine diplomatic signaling, thereby forcing states to use war as a credible means to reveal private information about their military capabilities (Fearon, 1995: 400). To overcome informational barriers, leaders credibly communicate their interests to their adversaries through what he calls “hands tying” or simply employing sunk costs (Fearon, 1997: 68; [see also] Morrow, 1999: 86). This debate is extended further by the likes of Bueno De Mesquita et al (2003) who argue that due to the openness of democratic systems to each other and the ability to read into each others’ intentions [thus better overcome informational problems] by virtue of widely shared democratic values that cut across societies, democratic leaders and their citizens can easily avoid war amongst themselves. Nonetheless, because such qualities may be lacking in non-democracies, war is more probable between them and democracies ([See also] Snyder and Bourghard, 2011).

More importantly this line of theorization soon found its way into the scientific analysis of conflicts at the intra-state level with emphasis being laid on why they persist (civil war duration), how they end (civil war management and/or termination); as well as how to ensure that the peace that obtains thereof is secured in terms of preventing reversion to full-scale war and guaranteeing sustainable peace. Numerous studies utilizing a case study approach have documented human rights atrocities in civil wars- a trend that gained momentum with challenges occasioned by the Cold War and its

aftermath (Elbadawi et al, 2008). As Salehyan and Thyne (2012, 196) recall;

“Zartman (1989) offered one of the earliest and most influential theories of civil war duration and termination. He argued that the conflict persists until neither side believes that it can achieve unilateral victory and continued fighting is costly. Under [such] conditions, [of] a ‘mutually hurting stalemate,’ the civil wars [is said to be] ‘ripe’ for resolution.”

Nonetheless, another body of research that falls within the domain of what Mitchell, Diehl and Morrow (2012) term the “Scientific Study of International Processes (SSIP)” sought to extend this debate by empirically testing similar theories concerning the duration [and termination] of civil-wars, using large-N analyses utilizing replicable datasets. Collier et al (2004) for instance used hazard function regressions to test a wide range of hypotheses that empirically explored the duration of civil war. Similar works include, Karl and Sobek (2004), Fearon and Laitin (2003), Fearon (2004), and Hegre (2004), Walter (2004) as well as Humphreys and Weinstein (2008). Fearon and Laitin (2003) examined questions to do with ethnicity; while Fearon (2004) asked “why some civil wars lasted longer than others.” Humphreys and Weinstein (2008) grappled with issues to do with why those who choose to participate in these deadly conflicts do so. Further, the ferocity of conflicts and the “issues at stake,” say territory, contention over precious minerals such as oil and diamonds (DeMeritt and Young 2013, 100-102). The degree of ethnic fractionalization, regime type and the presence and/or interference of third parties (local and/or international) have been invoked to explain whether or not the peace that obtains will hold (Gurses and Rost, 2013: 469-

475). Though these works do not directly speak to assorted issues associated with post-conflict peace, they constitute important reference points for a scholar interested in understanding how to address the challenges associated with theoretically explaining and accounting for transitions from war to peace.

It is noteworthy that the normative theoretical perspectives on peace are worth discussion too. Some classical peace theorists contend that peace is not simply about the absence of war. “True peace” is about the *positive* aspects of peace. When the structural and/or deep sources and/or roots of conflict such as poverty, inequality and general human insecurity are present, then peace is lacking, and such a state of affairs is a sure recipe for conflict. On the other hand, *negative* peace is about the basic and/or minimum pre-conditions for peace-situations where there is no physical violent attrition between actors. To the normative peace theorists, more often than not, conflict managers and empiricist arguments for peace at times “miss the point” by stressing only what can be measured and evaluated quantitatively; thereby failing to appreciate the positive aspects of peace (Galtung, 1996:14).

Sustainability of Peace is Dependent on the Dynamics of Conflict Termination

The second major thematic area in this literature is associated with works that address issues revolving around the idea that “*how the peace is made, or better still, how the war ends will likely determine how far the peace that obtains lasts.*” Various themes characterize the literature on the durability of post-civil war peace, why it fails or prevails (Hartzell and Yuen, 2012). It is important to keep in mind that civil wars (and wars in general) can end

in ways and under different circumstances. It can be a one-sided victory, where one party prevails in imposing its will on the other and dictating the terms of the peace that follows. In similar fashion other cases a challenger may succeed to overthrow the status quo and compel its adversary to toe the line and abide by the new terms. However, for the most part (which is why many tend to assume is always the case), many civil wars end-up in some form of truce, concession making and mutual compromises- peace agreements. Nonetheless, in many cases, the processes of arriving at these compromises and their implementation can be quite convoluted and may not end-up achieving “water-tight” peace outcomes (Desiree, 2008; De Rouen Jr. et al, 2010).

In this direction, many works have paid special attention to how the management and resolution of the conflicts has been handled. Here, issues such as informational uncertainty and concomitant commitment problems on the part of the warring parties have been raised. By extension, specific issues such as third party presence and/or intervention as well as questions of mediator bias have featured in these debates (Balch-Lindsay et al, 2008). Most of these works tend to argue that disputants abrogate peace agreements due to a commitment problem (Hartzell and Hoddie, 2003). When armed conflicts break out (whether inter-state or intra-state), international efforts to either forcefully or peacefully bring the conflicts to an end are usually made. Peaceful third party involvement through mediation is one such process (Crocker et al 2005:21; Bercovitch and Gartner, 2005:5; Beber, 2012). Mediation has been found to be a favorable process in settling armed conflicts (Gartner and Bercovitch, 2006; Dixon 2009; Beber, 2012:397). It is noteworthy that mediation is just but one of the channels

of third party intervention in a conflict; be it inter-state or intra-state in nature. Nonetheless, debate on whether or not mediators (and/or other third party interveners) should be biased is rife in recent works on conflict management and resolution (Bercovitch 1996; Gartner and Bercovitch; 2009; Benson and Kathman, 2013). Beber (2012, 399) for instance notes that; “while scholars such as Fisher (2005), Rauchhaus (2006) and Gent and Shannon (2011) find mediator bias unfavorable for effective dispute resolution, others such as Touval (1982; 1985), Touval and Zartman (1989), Kydd (2003; 2006), Zartman and Touval (2007), Savun (2008) argue that “biased mediation can be and often is effective” (Beber, 2012: 399). Others such as Favretto (2009) contend that a biased mediator- particularly a powerful one[see also, Regan 2002]- can successfully facilitate negotiations; while Svensson (2007) maintains that in the context of an intra-state conflict, a government oriented bias on the part of the mediator may be more fruitful than one oriented towards the rebels. According to Beardsley and Lo (2013, 2) “when asymmetric concessions are needed to resolve a dispute, this creates, *inter alia*, stark commitment problems for the defending side and stark audience constraints for the challenging side.” They argue that third party conflict management- especially that involving dispute resolution and mediation of the mutual concession but binding kind- has the potential of enabling disputants to agree to certain terms that they would not have otherwise agreed to (asymmetric concessions); and this is because they enable the leaders and/or key actors in the dispute to overcome commitment problems through the provision of political cover.

Taking on the trend of theorizing set by the likes of Zartman (1989) as well as, Walter (2002) argued that once actors experience the “hurting

stalemate” and an agreement is negotiated, implementation problems set-in; and these are due to commitment problems. Further, Steadman et al (2002) reiterated that this line of theorizing emerged in the 1990s when various scholars engaged in debates to do with “*why peace agreements fail or succeed*”. Most of these works took a case-by-case approach to the topic. Also, they were based on the theoretical premises associated with how to overcome the security dilemma and related commitments problems revolving around building confidence and trust among the warring parties in civil war situations (Steadman, Rothchild and Cousens, 2002). One such work by Hampson (1996) for instance, approached the question of ‘why some peace agreements fail while others succeed’ by attempting a “controlled comparison of five case-specific scenarios. Two (Angola and Cyprus) failed, while two (Namibia and El Salvador) succeeded, with the fifth (Cambodia) being treated as a partial failure. From this study, Hampson (1996) associated success of peace agreements with a couple of important factors. He singled out an enabling international environment in terms of nurturing the peace as crucial to the success of peace agreements. By extension he argued that the position of the more powerful states (say regional and/or international hegemonies) would also count. The other issue raised was the timing of the agreement; thus, “was the conflict ripe for settlement?” and finally, “how inclusive is the agreement?” In other words, “does it factor-in some power-sharing arrangement or not?”

To Walter (1999; 2001) however, one of the major problems bedeviling the implementation of peace agreements was “the inability of the parties to it, to commit” especially when it came to the critical questions of “disarmament and demobilization” in the immediate period

following the civil war. Further, she argues that one of the major problems that face actors in such situations is some kind of “insecurity.” To overcome the said “insecurity,” the presence of a third party who plays the role of an “assurance guarantor” is of the essence. Nonetheless, Walter (1999, 2001) cautioned that addressing the underlying grievances and/or issues behind a conflict does not always guarantee that the parties to the conflict will honor a peace agreement. Hence, beyond the underlying issues such as land and the resources in it and power-sharing etcetera, the thought that downing their tools of war would render one vulnerable in the eyes of their adversaries can easily put the entire peace agreement implementation in jeopardy. Yet other works within this cohort pointed to the importance of proper coordination during the mediation process and implementation of peace agreements; as well as the need to be aware and to address the potential impact of “spoilers” in the process of implementation of the peace process. These are actors who for material, ideological or political-strategic reasons seek to prevent the fruition of the peace agreement (Steadman, 1997: 5; Steadman et al 2002).

Several works have empirically sought to address issues of the informational problem demonstrating how informational asymmetries can be overcome (Mitchell and Regan, 2010). Some conflict management techniques or strategies can be more effective in helping disputants overcome informational asymmetries. The most potent in this direction are communication, mediation and adjudication (Dixon, 1996: 676). In an empirical examination of the causal underlying mechanisms of mediation, Rauchhaus (2006) offers an alternative explanation for the effectiveness of mediation by pegging it to the informational

problem. Upon setting forth a formal model and quantitative analysis to explore the relationship between mediation, asymmetric information and war his analysis reveals that mediation is a highly effective form of conflict management. An important gain of this work is that mediation targets asymmetric information, thereby transmitting critical information about disputant’s reservation points. By so doing, the mediator can help the disputants avoid bargaining failures that result from asymmetric information (Rauchhaus, 2006: 223-224).

Favretto (2009) shows how the relationship between mediation and military coercion can be used to understand how powerful biased third parties may help convey private information about their resolve under conditions of uncertainty and the extent to which this information can influence the resolution of crises. On the contrary, to Berber (2012, 400) biased mediators are relatively less effective at resolving disputes than their unbiased counterparts because only an unbiased mediator can credibly share conflict relevant insights. Greig and Diehl (2005) contend that peacekeeping circumvents informational problems which would have otherwise been made clear if the conflict is let to run its full course as well as “easing” the hurting stalemate effect that makes conflicts costly (Greig and Diehl, 2005: 629). Gent, Stephen, and Shannon (2010) show how the relationship between bias and effectiveness can be better understood by examining a wider range of conflict management strategies.

Fortna (2004) explores the causal mechanisms through which peacekeepers might affect the durability of peace by empirically examining whether peace lasts longer when peacekeepers are present than when they are not. As far as the informational problem is concerned, the

study is applicable only to the extent that peacekeepers- by playing the role of referee- are able to facilitate information between disputants following the signing of a ceasefire agreement thereby enhancing the possibilities of a lasting peace; and also, they play an inherent mediation and day-to-day conflict resolution role (Fortna, 2004: 585-486).

Doyle and Sambanis contend that successful and unsuccessful peace efforts to resolve civil wars are influenced by three key factors that characterize the environment of the postwar civil peace: "One; the degree of hostility of the factions (measured on terms of human costs-deaths and displacements- the type of war, and the number of factions); two, the extent of local capacities remaining after the war (measured for example in per capita GDP or energy consumption), and; three, the amount of international assistance (measured in terms of economic assistance or the type of mandate given to a UN peace operation and the number of troops committed to the peace effort)" (Doyle and Sambanis, 2006: 63-68).

On the other hand, issues such as inclusiveness of peace agreements have been central to such endeavors, with peace agreements that ostensibly fail to bring on board all the actors in the conflict and their grievances and/or interests being blamed for the failure of the peace agreements borne out of the negotiations thereof, hence poor design of peace agreements (Steadman, 1997; Mattes and Savun, 2010). However, other works are specifically interested in the question of why peace agreements fail or succeed; as well as to account for factors behind the sustainability (or lack of thereof) of peace following the formal agreements between warring parties. Most of these works tend to argue that disputants abrogate peace

agreements due to a commitment problem (Hartzell, Caroline and Mathew Hoddie, 2003).

Meernik (2005, 271) notes that the reconstruction and maintenance of peaceful communities in the aftermath of conflicts is one of the most critical areas of academic and policy concern. In his study of how "internationally provided justice contributes to the maintenance of peaceful societies" Meernik investigated the efforts of the International Criminal Tribunal for the former Yugoslavia in providing justice to the people of Bosnia and Herzegovina. Meernik's study utilized "event data from the Kansas Event Data System to investigate the extent to which the arrests and prosecution of war criminals had on the improving relations among Bosnia's ethnic groups." To this end, he found no statistically significant effect of such retributive measures on peace in Bosnia.

A similar study by Kanavou (2006) sought to understand how decisions to sign peace agreements are reassessed by the by former signatories and how conflicting parties adapt to the demands of the peace processes from the context of value-frames held by the stakeholders representing ethnic groups in a particular conflict. Other works are dedicated to understanding the actual mediation process (Svensson, 2007; Blach-Lindsay et al, 2008). Collier et al (2008) undertook a study to determine the circumstances under which there is high or low risk of post-conflict societies reverting back to war. They found that the severity of risk of renewed war after the signing of a peace agreement is predicated on factors such as income levels, external military presence and political design in the immediate post-conflict period.

While employing survival models Hartzell and

Hoddie (2003, 18-23) for example find that the more aspects of power sharing are factored in the negotiations for peace, the more likely the peace would endure; while (Gurses and Rost, 2013: 469) find that ethnic fractionalization may negatively impact on peace duration but their findings discount the effect of the “ferocity” of conflict. To Mates and Savun (2012, 511), the duration of post-civil war agreements can also be determined by the degree to which the peace agreements so designed, help the warring parties to reveal information to an extent that they are certain about each other’s military capabilities- hence, the less the uncertainty, the more likely the peace will last.

Sustainability of Peace is Dependent on the Management of Transitions from Civil War

The third main emergent thematic area on the ‘challenges of post-civil war transitions discourse’ is one that somewhat partly raises issues associated with the first as well as the second themes afore discussed. It links issues to do with “*how the civil wars are conducted, and who they affect*” on one hand, with “*how the effects of such conduct is factored into the peace that is supposed to follow the immediate end of the war; which in turn determines if the peace holds or not.*” This debate is associated with a particular area within the broader international human rights and humanitarian law discourse- *the transitional justice-peace nexus*.

It is noteworthy that the theme of transitional justice is just but one among many areas and/or subjects that constitute the broad rubric of human rights, international humanitarian and/or human rights law (Paige, 2009:328-334). Human rights issues are a major area of concern in the analysis of war, its termination and short-

to-long-term ramifications; with various rules and standards of engagement and procedural matters being engrained in international humanitarian law in general and human rights law in general, during the post-Second World War period. For starters, there appears to be not much contention in the literature about how the concept of transitional justice came about.

Hence, the concept of ‘transitional justice’ came to the fore in the late 1980s and early 1990s in response to the dilemmas occasioned by regime change from various forms of authoritarianism towards more democratic governance. In this regard, the International Centre for Transitional Justice (ICTJ, 2009: 1-2) defines transitional justice *rightly* so, thus:

“Transitional justice is a response to systematic and widespread violations of human rights. It seeks recognition for victims and promotion of possibilities for peace, reconciliation and democracy. Transitional justice is not a special form of justice but justice adapted to societies transforming themselves after a period of pervasive human rights abuse. In some cases, these transformations happen suddenly; in others, they may take place over decades.” (ICTJ, 2009:1).

The bone of contention in those years was how to address the gross human rights violations committed by past regimes such as those in former communist Eastern Europe, military juntas in Latin America, and racist regimes such as the apartheid system in South Africa (Malamud-Goti, 1990; Niel, 1995; Linz and Stepan, 1996; Stan and Nedelsky, 2013). As ICTJ (2009, 1-2) notes further “at the time, human rights activists and others wanted to address systematic abuses by former regimes but without endangering the political

transformations that were underway. Since these changes were popularly called *transitions to democracy*, people began calling this new multidisciplinary field *transitional justice*.” Subsequently, governments were increasingly encouraged to honor their human rights commitments. The 1988 ruling on *Velasquez Rodriguez v Honduras* at the Inter-American Court of Human Rights (IACHR) important responsibilities of governments as far as human rights were reaffirmed; thereby setting pace for “depolitization of the human rights discourse,” and further adoption principles in other jurisdictions including the UN Human Rights Commission, and the European Court of Human Rights (Grossman 2007, [in Noyes et al 2007, 104-113]).

In the same vein, a good number of academic works within the neoliberal institutionalism realm (what has come to be termed *compliance literature* of the “regimes and institutions” kind) took a centre stage in the field (Chayes and Chayes, 1993; Moravcsik, 1995; Simmons, 1998; Martin and Simmons, 2001; Simmons, 2005 and Hathaway, 2007). The main bone of contention in these works has over the past two decades or so been whether or not the international commitments states make (say by signing and ratifying human rights treaties) were able to meaningfully alter their behavior more so in the context of enforcing compliance with human rights treaties (Hathaway, 2007); (Hill 2010, 1161-1163). While some works have painted a pessimistic picture as to how far human rights regime commitments can be enforced (Abouharb and Cingranelli, 2006), (Allen and Lektzein, 2012), (Nooruddin and Autumn, 2010); others are quite optimistic that selective compliance enforcement mechanisms such as unilateral economic sanctions hold the potential to enforce human rights treaty

compliance while general multilateral sanctions are found to be much less effective (Von Stein, 2005); (Neumayer, 2005); (Lebovic and Voeten, 2009); (Peksen, 2009).

An important development within this literature came with the establishment of formal international institutional mechanisms, most notably the Rome Statute that in 1998 established the International Criminal Court (ICC), a retributive form of transitional justice in its own right, due to its punitive and/or deterrent quality- *international trials*. Subsequently, a substantial number of works have over the past decade or so, sought to examine whether of not the presumed deterrent effect of the ICC was likely to improve human rights especially among countries that were emerging from deadly civil wars in the 1990s and after (Gillian 2006; Schabas 2011; Sikkink, 2011; Bikundo, 2012; Dukalskis and Johansen 2013). One important theoretical domain in this line of thinking is that known as the *credible commitments* approach. Precisely, the *credible commitments theory* holds that states sign onto human rights treaties such as the Rome Statute or the International Convention on Civil and Political Rights (ICCPR) in order to convey certain signals concerning their degree of commitment to the issue in question- in this case, human rights compliance (Rodman and Booth 2013, 273-277).

These developments in the literature depict a redefined and broadened conceptualization of transactional justice. It is a conceptualization that not only addresses human rights violations by past regimes, but more importantly, one that also stresses the importance of addressing human rights violations committed during brutal civil wars and to prevent such episodes from recurring (Minow, 1998; Olsen et al, 2010). In

reference to Tietel's (1991, 2000) examination of the phases that transitional justice underwent since the early 20th century, Skaar, (2011, 6) notes, "in [its] current phase...transitional justice has become an established component of post-conflict processes." Olsen et al (2010, 803) further add that "societies *emerging from periods of state repression and armed conflict* have pursued a variety of processes. The array of mechanisms available to states [is] collectively referred to as transitional justice." As Barr (2011:11) recalls

"The list of mechanisms commonly associated with transitional justice has grown to include: prosecutions at the international, hybrid and national levels; truth and reconciliation commissions; sanctions; customary justice; public apologies; [for example the Gacaca Courts in Rwanda] memories and vetting (or lustration)."

Nonetheless, this new outlook within the transitional justice research program has since engendered widespread debate, contention and disagreement about what transitional justice meant in the first place and what it meant to achieve (Call, 2004; Leebaw, 2008). This view is echoed by Skaar (2012, 60) who adds that "transitional justice is now seen as a *driver* of transition rather than only as interventions that follow a transition. Its goals have become far more ambitious and less easily reconcilable with each other." This paradigmatic shift and controversy in the theoretical conception of the term has been occasioned by the fact that the concept is viewed in some quarters as "*once again, threatening*" the "sovereignty zone" (as was the case with the regime changes of the late 1980s and 1990s) especially in political systems around the world that resiliently clung-on to authoritarian and/or pseudo-democratic

tendencies (Sikkink, 2011). In such countries, brutal acts of misrule and gross human rights violations directed mostly in civilian populations still remain "a fashionable" means to gain, maintain and sustain power and influence (Thakur and Malcontent, 2004; Kalyvas et al, 2006; Wood, Kathman and Gent 2012).

As such, two broad but interrelated contexts of transitional justice processes or mechanisms can be identified: retributive and restorative forms of transitional justice. The retributive transitional justice mechanisms of transitional justice mainly constitute trials. For a long time since Nuremberg, these trials took place within the domestic jurisdiction of states. The contentious issue about domestic trials is the extent to which they can be effective and/or genuine given the fact that it is not imaginable that a regime, once it ascends to power following a brutal civil war, can put itself or its sympathizers on trial for crimes against various war crimes and crimes against humanity among other gross human rights violations categorized as international crimes.

More often than not, such trials would only target the opponents of the regimes in power, hence engendering vicious cycles of "victor's justice." Considerations of these eventualities especially in the context of post-civil war transitions, partly informed the establishment of Special Tribunals of the 1990s and ultimately, the ICC which formally began its work in 2002 (Schabas, 2004). In addition to trials, other another form of retributive transitional justice is *lustrations*. Lustrations are formal policies that are meant to vet and "weed-out" and formally disable and discourage persons who have in one way or another been participated in gross violations of human rights especially in the context of civil wars.

Restorative mechanisms on their part include *truth commissions, reparations and amnesties*. These mechanisms are non-punitive and reconciliatory in character. It is noteworthy that just like in the case of trials; amnesties have also been variously contested due to the fact that they can be abused to the advantage of the very persons behind human rights crimes (Elster, 2006; Nagy, 2008). The debate in the literature has been on whether or not these mechanisms should be applied separately, sequentially or concurrently. Further, more critical questions have been posed concerning if “*transitional justice is really just*” and how do we tell that justice has been achieved and within *what timeframes*, since “transitions cannot be indefinite. In the same vein, critical questions of *transition from what to what* also pervade the literature (Call, 2004). Yet another important issue is that of the levels of transitional justice. Here, qualms have been raised concerning how domestic transitional justice mechanisms such as local trials [and alternative local justice systems such as the *Gacaca* Courts in Rwanda] or truth mechanisms and wider institutional reforms are in harmony with international process including purely trial settings such as the ICC as well as hybrid tribunals (Schabas, 2003; Apatel, 2009; Steiner, Alston and Goodman, 2007:1243-1379).

From the foregoing three major *competing* theoretical approaches to transitional justice have emerged- the *legalist*, *emotional-psychology* and the *pragmatic* (Vinjamuri and Snyder, 2004; Nobles, 2010). Some scholars such as Olsen et al (2010) and Rieter et al (2012) have referred to the legalist approach as “*maximalist*” and the emotional-psychological approach as “*minimalist*”; while the *pragmatic* argument is referred to as “*moderate*.” In other quarters, some works go beyond the pragmatist

or moderate arguments and argue for a “*holistic*” approach, which somewhat proffers a combined and complementary effect of the legalist (maximalist) and emotional psychology (minimalist) and pragmatic (moderate) views. From a holistic standpoint, every mechanism counts and is best seen as complementary to the other. It appears therefore that the pragmatist approach prescribes various permutations and/or combinations of the both retributive and restorative mechanisms, while the holistic approach argues for an exclusion of none and inclusion of all.

According to the *legalist* approach, justice for the victims is only met when the perpetrators of human rights atrocities during civil wars are prosecuted and punished through retributive mechanisms- mainly local and international trials (Vinjamuri and Snyder 2004, 346-352); (Nobles, 2010). On the other hand, according to the *emotional psychology* approach, true justice is reconciliatory and restorative. This is best guaranteed when both victim and perpetrator reconcile- a process that is made possible through restorative mechanisms that include truth commissions, reparations and amnesties. After all, they argue, it is not practically possible to put everyone on trial (Vinjamuri and Snyder 2004, 357-359).

Finally, according to the *pragmatist* approach to transitional justice the reality of *post-civil war justice and peace* is that it must strike a delicate balance between justice (in the more general negative peace sense), and the more crucial positive- sustainable peace (Vinjamuri and Snyder in, Steiner, Alston and Goodman, 2007:1333-1334). The pragmatist approach somewhat builds on the strengths of both the legalist and emotional psychology approaches. While perpetrators of human rights violations

in the civil war must be punished; justice and lasting peace must also consider the fact that specific political and economic aims of elites who fund and sustain civil wars must be considered. Further, reparations for victims are important, while minimizing (but not doing away with) on trials among other punitive measures, and maximizing on healing and reconciliation (Vinjamuri and Snyder 2004: 352-357); United States Institute for Peace-USIP, 2008).

While “*justice, truth and peace* in a post-conflict are often presumed to be mutually reinforcing goals; unfortunately during [such precarious and potentially insecure periods, these goals] often come into conflict” (Binningsbo et al, 2012:732). It is imperative upon any student of conflict analysis to be aware of the fact that these approaches present competing logics, with each presenting a counter argument against the other. Hence, depending on “who you ask,” several arguments may be made that either paint one of the approaches in the positive or negative or otherwise (in relation to the other). For instance, there is the argument that arrests, indictments and jail sentences may cause perpetrators and their supporters to fuel more conflict by inciting fresh spates of violence.

Further, while on trial, the perpetrators of human rights abuses in past wars may whip-up emotions among their supporters and reignite violent conflict and further undermine the peace. At times, high profile personalities under trial may be portrayed as “martyrs” and symbols of “collective victimization or alienation” (Thoms, Ron and Paris, 2008:7); of their tribes, community, ethnic group, region and so on. Further, other potential perpetrators (spoilers) of human rights violations may take

advantage to “spoil” for the peace and blame it on the trial of “important” personalities.

Another argument may be floated thus: holding a few persons individually criminally responsible may be an indirect exoneration of many others who acted under their supervision and/or command...hence creating an escape route from justice- a counterproductive move. Conversely, the arguments may be made that: at times, the truth and justice processes may actually provide “cover” for human rights abusers to continue with their schemes and use them as “escape routes” from retribution for past atrocities. In other cases, amnesties (especially blanket ones) have been seen as avenues of convenience to circumvent justice. In fact, such amnesties are not permitted in international law especially where they involve war crimes, torture, genocide and other serious international crimes (USIP, 2008; ICTJ, 2009). To yet others, telling the truth and setting the record straight may also be counterproductive as it may open “healing wounds” by rekindling “unwanted” emotions and threaten to or actually lead to a resurgence of violence and abuse of human rights. In other instances amnesties have been said to “undermine long-term peace and contribute to recurrence of violence” especially if they are undertaken to circumvent justice (Skaar, 2011:15). Finally, TJ processes in general may suffer procedural and contextual bottle-necks and/or flaws, thereby having a counter-productive effect especially when they fall short of meeting their goals (Thoms, Ron and Paris, 2008).

All in all; in an examination of “the field’s state of empirical knowledge as far as the impact of transitional justice on human rights and peace was concerned, Thoms, Ron and Paris (2008: 4) noted:

“there is little evidence that TJ [Transitional Justice] produces either beneficial [positive] or harmful [negative] effects. Few rigorous analyses of TJ have been completed to date, and the best of these studies acknowledge the difficulty of reaching any strong conclusions about the effects of TJ across cases due in part to the limitations of existing data.”

Nonetheless, in their analysis of the research trends, Thoms, Ron and Paris (2008:5), remained optimistic in that “future TJ [was] likely to produce more reliable findings.” Hence, the trend in the literature over the past decade or so has been around the analysis of a particular transitional justice mechanism using either qualitative or quantitative research designs based mostly on small-n case-specific/country-to-country analyses (Olsen et al, 2010:804; Binningsbo et al, 2012:732). Subsequently, others have sought to examine various research questions associated with the retributive context of transitional justice with some examining local prosecution processes while others have examined regional and/or international prosecutions. The main debate in these works has been “to prosecute or not to prosecute? Between prosecuting and pardoning, [or both] which best delivers justice?” (Pion-Berlin, 1994; Osiel, 2000).

To yet others, both restorative and retributive mechanisms when employed concomitantly can achieve justice and lasting peace (USIP, 2008; Skaar, 2011). Subsequently, a cottage industry around these themes has grown, mainly based on case-specific single country studies of both the qualitative or quantitative kind; but also fewer large-n multi-country empirical works: Hayner, 1994; Roht-Arriaza 1995; Mendez, 1997; Gates et al, 2003; Schabas, 2003; Vinjamuri and Snyder, 2003; Mendeloff, 2004;

Wilson 2005 and Zoglin, 2005; Gillian, 2006; Sikkink and Walling, 2007; Ratner, 2009; Clark and Kaufman, 2009; Kim and Sikkink 2010; Olsen et al, 2010; Bikundo, 2011; Bratton, 2011; Sikkink 2011; Ross and Sriram, 2012; Rieter et al, 2012; Clark, 2012; Rodman and Booth 2013, to mention but a few.

Hayner (1994) for instance carried out a comparative case study of Truth Commissions across fifteen countries between 1974 and 1994. Employing a descriptive qualitative approach, this study eloquently brought to light the pros and cons of truth telling and reconciliation as a restorative transitional justice mechanism. Important questions to do with “whose truth, when, how and to whom it is told” are brought to light; and so did those to do with the human, material and institutional challenges that have faced such processes. As similar study was conducted by Brahms (2006) who examined the effect of truth commission on human rights and democracy in a cross-national study involving 78 countries for the period 1980-2003.

He came to the conclusion that truth commissions had only a marginal effect on human rights. Snyder and Vinjamuri’s (2003) analysis of truth and justice processes however revealed a more positive impact as far as human rights was concerned (See also, Thoms, Ron and Paris, 2008:13). Bratton (2011:353) employed a national probabilistic survey on Zimbabwe that sought to determine “what determines people’s willingness to consider punishment for human rights abusers.” Bratton established that the proclivity to talk and share views and deep feelings on the part of ordinary citizens depends not only on their experiences in the conflicts but also on the political circumstances- a factor that is utilized by critics of the emotional psychology (minimalist)

approach's restorative argument. Skaar (2012, 57) adds that "no existing statistical study has attempted to gauge the impact of transitional justice mechanisms on reconciliation [adding that]; this is where the scholarly knowledge of...stands at the moment."

The work by Gillian (2006) was perhaps the first in the field to test the legalist approach using quantitative techniques of the *formal modeling* kind. It also extended the general human rights compliance debate- *though not explicitly*- into the transitional justice domain. In an article published in a leading journal in the field,¹ Gillian took note of the sentimental debate in scholarly circles as to whether enforcement mechanisms were necessary to make international human rights regime effective. He expressly declared that his work provided "a model of the ICC in which the Rome Statute regime held the potential to alter states behavior even though it possessed no enforcement mechanisms." His model helped answer several prominent criticisms of the ICC. One particular criticism that Gillian's work potentially proved inaccurate was the claim that the ICC was at best futile because it lacked the power to apprehend the criminals it is meant to prosecute and because it induced atrocious leaders to cling on to power for fear of prosecution on the part of the core regime members. Gillian offered a "rational choice model of an international institution that alters states' behavior even though it is not enforced by trigger strategies or any other external mechanism" (Gillian, 2006:938).

The regime modeled by Gillian "did not guarantee failure to comply but provided compelling evidence that compliance can occur to the extent of deterring atrocities at the margin." In short Gillian's model contributed

to both policy debate and theoretical literature on human rights compliance enforcement, with specific reference to the ICC. As such, "while the model offered no hope that the creation of the ICC would bring about a world free of atrocities, it did offer a set of conditions under which there would be marginally fewer atrocities thanks to the presence of the ICC" (Gillian, 2006:938).

Sikkink and Walling (2007), attempted an empirical examination of both trials and truth commissions in the context of Latin America. Their findings seemed to challenge the notion long held in the literature, that trials could jeopardize peace processes and that they could not be administered alongside restorative mechanisms particularly truth and justice processes. As a follow-up to this study, using a new data set that included 100 transitional countries, Kim and Sikkink (2010:939) sought to explore the deterrent effect of human rights prosecutions on repression. Their theoretical argument was informed by the premise that "the impact of prosecutions is the result of both normative pressures and material punishment." Their findings suggested that human rights prosecutions hold the potential to improve human rights in transitioning countries- including 16 states that were transitioning from civil war- by "enforcing existing human rights laws" (Kim and Sikkink, 2010: 957). As far as this study is concerned, these early works by Sikkink and Walling as well as Kim and Sikkink (2010) served as valuable pointers in providing a basis for broader investigations on the singular and/or collective effect of various retributive and restorative transitional mechanisms or both.

The findings by Sikkink and Walling (2007) were echoed by Bikundo (2012:21-41) who

made an empirical investigation into the causal link between international criminal trials and the prevention of human rights atrocities through what he termed “exemplary justice” in the African context. Of specific interest to this study in the question he charges thus “how the prosecution of those bearing the greatest responsibility binds recurrent conflict.” In this direction, Bikundo points to two important domains of inquiry that have dominated the retributive transitional justice research program in the past half-decade or so. One; the “question of whether or not a criminal trial relying on individual criminal responsibility can prevent the recurrence of mass violence [...and gross violations of human rights]; and Two; “the ambiguity of how a universal court...only has cases from a single continent” (Bikundo, 2012:22). While this second domain of inquiry is interesting, it is not of specific concern to this research. However, the first sheds light into the core question under investigation herein. Is it true that this new instrument of retributive transitional justice- ICC- has any real influence on state sovereignty?

Further, is it possible that due to the establishment of this robust sub-regime that can “topple governments, jail once-powerful presidents, and cause tyrants to pause before committing war crimes” (Call, 2004:102); human rights trends have improved among states whose cases have been handled by the ICC as well as all other states that fall within its jurisdiction? In this direction Dukalskis and Johansen (2013) recently developed a measure to help understand the nuances associated with the acceptance by states, of the ethos behind key human rights treaties, particularly the Rome Statute which established the ICC. To this end, they developed the Normative Disposition Indicators (NDI); a 30-point (-15 to

15) scale, and applied it to five major contexts- the US, and four Asian states- in terms of their stances towards the Rome Statute. The import of this study is that it makes a worthy contribution as far as probing the degree of compliance (or otherwise) non-compliance with the international human rights treaties states commit to.

Sikkink's own *The Justice Cascade* (2011) introduced an interesting twist in to the transitional justice program. Sikkink's work challenged earlier beliefs that retributive forms of transitional justice (mainly local, international and hybrid trials) had a negative effect on human rights compliance. Sikkink's study reveals that retribution not only punishes and deters potential human rights abusers, be they sitting governments or rebels seeking to capture power; but also engenders more institutionalized national, cross-regional and global value systems that fortify a fast solidifying human rights culture- a situation that obtains less repression and peace through enhanced compliance with the human rights treaty obligations of states (*See also* Vinjamuri, 2012; Sandholtz, 2012:17). As Mendeloff (2012, 289) in a review of Sikkink's *The Justice Cascade* notes:

“Relying on a dataset of human rights prosecutions in transitional countries from 1980-2004, she [Sikkink] challenges the skeptical view that national and international prosecutions are potentially destabilizing and should be avoided in favor of amnesties allowing for smoother transitions from...civil war. She finds to the contrary that states with transitional human rights prosecutions have lower levels of repression than those without them.”

Perhaps the first large-n quantitative study, in which the duration of peace in particular, was the outcome variable as predicated on a wide range of transitional justice mechanisms; was that conducted by Lie, Binningsbo and Gates (2007). Utilizing a dataset consisting 187 countries for the period 1946-2003, they arrived at findings that suggesting that on the whole, transitional justice had a weak effect on the longevity of post-conflict peace, though in the context of authoritarian regimes, trials did exhibit the potential to achieve longer periods of peace. Nonetheless, a major weakness associated with the study was that its definition of conflict was rather too restrictive, in that in their coding for 'a civil war', the conflict had to involve at least 25 battle-related deaths and in which government had to be an actor. To the likes of Mani (2005) and Skaar (2011; 2012) for instance, this seminal work fell-short of the mark by restricting their definition of intra-state conflicts that only included governments, hence undermining its generalizability.

Nonetheless, another groundbreaking study of the large-n quantitative kind within the transitional justice research program that is seen to have overcome the shortcomings of earlier works (such as Lie, Binningsbo and Gates, 2007) was undertaken by Reiter et al (2010; 2012). These scholars were the first in the field to build a transitional justice database (TJDB) suitable for large-n quantitative studies on the subject (Binningsbo et al, 2012:732). Using the UCDP/PRIO Armed Conflict Dataset definition of civil wars (which included both minor and major civil wars; that is 25-999 battle-related deaths in the case of the former, and at least 1000 battle-related deaths in the case of the latter) they coded 151 cases of internal armed conflict in a total of 91 countries. Further, using the Transitional Justice Database (TJDB), an

original cross-national database consisting of all countries in the world for the period between 1970 and 2007; they went ahead to test several theoretical arguments associated with the degree to which the duration, ferocity, management and termination of civil wars determine the kind of transitional justice mechanisms employed during the conflict and in the immediate post-civil war period. They came to the general conclusion that amnesties were more prevalent than trials both during and after conflict; and that following the end of civil wars, the ferocity and duration of the conflict would mostly determine which transitional justice mechanism is best suited. More importantly, they concluded that no particular transitional justice mechanism jeopardizes the peace process, and made a case to the effect that amnesties may be the most effective transitional justice mechanism in ending intra-state conflict (Reiter et al, 2012, 164-65).

Conclusion

This paper set-out to examine the current state of theorization in the context of transitional justice and post-civil war peace building. The discussion laid emphasis on the more current and empirical domain of understanding how civil wars end, how the transitions from civil war to peace are addressed, and how the peace attained thereof can be fully sustained. Yet the analysis of theories of transitional justice and peacebuilding are intricately interrelated. One cannot truly understand the sustainability of peace without understanding the dynamics of conflict, both of the intra-state and inter-state kind.

Again, the levels and units of analysis across space and time also help to better understand and internalize the theoretical aspects under consideration. That said, theories are best

tested; and some theories do register more heuristic value compared to others. Yet that is not to say that some theories count more than others- both normative and empirical approaches to questions of transitional justice and peacebuilding do have a contribution to make to this discourse; for in the final analysis, no single general approach and/or theory has provided all the answers the complex questions do with post-civil war peace and its sustainability.

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¹ SCR Resolution 1925 (2010) of 28 May 2010 had an initial authorization for MONUSCO of: 22,016 total uniformed personnel, 19,815 military personnel, 760 military observers, 391 police, 1,050 personnel of formed police units and appropriate civilian, judiciary and correction component. Retrieved February 23, 2015 from http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1925%282010%29. On 28 March 2013, SCR 2098 (re-confirmed by Resolution 2147 of 28 March 2014) decided that MONUSCO would, for an initial period of one year and within the authorized troop ceiling of 19,815, include an “Intervention Brigade” consisting inter alia of three infantry battalions, one artillery and one Special force and Reconnaissance company. Retrieved February 23, 2015 from <http://www.un.org/en/peacekeeping/missions/monusco/facts.shtml>

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¹ Human Security Now (New York, 2003). Karim Hussein, Donata Gnisci and Julia Wanjiru. December 2004. Security and Human Security: An overview of Concepts and initiatives – What implications for West Africa? Issue Paper SAH/D(2004)547. p 14. Retrieved February 27, 2015 from <http://www.oecd.org/swac/publications/38826090.pdf>

¹ Ibid

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¹ Aide-Mémoire for the Consideration of Issues Pertaining to the Protection of Civilians in Africa. Draft of June 2013 (Restricted) and UN Department of Peacekeeping Operations and UN Department of Field Support, United Nations Peacekeeping Operations: Principles and Guidelines. 2008 p 26. Retrieved February 19, 2015 from http://effectivepeacekeeping.org/sites/effectivepeacekeeping.org/files/04/DPKO-DFS_Capstone%20Document.pdf

¹ African Union. 2010. Draft Guidelines on the Protection of Civilians in African Union Peace Support Operations. Op Cit.

¹ See Gusstavo De Carvalho and Andreas Øien Stensland. The Protection of Civilians in Peacekeeping in Africa: Context and Evolution. Conflict Trends, Issue 2 (2012) pp. 3-10. African Centre for the Constructive Resolution of Disputes (ACCORD). Retrieved February 19, 2015 from <http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=146585>

¹ ‘AU Battle With Warlord’s Militia for Disarmament in Mogadishu’. (15 August 2014). Shabelle Media Network in Mogadishu. Retrieved February 11, 2015 from <http://allafrica.com/stories/201408160001.html>

¹Traditional peacekeeping operations involved authorized military operations undertaken with the consent of the major parties to a dispute that were designed to monitor and facilitate implementation of peace agreements e.g. a ceasefire, truce etc. Peacekeeping was also aimed at supporting diplomatic efforts to reach long-term political settlements. Second generation peacekeeping operations are more complex and multidimensional where in addition to traditional military functions, police and civilian components are an integral part of the operation. The three components are tasked with different assignments that contributes towards sustainable settlement of the factors giving rise to conflict including the facilitation of the: protection of civilian populations; observance of Human Rights; security and management of refugee issues; disarmament, demobilization, and reintegration (DDR) programs; security sector reforms; election monitoring; conflict resolution efforts; restoration and practice of the Rule of Law among others. Second generation peacekeeping operations are also often referred to as Peace Support Operations (PSOs). (See Haidi Willmot and Scott Sheeran.2014. 'the protection of Civilians mandate in UN peacekeeping operations: reconciling protection concepts and practices'. International Review of the Red Cross (2013). 95 (891/892), 517-538. Multinational Operations and the law. DoI:10.1017/S1816383114000095)

¹ See Willmot and Sheeran. 2014. Op Cit.

¹ SCR 1270, 22 October 1999, para. 14 (ECOMOG stands for the Economic Community of West African States Monitoring Group).

¹ The African peacekeeping missions with direct mandate for PoC include: MONUC

(Democratic Republic of the Congo) protection of civilians language was added to the mandate in SC Res. 1291, 24 February 2000, operative para. 8; UNMIL (Liberia): SC Res. 1509, 19 September 2003, operative para. 3(j); UNOCI (Côte d'Ivoire): SC Res. 1528, 27 February 2004, operative para. 6(i); MINUSTAH (Haiti): SC Res. 1542, 30 April 2004, operative para. 7(I)(f); ONUB (Burundi): SC Res. 1545, 21 May 2004, operative para. 5; UNMIS (Sudan): SC Res. 1590, 24 March 2005, operative para. 16(i); UNIFIL (Lebanon) protection of civilians language was added to the mandate in SC Res. 1701, 11 August 2006, operative para. 12; UNAMID (Darfur) protection of civilians language was in the original mandate, SC Res. 1769, 31 July 2007, operative para. 15(a)(2); MINURCAT (Chad and Central African Republic) protection of civilians language was added to the mandate in SC Res. 1861, 14 January 2009, operative para. 7(a)(i); MONUSCO (Democratic Republic of the Congo) protection of civilians language was in the original mandate, SC Res. 1925, 28 May 2010, operative paras. 11 and 12(a); UNISFA (Abyei), SC Res. 1990, 27 June 2011, operative para. 3(d); UNMISS (South Sudan): SC Res. 1996, 8 July 2011, operative para. 3(b); MINUMSA (Mali): SC Res. 2100, 25 April 2013, operative para. 16(c)(i). (See Willmot and Sheeran. 2014. Op Cit).

¹ Security Council in Resolutions 1325 (2000) and 1889 (2009) on Women, Peace and Security, Security Council Resolutions; 1612 (2005) and 1882 (2009) on Children and Armed Conflict; and specifically on Sexual and Gender-based Violence in Resolutions 1820 and 1888 (2008). Available at: <http://www.un.org>

¹ See: SC Res. 1270, 22 October 1999, operative para. 14. Retrieved February 17, 2015 from

<http://users.ox.ac.uk/~some2297/jp/UN%20SC%20Res%201270%20%281999%29%20%28re%20Sierra%20Leone%29.pdf>

¹ Hanns Seidel Foundation (HSF), Konrad-Adenauer-Stiftung (KAS), Institute for Security Studies (ISS) and South African Institute of International Affairs (SAIIA). 2012. The Responsibility to Protect – From Evasive to Reluctant Action?: The Role of Global Middle Powers. <http://www.issafrica.org/uploads/Book2012R2P.pdf>

¹ Major General OB Akwa. The Diminishing Influence of the Nation-State: The African challenge and policy responses'. African Defense/September 2014. P. 7

¹ African Union, Peace Support Operations Harmonized Doctrine (2006)

¹ The Concept of R2P emerged in 2005 from recommendations by the UN International Commission on Intervention and State Sovereignty (ICISS) in view of the setbacks with the full realization of the PoC concept in violent conflicts experienced in the 1990s e.g. in Liberia, Somalia, Rwanda, Sierra Leone, Burundi, the DRC, Sudan among others. The R2P Concept applies in situations atrocious crimes e.g. genocide, crimes against humanity, war crimes, ethnic cleansing are systematic and planed as part of the war strategy. The R2P is conceived under three pillars: (1) The responsibility to prevent: to address both the root causes and direct causes of internal conflict and other man-made crises putting populations at risk; (2) The responsibility to react: to respond to situations of compelling human need with appropriate measures, which may include coercive measures like sanctions and international prosecution, and

in extreme cases military intervention; and, (3) The responsibility to rebuild: to provide, particularly after a military intervention, full assistance with recovery, reconstruction and reconciliation, addressing the causes of the harm the intervention was designed to halt or avert (See Hanns Seidel Foundation (HSF), Konrad-Adenauer-Stiftung (KAS), Institute for Security Studies (ISS) and South African Institute of International Affairs (SAIIA). 2012. The Responsibility to Protect – From Evasive to Reluctant Action?: The Role of Global Middle Powers. Retrieved February 20, 2015 from <http://www.issafrica.org/uploads/Book2012R2P.pdf>)

¹ Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda, S/1999/1257, 16 December 1999, paras. 50-52

¹ Current peace operations seek to address the root cause of conflict through peacebuilding activities, including electoral assistance, promotion of human rights, disarmament, demobilization and reintegration of combatants, security sector reform, rule of law among others.

¹ African Union. 2010. Draft Guidelines on PoC. Op Cit.

¹ Ibid.

¹ African Union. 2011. Press Statement of the 279th Meeting of the Peace and Security Council. PSC/PR/BR.CCLXXIX). 18 May.

¹ See Willmot and Sheeran. 2014. Op Cit. and African Union. 2010. Draft Guidelines on PoC. Op Cit.

¹ Draft DPKO/DFS Operational Concept on PoC. Op Cit.

¹ Broadly defined, Small Arms those weapons designed for personal use, and light weapons are those designed for use by several persons serving as a crew (See 1997 'Report of the Panel of Governmental Experts on Small Arms'. General and Complete Disarmament: The UN Secretary-General Note: A/52/298 (III), p. 11. New York: United Nations General Assembly. 27 August 1997. <http://www.un.org/Depts/ddar/Firstcom/SGreport52/a52298.html>).

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¹ See: DOHA DOCUMENT FOR PEACE IN DARFUR (DDPD). Retrived February

18, 2015 from <http://unamid.unmissions.org/Portals/UNAMID/DDPD%20English.pdf>

¹ The concept of Practical Disarmament can be traced to as far back as 1995, through the UN's "Supplement to an Agenda for Peace" that, for the first time, recognized and acknowledged the phenomenon of armed non-state actors; and, called for practical disarmament measures, different from the regulations and sanctions applicable to nation-states. The call by the UN was for comprehensive measures that would address the issue of illicit SALWs in post-conflict situations and in doing so, would create the necessary conditions for sustainable peace and development (see United Nations. (January 3, 1995). Supplement to an Agenda for Peace: Position paper of the Secretary General on the occasion of the 50th Anniversary of the UN. A/50/60/S/1995/1, par. 60).

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¹ Organisation for Security and Cooperation in Europe (OSCE). (2003, Chapter 8). Best Practice Guide on Small Arms and Light Weapons (SALWs) in DDR Processes. Handbook of Best Practices on Small Arms and Light Weapons. Vienna: OSCE Secretariat.

¹ See RECSA. (2011). Best Practice Guidelines on Practical Disarmament for the Great Lakes Region, the Horn of Africa and Bordering States. Nairobi: RECSA.

¹ The UN defines combatants as persons who are members of a national army or an irregular military organization; or who are

actively participating in military activities and hostilities; or who are involved in recruiting or training military personnel; or who holds a command or decision-making position within a national army or an armed organization; or who arrived in a host country carrying arms or in military uniform or as part of a military structure; or who having arrived in a host country as an ordinary civilian, thereafter assumes, or shows determination to assume, any of the above attributes. Ex-combatants are defined as persons who have assumed any of the responsibilities or carried out any of the activities mentioned in the definition of 'combatants', and have laid down or surrendered his/her arms with a view to entering a DDR process (See (See Operational Guide to the Integrated Disarmament, Demobilization and Reintegration Standards, United Nations, 2010: 24, available at: <http://unddr.org/iddrs.aspx> and United Nations Disarmament, Demobilisation and Reintegration Resource Centre available at: <http://www.unddr.org/whatisddr.php>)

¹ The UN Secretary General defines the rule of law to refer to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency (See United Nations Security Council, The rule of law and transitional justice in conflict and post-conflict societies, report of the Secretary General, UN doc. S/2004/616 (23 August 2004), para 6).

Security Sector Reform (SSR) refers to a dynamic concept involving the design and implementation of a strategy for the management of security functions in a democratically accountable, efficient and effective manner to initiate and support reform of the national security infrastructure. The national security infrastructure includes appropriate national ministries, civil authorities, judicial systems, the armed forces, paramilitary forces, police, intelligence services, private-military companies (PMCs), correctional services and civil society (See United Nations, Integrated Disarmament, Demobilization and Reintegration Standards (IDDRS), 1 August 2006. www.unddr.org).

¹ In 2007, a UN Secretary-General's Policy Committee agreed on a conceptual basis for peacebuilding to inform UN practice: "Peacebuilding involves a range of measures targeted to reduce the risk of lapsing or relapsing into conflict by strengthening national capacities at all levels for conflict management, and to lay the foundations for sustainable peace and development". Peacebuilding strategies must be coherent and tailored to specific needs of the country concerned, based on national ownership, and should comprise a carefully prioritized, sequenced, and therefore relatively narrow set of activities aimed at achieving the above objectives" (See UN Peacebuilding: an Orientation. September 2010. http://www.un.org/en/peacebuilding/pbso/pdf/peacebuilding_orientation.pdf)

¹ See the example of the Security Council Resolution 1894 (2009) that expressed itself on the need for peacekeeping missions to develop indicators not only to measure the progress with the implementation of mandates but also on their protection strategies.

The Application of Social Conflict Theory in Kenya's Conflict and Peace Trends

Samuel A Nyanchoga

Abstract

Conflict theories are diverse in perspective but this article focuses on a micro analysis of social conflict theory by Karl Marx (1818-1883) based on two fundamental namely dialectical materialism and class struggle (Marx & Engels, 1848:35). Marx's analysis of conflicts is hinged on economic factors. Sociologist and political theorist Ludwig Gumplowicz (1838-1909) and Lester F Ward (1841-1913) introduce an anthropological perspective to conflict and argues that states are organized around the domination of one group by another leading to class, race and ethnic conflict. Wright Mills' view is that unequal distribution of power and resources in the society contribute to conflicts. Alan Sears (2008) perceive that inequality in society produces conflict that can only be overcome through a fundamental transformation of the existing relations in the society. The social conflict theory is applied in this study to understand the nature of conflict in Kenya that range from labour conflict; materially based conflict; power related conflict to ethno-based conflict. The context within which ideas and material conditions contribute to conflict is analyzed. The social conflict theory is applied in this study to interrogate whether Kenya's conflict trend takes a class dimension or an ethno dimension. The social conflict theory postulates that peace is attained through structural and institutional reform in politics, law and economics. It will be critical to understand how the revolutionary class approach will contribute a peaceful society in the Kenyan context.

Conflict in Kenya is contextualized on the material, political and social dynamics of society. The social conflict theory explicates the intersectionality between power, resource and conflict. The glaring inequality in society contribute to conflict that can only be overcome through structural transformation of the existing power and economic relations.

This study therefore applies the social conflict theory in Kenya's conflict and peace trends. The outcome of this study is that the causes of conflict and peace trends in Kenya cannot be fully explained in terms of the tenets of the social conflict theory.

Conflict and Types of Conflict

Conflict may be defined in simplistic terms as a situation in which entities are in serious disagreement with each other. Conflict may also refer to a situation in which there is or are opposing ideas or opinions. This may be ideological conflict. For example, the capitalist ideas are the antithesis of communist ideas.

Conflict may be defined as a violent situation between two countries that may take the form of armed conflict leading to disruption of peace. The criminal assault on the state sovereignty or raw power struggle between elites may be classified as conflict. Hostile masses, belligerent leaders and inter-ethnic security dilemmas can lead to conflict. There is also class analysis

to conflict where the borne of contention is resource allocation. From the above discussion one may classify conflict as follows:

Inter- personal conflict:

Inter personal conflict occurs at inter- personal level. It arises when the ideals and aims of two individuals clash with each other. Varied personalities usually results to incompatible choices and opinions that may degenerate into conflict

Inter-racial conflict:

Inter-racial conflict is mostly due to the physical differences. Some races consider themselves superior to other races and there are also races which feel that they are inferior to others. The feeling of superiority or inferiority is the root cause of racial conflict. The conflict between the white and black population in the U.S.A. provides an example of inter- racial conflict.

Inter- ethnic and intra- ethnic conflict

Inter ethnic conflict may occur due to primordial, instrumental and constructivist reasons. Intra ethnic conflict may occur due to the polarization of ethnic group at clan, lineage level or due to competitive situations such as over leadership, succession, or resources.

Political conflict:

Political conflict arises when different political parties with their own ideologies try to achieve their interest. The main cause of this kind of conflict is power which they want to capture. The conflict between different political parties is an example of this type of conflict.

International Conflict:

International conflict occurs among the different nations of the world. It may take place for political, religious, economic or ideological reasons.

Class Conflict:

Class conflict takes place among classes with their differing interests. In the feudal society there was conflict between the landlords and the serfs. The capitalist society is characterized by the bourgeoisie and proletariat conflict.

Intra group conflict is a type of conflict that happens among individuals within a team. The incompatibilities and misunderstandings among these individuals lead to an intra group conflict. It is arises from interpersonal disagreements or differences in views, ideas, rivalry over resources and boundaries that establishes group identity as a team.

The Social Conflict Theory

Karl Marx theory of social conflict states that conflict is as a result of two factors; material conditions and the social relations of social classes in society. According to Karl Marx, material conditions and conflict over the material conditions is what causes conflict in society.

Karl Marx in *The Das Capital* (1848) opens with a challenging statement; “The history of all hitherto existing societies is the history of class struggle”. For Karl Marx the communal mode of production did not produce social classes. However, the feudal mode of production produced two social classes; feudal lords and serfs. The slave mode of production produced the master and the slave. The capitalist mode of production produced the bourgeoisie and proletariat. These social classes were in conflict with each other because of the prevailing social relations that were exploitative. The transitional ties of capitalism link bourgeoisie at the centre with national bourgeoisie at the periphery who perpetuate policies that promote social and economic inequality and disadvantage the

workers and peasantry. According to Karl Marx conflict is impeded in the material conditions of society and historical process follows universal or general laws thus ignoring the specificity of historical events. In the context of Karl Marx's scheme of things; peace and order is only achieved when society attains the exploitation free and classless socialist order through the proletariats' revolutionary struggles. Karl Marx's views that social order and consensus is attributable to those people who unite around common interest.

Gumpowicz sees conflict as process through which members of society struggle for existence and self development. According to Gumpowicz the origin of human institutions such as the state is in conflict where human groups begin to subjugate each other leading to conflict and development at the same time. He also argues that the history of every nation is one of class conflict in which the strong and the fit survive and dominate the less strong and fit. As each group strives to become the controlling group within the state there are conflicts because the motivation is self-interest. Groups tend to increase their power, territory or resource and eventually leading to ethno or racial conflict. Gumpowicz sees the development of history as unilinear but in actual sense it develops in cyclical phases. Wright Mills; a founder of modern conflict theory argues that conflict are caused by unequal distribution of power and resources in the society.

The Importation of Social Conflict Theory into Kenya Conflict Scenario

The difficulty of importing Karl Marx's analysis of conflict to the Kenya context is due to the fragility of Kenya's industrial base; absence of concretized bourgeoisie and proletariat class consciousness to steer the revolution.

Karl Marx's explanation of historical events in universal and general terms ignores historical specificities or local context. Nevertheless in the context of the Kenyan situation inequality between social groups and unequal distribution of material resources and power triggers conflict. Gumpowicz interprets the cause of conflict due to dominance of one group over another while Wright situates conflict in an unequal distribution of resources.

Class and Class Consciousness

Due to the fragility of industrial base it is unlikely that Kenya has concretized classes such as bourgeoisie and proletariats as envisaged by Karl Marx. Nevertheless international capitalist system has contributed to the creation of a comprador class or national bourgeoisie and quasi proletariats. The existence of national bourgeoisie, multinational corporations are seen as the key players that maintain and perpetuate exploitation. In the words of Colin Leys the national bourgeoisie in Kenya is product of metropolitan capital. This argument is credible even though disputed by Swainson (2010) who sees the national bourgeoisie as a product of local capital accumulation aided by the corrupt state (Leys,1975 Swainson,2010). Leys argues that the existence of the national bourgeoisie dates back to 1930s and at independence it blossomed because of its access to state power to accumulate resources including land. Some of emerging national bourgeoisie went into distribution and wholesale sector as foreign bourgeoisie such as Brooke bond, Finlay and British American Tobacco entrenched themselves in agricultural and manufacturing sector (Swainson,2010). The huge presence of multinational corporations in Kenya such as Google, Visa, MasterCard, KFC, Pepsi, Travelport, Dow Chemicals, Bank of China, Bharti Aitel, Blackberry Ltd, Bosch, Cisco

Systems, China Central Television, Citibank, Coca Cola, Dago, Eltek, First Solutions, General Electric, Heinken, Hill International, Huawei, IBM, ICAO, Intel Corporation, Kerpersky Ltd, Motorola Solutions, Nokia, Pfizer, Sage Group, Sony, Toyota, Visa Inc, Standard and Chartered Bank demonstrates evidence of intense transnational capitalist activities supported by national comprador class (Kenya ranked second in Africa as investment Hub for global business in www.businessdailyafrica.com accessed 16/3/2015). In the words of Dependency theorists; Raul Presbich (1980) and Andre Gunder Frank (1967) the huge presence of Multinational Corporation works in cahoots with national bourgeoisie class or the comprador class to perpetuate and entrench policies of exploitation of the human and non human resources. Consequently social and economic inequality and the gap between the rich and poor is widening hence exacerbating tension and conflicts.

While the working class as a category exist because of its position in chain of production but class consciousness among Kenyan workers as a totality of interests that define a particular category is debatable. In the Kenyan context the working class has exhibited strike actions as a way of struggling to end their exploitation both in the public and private sector. They have constantly used workers unions as platforms to aggregate and articulate their interests. The basic dilemma of the struggling workers is lack of leadership, class consciousness and repressive Leviathan State. It is for these reason that working class struggle is no longer liberating and emancipatory.

Economic Inequality

Karl Marx attributes inequality, resentment and violence to economic discrimination and

unequal access to resources. Unequal access to resources, such as land, capital and vast differences in standard of living; growing inequalities and gaps, between the rich and poor, can aggravate intra-state tensions. Research has shown that in Kenya, 10% of the population control 42% of the country's income, 80% of the population control 48% of income; while the bottom 10% of the population control less than 1% (Daily Nation, 23, May 2006:1). The national poverty levels in Kenya since 1992 are as follows 1992 44.8 %; 1994 40.3%; 1997 52.3 % and 2005; 45.9; 2009, 45 % and 2015 51 % (Second report on Poverty in Kenya Vol. 1; Kenya National Bureau of Statistics: Basic report on Well-being in Kenya, 2007; 2015). Inequality in the distribution of national resources, poverty and poor governance exacerbates conflict. According to a report by Development Policy Management Forum (2015) 90 percent of Kenya workforce earns less ksh. 15000; 9% earn between ksh.1500 to ksh.100000 while 1% earn more than ksh.100000. The huge inequality in wages is reflected in the ostentatious life style of ruling elite and those of everybody else. Given this scenario inequality and poverty contributes to crime and insecurity. Political violence is rooted in the favoritisms of state practice based on ethnic alliances and political patronage (Nyanchoga, 2014; Brown, Cote Sean & Miller; 1997).

Non violent means

Karl Marx focuses on the conflicts as the catalyst that brings about change in society. The theory ignores non violent or non forceful means of resolving conflict. Contemporary society tends to focus on non forceful means such as diplomacy, arbitration and mediation in resolving conflict with remarkable success.

Non economic causes of conflict

Karl Marx also focuses on economic factors while numerous factors such as ethnicity, gender, race and political inequality contribute to conflict. The Marxist analysis of conflict fails to capture negative ethnicity as one of the triggers of conflict hence human historical processes including conflict cannot be interpreted in general and universal laws without considering specific local conditions (Nyanchoga, 2014; Brown, Cote Sean & Miller 1997:102).

Ethno-based conflict

Gumplowicz interprets the cause of conflict due to dominance of one group over another. In the context of the Kenyan society ethnicity is a concrete reality that defines identity and access to resources (Nyanchoga, 2014). Ethnic clashes in Rift Valley of Kenya in 1992, 2007 and 2008 were interpreted in terms of political competition for power and resources. For instance the Kalenjin community perceived Agĩkũyũ of harbouring imperialistic and proprietary tendencies as they settled in the traditional homeland of the Kalenjin and Maasai; in Laikipia, Nyahururu, Njoro, Molo, and Likia, after the withdrawal of the colonial rule. The Kenyatta regime allegedly aided Agikuyu community through land buying companies to appropriate these vast lands (Nyanchoga, 2014; Brown, Cote Sean & Miller 1997:102).

The Kenya's North eastern region has been the epicentre of conflict due to resource competition. Gumplowicz and Lester's analysis of the causes of conflict on the basis of ethnicity and resource competition provides a rational explanation of the nature of conflict in the northern Kenya. The region has large ethnic Somali population who for a long time exhibited

secessionist tendencies due to marginalization by the state as other communities were in conflict with each other due to limited resources. Pastoralist communities in the region use guns to secure the grazing land, water resources and stealing livestock from their neighbours as warlords use the weapons to conduct large scale raids for commercial purposes (Daily Nation, June 24, 2006). Similarly the secessionist activities of the Mombasa Republican Council are explained in terms of marginalization of the coastal communities by successive governments in Kenya leading to a dispossessed lot (Nyanchoga, 2014). But Gumplowicz argument that conflict has the capacity to propel society to higher levels of development evokes mixed reactions. Contextualizing this assertion in Kenya conflict scenario of 2007 and 2008 brought economic set back as economic growth slowed down but on the other hand the constitutional development of 2010 and subsequent political development was a necessary outcome. Linking this to development discourse one may argue that the process does not imply simultaneous benefit or progress for all. The cardinal issue is that Kenya's conflict situation is driven by class and ethnic politics. This is because there is a lot of intersectionality between ethnicity and class politics and political elites concretize around ethnicity in their search for power.

The Applicability of Social Conflict Theory to Peace Trends in Kenya

According to Karl Marx peace is achieved through the revolutionary struggles of the proletariats. The applicability of this thesis in the Kenyan situation is debatable given the fragility of working class and massive operations of multinational national corporations supported by corrupt political elite. Karl Marx situates the ultimate peace in the establishment of the

socialist society by vanquishing the exploitative tendencies of bourgeoisie class through the proletariat revolution. The very fact that the revolutionary proletariats did not achieve this in the so called socialist orientated countries makes the Marxist peace process delusory and even more problematic to situate it in a country that has a fragile industrial base and with no class consciousness.

While Karl Marx identifies inequality as the catalyst for conflict; equality in the distribution of material wealth is a precursor for peaceful societies. Many of the societies such as Austria, Hungary, Norway, Sweden and Finland that strive to maintain equality are rarely in conflictual situations while some of the most unequal societies such as Central African Republic, Mozambique, Zambia, Haiti, Sierra Leone, and Republic of South Africa are embroiled in conflict (<http://www.businessinsider.com/most-unequal-countries-in-the-world-2011-10#at-least-the-us-is-creative-40>; accessed on 13/3/2015). In the context of Kenya; inequality in the distribution of resources such as land, job opportunities and political power portend serious conflict.

Gumpowicz and Lester's assertion that peace is a necessary outcome of conflict situation may bear credence in the Kenyan conflict situational analysis. Looking at Kenya conflict trends and in particular the 2007 and 2008 post election conflict scenario and thereafter the 2010 constitutional framework and the various institutional reforms in order to address the root causes of conflict. The devolved system of governance; the reduction of executive powers, reforms in the security sector and the judiciary may be viewed as an attempt towards the realization of structural and procedural peace. However the challenge is that the proponents of

the status quo negate this process of attaining a peaceful society.

Consequently the social conflict theory is not in consonance with the current methods of achieving peace and peace building. The theory ignores non violent or non forceful means of resolving conflict which may involve prosecution, negotiation, mediation, arbitration, diplomacy, and creative peace building. These methods are perceived to be non violent and contrary to the social conflict theory peace process as discussed below.

Non Violent Approaches to Peace Trends in Kenya

The following approaches to peace do not fall with the social conflict theory analysis of peace. For instance the prosecution of criminals, ordinarily, aims at preventing criminals from perpetuating or repeating the crimes. Courts have been used to prosecute criminals and war lords, who have committed war crimes and crimes against humanity (Saturday Nation, September 14, 2007: 10; Nyanchoga, 2007)

The armed forces, like the police, GSU or the army, are used to impose curfew and instill discipline in localized conflicts. This has been witnessed in places like Mt. Elgon, Mathare slum, in Nairobi; Laikipia, Likia and Molo regions, of Kenya. The rationale is that conflict can be neutralized before they turn violent and widespread. The police are expected to provide appropriate intervention to reduce violence and criminality. However, armed forces have, more often than not, been accused of human rights abuse that range from rape, extorting money from their victims and taking sides when it comes to inter-ethnic conflicts. The Kenyan Police, for instance, have been accused of extra judicial killings of the adherents of the Mungiki Sect. Use of military against the MRC and

Kenya's Military incursion into Somalia may resolve the conflict in the short run but there are long term implications (Nyanchoga,2014). In some cases, education is used as a tool for confidence building and to sensitize the people of the need to observe peace and co-existence. But lack of involvement of the local experts, religious leaders and elders, often derail the process. Where the medium of communication is a language that the local people do not understand, this often jeopardizes the achievement of objectives. When the government takes charge of the process, people feel alienated and detach themselves from the process (Brown, Cote Sean & Miller; 1997). . Power sharing has been used as measures of confidence building. The power sharing arrangement between Emilio Mwai Kibaki and Raila Amolo Odinga in Kenya prevented the escalation of violent conflict over the 2007 disputed presidential elections (Thompson, 2012).

Amnesty is the offer of immunity from prosecution on condition that the belligerents cease unlawful activities. It transcends punishment and retribution, for the sake of the common good; particularly in situations like Rwanda and South Africa, where the civil war and nationalist struggles left bitter memories of human rights abuse and a divided people. Critics argue that amnesty has limitations, because those have been involved in killings, looting of public funds and massive corruption, may seek amnesty in order to evade prosecution. It may also be seen as unjust when the state initiates amnesty, to exempt the perpetrators from prosecution; without consultation, or by sacrificing the rights of the victims. This may be seen as overriding the rights of the victims. The victims may feel that the state has used amnesty to protect politically connected personalities (Thompson, 2012).

This is a tool that is used to prevent destructive competition through persuasion, dialogue, mutual trust, and genuine collaboration. Diplomacy is tied to the politics of secrecy, which may turn to be counter-productive; when it is used to hide the malpractices of corruption, arms trade and the looting of public funds. Diplomacy was successfully applied in Kenya's conflict situation in 2007/08 (Thompson, 2012).

Mediation builds on negotiations; and involves a third party intervention, in the conflict. It aims at arriving at a settlement that is acceptable to those involved: one that they could not have achieved on their own. The mediators' role is to reduce tension and endless bargains, for the sake of peace. The choice of mediators is important for they must be acceptable to the parties involved. The objectives to be achieved, and procedures to be followed must be communicated to the parties concerned in advance; in order to facilitate a proper involvement. Koffi Anan proved successful as a mediator Kenya's post election violence in 2007/28 (Thompson, 2012).

The traditional peace building strategies are embedded in community cultural practices. They involve early warning system; collection of sensitive intelligence information concerning security and external threats. Other methods include the use of military as a last resort; the principle of common humanity that encourage sharing hence reducing warfare and conflict. The principle of reciprocity emphasized the ethics of sharing and a sense of collective security. The most important in conflict resolution were the councils of elders. These were often composed of men, many of them aged and experienced in the art of governance. These methods of conflict resolution are culture specific and have proved effective in pastoral

conflict areas in northern Kenya. From the foregoing discussion the social conflict theory falls short interrogating contemporary peace trends in Kenya.

Conclusion

The article has demonstrated that conflict exist in Kenya today in several variants. The intensity of conflicts in many parts of Kenya is because of fragility of states, skewed resource distribution, weak nationhood structures and role of the international capitalist system that spread the exploitative ideology. The application of the social conflict theory to Kenya's conflict and peace trends focus on general laws thus ignoring the traditional or homegrown methods that have also proven effective.

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- ⁵ Human Security Now (New York, 2003). Karim Hussein, Donata Gnisci and Julia Wanjiru. December 2004. *Security and Human Security: An overview of Concepts and initiatives – What implications for West Africa?* Issue Paper SAH/D(2004)547. p 14. Retrieved February 27, 2015 from <http://www.oecd.org/swac/publications/38826090.pdf>
- ⁶ Ibid
- ⁷ Ibid
- ⁸ Aide-Mémoire for the Consideration of Issues Pertaining to the Protection of Civilians in Africa. Draft of June 2013 (Restricted) and UN Department of Peacekeeping Operations and UN Department of Field Support, United Nations Peacekeeping Operations: Principles and Guidelines. 2008 p 26. Retrieved July 28, 2014, from http://effectivepeacekeeping.org/sites/effectivepeacekeeping.org/files/04/DPKO-DFS_Capstone%20Document.pdf
- ⁹ African Union. 2010. *Draft Guidelines on the Protection of Civilians in African Union Peace Support Operations*. Op Cit.
- ¹⁰ See Gusstavo De Carvalho and Andreas Øien Stensland. *The Protection of Civilians in Peacekeeping in Africa: Context and Evolution*. Conflict Trends, Issue 2 (2012) pp. 3-10. African Centre for the Constructive Resolution of Disputes (ACCORD). Retrieved February 19, 2015 from <http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=146585>
- ¹¹ Shabelle Media Network in Mogadishu. (15 August 2014). ‘AU Battle With Warlord’s Militia for Disarmament in Mogadishu’. Retrieved February 11, 2015, from <http://allafrica.com/stories/201408160001.html>
- ¹² Traditional peacekeeping operations involved authorized military operations undertaken with the consent of the major

parties to a dispute that were designed to monitor and facilitate implementation of peace agreements e.g. a ceasefire, truce etc. Peacekeeping was also aimed at supporting diplomatic efforts to reach long-term political settlements. Second generation peacekeeping operations are more complex and multidimensional where in addition to traditional military functions, police and civilian components are an integral part of the operation. The three components are tasked with different assignments that contributes towards sustainable settlement of the factors giving rise to conflict including the facilitation of the: protection of civilian populations; observance of Human Rights; security and management of refugee issues; disarmament, demobilization, and reintegration (DDR) programs; security sector reforms; election monitoring; conflict resolution efforts; restoration and practice of the Rule of Law among others. Second generation peacekeeping operations are also often referred to as Peace Support Operations (PSOs). (See Haidi Willmot and Scott Sheeran.2014.'the protection of Civilians mandate in UN peacekeeping operations: reconciling protection concepts and practices'. *International Review of the Red Cross* (2013). 95 (891/892), 517-538. Multinational Operations and the law. Dol:10.1017/S1816383114000095)

¹³ See Willmot and Sheeran (2014). Op Cit.

¹⁴ SCR 1270 (22 October 1999). para. 14 (ECOMOG stands for the Economic Community of West African States Monitoring Group).

¹⁵ The African peacekeeping missions with direct mandate for PoC include: MONUC

(Democratic Republic of the Congo) protection of civilians language was added to the mandate in SC Res. 1291, 24 February 2000, operative para. 8; UNMIL (Liberia): SC Res. 1509, 19 September 2003, operative para. 3(j); UNOCI (Côte d'Ivoire): SC Res. 1528, 27 February 2004, operative para. 6(i); MINUSTAH (Haiti): SC Res. 1542, 30 April 2004, operative para. 7(I)(f); ONUB (Burundi): SC Res. 1545, 21 May 2004, operative para. 5; UNMIS (Sudan): SC Res. 1590, 24 March 2005, operative para. 16(i); UNIFIL (Lebanon) protection of civilians language was added to the mandate in SC Res. 1701, 11 August 2006, operative para. 12; UNAMID (Darfur) protection of civilians language was in the original mandate, SC Res. 1769, 31 July 2007, operative para. 15(a)(2); MINURCAT (Chad and Central African Republic) protection of civilians language was added to the mandate in SC Res. 1861, 14 January 2009, operative para. 7(a)(i); MONUSCO (Democratic Republic of the Congo) protection of civilians language was in the original mandate, SC Res. 1925, 28 May 2010, operative paras. 11 and 12(a); UNISFA (Abyei), SC Res. 1990, 27 June 2011, operative para. 3(d); UNMISS (South Sudan): SC Res. 1996, 8 July 2011, operative para. 3(b); MINUMSA (Mali): SC Res. 2100, 25 April 2013, operative para. 16(c)(i). (See Willmot and Sheeran. 2014. Op Cit).

¹⁶ Security Council in Resolutions 1325 (2000) and 1889 (2009) on Women, Peace and Security, Security Council Resolutions; 1612 (2005) and 1882 (2009) on Children and Armed Conflict; and specifically on Sexual and Gender-based Violence in Resolutions 1820 and 1888 (2008). Available at: <http://www.un.org>

- ¹⁷ See: SC Res. 1270, 22 October 1999, operative para. 14. Retrieved February 17, 2015 from <http://users.ox.ac.uk/~some2297/jp/UN%20SC%20Res%201270%20%281999%29%20%28re%20Sierra%20Leone%29.pdf>
- ¹⁸ Hanns Seidel Foundation (HSF), Konrad-Adenauer-Stiftung (KAS), Institute for Security Studies (ISS) and South African Institute of International Affairs (SAIIA). 2012. The Responsibility to Protect – From Evasive to Reluctant Action?: The Role of Global Middle Powers. Retrieved February 20, 2015, from <http://www.issafrica.org/uploads/Book2012R2P.pdf>
- ¹⁹ Major General OB Akwa. The Diminishing Influence of the Nation-State: The African challenge and policy responses'. *African Defense/September 2014*. P. 7
- ²⁰ African Union, Peace Support Operations Harmonized Doctrine (2006)
- ²¹ The Concept of R2P emerged in 2005 from recommendations by the UN International Commission on Intervention and State Sovereignty (ICISS) in view of the setbacks with the full realization of the PoC concept in violent conflicts experienced in the 1990s e.g. in Liberia, Somalia, Rwanda, Sierra Leone, Burundi, the DRC, Sudan among others. The R2P Concept applies in situations atrocious crimes e.g. genocide, crimes against humanity, war crimes, ethnic cleansing are systematic and planed as part of the war strategy. The R2P is conceived under three pillars: (1) The responsibility to prevent: to address both the root causes and direct causes of internal conflict and other man-made crises putting populations at risk; (2) The responsibility to react: to respond to situations of compelling human need with appropriate measures, which may include coercive measures like sanctions and international prosecution, and in extreme cases military intervention; and, (3) The responsibility to rebuild: to provide, particularly after a military intervention, full assistance with recovery, reconstruction and reconciliation, addressing the causes of the harm the intervention was designed to halt or avert (See Hanns Seidel Foundation (HSF), Konrad-Adenauer-Stiftung (KAS), Institute for Security Studies (ISS) and South African Institute of International Affairs (SAIIA). 2012. The Responsibility to Protect – From Evasive to Reluctant Action?: The Role of Global Middle Powers. Retrieved February 20, 2015, from <http://www.issafrica.org/uploads/Book2012R2P.pdf>)
- ²² Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda, S/1999/1257, 16 December 1999, paras. 50-52
- ²³ Current peace operations seek to address the root cause of conflict through peacebuilding activities, including electoral assistance, promotion of human rights, disarmament, demobilization and reintegration of combatants, security sector reform, rule of law among others.
- ²⁴ African Union. 2010. *Draft Guidelines on PoC. Op Cit.*
- ²⁵ Ibid.
- ²⁶ African Union. 2011. Press Statement of the 279th Meeting of the Peace and Security Council. PSC/PR/BR.CCLXXIX). 18 May.

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- 35 Fusato, Massimo. (2003). "Disarmament, Demobilization, and Reintegration of Ex-Combatants." *Beyond Intractability*. Eds. Guy Burgess and Heidi Burgess. Conflict Information Consortium, University of Colorado, Boulder. Retrieved August 13, 2014 from <http://www.beyondintractability.org/essay/demobilization>
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- 37 United Nations. Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, UN Document A/CONF.192/15. Retrieved July 30, 2014 from <http://www.poa-iss.org/PoA/poahtml.aspx>
- 38 Binding protocols and conventions on SALW on the continent include: the SADC Protocol on The Control of Firearms, Ammunition and Other Related Materials, 2001; the Nairobi Protocol on the Control, Prevention and Reduction of Small Arms and Light Weapons in the Great Lakes Region, the Horn of Africa

- and Bordering States, 2004; the Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons, their Ammunitions and Other Related Materials, 2006; and the Central Africa Convention for the Control of SALW, their Ammunition and Parts and Components that can be used for their Manufacture, Repair or Assembly, 2010 (African Union. Action Plan for The Implementation of the African Union Strategy on the Control of Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons. Retrieved July 25, 2014 from [Http://Www.Peaceau.Org/Uploads/Action-Plan-En.Pdf](http://www.peaceau.org/uploads/Action-Plan-En.Pdf)
- 39 African Union, Solemn Declaration on A Common African Defence and Security Policy. Retrieved July 25, 2014 From <http://www.peaceau.org/uploads/declaration-cadsp-en.pdf>
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- 46 UNAMID. DOHA DOCUMENT FOR PEACE IN DARFUR (DDPD). Retrieved February 18, 2015 from <http://unamid.unmissions.org/Portals/UNAMID/DDPD%20English.pdf>
- 47 The concept of Practical Disarmament can be traced to as far back as 1995, through the UN's "Supplement to an Agenda for Peace" that, for the first time, recognized and acknowledged the phenomenon of armed non-state actors; and, called for practical disarmament measures, different from the regulations and sanctions applicable to nation-states. The call by the UN was for comprehensive measures that would address the issue of illicit SALWs in post-conflict situations and in doing so, would create the necessary conditions

for sustainable peace and development (see United Nations. (January 3, 1995). Supplement to an Agenda for Peace: Position paper of the Secretary General on the occasion of the 50th Anniversary of the UN. A/50/60/S/1995/1, par. 60).

- 48 RECSA. (2011). Best Practice Guidelines on Practical Disarmament for the Great Lakes Region, the Horn of Africa and Bordering States. Nairobi: RECSA.
- 49 Muhereza, Frank Emmanuel. (2011). An Analysis of Disarmament Experiences in Uganda. Regional Centre on Small Arms (RECSA) Nairobi, RECSA.
- 50 Organisation for Security and Cooperation in Europe (OSCE). (2003, Chapter 8). Best Practice Guide on Small Arms and Light Weapons (SALWs) in DDR Processes. Handbook of Best Practices on Small Arms and Light Weapons. Vienna: OSCE Secretariat.
- 51 RECSA. (2011). Best Practice Guidelines on Practical Disarmament for the Great Lakes Region, the Horn of Africa and Bordering States. Nairobi: RECSA.
- 52 The UN defines combatants as persons who are members of a national army or an irregular military organization; or who are actively participating in military activities and hostilities; or who are involved in recruiting or training military personnel; or who holds a command or decision-making position within a national army or an armed organization; or who arrived in a host country carrying arms or in military uniform or as part of a military structure; or who having arrived in a host country as

an ordinary civilian, thereafter assumes, or shows determination to assume, any of the above attributes. Ex-combatants are defined as persons who have assumed any of the responsibilities or carried out any of the activities mentioned in the definition of 'combatants', and have laid down or surrendered his/her arms with a view to entering a DDR process (See Operational Guide to the Integrated Disarmament, Demobilization and Reintegration Standards, United Nations, 2010: 24, available at: <http://unddr.org/iddrs.aspx> and United Nations Disarmament, Demobilisation and Reintegration Resource Centre available at: <http://www.unddr.org/whatisddr.php>)

- 53 The UN Secretary General defines the rule of law to refer to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency (See United Nations Security Council, *The rule of law and transitional justice in conflict and post-conflict societies*, report of the Secretary General, UN doc. S/2004/616 (23 August 2004), para 6).

- 54 Security Sector Reform (SSR) refers to a dynamic concept involving the design and implementation of a strategy for the management of security functions in a democratically accountable, efficient and effective manner to initiate and support reform of the national security infra- structure. The national security infrastructure includes appropriate national ministries, civil authorities, judicial systems, the armed forces, paramilitary forces, police, intelligence services, private–military companies (PMCs), correctional services and civil society (See United Nations, *Integrated Disarmament, Demobilization and Reintegration Standards (IDDRS)*, 1 August 2006. www.unddr.org).
- 55 In 2007, a UN Secretary-General’s Policy Committee agreed on a conceptual basis for peacebuilding to inform UN practice: “Peacebuilding involves a range of measures targeted to reduce the risk of lapsing or relapsing into conflict by strengthening national capacities at all levels for conflict management, and to lay the foundations for sustainable peace and development”. Peacebuilding strategies must be coherent and tailored to specific needs of the country concerned, based on national ownership, and should comprise a carefully prioritized, sequenced, and therefore relatively narrow set of activities aimed at achieving the above objectives” (See UN Peacebuilding: an Orientation. September 2010. Retrieved July 29, 2014, from http://www.un.org/en/peacebuilding/pbso/pdf/peacebuilding_orientation.pdf
- 56 See the example of the Security Council Resolution 1894 (2009) that expressed itself on the need for peacekeeping missions to develop indicators not only to measure the progress with the implementation of mandates but also on their protection strategies.

Community Based Partnership Approach to Peace and Security

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Abstract

Community peace and security building takes individuals, communities, political commitments, institutional involvement and financial commitments to rebuild. There is a basic assumption that, all communities desire to find ways to create an environment where working together is more desirable, peaceful and secure. Therefore, with some direction and support, fractured societies can be assisted to reach this goal.

Community-based peace interventions often seek to transform community: relationships service delivery and good governance. Community security is a fundamental objective and its a precondition for other human development goals.

Non State Actors (NSAs) may initiate community based partnership by based on different partnership model. The effectiveness of partnership is base on comprehensive participatory process strategies with the community to taking the lead in resolving and developing to rebuild their peace and security and breaking the viscous circle of insecurity. When communities are committed to the partnership processes they move towards a sustainability of peace and security.

This paper examines types of community based partnerships, partnership models , the vicious circle of insecurity and need for community based partnership and lastly discuss community based partnership model and process that can be used to innicaite community based peace and security partnership.

Introduction

Communities in Africa are facing new challenges that threaten peace and security. These include peace and security systems local and international, policies that ultimately affect the communities in their contexts. Given such challenges, partnership strategies need to utilize a combination of measures which effectively address determinants of peace and security. Communities have unique contributions to the partnership process and need to participate

fully in decision-making, planning and implementing initiatives that impact on their lives. (Stiftung and Politik 2015).

When communities are negatively labelled, they unconsciously have a negative attitude towards themselves and act as they are labelled. This hinders participation because communities feel inferior and take a passive role that does not result in sustainable change. Partnership on an equal basis empowers communities, ensure

all the stakeholders play equal but differing roles and recognise and use the variety of experiences from the different players.

Partnership mechanisms integrated and built at community, intermediary, and at national level are ensured on the principles of inclusive community approaches. Partnerships have contributed to building trust, confidence and understanding between the various sectors, have helped develop a shared vision, decentralised the decision making of state agencies and have developed effective links back to policy making procedures (Spence 2000).

The components of community partnership are determined by social, political and economic circumstances at national and local levels, and by the expectations, needs and abilities prevailing in the locality. The partnership approach aims to understand how the continuum of community organizations and different social organizations are involved mobilizing and influence peace and security. This paper discusses a broad range of community based partnership approaches, community peace and security and the process of developing a community based partnership process.

This paper aims to analyse types of community based partnerships, examine community based models in peace and security, discuss the vicious circle of insecurity and need for community based partnership and finally describe the community based partnership process.

1.1. Community Based Peace

Community based peace can be applied to individual, community or as a component of wider national programmes. It is focused primarily on achieving development outcomes,

such as service delivery and good governance. Although such interventions have the potential to contribute to securing peace they do not necessarily result in peacebuilding. Rather, community based peacebuilding interventions often seek to transform relationships to collaborate with a wide range of actors beyond the development community, including diplomatic actors and conflicting parties and broader peace strategies, (Pottebaum and Lee 2007). The community based approaches for peacebuilding may include:

Community-based policing an approach that brings together the police, civil society and local communities to jointly take responsibility for and develop solutions to local safety and security. Community policing is a philosophy that promotes organizational strategies, which support the systematic use of partnerships and problem-solving techniques, to pro-actively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime, (USAID 2007).

Socio economic recovery: Approaches adopted to provide service and covers a broad range of activities spanning reconstruction of physical infrastructure, livelihood and employment generation, rehabilitation of public health and educational systems, development of social safety nets, legal and regulatory reforms, private sector, creation of markets and transparent banking and financial institutions.

Media, communication and civic education: Community-based forms of media that seek to promote dialogue, debate on key issues in society, promote reconciliatory processes and civic education. This may include; radio stations, broadcast in multiple languages, community video, local videographers

documenting social change, community concerns and lessons learnt.

Traditional justice and reconciliation:

Approaches to justice and reconciliation often focus on the psycho-social and spiritual dimensions of violent conflicts. Traditional approaches aim at reintegrating conflicting parties into the community. An important component is public cleansing ceremonies, undertaken as an integral step in healing community relationships.

Heritage and cultural preservation: These are initiatives designed to preserve culture in disaster and conflict-affected contexts. They have included community forums in order to allow for the articulation of local needs, quick responses on the ground, and increased social capital. Communities are also involved in inventorying their culture, which has contributed to preservation and a sense of national identity, (Huma 2009).

1.2 Community based security

Maintaining community security is a fundamental objective of a government, its a pre condition for other human development goals. Security is multi-faceted, consisting of human, physical, economic and socio-political security, failure of which has results in structural violence, (Mkutu 2004). Different actors have different perspectives on security, influenced by culture and circumstance. Some define security in military terms, others emphasize economic or livelihood security, or security that being part of a group provides.

With this realization the concept of human security emerged, re-balancing debates on security away from an exclusive focus on military security of the state, towards a security of the people whom the state serves.

The UNDP definition of human security have seven main aspects of which community security is one. Community security then refers to the security people derive from their membership in a group a family, community, an organization, ethnic group that can provide a cultural identity and a treasuring set of values, such groups also offer practical support, (UNDP 1994). Essentially, community security is a sense of security derived from a sense of trust of neighbours and participation in and belonging to a community. However, if we see communities as social networks not necessarily overlapping with geographic or ethnic units community security should be viewed more broadly than aiming to protect people from the loss of traditional relationships and values and from sectarian and ethnic violence. Community security in practice, also includes issues like the proliferation of small arms and light weapons (SALW), criminal violence by opportunists and vigilante groups, mistrust and lack of faith in the security forces to provide security to ordinary people, (Hollestelle & Simonse 2005).

Community security is seen as a response to the security threats of the community, however, it can also be seen as a state of affairs, (Saferworld 2008). Community security is both as an end state and the process in which communities develop responses to achieve this end state. Community security as an end state is the situation in which communities feel secure from threats exerted by violent conflict, arms proliferation, crime, and a lack of protection or direct threat by the state. Community security as a process means that communities participate in identifying, prioritizing, development and implementation of appropriate responses for their security needs. Community based initiatives that enhance security include traditional peace committees, peace zones and community based policing.

2.0 Community based partnership concept and practice

2.1 Partnership Concept

Partnership is a term that implicit connotations of sharing and trust. Partnership' suggests equality, respect, reciprocity, ownership and strengthening linkages, (Gutierrez, 2008). Yet, some partnerships can be abusive and unequal in practice. Partnership may mean different things to different people, sectors and institutions. Other associated words include association, cooperation, collaboration, participation, joint decision making and long-term relationship. At a conceptual level partnership is generally understood as a positive attribute with the following characteristics; long-term, shared responsibility, reciprocal obligation, equality, mutuality and balance of power (Fowler, 2000). Core principles of reciprocity, accountability, joint decision making, respect, trust, transparency, sustainability and mutual interests have been highlighted in the literature (Wanni, 2010; Dochas, 2010; Crawford, 2003).

2.2 Types of relationships in a partnership

Community partnerships comprise of relationships between formal (static) authorities and (dynamic) communities and are in an ever changing process. The interactions can be divided into five categories. The interactions and energy flows are complex at all levels

Predation describes relationships where one partner, the predator, feeding on and typically killing another partner which is the prey species. Predators use various methods to capture prey. Herbivores do not necessarily kill a plant they feed on but put pressure on the plant species.

Competition describes multiple relationships organisms fighting for the same resources. The competition may involve active interference or direct interference. The more similar two species are, the more competitive they are with each other, fighting for limited resources.

Parasitism is when one species benefits from a second species that is disadvantaged, but generally not killed. A tick feeding on a host is a good example of parasitism. The host is not directly killed by the tick, which benefits from the relationship the host is adversely affected.

Mutualism is an interaction characterized by mutual benefit, so both species benefit from the relationship. Example a flowering plant producing nectar to attract a bee, it benefits by feeding on the nectar, while the plant benefits because the bee goes on to disperse the plant's pollen.

Commensalism describes a relationship in which one species benefits but the other is unaffected. Examples of commensalism include a bird nesting in a tree. The bird is using the tree for shelter but the tree is unaffected. Commensalists have no affect on the host, others may benefit or harm the host.

2.3 Community based partnership practice models

2.3.1. Basic Development needs Partnership Model

The Basic Development Needs (BDN) Partnership Model described by WHO (2000) has been adopted by a number of countries with diverse social and economic circumstances in Africa. It aims at improving the quality of life of communities and individuals through a

comprehensive development process which is planned and managed by the community. With BDN Partnership programmes and initiatives, accessibility of and coverage with health care services are intended to increase, with resultant decreases in morbidity and mortality. The BDN Model has also accommodated concepts such as poverty alleviation and healthy villages and enriched programmes with a community methodology that encompasses harmony and balance into social and economic

development. This is sometimes called development with a human face. People are the key element in this change process. They decide upon the change, design it, manage it and carry it out. In turn, this increases each individual's perception of self, and each individual's perception of the community's identity. The BDN Model shifts the focus to community leadership and sustainability and away from short-lived externally driven interventions.

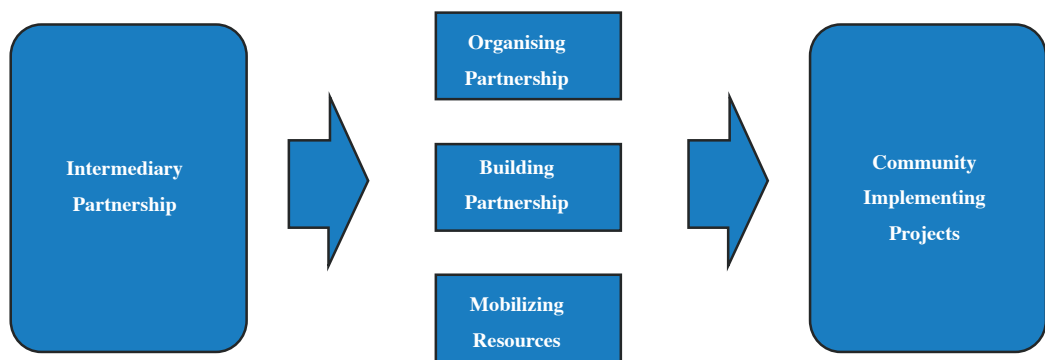


Figure 1: Basic Development Needs (BDN) Model (Source: WHO 2000)

The BDN Partnership Model hinges on community structures such as Village. Development Committees to drive community agenda for improved livelihoods; however, these structures may not have adequate capacity to form effective partnerships with government and other key stakeholders. The structures rarely have in-built governance structures and are prey to conflicts and lack of leadership, unless a decisive move is taken to strengthen their operations.

Partnership approaches using the BDN Model are based on assumptions that guiding principles are adhered to by the partners, which may not always be the case. Grand principles such as applying human-rights-based approaches, ensuring gender equality and may end up as

mere rhetoric and not as guides for concrete action.

2.3.2 Community based Development Model (CBDM)

The model is based on the philosophy that the best way to help those most in need is to involve them directly in the design and implementation of local environmental and economic development initiatives. This creates ownership, involvement, and financial sustainability well into the future. The CBDM is based on of training and execution, coupled with an enterprise approach, engages and inspires local residents to preserve their precious natural resources. The goal of a CBDM is to improve the quality of life in the

community through changes in knowledge, attitudes and behaviour or practice (e.g., health seeking behaviour, adoption of healthy practices), with the ultimate impact in health and development indicators. Processes used in this approach include: dialogue, participatory

planning and implementation, engagement with key stakeholders and acknowledging and acting on the premise that beneficiaries or communities have a stake in the improvement of their lives, (Worldbank 2015).



Source <http://www.treeswaterpeople.org>

The CBDM is based on the assumptions that communities are resourceful and that empowered communities are a prerequisite for improving individual and community. However, there has generally been weak predestined community engagement in the past. The selection criteria for communities that NGOs work with has been based on unclear criteria, spanning from donors' interests to the NGO's interests, and has even been to some extent, opportunistic.

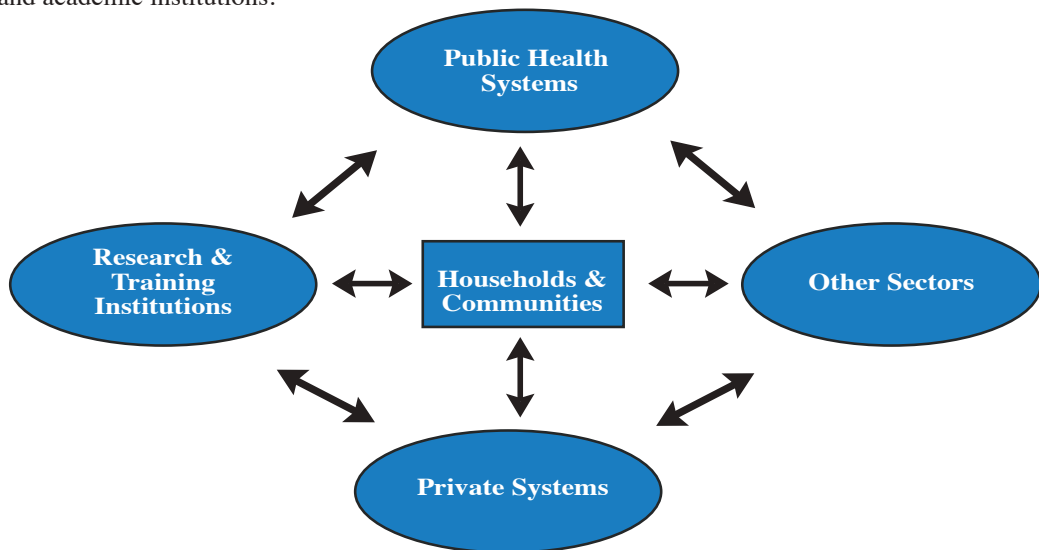
The CBDM assumes that beneficiaries or communities are the ones who need help or improvement and that external help is needed to bring about change in the community. Through this approach, communities are not able to fully prioritise and to use their resources to improve their lives; however, the community is a beneficiary and does not engage in an

equal partnership relationship. The higher level partners in this approach are those that provide greater resources and have external linkages.

2.3.3 TICH Partnership Model

The basis of TICH Partnership by Kaseje (2002) employs a number of theoretical concepts and includes the modified UNICEF capacity model which states that the capacity of an individual is directly proportional to ability, resources, authority and is proportional to responsibility. Other concepts employed in are cognitive theory, Covey's theory of 'first and second order change acting within the area of influence', the technical versus social effectiveness theory and the modified WHO poverty and health 'vicious to virtuous' cycle. The rationale for TICH partnership is that all people and communities have inherent

capacities to undertake sustainable, collective actions to solve their own problems. However, they may need facilitation and support from a number of partners: the service system, the private sector and academic institutions.



Source: *The Tropical Institute of Comunity Health (TICH) toolkit, 2002*

While the TICH Model recognises the equal value of all partners' skills and contributions that lead to actions based on capacities, the model views households, and people as trapped in ill-health and poverty and are on the receiving end and hence not equal with other partners. The TICH Model is based on the assumption that partners will work together in sharing resources, ideas and experiences to support and enrich the work of each, for higher level quality outcomes which are of positive value to all parties involved; it seeks to improve on participation and involvement by highlighting the partners' areas of influence and contribution. This assumption overlooks the fact that partners have their own priorities and strategic plans which determine their contribution to the partnerships. The partners may be rigid and work only from their own

frame of reference which influences their involvement and resource allocation to the partnership. Thus partners may view each other as competitors.

2.3.4 Challenge Based Partnership (CBP) Model

The CBP Partnership Model focuses on joint partnership on an equal basis where all the stakeholders play equal but differing roles. Mechanisms to integrate the partners are built at community, intermediary, district and at national levels. While agreement on the modalities of the CBP Model may be difficult, and the process for this type of partnership may be lengthy, the gains from this approach are likely to be long-term and sustainable for communities and their partners in development.



Source: Kaseje, M., Githae, M., Kimani, M. and Waithaka, E., 2010

The CBP model is based on a theoretical framework of participation in peace and security by Pretty's (1994), seven-step level of participation aiming at enhancing genuine participation (cited in Dulani 2003). Pretty argues that the level of participation can take different forms and varying degree. In a genuine level of participation, the local communities are active and are empowered to retain control at all levels of the development process. The seven levels of participation as described by Pretty include:

Passive participation; People participate by being told what is going to happen or what happened.

Participation in information giving; People participate by answering questions posed by

extractive researchers using questionnaire surveys.

Participation by consultation; People participate by being consulted and based on their responses, external professionals define problems and solutions.

Participation for material incentives; People participate by providing resources such as labor, in return for food, cash and other material incentives.

Functional participation; People participate by forming groups to meet predetermined objectives related to the project.

Interactive participation; People participate in joint analysis, which leads to action plans and

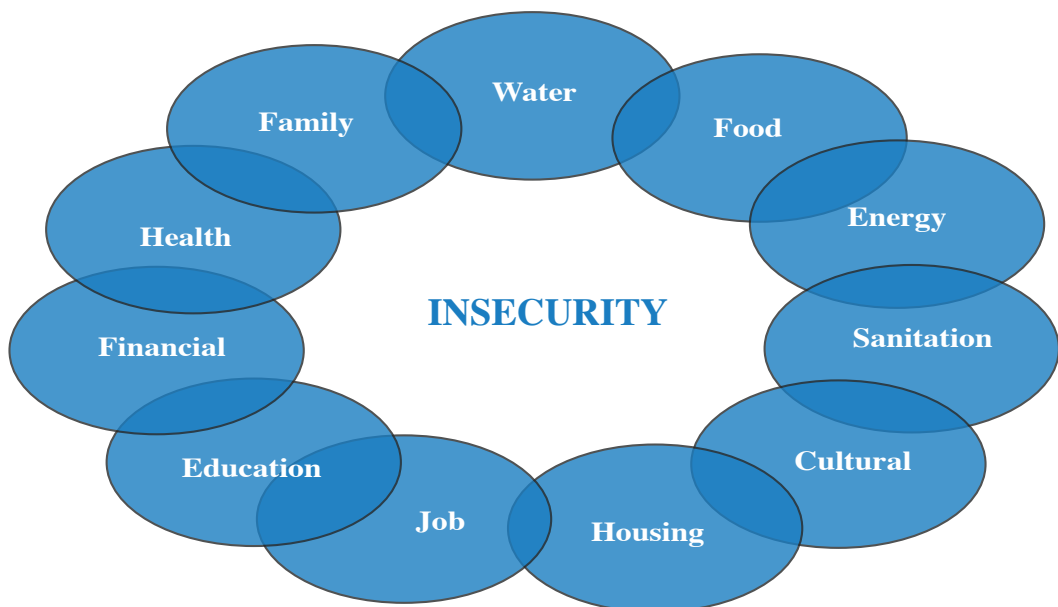
the formation of new local institutions or the strengthening of existing ones. Participation is seen as a right, and not just a means to achieve project goals.

Self-mobilization; People participate by taking initiatives, independent of external institutions, to change systems. They develop contacts with external institutions for resources and technical advice they need, but retain control over how resources are used.

2.4 The vicious circle of insecurity and need for community based partnership

Insecurity is closely linked to the under development of human capabilities. The core focus of the capability approach is on what individuals are able to do (i.e., capable of). Capabilities approach predominant as a paradigm for policy debate in human

development where it inspired the creation of the UN's Human Development Index (a popular measure of human development, capturing capabilities in health, education, and income). Poverty is understood as capability-deprivation. In the face of change and uncertainty individuals and communities faced with both rapid change and increasing uncertainty are challenged to respond and change in new ways that protect their social, economic environmental, and human rights, and that empower them to respond through both mitigation and adaptation. Beyond its interdependence, human security is also a precondition, development and sustainability, thus it contributes significantly toward the success of efforts to meet the Millennium Development Goals (MDGs) and achieve sustainable development, United Nations Convention to Combat Desertification (2015),



3.0 Community based partnership process

3.1 Partnership rules of Engagement

Partners need to establish values that support community engagement and align with comprehensive community partnership strategy. In addition ensure high quality service delivery and establish guiding principles for community engagement which may include:

Shared Values: Working with the community and partner organizations to mutually assess shared values, plans that prioritize the needs of the partners.

Mutual Trust and Respect: Building trust and respect using methods appropriate to the different partners by respectful inclusive.

Commitment: Partners guaranteed pledge and commitment of working with communities

Accountability: Partners answerability, responsibility and reliability in meaningful engagement with the community to ensure adherence to the partnership goals.

Sharing of Power, Decision Making and Resources: Approaches that determine the degree to which there is equitable sharing of power, decision making and resources among the partners.

3.2 Barriers to community based Partnership

A number of challenges, tensions, and barriers related to the development and maintenance of partnerships at the community level. Although interrelated, they are

Lack of trust and respect: The most frequently mentioned challenge to conducting effective community-based partnership is lack of trust and perceived lack of respect, particularly between partners. Mistrust sometimes develops into anger and suspicion. Community members may hesitate to get involved even. Once established, trust cannot be taken for granted; but must continually prove their trustworthiness.

Inequitable distribution of power and control: The history and presence of power differentials among partners is another challenge. Community members are legitimately skeptical about whether the language of being “equal partners” can become a reality of shared ownership and control. Within any community partnership, the distribution of information, time, formal education, and income reflects broader social inequalities structured around race/ethnicity, class, and gender. These inequalities affect who attends, who participates, whose opinions are considered to be valid, and who has influence over decisions made.

3.3 Community based partnership process

3.3.1 Community entry

Various levels of the service system are reached through a careful process of relationship building with community gatekeepers, the goal being to gain understanding of the community and authority to work with community members.

3.3.2 Situation analysis

This involves integrated methodologies that help to establish locate the communities resources, strengthens, weakness, opportunities

and threats (SWOT). It's a process of getting, giving and sharing information about the available resources and services.

3.3.3 Participatory feedback

The results of the analysis are fed back to stakeholders to confirm and validate the findings. The information is provided to the community in order to assess the current state, the systems at work, why problems exist and what can be done by the community to deal with the situations.

3.3.4 Participatory planning

The partners develop a roadmap based on capacities and resources identified in the situational analysis. Comprehensive planning starts with an assessment of the problem(s) at hand, prioritising the needs, identifying resources needed and allocating them to the needs. It is important to engage the participation of different domains of the community (e.g. health, agriculture, social services, local government).

3.3.5 Implementation

Based on the plan agreed on with the community, strategy are translated to chosen organizational action so as to achieve strategic goals and objectives. Organizational structure allocates special value developing tasks and roles to the employees and states how these tasks and roles can be correlated to maximize efficiency, quality and community satisfaction.

3.3.6 Monitoring and evaluation

Partnership should be monitored routinely and evaluated regularly using appropriate indicators. Sufficient flexibility is needed to respond to a dynamic and rapidly changing environment to evaluate progress and to identify areas where adjustments are needed to ensure effectiveness.

3.3.7 Participatory Feedback and re-planning.

A participatory approach aims at guiding collective thinking and ensuring that previous interventions are reviewed and relevant plans are developed on the basis of the perceived needs and problems of beneficiaries and on local capacities and lessons from experience. In a participatory approach is one in which everyone who has a stake in the intervention has a voice, either in person or by representation.

4.0 Conclusion and Recommendation

4.1 Conclusion

Communities are facing new challenges that threaten partnerships. These include weak systems for peace and security development, emerging threats in security, changing trends in conflicts, as well as local and international policies that ultimately affect the communities in their contexts. When communities are negatively labelled, they unconsciously have negative attitude towards themselves and act as they are labelled. This hinders participation because communities feel inferior and take a passive role that does not result in sustainable change. On an equal basis, the partners come together to address issues facing them.

Given such challenges, community based partnership strategies need to be utilized as a combination of measures which effectively address determinants of peace and security. This approach will empower communities to take a more active role in the partnership process. Communities will take the role of custodians of the partnership projects on a long-term basis and this has tremendous potential for sustainable change.

Partners need to view households as equal partners and not as people trapped in the

vicious circle of insecurity. This will change the attitude of community peace and security stakeholders towards the community and will place communities at the same level in the partnership process, where households have unique contributions to the partnership and participate fully in decision making, planning and implementing initiatives that impact on community peace and security.

4.2 Recommendations

This review proposes new approaches to partnerships that confront some of the gaps highlighted above on community partnership approaches. Thus this review proposes a Challenge based Partnership Model that addresses the gaps of mechanisms for integration of partners and which engenders an inclusive approach to health and development in communities.

Community based peace and security needs to focus on joint partnership on an equal basis where all the stakeholders play equal but differing roles integrating long-term sustainable for communities and their partners in development.

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Terrorism, Counter terrorism and Human Rights Debate: A Critical Appraisal

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Abstract

While terrorism is not a new phenomenon its nature, dynamics and magnitude continue to present many a research puzzle for scholars, security and/or and policy practitioners alike. Taking on a critical descriptive approach, this paper sheds light on the “terrorism, counter terrorism and human rights debate,” the end objective being, to critically examine how terrorism and the efforts to counter it at various levels feature in the human rights research program over the past one-and-a-half decades of the 21st century. At the centre of the debate is the contention that while terrorism is at times presented as a “weapon of the weak,” whose rights have been violated; at the same time thousands of innocent people have lost their lives to acts of terror over during this period. Yet in the vein, at times, human rights violations have taken place as states attempt to counter terrorism over this period. As such, terrorism and the fight against it continue to feature strongly in the human rights agenda. While counter terrorism may provide an “escape route” for irresponsible governments to get away with anything (the use of two wrongs to make a right); the terrorist is in many ways *hosti humani generis*-enemy of all humanity. In the final analysis, this paper arrives at the conclusion that a well thought-out and properly governed counter terrorism agenda that engenders responsible government action in the noble duty of protecting humanity from the ravages of the heinous acts of terrorism remains key to a better environment as far as the counter-terrorism-human rights debate is concerned.

Introduction

Late 2014 and early 2015 once gain, brought to the attention of the world, the reality of terrorism; while invoking the dark past that was epitomized by the 11th September Attacks on US soil that left close to 3,000 dead and scores maimed and injured. The siege on a restaurant in Sidney in December and the attack on a media house in Paris, in January reminded humanity that counter terrorism is no option for governments. Nonetheless, as governments face the terrorist, the *hosti humani generis*, from time to time, this noble undertaking has proved to be counterproductive, especially when the very people who need protection from terrorism fall victim to their protectors-governments. In a nutshell, the journey of human rights has been long and treacherous,

spanning at least three centuries: right from the age of liberalism in Western Europe that gave impetus to the “social contract,” the abolition of slavery and the enfranchisement of women; through to the emancipation of colonized and racially segregated peoples. As the second half of the 20th century came to a close, a solid body of international human rights regimes, practices and customs came into place, with issues ranging from the general aura postulated in the United Nations Charter (1945), Universal Declaration of Human Rights (1948), through to the political and socioeconomic realm as enshrined in the 1966 twin covenants- the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Cultural, Social and Economic Rights (ICCSEER) (Shaw 2003).

Furthermore, even more specific international legal instruments with global-wide support emerged on the latter half of the 20th century, including the Convention Against all Forms of Torture, Inhuman and Degrading Punishment (CAT), the Convention Against all forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), as well as the 1998 Rome Statute, which saw the establishment of the International Criminal Court (ICC)- a body established to provide justice and enforce international law in light of gross human rights violations and grievous crimes including genocide, war crimes, mass murder, forceful transfer of populations amongst other crimes against humanity, international law and international peace (DeLeat 2006, 4-7). It is noteworthy that the Rome Statute is by extension part of a broader international humanitarian law legacy that dates back to the United Nations Convention in Prevention and Punishment of the Crime of Genocide; popularly known as the Genocide Convention (1948), the Tokyo and Nuremberg Trials (1949) and the Geneva Conventions (1949) and Additional Protocols (1977), (Des Forges 1995; Meron and Galbraith 2007). While much ground has been covered towards institutionalizing human rights through these well established channels, many challenges continue to plague the human rights cause especially in countries where underlying structural realities associated with widespread rural poverty and ignorance, high unemployment and urban destitution, gross food insecurity and resource scarcity and bad governance and official corruption have provided fertile grounds for the proliferation of ills such as global terrorism, while at the same convoluting global efforts to counter it.

One outstanding feature that has characterized the journey of human rights over this entire

period is that the very nature of a human rights abuse in one part of the world at any point in history eventually emerges to provide a platform of change and an enduring reference-point in as far as the institutionalization of a particular human rights domain is concerned. A good example is the era of colonialism and racial segregation in Africa in the latter-half of the 20th Century. The US-based civil rights movement and the wider Pan-African movement also provided an important “demonstration effect” for peoples under similar circumstances in Asia, Africa and other parts of the world in subsequent years. Subsequently, human rights violations (including acts of terror) in and of themselves on one hand; and the various efforts to counter them on the other, are intricately related and continue to be important issues that continue to attract academic and policy attention alike.

In the final analysis, this paper holds that the very grievous and complex nature of terrorism and the efforts to combat it as it is understood by the community of world states today, is acting as an emergent frontier in the institutionalization of human rights in terms of protecting the would-be innocent victims of both terrorism and counter terrorism processes alike; more so in the context of terrorism and the various national, regional and global efforts to combat it over the past decade-and-a-half or so, particularly following the September 11, 2001 attack on the United States. Towards this end, I utilize a critical qualitative-descriptive approach to the issues under investigation herein. As such, secondary sources of data mainly documented sources on the ‘terrorism, counter terrorism and human rights debate’ are utilized herein, with the aim of trying and establish patterns that speak to the idea that the terrorism-counter terrorism nexus has a special

place in the global human rights discourse in the 21st Century.

Terrorism, Counter terrorism and Human Rights: Exploring the Theoretical Link

Terrorism and the responses to it constitute a complex domain. It involves intricately related physiological and psychological means and ends. There is always a *sender* and an *immediate* (or proxy) *target* and an *ultimate end-objective recipient and/or target*- the underlying final target and rationale behind any act of terror. Modern political scientists simply view terrorism as signal sending- a way through which the sender (by unleashing sharp and brutal punishment on the proxy or immediate target) makes known their disposition as a highly resolved type that is ready to pay the heaviest possible cost to meet their ultimate-end objective. Perhaps terrorism is more political than anything. A potent political weapon (though it may be presented as a “violent ideology that holds no value for human life or regard for human dignity”) ⁵⁶ mostly employed by conventionally weaker adversary whose message is “*we shall punish your so called innocent civilians in such brutal manner so that they (the affected citizens) will prevail upon you and your friends and the friends of your friends let us have our way*” to gain well rationally calculated goals. To the scientific analyst of conflict processes, it is only fool-hardy to dismiss and label acts of terror as simply senseless irrational acts. Bargaining and deterrence theorists for instance contend that what may appear irrational is in fact “rational” so long as the actor who partakes of such “irrationality” is clear about their goal and why they want to achieve it- otherwise it will never make any sense to anyone why someone with their full mental faculties in a market place

packed with innocent women in children (at times of their own race, lineage and religion) and execute a deadly suicide attack in which he or she is the primary casualty.

But in the same vein, governments acting on shared and well collected and verifiable actionable intelligence about the clear, present and imminent plan to carryout such terror attacks will do anything to stop and “take-out” (which is civilized way to mean killing, destroying, decimating and completely annihilating the target) the core suspect(s) in the scheme and their facilitators to save the many innocent and precious lives of citizens they are mandated to protect- for that is the “rational” thing to do and to meet the equally “rational” terrorist. For this cardinal reason, the counter-terrorist can be as equally highly resolved: “...you cannot wait us out...you cannot defeat us...the fight continues and we will never waver...we rise up to the challenge, we persevere and we get the job done” were the words of US Secretary of State Hillary Clinton following the killing of Osama Bin Laden by US Special Forces in Abbottabad, Pakistan on May 1st 2011.

Be it as it may however, both terrorism acts by fundamentalists and their sympathizers and counter terrorism measures on the part of state security agencies may well be seen as processes of *signaling resolve* and one’s *type* (Kydd and Walter 2006). The terrorists want some form of yielding action on the part of their end-target, who may behave just how the terrorist wanted; that is, by behaving like the terrorist in trying to counter the terror threat; or at times make concessions in favor of the terrorists’ interests. On the one hand, governments may want to signal resolve and raise the bar so high that the terrorists would have to think twice before making a move. At times, governments can take

the war to the terrorists' homes- their friends and relatives, or communities at large- and hit them so hard to the point that the terrorists' kin turn against one another and soon confusion reigns and the ultimate political message that the terrorist group was making loses meaning and/or general appeal. As such, what may appear to the layman as pure irrational horror can be seen as a game of strategic bargaining and credibility building between highly strategic actors- terror groups on one hand, and government on the other (Siegel and Young 2009, 775-776).

Nonetheless, the problem with fully understanding terrorism is that while the relationship between the sender and ultimate end-objective recipient of it, is clear and straightforward; the sad reality is that impact the sender's actions have on the *immediate and/or proxy target*; who happens to be the *innocent victim of the act* and almost invariably has nothing to do with the underlying relationship between the sender and the ultimate end-objective recipient, is at the least incomprehensible and utterly unjustified. As such, each time an act of terrorism occurs, an innocent human being (a child, a woman or man- generally *unarmed innocent civilians*) is violated and exposed to a heinous form of inhuman treatment and brutality with both physical as well as far reaching emotional and psychological effects in relatives, friends and communities over time and space. Yet it even becomes more convoluted because; depending on who you ask, *the sender* and the *ultimate end-objective recipient* of the act of terror may well point at each other as "the terrorist," and before you know one man's terrorist becomes another's hero- the villains of yesteryears then become today's heroes and vice versa. Furthermore, terrorism has been used over this period as an instrument of statecraft with

accusations and counter-accusations within and among sovereign states of funding and or otherwise indirectly abating terrorism against an adversary. It may be recalled that "losers" in the post-2011 Arab Spring phenomenon and related events in the recent past, the likes of Muammar Gaddafi of Libya, Hosni Mubarak of Egypt, Ben Ali of Tunisia and most recently Assad of Syria have apparently blamed their woes on "terror groups," that interestingly have received material and financial support (at least indirectly) from Western powers.

But one fact is clear, no matter whom the end-objective recipient of terror is, or who the sender is and why; the innocent victim of this state of affairs, the (proxy-target, who could be anyone- women, children, innocent non-combatants) remains a violated and endangered species- a state of things that brings human rights issues at the very centre of the terrorism-counter terrorism discourse. As such, the terrorism/ counter terrorism-nexus presents a 'complex web scenario' with a unique undercurrent cutting across it- the human rights debate. At this juncture, this paper adopts the *violations approach* fronted by the likes of Kalantri et al (2010). The idea is that one can point to various human rights violations associated with the terrorism-counter terrorism nexus with specific reference to certain core human rights instruments, in addition to several pertinent domains of international customary law. The sanctity of human life as an inalienable right comes to mind here. In this direction, a number of pertinent moral, legal and political issues further illuminate the debate. The Universal Declaration of Human Rights (UDHR), with the right to life remaining a core issue. Subsequently, the International Convention in Civil and Political Rights (ICCPR) is yet another; and by extension, the International

Convention on Economic, Social and Cultural Rights (ICESCR). The former, UDHR is a matter of custom, while the latter two are a matter of legal obligation. As such, the very act of terror on innocent civilians is a violation of human rights just as the killing of innocent persons in the war on terror is. Borrowing a leaf from Kalantry et al (2010, 354) it is important to understand what constitutes violations in the language of these treaties, the obligations of states (and related actors) pertaining to the said right and what benchmarks one would use to measure progress or otherwise, retrogression as far as treaty implementation is concerned.

In the same token, it would be important to see what states have in place in as far as their counter-terrorism instruments at the legislative and/or operational level is concerned. For instance, what do Counter terrorism Act(s) provide for as far as the safeguarding of human rights is concerned? Subsequently, specific reference to counter-terrorism instruments such UNSC Resolution 1373 and other country-specific Acts and what they have to offer in terms of safeguarding human rights in their counter-terrorism agendas is something to consider too (Rosand 2003, 233-234). Yet another issue worth illuminating herein also, is the level and/or framework of analysis in the debate. Intra-state specific terrorism-counter terrorism actions (either by state or other actors) on one hand and inter-state or externally driven terrorism-counter terrorism platforms on the other (bilaterally, multilaterally or otherwise) ought to be accounted for. Nonetheless, this paper argues that both levels are likely to interact and/or converge from time to time.

Global Terrorism and Counter Terrorism Trends since 2000: An Overview

Terror is not new, let's us be clear about this. But its methods have changed over time and space. Nazi Germany employed absolute terror in its victims in the Holocaust and so did the slave owners, caliphates, sultanates and empire builders of old and their colonizing and racist counterparts of the modern era. Yet today's terrorism is more "faceless," sophisticated and truly "unconventional," capitalizing on sharp and brutal surprise and far-reaching effects on the weakest and most unexpected targets to send the message across to its ultimate end-objective recipients. This trend begun to be noticed in the late 1960s and 1970s where terror attacks were characterized by the hijacking of passenger planes and taking of hostages as well as the bombings of certain civilian targets as was the case with the Munich Attack in September 1972 or the sporadic bombings by Irish Republican Army operatives on their British targets. As the 1980s set-in similar attacks were orchestrated by anti-Israeli militants within and around Israeli territory. On New Year's Eve December 31st 1980, a bomb was hurled at a British owned Norfolk Hotel in Nairobi, Kenya in reaction to Kenya's help for the Israel during the Entebbe Raid of 1973 in which Israeli Commandoes rescued several Israeli citizens from the hands of anti-Israeli militants. These attacks were more often far and wide and ostensibly with a more "political" disposition to it.

It must also be recalled that in these years (1960s through to the 1980s), many a liberation movements were in place in what appeared to be Cold War driven proxy machinations from Latin America, through to Asia and Africa.

To this end, national liberation fighters in Southern Africa including Nelson Mandela, Sam Nujoma, Samora Marchell and Robert Mugabe and Kenneth Kaunda were no less than terrorists in the eyes of Apartheid South Africa. So was Yasser Arafat who led the Palestinian Liberation Organization (PLO) and Jerry Adams of the Irish Republican Army's political wing Shenfeign. Yet these leaders, alongside others were to later gain world recognition for their role of working towards peace to the extent of winning the Nobel Peace Prize.

Be it as it may however, as the post-Cold War period set in, a new theatre of terrorism was taking shape around the world, and by the time the Twin Towers in New York came down and a direct attack on the Pentagon, the military headquarters of the world's undisputed Super Power, on September 11 2001, in the hands of American-trained pilots of Middle-Eastern origin, now turned Al Qaeda operatives, it was clear that a new age of terrorism and the global responses to it had been born. While the attack on the Pentagon may have passed to be squarely an attack on a military target (the only one since the Japanese Attack on Pearl Harbor on December 7th 1941), the lives of over 2000 innocent civilians lost in New York, Washington D.C and Pennsylvania that brought the entire world to terms with the stark realities of the new face of terrorism in the 21st Century (Sofaer 2003).

True enough, extraordinary times called for extraordinary measures, an equally highly resolved, relentless and powerful counter-terrorism war that sent shock-waves world over- from the Torabora Hills of Kandahar, Afghanistan to the streets of Baghdad, Tikrit and Mosul in Iraq, through to Abbottabad neighboring Pakistan; from the streets of

London, Madrid and Bali which came under terror attacks; to the meandering footpaths of Lamu and Mombasa in Kenya, where Al-Qaeda are suspected to have pitched tent; to the bullet-riddled ruins of Mogadishu, Ras Kamboni and Kismayu in war-torn Somalia, from where the dreaded Al-Qaeda affiliated Al-Shabbab group is based; to the vast plains of Kaduna and Jos in Northern Nigeria, strongholds of the infamous Boko Haram. Yet a decade down the line, heavy casualties have been recorded on both sides of the terrorism-counter-terrorism divide, and certainly more questions than answers over the toll these events and their concomitant ramifications have had on the very sanctity, ethos and general state of human life.

At this juncture, I delve into discussion on the regional dynamics of terrorism over this time. For the most part, international terrorism has been increasingly organized and spread its tentacles across the globe. However, some parts of the globe have experienced more terror attacks than others. Nonetheless, this may not mean that the Americas are much less a target of terrorism when compared to other regions, say Africa or Europe. The reason for these differences may be that some parts are better organized in their counter-terrorism than others. It may also be that a spatial hypothesis may be plausible at this level- that is, the "further a state is from the Middle East which is the global epicenters of global terrorism, the less likely it will be attacked." Nonetheless, the Americas have experienced fewer attacks than other parts of the world, yet the few that occurred have been among the worst. Apart from the Oklahoma bombing of April 1995 and the Boston Bombings of April 2013, the September 11 2001 attack was the most devastating and the worst in the region. Since, then such attacks have remained rare and far apart- but

the threat is remains real- hence continued and heightened counter-terrorism activity. It may be true that since 2011, no nation has invested in counter-terrorism on the world more than the United States both in terms of men, money and materials.

Across in Europe, terrorism is real and so have counterterrorism efforts remained active. Many decades earlier in 1972, the Munich Massacre which targeted Israeli nationals who were attending the Olympics brought the realization that such events could replay themselves in future. Yet terror tactics changed in form and content from airplane hijackings and hostage takings of the 1970s, to the suicide bombings and bomb-plantings of the 2000s. Nonetheless, at times events that were very similar to the 1970s have at times been replayed once in a while, catching security agencies and related authorities off-guard. The September 1st 2004 attack in Madrid Spain was an attack on Spain's rail transport system and over 191 people died. A similar attack took place in London a year later in July 7th 2005. One outstanding feature of Europe's terrorism is that for many years it was localized and internally directed. For close to three decades, for instance, Northern Ireland came under terror attacks directed from the Irish Republican Army. It is noteworthy that a localized group known as ETA that claimed responsibility for the Madrid bombings (Crenshaw 2007, 140).

More recently however, more and more citizens within the EU and even Scandinavian countries are directly getting involved in terror activities particularly in the Middle East, Asia and even Africa. More recently for instance, following the release of a video showing a suspected Briton Jihadist, based in Eastern Syria beheading a US journalist, the UK Government announced

plans to have even stringent measures in the war on terror. On this particular matter, a UK Government Official announced that:

"....we know that far too many British citizens have traveled to Iraq and traveled Syria to take part in extremism and violence and what we must do is redouble all our efforts to stop people going, to take away the passports of those contemplating travel, to arrest and prosecute those that take part in this extremist and violence, to take extremist material off the internet and to do everything we can to keep our people safe and that is what this government will do"

True enough, many British citizens including women did travel to countries such as Syria to fight on either side of the divide. Some are pro-establishment while others form the antithesis. On the other hand, the theatre of terrorism and counter terrorism in the Middle East is complex and multifaceted. One cross-cutting under-current is the Arab-Israeli conflict. Right from the 1948 conflict between the newly established state of Israel on one hand and her neighbors in the region; through to the Six Day War of 1967 as well as the 1973 Yom Kippur War; through to the Israeli Invasion of Lebanon in 1983, to the Intifada attacks of the 1990s, various theatres of terror have been played-out especially around the activities of groups such as Fatah, Hamas, the Palestinian Islamic Jihad (PIJ) and Hezbollah. The Munich Attack in 1972 was directed at Israelis, and so were the 1972 siege on Entebbe Uganda and the 1980 attack on the Norfolk in Nairobi. Nonetheless, more suicide attacks began to be carried out on Israel soil in the 2000s. In March 2002, suicide attacks in Israel killed at least 62 people in two separate but sequential attacks that targeted restaurants and other public facilities

in cities such as Tel-Aviv, Ntenya and Haifa. Nonetheless, the Middle-East terrorism is not centered on the Arab-Israeli conflict alone. Various other theatres of anti-Western and/or anti-American directed terrorism activity took place in various places around the Middle-East and by extension North Africa. For instance, terror attacks were orchestrated in Riyadh Saudi Arabia in May 12th 2003.

It is noteworthy that since the US-led invasion in Iraq in 2003 and the subsequent overthrow of the Saddam Hussein regime, suicide attacks increased exponentially since then and have persisted to present in Iraq. This was especially so as it emerged that the regime changes that ensued were either anti-new establishment (and by extension, anti-US and/or anti-Western) or pro-new establishment (and by extension pro-US and/or pro-US backed new regimes) further taking a religious dimension- Shiite versus Shiite and so on. Since then, abductions, beheadings, shootings, suicide attacks have continued in states such as Iran, Iraq, Syria and Yemen. For a long time, the leading group behind the anti-US Islamic fundamentalist campaign was Al-Qaeda. Over this period however, various other groups joined the Al-Qaeda side and broadened the scope of what in now a wider Global Islamic Jihad Movement (GIJM).

The Arab Spring factor of 2010 through 2011 and its ripple effects across the Middle-East saw the ouster of Western-leaning and otherwise anti-Western regimes alike. It may be recalled that Col. Gaddafi for instance at some point blamed the growing rebellion in his country on Al-Qaeda. In Egypt, regime change was seen to be driven by the Muslim Brotherhood, which was Mubarak but not in the strict fundamentalist anti-Western sense. It must be stressed that

two faces of terrorism have emerged here. The first is one that is *internally directed* as groups such as the Muslim Brotherhood and Islamic Republic of Iran and Syria (ISIS) seeks some form of regime takeover- with the ultimate aim being to establish Islamic states. The second is the *externally driven*, where certain groups are part of a global movement to fight against all forms of western influence in the world. For the most part, current statistics reveal that most of the world's terrorism is concentrated in about 10 countries most of which are in the Middle East Africa and South Asia. A Report published by the Institute for Economic and Peace (IEP) in November 2014 for instance revealed that Iraq, Afghanistan and Pakistan accounted for up to 65.8% of all deaths by terrorism in 2013. It is also possible that there is a high degree of ideological and operational confluence on the part of both kinds- such that cross-pollination of ideas and joining of operational and material efforts cannot be ruled-out, across time and across regions.

Asia, particularly south, east and central Asia has its own unique setting of terrorism and counter terrorism. Nonetheless, various theatres of terrorism in parts of Asia have from time to time been closely associated with the happenings in the Middle-East. For these reasons, it should come as no surprise that major international terrorism networks such as Al-Qaeda became quite active in parts of Asia after September 11. In October 2012, an Al-Qaeda linked group successfully orchestrated the terror attack on Bali, Indonesia in which at least 212 people dies, most of them being Australians. A similar attack took place in Moscow on October 2002 when militants besieged a public facility and opened fire at innocent civilians. In the process of subduing the terrorists, Russian troops used poisonous gas, a counter-terrorism operation

that turned tragic, leaving at least 179 people dead. A similar attack was orchestrated in Beslan, North Ossetia, Russia between 1st and 3rd of September 2004, when Islamist gunmen took over 1,000 hostages in a sports facility. In that attack, over 330 people, many of them children died after the Islamist gunmen set-off explosives. It is noteworthy that the form of terror that has been carried out in parts of Russia is internally directed especially in the context of parts of Russia that seek secession or separation of sorts- though in some cases, it has been shrouded in religious overtones, where Islamic militants have been involved.

It is noteworthy that the two individuals suspected for having been behind the Boston Bombings had links with Islamic fundamentalist groups in Russia. That said Asia is a vast continent where other states in the region particularly Pakistan (South Asia), and Afghanistan (Central Asia) and to some extent, India. The Allied Operation in Afghanistan (Operation Enduring Freedom), which begun in early October 2001 took the war against Al-Qaeda to its stronghold operational bases in the border areas between Afghanistan and Pakistan. Throughout this period, various terror attacks of the suicide kind continued to be waged on western targets both in Afghanistan and Pakistan. Though a new Western-leaning government was formed in Afghanistan, it continued to be under serious challenge from the Taliban, Al-Qaeda and other related groups. Thousands of innocent non-combatants including women and children have died both in the hands of terror groups and anti-terror security operations alike. Most recently, the employment of drone attacks by Allied Forces in the region have raised human rights concerns. Finally, Africa has been a major focal point as far as the activities of international terror groups is concerned. According to the Global Terrorism

Index Report for 2014, out of a total of 162 states, the top-20 most affected by terrorism, 6 are in Africa namely Nigeria, Somalia, Kenya, Egypt, Libya, the Democratic Republic of the Congo (DRC), Sudan and the Republic of South Sudan. For many years however, terror attacks in the African region were few and far between for most of the 1980s and 1990s. In fact, apart from the twin attacks on August 7th 1998 on the US Embassies and Dar es Salaam (orchestrated by Al-Qaeda, leaving over 250 dead), more attacks took place after 2000. The Africa terror map is one that shows three main concentration areas- North Africa, East Africa and West Africa. Nonetheless, internally directed terrorism has been on for a long time, though perhaps not publicized due to its localized nature.

National liberation movements in Africa such as the Mau Mau in Kenya, the Algerian liberation movement, the armed wing of the African National Congress (ANC) in South Africa, South Western Africa Peoples Organization (SWAPO) in Namibia and the Zimbabwe African National Union, Patriotic Front (ZANU-PF) in Zimbabwe (then, Southern Rhodesia) were all classified at one time or another as terrorist groups. Also, the decades of the 1960s-1990s, were characterized by numerous civil wars on the African scene- Zaire (now DRC) Nigeria, Mali, Ethiopia, Uganda, Sudan, Angola, Mozambique, Rwanda and Burundi just to mention but a few. These conflicts were characterized by various acts of terror against civilian populations. Nonetheless, the kind of terror that characterized the post-2000 period in Africa is one that has a strong Islamic fundamentalist ideology and particularly directed towards the US and her allies in the region. Nonetheless, the current settings of terrorism seem to be centered on two major Al-

Qaeda-related extremist groups; Al-Shabaab in Somalia and Boko Haram in Nigeria. Both groups have been quite active and increasingly working in cahoots with other militant groups' cells that are dotted all over the northern region especially in Libya, Mali, Algeria, Morocco and Egypt (and by extension Yemen, Oman, Comoros and Afghanistan).

Terrorism, Counter-Terrorism and Human Rights Debate: A Critical Analysis

In mid-August 2014, Human Rights Watch published a Report in which Kenya's mainly Western-funded Anti-Terror Police Unit (the ATPU) was cited as having directly or indirectly abated or orchestrated extra-judicial killings and forced disappearances in the War Against Terror (WAT). The organization went further to recommend that Kenya's bosom allies in the West led by the United States and Great Britain should sever counter-terrorism funding in a bid to curb such human rights abuses not only in Kenya but in the wider Eastern Africa region. Though such Reports do not come as "breaking news" to governments- western or otherwise, which have their own "versions of the story," they point to an important development in the human rights agenda: that the counter-terrorism effort is emerging as the new-found platform in the human rights debate globally.

No doubt, like the pirate of old, the terrorist can pass to be *hostis humani generis* and the worst any government can do is sit back and allow the innocent (immediate and/or proxy targets of terror) perish without protection and/or recourse (Schorlemer, 2003, 269). But the politics of global counter-terrorism and human rights do present a complex set of challenges. The greatest challenge for governments is how best to handle what appears to be an ever changing,

every dynamic and mostly "invisible" enemy who brutalizes the innocent to gain power, control and influence. Governments are equally different as far as how, when and for whom they exercise their mandates. While the world's leading democracies can be held responsible for their actions due to the impact of domestic normative and institutional checks that govern the relationship between policymakers and the electorates they represent; in other political systems, leaders can do almost anything and get away with it provided they please the small political-military and economic elite networks that sustain their stay in power (Bueno De Mesquita et al 2003, 41).

Ordinary citizens hence (or subjects) may not have much control over the governments that protect them let alone deal with the threats that international terrorism poses and the aberrations that governments may commit in the name of responding to it. Counter terrorism policies vary too. Some states take a purely *minimalist* and by extension *confrontational* approach which is simply to take the war to the terrorists and subdue them. On the other hand, other governments take a more *maximalist* approach that takes on both the direct-preemptive strategy of the former but also recognize that terrorism takes place in a broader and potentially complex human environment- hence the *human agent approach* that oscillates with a careful balance of long-term *prevention and pursuit* strategies as well the short term protective and responsive strategies (Dongen 2010, 234-235).

An interesting pattern of issue then follows. International terror groups' ideologies that can easily be accessed by citizens of the world's leading democracies by virtue of the wide rage of human rights protections and basic freedoms they enjoy in addition to a

conducive environment for the enjoyment and advancement of a whole range of social, economic and cultural rights- a state of affairs that has made it easy for citizens from as far as the United Kingdom, Germany, France, Sweden, the United States, Canada and Australia to mention but a few, to raise money, fund, access information and even travel back and forth to the battle-fields in Iraq, Iran, Yemen, Syria, Afghanistan, Libya, Somalia and Lebanon to support a given Jihadist and or fundamentalist group or another.

At the same time, with support of such support and networks, the very human rights mantle that is espoused in the world's leading democracies is increasingly being "misused" to fund fundamentalist and murderous terror schemes elsewhere around the world especially in the least developed countries where many years of a poor human rights background in the structural sense; through misrule, poor governance and socio-economic marginalization provides a safe havens and ungovernable virtual spaces for recruitment and radicalization of populations, who then become conduits for terrorism, at times for the money and basic survival and not necessarily for any deep-seated ideological reason. It cannot however that both governments and international terrorist organizations have at one time or another supported insurgents and at times, the insurgents seem to have a "life of their own- a unique agency latitude" that at times has seen them switch allegiance on either side depending on which best suits their interests (Byman 2006, 85-86).

At the same time, responsible democratic governments want to please and protect their citizens from the dangers that global terror poses- after all, that is the only way they can remain in public office. Their counter-terrorism

actions should at the least be seen to be (and believably so) in conformity with the democratic culture and strong institutions that govern the democracy and freedoms their societies enjoy. Yet they need to keep the "war" away from their shores and they must be involved in order to protect their own. At times the "leeway" their more authoritarian counterparts enjoy works best for them (that is the Western leading democracies) in the gathering, analyzing and dissemination of information for purposes of pre-empting and thwarting terror threats before they can get to the actionable-executable levels. But sometimes, once in a while, "accidents" and/or "unavoidable circumstances" can present themselves (Foot 2007, 511).

The Boston Marathon Attacks of April 2013 remind the US of the need for eternal vigilance and once again reminded the American people of the realities of global terrorism and what it is capable of doing. Though Russian authorities had warned US security authorities of the activities of the Tsarnaev brothers and their links to anti-American terror cells based in Kyrgyzstan, the US government had to tread carefully in lieu of the fact that the brothers were operating on US soil and enjoying full Constitutional protection and the rights and responsibilities it demands not only from ordinary American citizens, but also to the government that protects them. Nonetheless, when 'push came to shove,' it was time to act fast and firmly- once it was clear to the authorities that Brothers were the prime suspects, a manhunt was mounted all over the State of Boston and when they suspects posed a clear, present and imminent danger by fatally shooting and killing a police officer, they were met with an equal measure of force that left one dead and the other captured and totally subdued and subsequently hospitalized and formally charged- following a dramatic hunt-down that

caught global attention. US authorities had to do what they had to do to safeguard the lives of their citizens and remained prepared to answer questions openly, transparently and clearly to justify their action as far as the terror attack was concerned.

Yet all countries are not the same. Much fewer countries enjoy the political, financial and military clout that the U.S. or Great Britain possess; and though many support the counter-terrorism cause, they may be exposed to more frequent “mistakes, accidents and sheer blunders” as far as effectively handling global terrorism is concerned. But their governments somewhat enjoy much leeway and at times may “play dirty” with the covert support of their western counterparts who may not enjoy such privileges but can provide accurate intelligence and actionable facts about who was behind the Westgate, Jos, Tripoli or Mogadishu attacks. In the final analysis, human rights advancements in the world’s leading democracies are indirectly “aiding” global terror, while poor institutionalization of the same in the less developed partially-democratic and more authoritarian political systems is partly aiding the counter terrorism effort but also getting away with a lot as far as human rights is concerned- as state of affairs that may prove counter-productive (Hafner-Burton and Shapiro 2010, 416).

While there can be different strands of terror, so can there be different shades of counter-terrorism. While terror can be the *modus operandi* of certain groups that aim to capture power within a given state, (Al-Shabaab, LRA, Boko Haram) others claim to deeper and broader ideologically driven missions such as the total liberation of Palestine or stopping and defeating the spread of US-

led neoliberalism and hegemony around the world. Similarly, governments may have different motivations in their counter-terrorism agendas. More accountable mature democracies must deliver the promises they make to the citizens- they must win. The less accountable governments may genuinely fight terror but at times corruption and poor management of state affairs make them and the people they ought to protect even more vulnerable. In yet other circumstances, such governments may politicize the war on terror and brand their political opponents “the terrorists” and ostensibly hide behind the veil of countering global terror to chock their opponents, circumvent constitutions and enhance their grip of power through illegitimate and unpopular means.⁵⁶ Subsequently, governments that are generally viewed as “rogue states” may at times prove to be most instrumental in taming international terrorism in the eyes of their more democratized counterparts (Foot 2005, 294-295). Hence *the use* on one hand and *abuse* of the instruments of counter terrorism on the other, are separated by a thin and often blurred line (Guiora, 2012, 760).

The more politically and econometrically developed democracies have had and continue to grapple with these challenges too. The US has had its own share of these challenges. The immediate post 9/11 period for instance called for extraordinary measures- a state of affairs that saw the not only Congress but also supporter give the Bush Administration a blank check to deliver justice and bring Al-Qaeda and its leaders to book for their deeds (Fitzpatrick 2003, 250). Yet the challenges of Abu-Ghraib, Guantanamo and alleged CIA extra-judicial machinations outside US soil in achieving this mission did call for some caveats and at times “a return to the drawing” formula since

(Twiss 2007). Some scholars have alluded to the fact that post-9/11 realities in the terrorism-counter terrorism divide put the world in a perpetual “state of emergency” that to date had never really formally ended. In this context, questions around process of extraordinary rendition have been posed in various human rights circles, especially where some of the cases remain shrouded in inter-governmental security agency secrecy- hence less and/or no communication with the immediate families or friends of the said suspects (Weissbrodt and Bergquist 2006, 159). Governments hold-on to such practices dearly. It is noteworthy that such processes in some cases appear to have borne fruit, especially when governments reveal that information obtained from a facility such as Guantanamo was crucial to the tracking and capture of Osama Bin Laden, for instance.

Important grey areas will persist and it need not be taken for granted that governments have facts; and for the most part, some of these “facts” cannot become public knowledge overnight even with the loudest protests from well-meaning Congressmen or powerful local and international human rights movements. The very claim from a responsible government that *“we cannot go into details as this may prejudice our efforts and expose great danger to state survival”*and so on and so forth; is as times as genuine as it can get. Of course in others especially where citizenship is a privilege and not a constitutionally protected right, such claims are no more than hogwash! This also brings in the question of whether states that are both economically underperforming and politically underdeveloped (in the context of democratization) can effectively combat terrorism without abrogating their human rights obligations.

These debates further raise a number of pertinent questions over whether human rights are *unlimited* and how far they can be claimed as well as protected. How far can governments go as far as counter terrorism is concerned? (Gearty 2005, 19). It has been argue that the physical act of terror is only a manifestation of an underlying form of structural conflict taking place and confronting these questions squarely is the first key step in the process of addressing the terrorism menace. Hence, there are several things that may inform the terrorist agent. One is a deep ideological conviction that what they do is rationale and fully justified. Hence, something has to be done to change these ways of thinking. Second is the idea that the agent and their cats may be doing it for material gain as a result of wanton suffering and poverty in the hands of other groups of people and/or governments. It would not be unimaginable to “make sense” of a situation here people who commit acts of suicide terrorism are doing it because *“even though we die...we believe that terrorizing the enemy will free our people from the yoke of unfair marginalization, domination and degradation.”* Yet others may not have deep-seated ideological convictions or have been the direct victims of the now end target of terror, but rather, they are in it to ‘make ends meet.’

It has been established that terror cells at times thrive and survive among poor populations where youths can easily be hired to plant bombs in buildings or in market places as well as get engaged in active asymmetric warfare simply for the sake of monetary gain and not deep-seated ideological and/or political conviction held by the top-notch sponsors of such activities. In this way, broader issues to do with human rights of the Third Generation kind come into play. As such, poverty and destitution, and

other related society-wide maladies including unemployment and illiteracy in most parts of the world today are important issues to consider in informing ways to turn the counter terrorism agenda into a useful platform of confluence with the advancement of human rights. In this direction, governments need to be most cautious about their counter terrorism strategies. Some research work has shown that brutal force more often than not does not have long-term effect in stemming terror. At times the indiscriminate processes employed could well be the very end-objective some terror groups are seeking- provoking government repression in thereby unconsciously radicalizing sections of the population that the terror groups claim to be protecting and directing such radicalization to the government (Bueno De Mesquita and Dickson 2007, 364).

Conclusion

This paper set out to examine the place of the terrorism-counter terrorism nexus in the human rights discourse. For the most part, this paper contends that the topic in question is quite complex. Each time an act of terror is committed, human rights suffers. In the same vein, countering terrorism can by its very nature be a form of protecting and/or preventing further human right violations. Yet the interface between the two- terrorism and counter terrorism has at times been at the centre of controversy as far as the human rights agenda is concerned. This paper proffers several pertinent policy recommendations in the direction of institutionalization of human rights as far as the terrorism-counter terrorism nexus is concerned. First, states need to agree on a what terror means both to the terrorist and the end-target so as to arrive at internationally agreed means of combining the vice without abusing human rights. At it is now, a lot of

controversy surround these issues. Secondly, governments should strive as much as possible to ensure that their counter-terrorism processes remain within the confines of clearly spelt-out legal bounds in order to be able to efficiently and justly evaluate and improve on such processes (Thakur 2005, 283).

Finally the structural sources of conflict and social inequality that may are partly responsible for the emergence and proliferation of the current wave of international terrorism need to be addressed both within and among states. This would ensure that terrorism becomes a less attractive means of solving political, ideological and/or socio-cultural differences among peoples. While counter terrorism may appear to be an “escape route” for irresponsible governments to get away with anything (the use of two wrongs to make a right); in the actual sense, the continued reaction to such “irresponsible acts,” when they do occur- is slowly turning into a powerful agenda for holding them accountable for their actions as far as human rights is concerned- hence somewhat *indirectly* serving the noble purpose of institutionalizing human rights around the globe, while protecting humanity from a common enemy- terrorists and their sympathizers.

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Gender:

A Systems View: A Concept Revisit and Commentary.

Timothy H. Gatara, Ph.D

This article was written by the Author and appeared in 'Africa Link' two decades ago. The author revisits this article with the benefit of hind sight. Has much changed since then for the women of Africa and the world?

Thesis

There is a great struggle among policy-makers, professionals and academics to understand the concept of 'gender'. This struggle is characterised by generic confusion between the biological make up of humans and the roles that they play in their societies. Roles in society seem to be sex based, thus cooking in the kitchen may be seen as being strictly a woman's role, while leadership may be seen to be a man's role, though neither were biologically made to suit the roles. Both can handle any of these tasks given the chance.

This sex based definition of gender roles affects power relations between the sexes. This is so because the definition allows greater access to resources and situations that allow one specie to, dominate and subdue another, sometimes in perpetuity, hence, opportunities for discrimination and oppression. The oppressed sex will soon seek freedom and demand equality in power sharing.

The above has become an important and difficult issue of our time because it will have critical bearing on the way society will look like and function in the future, and deserves all due attention. Here, I argue that oppressive power relations between the sexes is perpetuated and reinforced by universal systems of power and social control. I also explore what needs to be achieved in order to change the power relations and introduce aspects of equal advantages.

The Gender Concept

The old adage that what is good for the goose is good for the gander emphasises the fact that gender is neither female nor male. Biologically, the female entity is clear and its functions based on this biology are also distinct. The same goes for the male. These sex or biological functions however, do not define social roles for either the man or the woman.

The concept of gender thus has little to do with the sex or the biological make up of a human being. The concept has to do with the way society perceives the biological human being

and the perception of one's role in society in relation to this perception. This is where the problem of gender discrimination and oppression stems from. This is because, society perceives one as a biological being and assigns and perpetuates both power and social roles on this basis. Looking at life, it is easy to:

The Systems Concept and Hierarchy

A system is a set of interdependent elements, so dependent that it is almost impossible to happen to one without it happening to the other. The terminology system is familiar enough.

For example, there are all sorts of systems in life. These can be large or small systems. A human being is a System made up of several small systems such as the alimentation and cardinal systems. Society is itself a giant and domineering system towering over and determining the future of all humans. It has subsystems such as the economic system.

Looking at life, it is easy to appreciate the fact that it is a conglomeration of millions of systems living side by side in perpetual relativity and shaping and influencing one another. It is this relativity of systems that defines who we are and how we are defined by society and with what consequences. The systems ensure that definitions stay unless disturbed by forces either inherent in the systems themselves or emanating from outside the systems.

The analysis of systems in terms of both information and energy is an important one in helping us understand power, sex and gender relations in society. There is an argument somewhere in the works of the famous structural functionalist, Talcott Parsons (1952) that stipulates that, if two systems coexist side by side, then the system that is high on information and low on energy will tend to control the system that is high on energy and low on information.

The Systems and Gender Roles

The Social system is the most closely linked to the issue of gender. In the first place, it is the one that defines and interprets traditional wisdom and defines that once born a woman, certain attributes are hers and on the basis of these one will perform tasks in the society that are based on one's sex. This is in addition to the biological role for which one has no choice to perform.

The same system determines that a biological

entity called man is a superior being here to rule by the mere fact that one is a man and not a woman. This system ascertains that this state of affairs is carefully recorded in the archival minds of the members of society and is carried forward from generation to generation without change forever. It codifies this way of life so that at all times it stands. The exercise of power in the Vatican is a good example of this.

The social system further goes on to ensure that other systems that enforce this state of affairs are in place and that they do their work to make this state work. The political system is evolved and empowered to bring its will and force on the creations of the social systems. The political system ensures that power relations between systems remain at variance with one another, and that the subjugation of one system by another is total and everlasting.

Thus, if change is ever to happen in the relations between systems, both big and small, generic and fundamental changes must occur in the definitions that are appendaged to the human by the social system, and in the reinforcing agent of this system, i.e. the political system.

Woman-The System

The woman is a system. Not a single celled creature wandering aimlessly on the face of the earth, for the pleasure of man, without beginning, direction or destiny. This realisation forms the basis for gender freedom.

As a system, there is evidence that a woman is born with as great intelligence as the man. In fact, from the deitcal beginnings, the woman was endowed with such intelligence as to overshadow and indeed overcome the physical endowment of the man. In this story, it took only a bite of this fruit to overcome the great knot of life and set us all on the road to endless suffering as humans, without end. It did not take enormous strength for Delilah to overcome the

super strength of the Nazarene, Samson. These are the acts and achievements of a system that to our detriment we characterise and treat as weak in modern times.

In our attempt to create a gender that functions for both man and woman, it is important to accommodate, even at the risk of losing some pride, the idea that a woman is a system that is endowed with as great an intelligence as the male system if not greater. The ability to see a woman in society first as a woman and then as a system will go a long way in aiding society come into grips with full meaning of gender that recognizes the existence of both woman and man systems in their own rights.

The cultural system defines woman as a valuable piece of property that is bought and owned through exchange. In some places, woman is or was exchanged for cows or goats. Marriage was institutionalised as a way of affirming this ownership of one human being by another. It was not a consensus-based act that took into consideration the wishes and the rights of both the man and the woman. Although the main *raison d'être* for the institution of marriage is the procreation and the continuation of the human specie, with all due respect to it the it has been used by society to subordinate one of the partners and to immortalise her suffering in the pursuit of the noble goal and duty of procreation.

The Female Creature and the Societal Systems

The systems of society have only dealt with the human being known as woman, as a female creature and not as a System. This has allowed the systems to define the creature and to forcefully determine an identity for it. This identity suppresses the total phenomenon that the woman is. This is the only way it

can be taken advantage of - Outside this, the man creature is quite incapable of dealing with woman as a system. This is due to both its pervasive intelligence and capabilities unrecognised by the social systems.

I am tempted to contend that one of the most effective ways of keeping women in their places if there are such a places is by making sure that they are forever tied and committed to the creed and practice of reproduction, multiplying for and on behalf of humankind or mankind.

Producing children is a full time job. The woman doing it has no chance whatsoever of doing much else with her life. The cultural system ensures that this is so and remains unchanged. The marriages of yesteryears seemed to survive at all times and in all circumstances because they were not based on the equality of man and woman. The marriages were based on the subjugation of one human being by another and the total slavery of that one human being - the woman. Because of this slavery, the man had no reason and still has no reason for seriously wishing to change the status of woman. Seen from this perspective, the woman, in her quest to fulfil her biological role is transformed through the institution of marriage into a social slave. The performance of the biological role even in the animal kingdom does not entail the enslavement of the performer.

The definition of woman is however wider than the biological role. It is extended by the cultural system to other roles that ensure her total serfdom. The woman in marriage is also an economic beast of burden. She produces children and thereafter she is entitled to fend and look after them. Looking after children means that one has to feed them. To feed children means one has to till the land. The woman tills the land. The food that the woman tills is not eaten raw. It is cooked. To cook it the woman needs energy.

The woman must know where this energy comes from and get it herself. Woman has to get this energy from the natural system. The same thing with the food that humankind eats. This natural System sometimes called land, is owned by another creature known as man. And man makes sure that it is well looked after by the creature known as woman. Although this may be argued not to be typical for all women, the sub-ordination of women even in modern economic times entails the same predicament and sometimes worse.

The political system ensures that woman does not lead. Not being in a position to lead means that power and the means to power are in the hands of the master forever. In short, the entire constellation of systems are galvanised to empower the man, so that the power of the man over the woman is forever Supreme. *Man often argues that woman is happy under these conditions and needs no respite. Woman, it is argued has power because she can cook whatever she wants, till what piece of land she wants, decide what the family can eat, lead other women in a monogamous marriage, and even advise the man on how to rule. But she cannot have the power to make these things happen. It belongs to the man. The man as in the traditional caricature is like a person who sits on One's back, choking life out of the person and at the same time assuring the person that he would like to do everything in his power to lighten one's burden, except get off their back!*

The product of this state of affairs is a psychological subsystem that is unsure of itself and its place in society. It is an abused subsystem without confidence or hope in either life or the society of which it is a product. The misery of this subsystem however is a reflection of our entire society and the beasts we are. *For a society that allows its women to live in decadence and self pity, deserves greater*

sympathy than those it degrades. A society that produces a dignified woman dignifies itself and approaches a pinnacle of moral purity that it is only too capable of but lacks moral strength and political will to try.

Whence Thou Woman

There is great urgency in our times to recognise two facts that have a critical bearing on our lives. The first is that we are all biological entities. As such, we have biological roles that are natural and are meant to ensure the survival of species. But this is as far as it goes. It does not imply that there are things in society that we must do just because we are biological entities. Secondly it is to be realised that it is the social systems that define the roles that man and woman must perform in society. The systems must hence be prevented from harming themselves and their members by appending these roles to the biological being. The question that needs to be raised and answered is not where to woman, but rather where to man and woman? In this regard, it must be recognised by society, that both men and women, besides being the biological entities that they are, and having roles in that respect, that they have performed marvellously well, are both important social systems, no lesser or greater than the other.

In this recognition one sees a gender system in which power relations are determined by the equity of social roles. In this gender system, the man/woman system moves forward to recast the major social systems so that they recognise the supremacy of this new human system known as society with all their wisdom. *Tradition must be rocked and reshaped. And if it cannot be reshaped, discarded. In its place a new gender reality must be instituted. Such a system will recognise and end gender oppression in all its ramifications. A society that has lost itself through the oppression of one of its kind, woman, will thus find itself again."*

State Fragility and Terrorism in Africa: A Multi-factor Analysis

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Abstract

State fragility is a current topical issue in Africa. It has a multiplicity of determinants. These determinants cut across social, cultural, economic and political issues. The paper examines 12 of these determinants including demographic pressure, human rights, unequal development, human flight, state legitimacy, existence of state elites to run regimes, group grievances, existence of refugees and internally displaced persons, security apparatus available to states, poverty and economic decline, public security, and external intervention.

These are variables that the Fund for Peace, (2014) Fragility Index has generated and used to categorise countries on the basis of a *total fragility score* derived from these variables. The study hypothesizes that only 6 of these are most salient for Africa: *group grievance, State legitimacy, unequal development, human rights, existence of state elites and human flight*. These are then entered into a regression model against the *total fragility score*.

In the final model, two variables stand out as the most significant: *Human Flight* and *Functioning State Elites*. *Unequal Development* and *Group Grievance* make it to the final four.

In advancing this model farther, the study hypothesizes that state fragility is a strong determinant of terrorism in Africa. It explores the correlational effects of state fragility and its related variables on terrorism.

Introduction and Theoretical Framework

Over the last decade, the subject of state fragility has taken centre stage in many human development fora internationally. This is also the case for Africa. State fragility in its layman's connotation refers to a situation where states are unable to provide basic services to their populations. This definition implies that this absence of services has concomitants such as abject poverty, a high propensity to conflict and minimal or total absence of territorial control. High levels of state fragility pose a serious problem to human development, since

they ultimately lead to state collapse, impoverishment and suffering of humans.

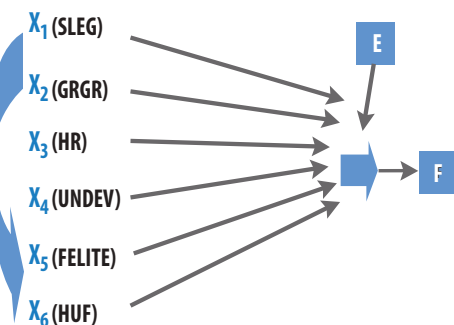
Explaining the concept of state fragility is elusive, mainly due to its multivariate nature. It's likely causation is rooted in social, economic, political, historical, demographic and cultural factors.

It is the contention of this paper that a few key social variables, related to governance, management of state affairs and human conditions determine state fragility and if addressed, they could stabilize African countries to the extent necessary for sustainable human development.

The study focuses on six key likely determinants of state fragility; *the legitimacy of states, group grievances in states, human right violations, existence of unequal development, existence of competent elites to run the country and human flight or displacement due to state fragility.*

This thinking leads to a recursive structural equation model showing the relationship between these variables as shown in figure 1.

Figure 1: Structural Equation Model Fragility



This model has context in theories that have been advanced by among others, Paul Collier (2010)¹³. The perspective by Collier posits that civil wars occur when it is both financially and militarily possible. Collier downplays social grievances and emphasizes inequalities and building of strong economies. William Zertman (2007) sees the sequencing of need, creed and greed as key forces behind hostilities inside states. He argues for state intervention before greed finds its way into state systems. Frances Stewart (2007), highlights horizontal inequalities between groups as central in generating negative conflict and sees policies that reduce the inequalities as vital in preventing such conflicts. The World Development Report (2011) recognizes many of the variables used as possible factors behind fragility.

Literature

Scholarly works that have looked at the subject of state fragility include those of Andrea Guerzoni, (2013) who views a myriad of variables ranging from economic, institutional, historical, cultural and demographic. The author also considers ethnic identity as a key factor. The study finds no significant correlation between colonial history and state fragility in Africa. This of course depends on the kind of variables considered to constitute ‘colonial history’ in the study. Some studies on fragility that consider economic factors find no correlation between income per capita and fragility (Barliamonte and Lutz, 2010). There are studies however that finds that state fragility itself impacts human or national development, (Fosu, 2009). Other studies have looked at the effect of international aid to African countries and found that it impacts on development. However, these studies do not go far enough to show whether development emanating from such aid contributes to either stability or fragility of states in Africa (Burnside & Dollar, 2000). This paper challenges the findings by other scholars that report positive effect of foreign aid on state fragility (Stansen & Tap, 2001). There are also studies that indicate that foreign aid in Africa can prolong state fragility (Chauvet and Linker, 2007).

Institutional variables have been shown to be instrumental in the determination of state fragility (Moreno and Torres, 2005). Indeed, one of the more systematic studies on fragility (Graziella Bertocchi & Andrea Guerzoni, 2010), report a strong influence of institutional variables, followed by income per capita on state fragility. In the study, colonial history is found to be marginally important in determining state fragility. Conversely, the European Development Report (2009) finds a relationship

between state fragility and colonial history. The study by Graziella and Bertocchi does not however consider factors such as foreign investment in Africa and capital flight from the continent. The study utilizes data gathered by the International Development Agency (IDA) that focus on economic development factors, structural policies, social inclusion and equity, public sector and institutional management.

Data

Data for this paper come from the Fund for Peace (2013). In the Fund's compilation of the '*fragile state index*', they include 12 key variables that they consider salient in determining state fragility, not just in Africa but globally. These include: Demographic pressure, Refugees and Internally Displaced Persons, Group grievance, Human Flight, Uneven economic development, Economic Decline, State Legitimacy, Public Services, Human Rights, Security Apparatus, Functionalised Elites and External Intervention. The State fragility indicator is obtained as a total score of these variables by which all the world countries are ranked. In its calculation, this paper uses this score as the dependent variable. In the analysis, these variables are re-coded as: TOTAL [Total Score], DEMPRESS [Demographic Pressure], REFIDIP [Refugees and Internally Displaced Persons], GRGR [Group Grievance], HUF [Human Flight], UNDEV [Uneven Development], PECD [Economic Decline], SLEG [State Legitimacy], PS [Public Service], HR [Human Rights], SECAP [Security Apparatus], FELITE [Functionalised Elites], EXTINTER [External Intervention].

The study from which this paper is derived aimed at finding out which group of variables has the most influence on state fragility as measured by the total fragility score. It explores data for 53 (N=53) African countries.

The general hypothesis is that high levels of demographic pressure, numbers of refugees and internally displaced persons, extreme group grievances, high numbers of human flight, high levels of inequality, high economic decline, existence of illegitimate states, poor public service, violations of human rights, poor security apparatus, non existence of functionalized elites to run the state, and frequent external intervention, together contribute to high levels of state fragility. It is further hypothesized that in states where these factors are minimal, chances for fragility are minimal. Even without testing all these variables for their importance in determining state fragility, experience thus far, suggests that a few of them have more significance than others. These include state legitimacy, existence of functional elites and human rights. To these, other variables including group grievance, unequal development and human flight are added to the model.

Data Analysis

In the analysis, data from the *State Fragility Index* is entered in a multiple regression model containing the six variables as independent; it is then regressed against the total fragility score. This model is of the order:

$$Y = \alpha_{(Constant)} + X_1\beta_1 + X_2\beta_2 + X_3\beta_3 + X_4\beta_4 + X_5\beta_5 + X_6\beta_6 + \xi$$

Where:

Y = TOTAL

X₁ = SLEG

X₂ = FELITE

X₃ = HR

X₄ = GRGR

X₅ = UNDEV

X₆ = HUF and E the error of prediction.

The influence of a given variable on the dependent variable is considered significant at .05 p significance level.

Findings and discussions.

Table 1 shows the outcome of the regression model when all the six variables are in the model. The regression outcome shows that these six variables taken together explain more than 90% ($R^2 = 0.914$) of the variation in state fragility implying that these variables can predict state fragility when each variable's contribution is considered while the other 5 are controlled. The most significant of these variables is Human Flight with a P Value of $9.27e-06$. This is an expected result since *human flight*, in reality, an indicator of everything that could go wrong in an unstable state. It is usually preceded by breakout of hostilities, violence and forced displacement of human populations.

The least significant of these variables is *State Legitimacy* with a P value of 0.94. This is a telling outcome that indicates that states that are not completely legitimate do not necessarily have to be fragile. All the other variables are significant predictors of state fragility at this stage. The *State Legitimacy* variable is hence weaned from the next model. The P value of the variable Human Flight is 9.3 implying that this variable may have effect on state fragility even in a random sample. It is possible for *human flight* to exist in a situation where state fragility is absent. This is because *human flight* could be due to other factors, like technology-triggered migration that are not necessarily factors related to state fragility. *Human flight* itself is a composite variable and could show high multi-collinearity with the other variables including the dependent variable and thus, its explanatory effect may not be real. For this reason, it is hence weaned from the next model.

Table 1: Regression Coefficients of the total model

Residuals:				
Min	1Q	Median	3Q	Max
-11.0862	-2.4431	0.0805	2.1995	6.7230
Coefficients:				
Estimate	Std.	Error	t value	Pr(> t)
(Intercept)	1.36669	5.32066	0.257	0.798381
GRGR	1.42779	0.49601	2.879	0.005949
HUF	2.80126	0.56488	4.959	9.27e-06
UNDEV	2.97097	0.74687	3.978	0.000234
SLEG	0.07018	1.08722	0.065	0.948799
HR	1.98572	0.89031	2.230	0.030433
FELITE	2.71445	0.76386	3.554	0.000865

Residual standard error: 3.837 on 48 degrees of freedom
Multiple R-squared: 0.9144, Adjusted R-squared: 0.9037
F-statistic: 85.41 on 6 and 48 DF, p-value: $< 2.2e-16$

The 5-variable model turns out highly significant coefficients. It shows how well the five variables, *Group Grievance*, *Human Flight*, *Unequal Development*, *Human Rights* and *State Elites* complement each other to strongly predict state fragility. Still in this model, not all the variables are not equally strong predictors of fragility. Two of these variables, *Human Rights* ($p = 0.00139$) and *Group Grievance*, ($p = 0.00159$) are the weakest predictors of fragility. Notably, in scenarios where human right abuse is rampant, group grievances are likely to be rife. Despite these two variables being equally significant, the Human Rights variable is first weaned from the model.

Without the Human Rights variable in the model, *Group Grievance* ($p = 9.03e-05$) turns out strongly as a predictor variable for state fragility. This shows how strongly human rights status in any country influences group grievances. Countries with accepted human rights records can be expected to portray limited group grievances.

Table 2: Regression coefficients: 5-variable model

Residuals:				
Min	1Q	Median	3Q	Max
-11.0756	-2.4484	0.0435	2.2032	6.7380
Coefficients:				
Estimate	Std.	Error	t value	Pr(> t)
(Intercept)	1.3594	5.2651	0.258	0.79734
GRGR	1.4112	0.4203	3.358	0.00153 **
HUF	2.7969	0.5552	5.038	6.79e-06 ***
UNDEV	2.9882	0.6903	4.329	7.37e-05 ***
HR	2.0279	0.5983	3.389	0.00139 **
FELITE	2.7463	0.5772	4.758	1.77e-05 ***

Signif. codes: 0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1

Residual standard error: 3.798 on 49 degrees of freedom

Multiple R-squared: 0.9143, Adjusted R-squared: 0.9056

F-statistic: 104.6 on 5 and 49 DF, p-value: < 2.2e-16

Table 3: Regression Coefficients: 4-variable model

Residuals:				
Min	1Q	Median	3Q	Max
-8.4021	-3.4017	0.3024	3.1962	8.7055
Coefficients:				
Estimate	Std.	Error	t value	Pr(> t)
(Intercept)	4.5872	5.6956	0.805	0.424399
GRGR	1.8661	0.4381	4.259	9.03e-05 ***
HUF	2.7376	0.6103	4.486	4.27e-05 ***
UNDEV	2.9664	0.7592	3.907	0.000281 ***
FELITE	3.9337	0.5046	7.795	3.45e-10 ***

Signif. codes: 0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1

Residual standard error: 4.178 on 50 degrees of freedom

Multiple R-squared: 0.8943, Adjusted R-squared: 0.8858

F-statistic: 105.7 on 4 and 50 DF, p-value: < 2.2e-16

Human Rights and existence of state elites

In many African countries, group grievance is usually about unequal development and, it is a variable that would work together with unequal development to explain fragility. In the absence of the unequal development variable, group grievance still remains strong. The lowest p value in the model is shown by the *Human Rights* variable. It is quite insignificant with a p value that is well beyond the 5% significance level. This variable is therefore dropped from the model.

Table 4: Regression Coefficients: 3-variable model

Residuals:				
Min	1Q	Median	3Q	Max
-11.6508	-3.3298	0.4698	3.0702	8.1487
Coefficients:				
Estimate	Std.	Error t	value	Pr(> t)
(Intercept)	19.5869	4.7598	4.115	0.000141 ***
GRGR	2.0198	0.4936	4.092	0.000153 ***
HUF	3.5033	0.6539	5.358	2.04e-06 ***
FELITE	4.1144	0.5685	7.238	2.29e-09 ***

Signif. codes: 0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1

Residual standard error: 4.726 on 51 degrees of freedom

Multiple R-squared: 0.862, Adjusted R-squared: 0.8539

F-statistic: 106.2 on 3 and 51 DF, p-value: < 2.2e-16

The removal of the Human Rights variable from the model still leaves a robust model that can still predict significant state fragility. The Human Rights factor entails issues of violations of basic human rights and violence, and it confounds with Group Grievance in explaining state fragility. For a long period in the political history of Africa, the Human Rights factor could be applied on its own to explain state fragility, especially in the period that followed independence in countries such as

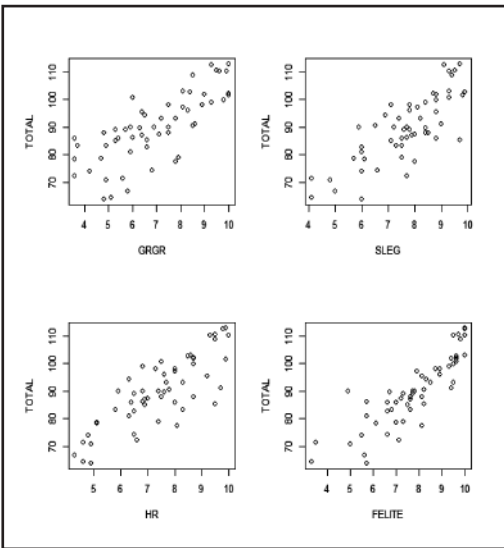
Ghana, Nigeria, Zambia, and others where the rulers tended to be despotic with little regard to human rights.

In the 4-variable model (Table 3), *Unequal Development* though significant is the weakest predictor with a *p* value of 0.000281. *Unequal development* has shown to have a staying power of its own, and although it may not directly lead to state fragility, it is a critical long-term factor that is capable of triggering civil strife and revolutions if left un-attended.

Due to its low *p* value and its high prediction error, this variable is subsequently dropped from the model.

The removal of Unequal development variable from the model has literally no effect on the explanatory strength of the model. The predicted R2 still remains above 80%. These four variables are strong predictors of fragility and show an expected strong correlation with fragility. This is shown in Figure 1.

Figure 1: Correlation Plots



The three factors that remain, *Group Grievance*, *Existence of State Elites* and *Human Flight*

work well together in explaining about 86% of the variation in *state fragility*. This can be explained by the fact that where a state has a weak power elite in authority, group grievances and unstable human populations are likely to be significant.

From the analysis, one may be tempted to pose the questions: of these three factors which is the least important and which two would hang together in predicting state fragility in Africa? Can the model still hold with two variables?

If it can be argued that when a state has sound leadership, as portrayed by a strong elite in authority, it is likely to be effective in dealing with group grievances. When group grievances are minimal, conflict is less and the state tends to be less fragile. This condition also fosters population stability and human flight that arises from instability is insignificant. Any of the three remaining factors are strong predictors of state fragility and the removal of one of them still leaves a robust predictive model. The removal of Group Grievance leaves a 2-variable predictive model.

Table 5: Regression Coefficients: 2-variable model

Residuals:				
Min	1Q	Median	3Q	Max
-9.9755	-3.5084	-0.1166	3.0675	12.4735
Coefficients:				
Estimate	Std.	Error	t value	Pr(> t)
(Intercept)	21.2918	5.4119	3.934	0.000249 ***
HUF	3.4324	0.7461	4.601	2.74e-05 ***
FELITE	5.7617	0.4581	12.578	< 2e-16 ***

Signif. codes: 0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1

Residual standard error: 5.394 on 52 degrees of freedom
Multiple R-squared: 0.8167, Adjusted R-squared: 0.8096
F-statistic: 115.8 on 2 and 52 DF, p-value: < 2.2e-16

The model outcomes show that Human Flight and *State Elites* remain highly significant at levels below 5%, explaining 82% of the variation in state fragility. The model remains sound enough to explain more than 21% of the variation in state fragility even when these two variables are having Zero effect on state fragility. It is possible that these two factors encompass all the other factors in preventing state fragility hence their explanatory power.

Using these models, it is possible to predict state fragility of any country on the basis of any of the models. Fragility scores range from 18 for low fragility states such as Finland, Sweden, Iceland and Norway, to over 100 for countries such as South Sudan, Somalia, Chad, DRC and the CAR. If the scores of the low fragility countries on *Human Flight and State Elites* are taken to predict fragility in Africa using the 2-variable model, Africa would have a fragility level of 35, which would be at par with countries such as Japan, United States, Korea, Singapore and Uruguay. The best-placed African country with the least fragility tendencies is Mauritius with a score of 46 and Botswana with 64.

Kenya has a fragility level of 99. With a *Human Flight* score of 7.8 and *State Elites* score of 9.3, the model predicts the country's fragility score to be 101, which approximates the 99 it is given globally. With the *Group Grievance* and *Unequal Development* in the model, Kenya remains at 99, implying that these are the four priority factors the country needs to address. In other words, Kenya needs efficient leadership elite, tackle group grievances, address *Unequal Development* and embrace corruption free governance.

This prediction is an indicator that even with the best scores for the above factors in the world, Africa would have a great deal to do in all the other factors, especially unequal development and group grievances to achieve the low fragility levels of the leading states in the world.

Table 6: Regression GTI Model.

Residuals:				
Min	1Q	Median	3Q	Max
-3.2240	-1.2428	-0.2321	1.2041	3.8290
Coefficients:				
Estimate	Std.	Error	tvalue	Pr(> t)
(Intercept)	-2.45784	2.39065	-1.028	0.309
GRGR	.16818	0.24177	4.832	1.54e-05 ***
UNDEV	-0.31157	0.34163	-0.912	0.367
SLEG	-0.34232	0.51828	-0.660	0.512
HR	0.30928	0.41941	0.737	0.465
FELITE	-0.01808	0.35752	-0.051	0.960

Signif. codes: 0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1

Model Analysis with Terrorism Variable.

The model predicting terrorism using the same variables as fragility shows that group grievance is the strongest predictor of terrorism. Legitimacy of the state also a strong predictor.

Table 7: Fragility and terrorism in a model.

Residuals:				
Min	1Q	Median	3Q	Max
-3.1817	-1.2001	-0.2044	1.2246	3.8492
Coefficients:				
Estimate	Std.	Error	t value	Pr(> t)
(Intercept)	-2.33299	2.47220	-0.944	0.350
GRGR	1.18426	0.25351	4.671	2.72e-05 ***
UNDEV	-0.25513	0.41919	-0.609	0.546
SLEG	-0.35021	0.52473	-0.667	0.508
HR	0.33924	0.44219	0.767	0.447
FELITE	0.02822	0.41057	0.069	0.946
TOTAL	-0.01325	0.05585	-0.237	0.814

Signif. codes: 0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1

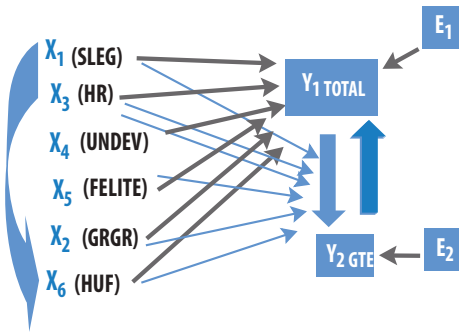
Residual standard error: 1.823 on 45 degrees of freedom
(1 observation deleted due to missingness)

Multiple R-squared: 0.6117, Adjusted R-squared: 0.5599

F-statistic: 11.81 on 6 and 45 DF, p-value: 6.503e-08

In a model where a non-recursive situation between fragility and terrorism exists, fragility

Figure 2: Fragility Non-recursive model.



and terrorism together with the other variables still remain strong explanatory variables for each other. There seems to be little difference between terrorism and state fragility, since the existence of one enhances the existence of the other. The model predicting state fragility that contains terrorism is stronger (R square .848) than the model predicting terrorism that contains state fragility, (R square .559). The weak negative relationship between fragility implies that even states that may experience do not necessarily have to fragile.

Discussions and Conclusions

In perspective, all the fragility variables are critical in predicting state fragility in Africa. However, of these variables, there are those that the continent needs to prioritize as a prerequisite basis for the others.

Demographic pressure is a silent force that indirectly bears on state fragility. Rapid population growth in many African countries will always put pressure on the available resources, and enhance competition for them. Rapid population growth also cancels out economic gains and the states appear like they are not making any progress to improve making no improvements on the conditions of life for its

citizens. Africa has an abundance of resources and can, undoubtedly, cope with much larger populations. However, the resources need to be managed in a manner that enables the states to cater for these large populations. When this does not happen, injustices easily creep into state systems. The population competes and fights over scarce resources. The net effect is that the states fall into fragility.

The population pressure factor is compounded with *unequal development* and *group grievances*. Where governments are perceived as illegitimate the leadership elites fail to control rampant corruption, the state slides into anarchy and instability. Even without addressing a whole range of issues that make states fragile. One can ensure legitimacy if they deal with *group grievances*, fight *unequal development* and where the state elites embrace humane and democratic governance.

It is vital that states deal with terrorism and fragility with equal measure of effort. States that are fragile but without significant terrorism, need to view terrorism as a potential hazard. Fragility is an indicator of impending terrorism. States with terrorism need not only deal with the potential, but also the reality of terrorism. Terrorism is both a reality and doctrine. Reality has staying power because of doctrine. Impacting ideology and doctrine, will eventually dent the reality of terrorism.

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Culture and Gender Based Violence in South Sudan

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Abstract

Gender based violence (GBV) in South Sudan exists at a level that requires special acknowledgement. Although most studies so far carried out on the subject have been limited in terms of sample size and statistical analysis, they have nevertheless produced evidence of extensive domestic violence, early/forced marriages, wife inheritance, rape, abductions and sexual slavery among others. There are some cultural practices and social factors prevalent amongst the South Sudanese which perpetrates GBV such as the role of dowry/bride price, girl child compensation and abductions of women and children among others. Again, culturally, some forms of GBV such as wife beating are not viewed as a problem but widely accepted and tolerated. Also, the societal stigma that surrounds victims of sexual violence has a negative impact on reporting and access to treatment and justice. This article explores the link between culture and GBV in South Sudan. It makes the argument that South Sudanese culture encourages GBV and to a large extent informs its widespread prevalence.

Introduction

Gender Based Violence (GBV) is a cause for concern the world over as it has emerged as a serious global/public health, human rights and development issue. By definition, GBV inexhaustively includes all kinds of any acts or conducts of violence meted against the apparently less privileged gender by the stronger or privileged one. Such acts include but not limited to rape, beating, causing bodily harm, emotional abuse and mistreatments, which maims, causes death, or physical, sexual or psychological harm, or suffering to women/men, whether in the public or private sphere. Some studies show that most of the victims of GBV are women and further point out that GBV subjected to men by women maybe as a result of women responding to men's use of violence against them (UNDP, 2008). To the contrary, cases of GBV against men are on the rise in some countries such as Kenya (Kang'ethe,

2014). In addition, sexual violence against men and boys has been reported as "regular and widespread" in conflict-affected environments such as the Democratic Republic of Congo (DRC), Bosnia, Liberia among others (Shteir, 2014). Issues of GBV therefore need to take cognizance that any gender can produce perpetrators and victims.

Culture on the other hand denotes the way that people live their lives. It includes knowledge, beliefs, morals, law, customs, norms of behaviour and other habits particular to a group of people or a community. Culture is central in understanding the phenomenon of gender based violence within a community. It is argued that GBV is rooted in discriminatory social norms and power inequalities between men and women in social, economic and political spheres of life. For example, in a number of contexts involving armed conflict globally, rape

and sexual assault has been used as a tactic to humiliate, intimidate, displace and traumatize communities. The use of rape and sexual assault as a tactic of war has a deep, tacit link with the acceptability of all forms of GBV during times of peace.

In South Sudan, the vast majority of women and girls will survive at least one form of GBV – be it rape; sexual assault; physical assault; forced/early marriage; denial of resources, opportunities or services; or psychological/emotional abuse. Many categories of GBV are pervasive and engrained in the fabric of society. All tribes and geographical regions have some differences in terms of prevalence, but the thread of GBV sadly runs throughout the country, with bride price as a cornerstone of the nation's economy (CARE, 2014).

This article focuses on the relationship between culture and GBV in South Sudan. It looks at the nature of the problem and the ways and forms in which its perpetrated. It explores some of the theories explaining the existence and prevalence of GBV as well as the cultural and social factors perpetuating it in South Sudan. The culture of silence on GBV issues is also examined and the current ways in which GBV cases are handled by the customary courts. The article ends with a conclusion and recommendations.

Theoretical Framework

Gender Based Violence is one of the most controversial topics in general social sciences discourse as well as different school of thoughts which seek to implement their own perspective in the issue. To date, theories of GBV have been strongly influenced by either the biases of psychology, sociology, and criminology or the ideological and political agendas of feminist

activism. Two discourses are however central in explaining GBV in South Sudan.

GBV is supported by norms and values surrounding masculinity, femininity, family, and heterosexual relationships within the culture at large. These norms and values perpetuate the vice and explain its widespread prevalence. Violence is therefore a logical extension of the broader cultural norms and practices. The occurrence of GBV – whether in its more crude forms or in its structural expressions – becomes accepted “norm” of life, and part and parcel of how societies perceive and recognise themselves (O'Neill, 1998). Feminist position in this discourse strongly argue that male to female violence cannot be separated from the patriarchal ideology, normative foundations, institutional arrangements in society, sexist norms, and historical legacy of male dominance, which socialize men, support and legitimate their violent behaviour towards women (Dobash & Dobash, 1992).

Related to the normative support for violence is the social theory of gender and power (Connell, 1987). In this discourse, GBV originates from unequal power relations (imbalances) between men and women and serves to maintain them among both groups and as individuals on the personal, household, community and state levels. In particular, violence against women has always been a tactic by which men maintain control over and exploit women's bodies and labour and has been used when a woman does not comply with the perpetrator's wishes or as a means of displacing a man's anger or bolstering his sagging masculinity (Bisika, n.d.).

Data

This paper relies on both primary and secondary data. Primary data is derived from

a recent study conducted by Gatimu (2015) on sexual and gender based violence interventions in South Sudan by different actors including the government, civil society organisations and UN agencies. Secondary data is sourced from previous studies on GBV, books, reports, journals etc.

Gender Based Violence in South Sudan

Gender Based Violence (GBV) is a serious problem in South Sudan. It occurs in the public as well as domestic spaces. There are those forms that have been perpetrated since time immemorial by the South Sudanese. Issues such as early and/or forced marriages, elopement, abductions of women and children (both boys and girls), girl child compensation, wife beating, wife inheritance etc. are not necessarily new amongst the South Sudanese. These forms of GBV are culturally accepted and for the majority, they are not seen as a problem.

Accusations of adultery, husbands not being able to sustain their wives, rape cases, defilement, denial of education for girls, denial of property ownership for women, young women stabbing their husbands who they were forced to marry, sexual harassment in places of work, and rape-related pregnancies, among others are GBV issues that are happening now and people have started talking about them (Gatimu, 2015). There are also those cases of GBV that are considered “deserved” by the South Sudan society. For instance, if a woman is raped, the attention will shift from her as a victim to how she dresses or was dressed at the particular time of the incident. If she was dressed “inappropriately” then such an incidence (rape) will be considered deserved for her. In other instances, wife beating is seen

as a show of love and cases of marital rape are also seen as deserved.

Conflict-related GBV cases have also been reported overwhelmingly in South Sudan, especially after the new conflict that broke out in December 2013. Rape and sexual violence has been perpetrated against civilians by both government and opposition forces. The forms of sexual violence used during the conflict includes rape, sometimes with an object (guns or bullets), gang-rape, abduction and sexual slavery, and forced abortion in all the affected states. In some instances, women’s bodies were mutilated and, and in at least one instance, women were forced to go outside their homes naked (UNMISS, 2014; Amnesty International, 2014). In addition, IDP camps within and outside UN compounds have become breeding ground for rape.

Other new forms of GBV are happening in prisons. Gatimu (2015) found out that some officers ask for sexual favours from young girls in jail due to petty offences and from those that have been jailed after stabbing their husbands (usually older) whom they were forced to marry as pointed out in the preceding discussion.

The Culture of silence on matters of GBV

The fact that all these forms of GBV exists and are being perpetrated in South Sudan is not in contention. However, the culture of silence amongst the South Sudanese on GBV issues is surprising. Gatimu (2015) found out that GBV is seen as a domestic issue and hence should be solved at the family level regardless of the type and form, and whether the victim is injured or he/she has died out of the GBV-related circumstances. Victims rarely report cases of sexual violence due to cultural inhibitions

related to fear, shame and stigma. In the study, one key informant from UNMISS observed the following:

“In incidences where rape occurs, most South Sudanese do not talk about it to external people or people outside their family because it reduces the honour of the family, it is a shame and if it’s a case of an unmarried girl, then it is argued that she will never find an honourable man to marry. Even in the Protection of Civilians (PoC) sites, when it happens, they do not report it to the UN police or even to an elder in the community. They instead report the matter to the senior-most person in the family, discuss the gravity of the issue internally then decide whether to go to the police or not. Meanwhile, the family of the victim is still talking to the family of the perpetrator to see whether they can get compensation. What is unfortunate is the fact that they do not consider the rights of the survivor or the health consequences of the rape. If compensation occurs, the men are happy but if the victim (girl/woman) gets really sick, then it’s the responsibility of the women in the household to get her medical assistance. The women first look for traditional herbs, they only go to the hospital when it’s very serious. This is the only time they will talk about rape, or the fact that their daughter was raped.” XY key informant (Juba, 24 March 2015).

There are implications of this culture of silence on accessing treatment and justice. As pointed out in the quote, victims of sexual violence such as rape do not seek medical attention immediately and they only do so if and when they get really sick. They instead seek traditional medicine in the form of herbs and only visit the hospital when the traditional medicine has failed. The South Sudanese generally have a lot of faith in their traditional

medicine and by extension traditional ways of solving problems. In cases of rape, most of the victims will go to the hospital when it’s already too late to do an examination or tests which can give medical evidence to aid the prosecution of the perpetrator in a statutory court. Although rape is a criminal offence, most of the rape cases are handled by the customary courts and do not need medical proof of rape. Additionally, seeking medical services when it is already too late means that some treatment such as post-exposure prophylaxis for STIs/HIV will not be effective. This treatment ideally should be taken within 72 hours. This therefore makes it difficult for the health service providers to offer much help to the victims.

Role of Dowry/Bride price

Gatimu (2015) study confirms the arguments already in the literature about the position of women in South Sudan (Gross et al., 2010; CARE 2014). South Sudanese culture emphasizes the cohesion and strength of the family as a basis of society. This is a good thing but it places undue pressure on the women to keep their marriages and also makes them vulnerable to GBV. Since the male is the undisputed head of each household, the role of women in this social pattern is that of cementing family ties through “bride-wealth” and of producing children. As a result, women are often marginalised in their families as argued below:

“In South Sudan, when a girl is in her father’s home, she is considered a source of income to the family since she will be married off at some point and the family will receive dowry in the form of cows and other material goods. The girl however has no right to choose her spouse and have no say in the family affairs. When she gets married, she also does not have a say in

her matrimonial home. In the communities of South Sudan, a woman is just a woman....” XZ Focus Group (Juba, 23 March 2015)

South Sudanese families exchange women for various benefits during the formation of marriages. Families arrange marriages across the tribes and send women to live with their husbands to solidify relationships between clans through the production of children. As a result, families often view young unmarried girls as economic burdens. The practice of considering bride-price offers otherwise known as “booking” can happen when a girl is as young as five years old with marriages potentially initiated as early as the girl’s first menstrual cycle (CARE, 2014). When a man marries, his family pays the bride’s family “bride wealth” in the form of cows or other livestock such as donkeys, sheep, and goats. In a place where extreme poverty is common, this bride wealth can be critical to a family’s wellbeing; families marry their girls out early and feel as if they have no choice in the matter (Gross et al., 2010).

The bride-wealth system also acts to prevent divorce even where marriage is violent or otherwise unbearable. Most young men need their family members to contribute to their bride wealth. Upon marriage, the bride wealth is distributed among members of the bride’s family. Thus, many family members benefit from and rely upon the couple’s marital success. Although this helps fortify family ties, it also discourages divorce, since divorce requires the collection, return and redistribution of bride wealth. This is a complicated and cumbersome process bound to anger many family members. In addition, many of the assets the bride’s family members received in bride wealth may no longer exist at the time

of divorce; the cattle from bride wealth may have died, been slaughtered for food or been stolen. Therefore, the pressure women face to preserve family cohesion makes them more likely to stay in abusive marriages than to end them. This all leaves women in a vulnerable position that makes them targets for GBV and unlikely even to seek justice when they suffer it. South Sudanese society expects women to be responsible for the care of their children but men retain control over major decisions about child rearing. Additionally, societal norms demand that women meet the sexual and child-producing needs of their husbands without fail.

Girl child compensation

This is an age old practice in some communities in South Sudan, especially in Eastern Equatorial that perpetuates violence against girls. Girl child compensation usually occurs in such a situation whereby if a person from one clan decides to kill another from a different clan, mostly out of a dispute, then the members of the aggrieved clan have the right to go to the clan of the murderer and demand compensation. This compensation is not in terms of cows or fine goods but is demanded in form of a human being, who has to be a girl. The killer is left unpunished and the girl is left to suffer. When the girl joins the new family, she becomes a slave often being left to do tedious domestic chores and does not find parental care and love from that family (Gatimu, 2015). In such a situation, if a girl is chosen for compensation, she has no choice but to obey. This practice has prevailed in some communities but others have since stopped the practice. It is a form of gender based violence perpetuated against young girls.

Abductions of women and children

Abductions of women and children occur during cattle raids in South Sudan and they have been happening since time immemorial. If the

raiders do not find cattle, they abduct women and children. Upon arrival, if the abductor does not want to marry the woman abducted, he can sell her off or marry her to another man and demand dowry from the man. Young girls on the other hand are abducted to go and perform domestic chores in the abductors home while abducted boys are expected to go and look after cattle. In some instances, young boys are abducted and recruited as child soldiers by armed forces and groups.

Levirate and wife inheritance

In South Sudan, many believe that if a man dies, his wife does not have any right on her status since bride price was already paid for her. It is argued that it is the family of the late husband that is supposed to nominate a man to take responsibility of the widow so as to continue in the footsteps of the late. This is not a unique thing in African societies because in many cultures, it is expected that the brother of the late man will take responsibility of his brother's wife and also the elder son in a family is expected to take care of his father's wives if his father dies. This is not an entirely bad arrangement as it ensures that widows and orphaned children are taken care of by their extended families. However, a woman should have a right to decide whether she wants to be inherited or not but in South Sudan, women do not have a right over this issue.

Akechak *et al* (2004) observes that in many African societies, including Southern Sudanese society, there exists a custom known as *levirate* under which women remain married to their dead husbands and cannot marry again unless they obtain a divorce from their dead spouse. Children continue to be born to them by the deceased husband's surviving kinsmen but bear the name of and are considered in all respects

progeny of, the dead man. This custom results in a practice known as wife inheritance. A man may also marry a woman in what is known as *ghost marriage* to produce children in the name of a dead male relative. Additionally, men fear "complete" or "true death" – that is, a man dying without having fathered children or without children having been assigned to him. For these reasons, South Sudanese society has developed ways to ensure that men have heirs. For example, social paternity takes precedence over biological paternity and therefore a man can assign his children to a relative to ensure that the relative has heirs (Gross *et al*, 2010).

As pointed out earlier in the discussion, South Sudanese society expects women to be responsible for the care of their children, but men retain control over major decisions about child rearing. As described above, assignment of a woman's children may be out of her hands after her husband's death and even while still living, he can decide to assign some of his children to another relative without the consent of the mother or child. The ability of the men to control these practices gives them great bargaining power in any dispute with the woman and puts any woman who seeks justice in a vulnerable position.

The justice system in customary courts

As mentioned earlier in the discussion, most South Sudanese do not like talking about GBV to persons outside their family because it reduces the honour of the family and it is also a source of shame and stigma to both the victim and the family. Therefore, when an incidence occurs, most will try to handle it at the family level. Usually, the male members of the families involved discuss the issue and consider its gravity then agree on how much

compensation must be paid by the perpetrator or any other way of resolving the issue amongst themselves without reporting to the police or going to court.

Once family to family dispute resolution fails, most South Sudanese take the matter up with the traditional/customary courts. The type of cases handled by the courts mostly involve marriage disputes including divorce and wife battery, issues of inheritance, rape and other capital offences. GBV in South Sudan falls at the nexus of criminal and family law. Family law is inextricably intertwined with customs and traditions and is the purview of the customary courts. Criminal law currently exists in a jurisdictional limbo with some cases going exclusively to customary courts. Even serious cases such as rape are brought with greater frequency for adjudication according to customary law. Different ethnic groups apply somewhat different customary laws (Haki, 2011).

In the Dinka customary law for example, rape cases are punished primarily by compensation to the victim's family. In the case of a married woman, cows are paid to the husband and in the case of an unmarried woman to her parents. Therefore, women survivors are side-lined while perpetrators and survivors' families handle the dispute. Usually a cow will be sold to pay for the woman's treatment. Rape cases are not punished severely in terms of imprisonment. Men are only sentenced to three months prison for rape, unless the woman is married, in which case there is additional punishment for adultery with another man's wife.

In Juba, amongst the Bari and Mundari speakers, rape cases that are brought to the customary courts normally have already reached a

consensus that the man must be punished. Where a woman is not yet married, the rapist will often be forced to marry the girl before the case is ever brought to the court. This is often a preferred alternative for both parties, as the man does not receive jail time or have to pay a large fine and the woman and her family do not face the public stigma of having an abused and now, unwanted or "tainted" daughter who would be difficult to marry. Where the woman or family does not agree to marriage or where the woman is already married and abused by a stranger, the courts will punish the man on multiple counts.

Wives are almost universally considered the property of their husbands largely due to the dowry paid for them universally throughout South Sudan as mentioned in the preceding discussion. Men consider the dowry as giving them a right to discipline the woman as they please and families always reinforce this perception. However, wife beating still occurs even when no dowry has been exchanged, suggesting a deeper cultural practice not linked entirely to material considerations. As a result, and largely a reflection of these cultural norms, wife abuse is tolerated by most customary courts. For example, in Juba, in the Bari and Mundari speaker's customary courts, tolerance of spousal abuse is high. The chiefs do reprimand husbands for beating their wives, even when there was an apparent reason, but punishment of the man does not go beyond a small fine, even where severe beatings occurred and the wife was pregnant. In most cases, there is always a legitimate reason for wife beating that places the blame on the woman rather than the man. There are varying degrees and contextual considerations within each tribe, but in all the regions, some amount of discipline or wife abuse is accepted.

Lastly, corporal punishment is a regular practice across the courts and tribes in South Sudan. Lashings are given as punishment to both men and women. Women, however, are often given lashings in an addition to beatings they already received at home. Lashings given as discipline to women in the courts reinforce the acceptance of violence against women for misbehaviour (Haki, 2011).

Conclusion

Every society has its own cultural norms and practices. While some cultural practices are good, some continue to infringe on women and children's rights. In the case of South Sudan, promoting family cohesion and stability is good for the wellbeing of children and the society at large and so does ensuring that orphaned children and widows are taken care of. However, such practices have been found to put undue pressure on women and girls and infringed on their human rights as discussed in the paper. Other age-old practices such as girl child compensation and abductions are also a human rights issue. As pointed out in the discussion, these practices constitute gender based violence which is also a global health and development issue.

Therefore, in South Sudan, a lot of awareness raising needs to be carried out on especially these negative cultural norms, values and practices that perpetuate GBV. This can be spearheaded by civil society in conjunction with community leaders. The South Sudanese need to change their mind-set and recognise that there is something terribly wrong with the way they treat their women and girls. In addition, the current traditional justice system does not help either in protecting women and children rights. The majority of the customary law systems show plainly a conflict between international

human rights laws and rights granted to women and children in the customary law. There is need to initiate dialogue with the leadership of the customary courts by the lawmakers, community leaders and the judiciary to find ways of harmonizing the customary law with international law.

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Gender and Politics in Kenya: A Retrospective Account

Clara Momanyi, PhD

Introduction

Development is a term that can refer to many things depending on how it is used in different contexts. Since it is people who initiate development, then society is thought to be developed when it takes care of its members, both men and women. Besides, when it creates opportunities for its members to earn a fair reward for their labours, and enables them to participate in the decisions that affect their lives, then that society is thought to be developed. In addition, a society can be termed as having developed when it provides for those that are vulnerable and disadvantaged, while respecting the civil and political liberties of its members. After the 1995 World Summit for Social Development (WSSD) in Copenhagen, world leaders realized that in order to foster development, there was the need to put people at the centre of that development. This includes both men and women, since they contribute immensely in their nations' wealth. It also means that radical changes needed to be made especially in those countries that do not fully involve women in the development process. Such countries needed to change predominant ideologies and social structures that prohibit equal participation of both men and women in developing the nation.

The 21st century agenda for African Women's empowerment, for example, is an initiative aimed at consolidating all the International Declarations and Action Plans accomplished in the World and Regional Conferences for purposes of putting up strategies to empower women. The main objective is to have women participate fully in development just as men. Yet despite the fact that majority of African countries, including Kenya, have ratified various United Nations Conventions supporting women's empowerment, their representation in politics and governance is minimal. Participation in politics is a basic human right, and a responsibility of all Kenyans irrespective of whether they are men or women.

In Kenya, women form the majority of voters but few present themselves as aspirants for political office. Besides, among those who contest, very few become members of

parliament. It is also a fact that Kenyan women fully participate as voters, yet their numbers in parliament are not significant as compared to men. There are basic reasons why this situation presents itself not only in Kenya but Africa in general.

This chapter discusses in brief the concept of gender as it is sometimes misunderstood when it comes to issues dealing with men and women. It also strives to relate patriarchy and politics of gender as this symbolic order controls gender relations and assigns roles to societal members leading to their unequal representation especially in civic and elective positions. It also underlines gender dimensions and the political landscape of Kenyan men and women since the advent of multi - party politics in 1992. This was after the repeal of Section 2(a) of the Constitution which heralded multi – party democracy and with it, the jostling of

party positions and representation in elective posts for both men and women. Hence, the chapter is basically premised on participation of men and women in national elections. The chapter concludes by giving recommendations and suggestions with regards to gender equity in politics and the need for fair play when it comes to decision making policies that affect the development of both men and women. It also suggests institutional frameworks including social measures that need to be put in place to enable women participate on an equal footing with men in politics.

Theoretical Perspectives

Several theories have been advanced in relation to the advancement of women across the ages. Some theories have delved into patriarchy, capitalism, industrialization and social transformations to try and explain the gender imbalances in world societies. The social theory assumes that gender is the axiom, the one that holds one's identity. Under the umbrella of the social theory, there is also what is known as the sex-role theory where people learn from the established social institutions and where they are supposed to behave in ways that are socially acceptable and appropriate to their sex. Hence, it recognizes the dichotomy between men and women where men are known to be aggressive and women are passive. However, these theorists forget to see that gender itself is a social construct and one that is informed by our subject positions.

The Marxist theory, on the other hand, advocated that women would achieve equality with men when the means of production were collectively owned by men and women. This theory has been proved wrong over time. Equally, radical feminists who advocated radical means to achieve gender equity by trying

to use feminine sexuality and working towards an androgynous culture have failed to achieve gender parity in many aspects. In addition, theories advanced by feminists like Firestone (1972), Millet (1977), Steady (1981), Kristeva (1986) and Ogundipe-Leslie (1984) to mention but a few, have challenged the patriarchal symbolic order controlled by men. They object the approach where the phallus is the signifier of sexual difference and where men control the social institutions (Weedon 1991, 49). As much as feminists have tried to deconstruct this social order, it still continues to order our lives. This is because for centuries we have internalized this dichotomy and it might take a while before complete gender parity is attained in our social institutions. Confronting these patriarchal tendencies that have been established through centuries of social conditioning will need the concerted efforts of both men and women.

The author quite agrees with Nzomo (2003) when she states that these approaches have failed to see that it is the oppressive traditions and policies that have continued to push women to the domestic sphere. It is the symbolic patriarchal order that has continued to legitimize privileges that men enjoy, give them power to control political discourse and perpetuate the socio-political systems that bring about gender inequality.

The Concept of Gender

Gender is a dynamic concept which has been given a variety of meanings depending on the prevailing situations. For example, in many Kenyan political discourses, the word gender often becomes synonymous with those of the female sex. Generally, in everyday conversation when people talk about gender, they ordinarily refer to women. This then removes its credibility to confront discriminatory practices

that perpetuate gender inequality between men and women. For purposes of this discussion, we need to understand the concept before we look at the political landscape of Kenyan politics since the latter revolves around it.

Historically, the term was mostly used in 1970s when feminists from the western world used it to explain differences in the social relations between men and women. For example, Kessler and McKenna (1978) emphasize that all the differences between men and women are the products of social meanings. Their arguments, therefore, lay bare the distinct differences between sex and gender. In the 1980s, the term was entrenched especially at the Nairobi Women Conference of 1985 and later at the Cairo Conference of 1994. It was also significantly used during the Beijing Women Conference of 1995 and it was through these women conferences that the term was used to refer to discussions relating to men and women. In essence, therefore, gender can be defined as the socially determined differences between men and women. It is different from sexism because while the latter is a biological concept, gender is a social construct. We can also define it as socially constructed sex irrespective of whether it is male or female. Kiruki (2010, 71), for example, describes it as a metaphor that is rich in roles that are intertwined. He states that gender exerts pressure to all of us in our everyday lives, reminding us of our gendered subject positions that create power differences between men and women. These differences are manifested through roles and behaviours, attitudes and values. Gender roles are usually learned and internalized within the culture of the individual. It is also important to understand that while discussing gender, we should not treat it as a fixed concept. Indeed, as Lombardo (2009, 7) states, concepts have

no fixed or essential meaning but are usually shaped by political goals and intentions.

Gender is a social power where relationships between men and women are governed and controlled through a social system that also assigns their roles in society. Hence, gender relations are a social phenomenon that is present in many world societies including the Kenyan society. However, what is significant in the different roles between men and women is that they can be changed depending on the needs and aspirations of the society. They are not inborn neither are they fixed. Male and female attributes are, therefore, socially constructed and can be changed for purposes of posterity and development.

Patriarchy and the Politics of Gender

The patriarchal system which has often been defined as a system of power relations in society is where men have authority over women. The system has established structures that exclude women from participating in decision-making processes. In Africa, for example, gender disparities, patriarchal ideologies and socio-cultural structures that subordinate women and glorify men have for centuries excluded the former from governance and fair treatment when it comes to human rights. As Steady (1981, 35-36) observes, women have continued to be shackled by their own negative self-image and by centuries of internalization of patriarchal ideologies. Indeed, as Kabira and Muthoni (1994, 5) states, 'for centuries women have been buying peace to maintain this patriarchal order while surrendering their power and basic human rights willingly'. Kenya is basically a patriarchal society where for centuries, gender subject positions have evolved that identify roles along gender lines.

In this chapter, the author discusses how gender and social relations play into our day to day politics and position us to make decisions that have everything to do with our subject positions. As mentioned earlier, the issue of political significance of gender gained prominence in the 1970s. This is when the patriarchal system of imbalance of power between men and women was being challenged. It was also when prejudices about women and politics were being challenged by feminist thoughts. This debate continued right up to the 1980s and gave rise to a new field of political studies where gender and politics gained prominence. Prevailing feminist political scientists and theorists, for example, came to realize that political science as a discipline had ignored this important issue (Bryson, 1992). It was important because over half the world population which comprise of women was being ignored when it came to political participation. In fact, the Women Liberation Movement (WLM) which began in 1960s also contributed to this prolonged debate which then led to political mobilization of women the world over.

WLM was not only a large scale social movement, but a powerful political force affecting political parties which were predominantly male, state corporations where decision-making processes were male dominated, economic organizations and even attitudes which were gender biased. WLM had capacities to mobilize large numbers of women of the world who were previously politically inactive due to what has been discussed as the patriarchal symbolic order. Women then became a political constituency who were agitating for political rights and recognition of their positions in the various gender-blind social institutions that worked against their participation. This agitation led to political

integration of women especially in political parties and in elective processes. However, what should be noted here is that women as a constituency are not a uniform political group because there are various groups of women in different countries who have both similar and different interests. For example, the agitation experienced in Europe cannot entirely be the same as that which is experienced in Africa due to differences of class, race, religion and nation states. Even within Africa, the various countries experience different political scenarios and different gender perceptions. The current study of gender and politics which is a field within political science is informed by feminist political consciousness and also by women's behaviour. We can, therefore, state here that gender became politicized in the 1970s and has continued to be an important debate especially in modern day politics.

In Kenya, the patriarchal nature of the society has not yet accepted women leadership as evidenced in various social and political institutions. There are not enough supporting mechanisms put in place to create a level playing ground for both men and women to rise above social stereotypes (Nzomo 2003, 7). Forces of patriarchy which permeates in the various social institutions seem to have colluded to keep women out of public sphere especially their involvement in politics.

Gender inequalities have continued to negate the principles of basic rights, freedom and justice as expounded in Chapter 2 of the Kenyan Constitution. Critical decision making power continues to indicate gender power imbalances even after the new Constitution (2010) was promulgated. We only need to have a critical look at the structures in place, for example, in political parties and local council wards to

know the existing gender imbalances. The age old patriarchal ideologies and socio-cultural structures have continued to give credence to undemocratic systems of governance where men are favoured by existing cultural traditions. Indeed, as Kabira and Nzioki (1994, 70) observe, there is need to 'focus on the dynamic relationship between men and women...there is need to address the cultural constraints, sexism, discrimination and gender inequalities' for purposes of development. This chapter, therefore, gives a retrospective account of the political participation of both men and women in Kenya and an overview of gender relations at play in the political games which have been witnessed since the advent of multiparty politics.

Gender Dimensions and the Political Landscape: An Overview

With the repeal of Section 2 (a) of the Kenyan Constitution in 1992 and the onset of multi-party democracy, more women expressed desire to participate in active politics. In fact, the multi-party political trend in Kenya has continued to push a number of Kenyan women into the political waters to fight for elective posts against men. From 1992, political parties continued to advocate for constitutional review, a process that led to the formation of the National Executive Committee (NEC) and the Inter Parties Parliamentary Group (IPPG). It is these developments that heralded the process of constitutional review which later culminated into the new constitutional dispensation in 2010. Most of the political parties have been and continue to be dominated by men. In fact, their formation and the propagation of their agenda are male driven. However, due to the campaigns for constitutional review, women have also been busy agitating for equal representation in party positions. Men know

the voting power of women since they are the majority. Ignoring them would be tantamount to losing their political grip in the areas where they operate. Therefore in the party politics of 1990s, the leadership of these parties began to address women's concerns as a strategy for future credibility and sustainability.

In the 1990s also, women were agitating for political inclusion not only in the political parties but also in elective positions. They went as far as developing a women's election manifesto to guide the electorate and political leaders whose majority were men, on what Kenyan women wanted. However, as the results of the consecutive elections would show, politics is about power coupled with aggression and ruthless honesty. The majority of women have not learnt the power games men employ to edge them out. Besides, the patriarchal symbolic order of the Kenyan society has not really accepted women leadership and this is evident in the national and civic election results Kenya has witnessed so far. Let us now interrogate the politics of gender at play in the several national elections that Kenya has had since the onset of multi-partyism.

Earlier in the 1988 elections, queue voting was introduced and it had its effects also on the voting patterns of women. The most glaring fact about this kind of voting is that one cannot hide who he/she is voting for. The system laid bare voters' preferences and this led to mistrust. For example, there were men who controlled the voting preferences of their wives and could even order them not to queue behind a female candidate or even a male candidate they did not prefer. The performance of women during the 1992 multi-party elections improved but not to the expectations of many. This is because out of the 188 parliamentary seats contested for, only

6 of them were taken by women. There were a total of 70 women contestants in those elections where the majority lost.

Most people expected the number of women elected to parliament to rise due to the introduction of multi-party system, and the subsequent lobbying which was done by various women groups. However, this was not to be. Patriarchy demands that both men and women will support a system that ensures peaceful coexistence. Hence in this case, men who are the wielders of power will work hard to ensure that subordinate groups accept the status quo.

However, it should be noted that Kenya has been undergoing democratic transition since the 1990s. This includes the rising gender awareness and civic education being offered to citizens in different forums prior to the 2005 and 2010 Kenyan constitutional referenda and the events preceding the 4th World Conference of Women held in Beijing, China in 1995. These greatly sensitized Kenyan women. The Post-Beijing activities carried out by civic organizations, NGOs and some government ministries also encouraged more women to join active politics. The government realized the need to nominate one woman to parliament in 1995. So it can correctly be argued that the Beijing activities solicited such a response, although minimal.

During the 1997 general elections, there were 50 women candidates who accounted for only 5.7% of the total candidature. It was also during these elections when for the first time in Kenyan history, 2 women vied for the presidency: Mrs Charity Ngilu and Prof. Wangari Maathai. However, although they failed to capture the presidency, it was evident that Kenyan women

were changing their attitudes about political leadership and likewise Kenyan men were starting to become more tolerant where women leadership was concerned. After the elections, only 9 women joined the National Assembly as against 213 men. The women accounted for only 4.1% (Women's Bureau 2000, 39). However, out of the 9 women, 4 were elected and 5 nominated. This means that women's participation in politics still remained low despite the fact that women voters were and still are the majority. In that parliament, there was no female cabinet minister, except one assistant minister who was pushed to the Ministry of Culture and Social Services.

In the local authorities, women have not fared any better. Since independence, few women continued to be elected as councillors as the following table for the 1992 Local Authority Members shows:

Authority	Women	Men	% Women
County Councils	24	1,005	2.3
Urban Councils	2	165	1.2
Municipal Councils	15	339	4.2
City Councils	4	51	7.3
Town Councils	5	226	2.2
TOTAL	50	1,786	2.7

Source: *Supervisor of Elections – A.G.'s Chambers.*

Electioneering is usually associated with spending cash to woo voters, something which most women cannot afford. Lack of financial and material support, let alone moral support prevent many women from joining politics as compared to men. Tribalism also became rampant especially during the onset of multi-party politics. This is because most of the political parties formed had tribal orientations and people seemed to join parties of their choice

based on this tendency. Women were and have continued to be on the receiving end because while they fight gender discrimination, they are also confronted by the ghost of tribalism. These are some of the restrictions that limit women's involvement in politics as compared to men.

However, organizations like the Maendeleo ya Wanawake, Women Political Caucus, the National Commission on the Status of Women (NCSW) and the contributions by FIDA have been lobbying for increased women representation not only in parliament but also in national decision making bodies. Although most of these women oriented organizations do not sponsor women candidates, they serve as incubators for women aspirants where they can receive training such as leadership skills which they need to negotiate the rough and discriminative political terrain.

In fact, the efforts of such bodies led to an increased number of women parliamentarians in the 2002 elections as compared to the previous elections. Nzomo (2003:11) calls the 2002 elections 'a political watershed from the 40 years of post-colonial Kenyatta and Moi regimes under KANU'. Awareness campaigns, voter and civic education including human rights activism gave many women the urge to take a plunge in political waters to seek elective positions. While men parliamentarians were still the majority in these elections, women managed to clinch 9 positions in parliament while 8 of them were nominated.

The introduction of the Affirmative Action Bill by a member of parliament (Beth Mugo) also saw 1 more woman being nominated to parliament. This amounted to 7.1 % of women in parliament, a small percentage still which could not make a great impact as compared to the number of men parliamentarians.

Why affirmative action? In Kenya this is a proactive and positive step towards achieving gender equity in the political arena as well as in decision making organs in the country. Affirmative Action is well described by Wanyande (2003, 50) when he states that it is a 'body of policies and procedures designed to eliminate employment discrimination against women, ethnic and other minority groups with the objective of redressing past discrimination'. The affirmative action policy so introduced in the constitution witnessed an increase of women representation in parliament, for example, from 10% in 2007 to 20% in 2013. In 2007 elections, there were 207 members of parliament elected where the female candidates elected were 15. Although women had marginal presence in parliament as compared to men, their continual involvement and participation in political processes assured them hope for better gains in future.

When we examine the results of the 2013 general elections, it is possible to note that although the men still hold the majority of seats in both the parliamentary and civic positions, women registered a higher number of representatives compared to the previous years. There were 68 women in the National Assembly and 18 in the Senate, bringing a total of 86 elected and nominated women in parliament out of 416 parliamentarians. The National Assembly has 349 members while the Senate has 67 members. This means that women constitute 21% in the bicameral parliament, definitely a higher percentage compared to the previous elections, thanks to the provisions of the new Constitution (2010) where more women came in as representatives from the 47 counties as members of parliament. The expansion of nomination slots for women in political parties and the one third gender rule

as stipulated in the Constitution boosted their numbers in parliament.

However, the public domain still remains a male sphere where male ideologies reign supreme irrespective of the constitutional provisions concerning gender equality and human rights (Chapter IV of the Constitution). Most male politicians play down women positions in leadership and it is therefore possible that they may overlook even the Constitution especially on the one third gender rule.

The country also seems to be in a dilemma of sorts because if more women are nominated to parliament to satisfy the 30% clause, the move will over burden the tax payer who will have to be taxed more to cater for salaries and remuneration of this new group of politicians. This may also not be sustainable in an economy that is not expanding fast enough. On the other hand, the author believes that women should not be tied down to the 30% threshold. Who said that they cannot be represented beyond this as long as they fight it out with men and establish the right strategies using their numbers to rally behind their fellow women aspirants? At the moment, there is a bill in Parliament referred to as the Best Loser Bill (2015) which seeks to have more women in the parliament. The Bill is aimed at assisting women who lose in elections by having them nominated into parliament. The onus is on women parliamentarians to lobby for their male counterparts to pass the Bill to make it easier for women to enter parliament.

The author believes that both men and women can equally participate in politics given a level playing ground, but does not also believe that women can be assisted to achieve gender parity with men through tokenism. Although affirmative action has had a positive impact

in women political participation especially through nominations into parliament and senate, Kenyan women should not embrace tokenism. The latter can have a negative psychological impact on women political aspirants who may want to believe that in order to attain gender equality, women must be handed posts on a silver platter. This will also kill the spirit of competition and fair play.

The author also believes that women must come together to form a strong political constituency so as to address gender disparities in all spheres including politics. Unlike men, women form a critical mass that can confront the existing stereotypes by changing the mind-set of the populace especially through the few that get elected to parliament or in local assemblies. These can work hard to change the patriarchal attitudes and cultural ideologies that militate against gender equality for the benefit of all.

Conclusion

This chapter has discussed briefly the concept of gender in order to understand how it has been misunderstood by various groups especially when discussing the participation of both genders in development and politics. A discussion of the role of patriarchy and how it plays in gender politics has also been advanced so as to understand clearly how this symbolic order influences the politics of the day. The alienation of Kenyan women from politics and an overview of the election results from the advent of multi party politics to date have also been discussed including the gender dimensions at play in Kenyan politics. Following this discussion, a number of recommendations and suggestions have been outlined here below:

- Most Kenyan women live in the rural areas and this is where the vote baskets of

political aspirants are situated. Many of the aspirants, especially men, capitalize on these women because they are able to penetrate their self help groups and woo them. This being the case, women political aspirants who also have affinity to their grass root colleagues need to carry out serious campaigns while addressing gender imbalances in the political sphere. They need also to fight it out with men without waiting to be nominated into parliament or in local authorities just because they could not make it through the ballot.

- It is a fact that men do not need to form organizations to fight for their cause. However, women need these mobilization tools to inspire and support one another. The popular fallacy that 'women are their worst enemies' should not be entertained but should be viewed as a counter-development strategy which has been used over time to further discriminate and subordinate them.
- For purposes of having their presence felt in the country, elite women who are aspiring for political positions need to desist from holding most of their meetings in city or town hotels where the majority of those living in the country side cannot attend. These women will not vote for their fellow women because they have not been given civic education needed to change their mind sets or attitudes about voting for their fellow women. Even those that get elected into such positions should prove to others through their active participation in parliament, senate or county assemblies that they can fight for their rights and solve the myriad of problems they face. Although attitude change takes a long time, women will continue to vote for men if they see no tangible results that can improve their lot from women politicians.
- Although the Constitution demands the application of the 1/3 gender rule in all civic and political appointments, the implementation of this clause is proving a herculean task especially in parliament due to the fact that there were no sufficient mechanisms put in place to realize it. It seems that there will be gender imbalance in the elective offices for a while due to the bias Kenyans have on electing women. The author believes that proper mechanisms have to be put in place in future elections so that this clause is realized without taxing wananchi more to accommodate more women so as to satisfy this clause.
- Political parties need to come up with structures that can take on board gender balance in party appointments. For example, the involvement of women is minimal because the majority of these parties are male dominated. Once they embrace the principle of inclusivity, women will ultimately gain entry into the electoral and political decision making structures so that they can play their roles on an equal footing with men.
- A lot of civic education is needed in Kenya in order to change the socio-cultural attitudes of people especially when it comes to women participation in the public sphere. This chapter has hinted that culture, rural/urban barriers, lack of resources and gender stereotypes have continued to prevent women from participating in politics on an equal footing with men. It may take time to achieve gender parity in politics but ultimately, positive results will be achieved through the concerted efforts by government and institutions.
- Due to the fact that women political leaders are disadvantaged in the political power

games, they need to mobilize their fellow women in counties in order to have a common purpose. They need to educate them to elect women who can articulate their issues in the electoral offices. By so doing, they may succeed to 'decolonize' the minds of most women who have been brought up to believe that men are the ones who should be in politics and not women.

- The awareness of gender differences especially in politics among the men folk can also be achieved through education. This is an important step towards addressing gender concerns in politics and gradually accommodating women's views in the political decisions.
- In parliament, men should also take their women colleagues as partners and not objects of ridicule or subordinates as has been witnessed in previous parliaments.

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The Securitization of Global Health and the threat of Bioterrorism: Could Ebola be Weaponised?

Philip Emase

Abstract

This paper explores the risk of bioterrorism with particular reference to the Ebola virus in Africa considering the active transnational terrorist groups on the continent. Using the statist, globalist and human rights approaches, the paper examines the global right to health and notes the increasing propensity of developed nations to frame Emerging Infectious Diseases, (EIDs) as security threats and consequently focus their response on protecting their national security and economic interests from the spread of these EIDs. The 2014-2015 Ebola Crisis in West Africa illustrates the current state of the global health system with reference to EIDs. This paper considers the perils of this securitized approach to global health, which could potentially provide a slip road for terrorist groups to take advantage of the porous borders and fragile health systems to procure the Ebola virus for bioterrorist purposes in the event of another outbreak in Africa. Considering the ease with which EIDs can spread across borders in today's globalized world, the writer vouches for a collective investment in robust health care systems globally, especially in fragile countries where EID outbreaks easily get out of hand and could fall into the hands of terrorist groups. Ensuring effective public health globally would, after all, benefit all nations, and its dividends would include better health, security and enhanced trade for the entire global community.

Introduction

The accelerated pace of globalization, spurred by increased international trade and growing migration, has blurred sovereign borders more decidedly than ever before in human history. Holm and Sørensen (as cited in Lia, 2010:18) define globalization as “the intensification of economic, political, social and cultural relations across borders.” The spread of globalization has been greatly helped by both the establishment of global financial markets following the end of the Cold War, as well as the rapid technological developments that have enabled transport and telecommunications industries at the global level (p. 18). The overall outcome has been increased interplay

between domestic and foreign affairs (Katz, Kornblat, Arnold, Lief and Fischer, 2011: 504), effectively inclining states towards closer cooperation and a more peaceful coexistence in their shared determination to maintain a state of equilibrium that favours both their domestic and international prospects.

Lia (2010), however, senses a dichotomy in the outcome of globalization, arguing that it has stretched beyond its basal economic underpinnings to straddle the long established cultures of the various peoples of the world. In Lia's view, globalization has on the one hand created a global culture of sorts, while on the other stoking a backlash of countercultures as exemplified by the resurgence of Islamic

militancy and the rise of anti-globalization movements in various parts of the world (p. 19). Some of the groups at the forefront of the anti-globalization drive have adapted terrorist tactics or have gone ahead to fashion themselves into outright terrorist organizations. In his prognosis on the future of terrorism, Lia postulates that incidences of mass-casualty terrorism are likely to remain problematic because the motivations of many actors behind these terrorist groups go beyond a mere disdain for the assault of globalization on their cultures. Lia asserts that a great many of these actors are motivated systemic, multi-level and structural factors, which he summarizes as “an exclusionist and interventionist world order, weak transnational states, non-state actors in global politics, globalization of organized crime, privatization of policing and warfare, Middle East oil dependence, migration and ethnic heterogenization of Western societies, growing information interconnectedness and proliferation of deadly technologies” (Lia, 2010: 187). Lia’s perspective provides an opportunity to contemplate why the resurgence of mass-scale terrorism has become a significant consequence of globalization.

For a long time, transnational terrorism was associated with the Middle East, Europe and parts of Asia (Davis, 2010: 139). This is not to mean that terrorism is a new phenomenon in Africa. Terrorism has long existed in Africa as well, particularly during the Cold War era and its messy aftermath. Davis (2010) cites the terrorist campaigns of the various armed groups in the Eastern Democratic Republic of Congo (DRC), the warlords in post-Siad Barre Somalia, and rebel groups such as the Revolutionary United Front (RUF) in Sierra Leone and the Lord’s Resistance Army (LRA) in Uganda (p. 134). The difference is that while

terrorism in Africa was largely domestic in nature—typically meted out by armed groups on civilian populations within their home states for political or other gain—what has changed is that Africa has in recent decades come to play a central role in international terrorism (p. 133).

Lia (2010) forebodes that just as the global theatres of transnational terrorism are likely to keep changing, the trends, patterns and tools of terrorism are similarly likely to keep mutating (p. 187). The use of biological weapons is one possible trend that could emerge from the changing tactics of terror that could occur. Of critical interest is the potential use of Emerging Infectious Diseases (EIDs) such as Ebola in bioterrorism.

One might argue that the notion of organized bioterrorism is far-fetched but considering the presence of the “global health” approach adopted in the 1990s post-Cold War period, states recognized that in the newly globalized world, a consequential health situation in one country could easily impact on another state beyond its borders (Kerouedan, 2013, as cited in Ventura, 2016). The “global health” approach has been cited a lot in the face of EIDs such as HIV-AIDS, Anthrax, Influenza ‘A’ (H1N1), poliovirus, and more recently, Ebola and Zika. The easy seep of these EIDs beyond national borders has confirmed that infectious diseases pose an existential threat in the epoch of the global village.

The potential ‘weaponization’ of Ebola is of particular concern because all recorded outbreaks of the virus have occurred in African states that are geographically close to countries in which active transnational terrorist groups thrive. Secondly, despite the much-touted interlink between health and foreign policy at

the global level, many developed states respond to EID outbreaks from a national security perspective, their priority being to prevent the outbreak from leaving its region of origin. Many African states however lack the robust health facilities required to effectively contain EID outbreaks domestically, and most have porous borders that terrorist groups could easily infiltrate in attempts to obtain the Ebola virus as an addition to their terror arsenals. This article examines the possible ‘weaponization’ of Ebola by terrorists and terrorist groups and the vulnerability in the governance of global health that renders Africa unprepared for a vanguard against the possibility of Ebola bioterrorism.

Current Approaches to Global Health: Statist, Globalist and Human Rights Perspectives

Although the threat posed by EIDs has motivated the international community to develop closer cooperation on health issues at the global level, Katz et al (2011: 504) note that in practice, most developed states tend to frame global health within the context of their national security and trade interests rather than a universal priority in its own right. This framing has somewhat kept the global health agenda on the back burner, subordinate to the national security and economic interests of developed nations (Bustreo and Doebbler, 2010: 54). As such, global health is routinely perceived by foreign policy decision makers in the developed world as a luxury to be addressed only when it does not compete with other “more important” foreign policy priorities (p. 38).

Davies (2010) postulates two broad perspectives on global health within the international system, which she terms the “statist” and “globalist” approaches (p. 1170). In Davies’s theorization, the statist perspective places the state as its principal focus, and considers global health

a national security element within the state’s defence and foreign policy (p. 1170). The state only takes action on global health situations that directly affect its economic, political or military interests (pp. 1170-1171). Although such action, when taken, most often involves cooperation at the international level, the statist approach places priority on the national security of the state (pp. 1170-1171). The globalist perspective on the other hand places the health needs of the individual at its core, then, takes into account the role that various global actors and structures can play in addressing matters of global health.

Although the role of the state still remains critical in the globalist perspective, globalists perceive the state as just one among a raft of actors that may include international organizations, multinational corporations and pharmaceutical companies (pp. 1171; 1189). Davies however clarifies that both the statist and globalist approaches perceive EIDs such as HIV-AIDS, Ebola and the Zika Virus as security threats (p. 1189). The key difference between the two paradigms is that while statist tend to rationalize the protection of their citizens and interests by deliberately securitizing certain infectious diseases, globalists consider any infectious disease a problem in its own right, without considering the nationalities of the afflicted populations (p. 1189).

Bustreo and Doebbler (2010) make a cogent case for a human rights approach, which they are convinced will help compel states to make global health a foreign policy imperative (p. 47). Their argument is based on the little-discussed fact that the “right to health” is a well-established concept within international law, codified in various legally binding documents that have been ratified by most UN and WHO

member countries. The concept is explicit in both the Universal Declaration of Human Rights (UDHR) and the WHO Constitution, as well as in various other international covenants and treaties. Article 25 of the (UDHR) states that “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family...,” and further stresses that this right is particularly of avail “...in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control” (UN, 1948). The preamble to the WHO Constitution closely affirms that the “enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being” (WHO, 1946).

These two seminal documents have over time been backed by additional covenants and treaties. Among these are the International Covenant on Economic, Social and Cultural Rights (ICESCR); the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of the Child; the International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries; the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; and the Convention on the Rights of Persons with Disabilities (Bustreo and Doebbler, 2010: 50-51).

Even the most cursory study of these covenants and treaties confirms that the right to health is well established in international law. Bustreo and Doebbler (2010) further note that developed states are required, under international law, to provide the necessary resources that will ensure

the achievement of the right to health both domestically and internationally (p. 52). This obligation is hardly mentioned by politicians, diplomats and foreign policy decision makers, and individual states as such retain the discretion to decide whether or not to take action in global health emergencies (p. 50). The result is that an estimated 30 percent of the world’s population does not have access to life-saving medication (Schroeder, 2013: 205), let alone primary healthcare.

Dealing more specifically with the matter of biological weapons is the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, better known as the Biological Weapons Convention (BWC) or the Biological and Toxin Weapons Convention (BTWC). The Convention was developed and ratified in Geneva by 175 UN Member States. It was intended to be an important instrument for addressing the proliferation of weapons of mass destruction by prohibiting the “development, production, acquisition, transfer, retention, stockpiling and use of biological and toxin weapons” (UN, 1972). Despite the broad ratification of the Convention, several signatory states continued researching and producing biological agents, even as recently as the 1980s (Lim, Simpson, Kearns and Kramer, 2005: 584). Even worse, recent years have seen an increasing number of non-state (and particularly terrorist) actors attempting to obtain and offensively utilize biological weapons (Lim et al, 2005: 584).

Scholars like Bustreo and Doebbler appear to suggest that making global health a foreign policy imperative at the global level will help bring the concept of universal health care closer to reality. However, the Westphalian tradition

gives states the right to choose their courses of action (or inaction) as rational actors within the anarchical international system. A second challenge is the fact that not all sovereign states have ratified all the international agreements. For instance, the United States, Cuba and South Africa have not ratified the International Covenant on Economic, Social and Cultural Rights and as such have no obligation to fulfil its provisions (Schroeder, 2013: 207).

Who, then, is responsible for ensuring the realization of universal health care? Within the sovereignty paradigm, the provision of health services is naturally the obligation of the state. This is however not automatically possible in the case of fragile states, some of which lack the capacity to provide adequate health systems for their citizens, as was the case of Guinea, Liberia and Sierra Leone during the 2014-2015 Ebola Crisis (Harmon et al, 2015: 6). Schroeder (2013) supports the view that all governments have the obligation to ensure access to adequate health services for their citizens, but asserts that developed countries have the additional obligation of providing international assistance to less endowed countries (p. 206). Over the years, there have also been calls on Non-Governmental Organizations (NGOs), pharmaceutical companies and even the world's highly affluent minority to make a bigger contribution towards global health. Schroeder (2013) singles out and commends the immense role played by NGOs in helping the estimated ten million people who lack access to life-saving medicines, but offers a reminder that the work of health sector NGOs is a voluntary commitment rather a stringent obligation (pp. 211-212).

There have been even more intense demands on the pharmaceutical industry to commit more

resources towards global health. For instance, a 1998 editorial in the influential medical journal, *The Lancet*, asserted that while the obligation to improve access to essential medicines lies with the state, the pharmaceutical industry must share this responsibility with the state (*The Lancet*, 1998). The most explicit demand from the international community came with the adoption of the Millennium Development Goals (MDGs) in 2000. Target E of MDG 8 called on governments "in cooperation with pharmaceutical companies, [to] provide affordable essential drugs in developing countries" (Schroeder, 2013: 212-213). Even though the private sector was generally mentioned in several other MDGs, only the pharmaceutical industry was called upon in such explicit manner (p. 213). Proponents of a broader obligation for the pharmaceuticals, such as Pogge (2001), argue that the existing international intellectual property rights structure favours the interests of the pharmaceutical industry and the affluent over those of the poor majority (2001: 14). Pogge further postulates that most citizens of developing countries are often disadvantaged right from birth, and have to endure an oppressive life under the rule of governments that are more inclined towards satisfying the interests of powerful foreign agents [such as the pharmaceutical companies and the affluent] (Pogge, 2001, p. 14).

But while the pharmaceutical industry plays an important role in innovating, developing and producing drugs and services that improve the quality of human life (Schroeder (2013: 212), their fundamental profit orientation and the dictates of the free market easily offer them the wherewithal to sidestep this suggested obligation, especially in fragile countries with a low-profit potential. Neither would it be

reasonable to count on affluent people to help the less fortunate access the health care they require. Schroeder (2013) points out that the contribution of the affluent is more contingent on beneficence than obligation (pp. 208 - 210).

The foregoing discussion reveals a gap in the commitment of the international community to the provision of robust health care at the global level. This gap, which may appear benign, actually increases the prospect of EID outbreaks getting out of control, or even worse, being used as tools of bioterrorism.

Ebola, Globalization and the Threat of Bioterrorism

Ryan (2008) describes bioterrorism as the calculated release of any biological organism, virus, substance or product with the intention of causing death, disease or other biological malfunction in humans, animals, plants or other living things, in most cases for political or other ends (Ryan, 2008: 276-277). Although various forms of biological arsenal have been utilized in human warfare for millennia, Ryan asserts that only a few infectious pathogens are easy for present-day terrorists to procure and disperse and these include zoonoses such as the Ebola virus (p. 276).

It is unfortunate that the likelihood of bioterrorism has largely been downplayed in contemporary world politics and international security (Henderson, 1998: 488). There was some considerable attention towards the possibility of bio-terrorist attack focusing mainly on anthrax and smallpox following the September 11, 2001, attacks by Al Qaeda on the U.S. (p. 489), but the prevailing belief has been that the chances of such an attack are low. Maras and Miranda (2016) caution against this line of thought, reminding the world of the existence of

states and non-state actors that would be willing to inflict mass devastation using biological, chemical, nuclear and radiological weapons (p. 73). A few fairly recent events provide a palpable reminder of the potential scale of devastation that biological weapons could inflict if the world remained unprepared for the possible threat of bioterrorism. One occurred at a Soviet bioweapons facility in 1979, when the accidental release of anthrax in aerosol form led to 66 deaths according to official reports (Henderson, 1998: 491). In 1995, Iraq admitted to having produced and deployed weapons containing anthrax and *botulinum toxin* during the Gulf War (p. 488). That same year (1995), the Japanese religious doomsday cult, Aum Shinrikyo, released Sarin nerve gas onto a Tokyo subway, leading to the death of 12 people (Tucker, 1999: 498). Subsequent investigations revealed that the cult had elaborate plans to develop weapons for bioterrorism in their laboratory, even making a mission to the DRC in 1992, in search of samples of the Ebola virus for use in the development of a bioterrorism weapon (Henderson, 1998: 488).

Ebola is a severe, often fatal viral illness that develops rapidly, on average taking anywhere between 2 and 21 days between infection and the manifestation of symptoms (WHO, 2016). The virus was first identified in two simultaneous outbreaks that occurred in 1976, one at a village near the Ebola River in the DRC (then the Republic of Zaire) and the other one across the border in what is now Nzara, South Sudan (then part of the Republic of Sudan) (WHO, 2016). Since then, scientists have identified five sub-species of the Ebola virus. These are the *Bundibugyo ebolavirus*, the *Reston ebolavirus*, the *Sudan ebolavirus*, the *Tai Forest ebolavirus* and the *Zaire ebolavirus* (Passi, Sharma, Dutta, Dudeja and Sharma, 2015). Each of these five

species has its own pathogenic characteristics, and they differ in their scale of impact in terms of human infection and mortality rates (Maras and Miranda, 2016: 72). Of the five subspecies, the *Zaire ebolavirus* is the most aggressive (Passi et al, 2016: 1). Deaths from Ebola infection average about 50 percent (WHO, 2016), although fatalities as high as 90 percent have been recorded in past outbreaks of the *Zaire ebolavirus* (Passi et al, 2016: 1).

The Ebola virus can be contracted through contact with fruit bats of the *Pteropodidae* family, believed to be natural carriers of the virus (WHO, 2016). The primary leap to human beings is believed to occur through contact with infected fruit bats; contact with infected apes; and consumption of “bush meat” from infected wild game (WHO, 2016). Direct human-to-human transmission of Ebola can occur through sexual contact or other direct contact with bodily fluids of an infected person, but Ebola is also easily contracted from surfaces and materials such as clothes and beddings used by infected persons (WHO, 2016).

The first diagnosis of Ebola in the 2014-2015 out-break in West Africa was that of a two-year-old boy in Meliandou, a small village in Guinea, in December 2013 (Saéz et al, 2014: 18). Epidemiologists suggest that the virus emanated from fruit bats mentioned above in a single zoonotic transmission event to the boy (Saéz et al, 2014: 18). From this small village in Guinea, the virus subsequently spread, mainly through human-to-human transmission, across land borders to Sierra Leone and Liberia (WHO, 2016) and additionally infected 19 Nigerian nationals, seven Malians, four Americans, one Senegalese, one Spaniard, one Briton and one Italian (CDC, 2016). Within the course of one year, there were 17,145 cases and

6,070 deaths as of December 2014 (Saéz et al, 2014). Alarmed at the rapidity of transmission and the high mortality rate, health experts warned of the real possibility of the Ebola virus spreading throughout the world before an effective vaccine, treatment, or cure could be developed and distributed widely enough to contain it (Saxena and Gomes, 2016: 96).

It is worth noting that all recorded outbreaks of the Ebola virus have occurred close to African countries where active transnational terrorist groups operate. In West Africa, Boko Haram, a militant Islamist group from Nigeria, declared allegiance to the Islamic State in Iraq and the Levant (variously referred to as ISIL, ISIS or Daesh), joining the existing militant groups from Egypt, Libya, Algeria, Morocco and Tunisia that had already previously pledged allegiance to ISIL. Initially formed in opposition to Western education and culture in Northern Nigeria, Boko Haram has now become a threat to the national security of Cameroon, Chad and Niger (Ewi, 2015). ISIL has embraced Boko Haram and declared that its ambitions to create a caliphate will now include a Western Africa province (Ewi, 2015). In addition to Boko Haram, there is also al-Qaeda in the Islamic Maghreb (AQIM) and Al-Murabitun in North Africa, as well as the Al-Qaeda-affiliated Somali militant group, Al Shabaab, in Eastern Africa (Maras and Miranda, 2016: 74). It appears quite possible that such groups such as Boko Haram, al-Qaeda in the Islamic Maghreb (AQIM), Al-Murabitun and Al Shabaab could attempt to obtain and use the Ebola virus from these regions as a tool of bioterrorism (Maras and Miranda, 2016: 74).

According to Henderson, the detection and prevention of bio-terrorist attack would be quite difficult, considering the ready availability of

recipes for biological weapons online and the easy interconnectedness provided by social media and the internet in general (Henderson, 1998: 489). Recognizing the reality of the threat, Henderson contends that the first line of defence against any bio-terrorist attack would be health workers in hospital emergency rooms (p. 489). Given that all African countries that have suffered outbreaks of the Ebola virus are fragile and have weak public health facilities, the looming question is whether the world is ready to contain an Ebola bio-terrorist attack were it to occur on a mass scale. More important is the willingness of developed countries in preventing EID outbreaks from leaving their regions of origin. This was the case during the 2014-2015 Ebola Outbreak in West Africa, which is discussed in greater detail in the next section.

The Securitized Response to the 2014-2015 Ebola Crisis in West Africa

The 2014-2015 out-break was the largest and most intricate in the history of the Ebola virus (Laverack and Manoncourt, 2015: 1). It claimed an estimated 11,310 lives out of the 28,616 recorded infections (CDC, 2016; WHO, 2016), exposing both the frailty of the global health system and the indifference of developed nations to the health plight of the citizens of developing countries (Harmon, Gostin, Grant, Gillies and Laurie, 2015: 17). Ventura (2016) argues that the Ebola crisis in West Africa demonstrated a new trend towards the securitization of international responses to health emergencies, a pattern she also observed in the 2016 Zika virus outbreak in the Americas and the Pacific. (p. 1). In both the Ebola and Zika out-breaks, Ventura (2016) notes that they were socially constructed as security threats (p. 1). Bustreo and Doebbler (2010) argue that framing health emergencies through the

security lens inevitably shifts the focus towards halting the spread of the EID as an immediate threat, rather than addressing the presence and danger of long-existing diseases that afflict people in developing countries which impedes the improvement of global health on a broader scale (p. 48). This was certainly the case in the 2014-2015 Ebola crisis in West Africa.

The international community was slow to respond to the Ebola outbreak in West Africa, and when it eventually did respond, the priority was to contain the epidemic within the three countries it was already ravaging, rather than to accelerate the search for long-term solutions (Harmon et al, 2015: 6). Initial response to the Ebola outbreak was left to the national governments of Guinea, Liberia and Sierra Leone and to NGOs (Laverack and Manoncourt, 2015: 2). Working in concert with a number of NGOs, the three states, all of which had fragile and outstretched health care systems, could only muster a feeble response that allowed the outbreak to metamorphose into a much larger threat with global implications.

The international community's response only gained steam after several American medical workers contracted Ebola (Friedman, 2014). By the time the World Health Organization declared the Ebola outbreak a Public Health Emergency of International Concern (PHEIC) in August 2015 and over 3,000 cases had been confirmed in Guinea, Liberia and Sierra Leone (Ventura, 2016). Moreover, the rationale for the declaration of a PHEIC does not favour developing countries with weak health systems, such as the three most affected. The severity of a disease or level of fatalities it inflicts does not determine the declaration of a PHEIC; instead it is the potential international scope of its reach that determines whether a PHEIC can be declared (Ventura, 2016: 2).

Despite declaring Ebola a PHEIC, numerous

challenges faced the WHO's response strategy. In September 2014, UN Secretary-General declared the Ebola outbreak a threat to world peace and security, and with the endorsement of the UN Security Council and the General Assembly, announced the creation of a UN Mission for Ebola Emergency Response (UNMEER), the first-ever emergency health mission since the formation of the UN in 1945 (Ventura, 2016: 1). The creation of UNMEER sidelined the WHO and weakened its fundamental leadership role in health matters within the UN system (Harmon et al, 2015: 7). This attrition of the WHO's leadership in turn undermined the established practice of multilateralism, paving the way for the subsequent unilateral efforts by the United States and other global powers that were keener to respond to Ebola as a security threat (Ventura, 2016: 1). Secondly, the WHO needed to bring key stakeholders to an agreement, and these include WHO member states, the pharmaceutical industry and willing participants in public-private partnerships to invest in the expedited development of Ebola drugs and vaccines (Saxena and Gomes, 2016: 96). The task of carrying out emergency medical research and clinical trials in the midst of an epidemic appeared doomed right from the beginning, considering that Ebola was already ravaging countries with no experience of conducting clinical trials (p. 97).

It appears from the foregoing that the priority for the developed nations was to prevent Ebola from leaving its epicentres, without regard for the concept of the right to health. Guided by the securitization of the Ebola outbreak, the developed nations found little attraction in confronting the causes of Ebola and other EIDs or in addressing the social determinants, high poverty levels and inequalities that exacerbate

these impediments to universal access to health (Ventura, 2016). The securitization of the 2014-2015 Ebola crisis in West Africa was perhaps best illustrated by the selective policy of evacuating health workers and Ebola patients, favouring those from developed nations and neglecting their West African colleagues. Health workers came from many different countries to work alongside local health workers on the frontline of the Ebola response in the three afflicted countries. Over 900 of these health care workers contracted Ebola, a majority of them Africans (World Bank, 2015). Western health workers who contracted Ebola were quickly evacuated to treatment facilities in Europe or the US, where they received treatment using innovative methods and experimental drugs such as ZMapp (Saxena and Gomes, 2016: 96).

Out of the seven reported Ebola infections among Western nationals (four Americans, and one case each in Spain, Italy and the United Kingdom), only one death occurred, yet these cases were given more prominence than the 11,316 deaths that occurred to indigenous Africans (Ventura, 2016: 2). Despite decades of lofty rhetoric on the international stage about the universality of human rights, which includes the right to health, infected health workers and citizens from Guinea, Liberia and Sierra Leone had no such lifeline (Friedman, 2014). Hundreds of West African healthcare workers who contracted Ebola were not evacuated, leading to a 57 percent fatality rate among them (WHO, 2016). The three countries, all of which had some of the lowest doctor-to-patient ratios in the world even before the Ebola Outbreak, lost about 50 percent of their doctors and nurses on the Ebola frontline (Harmon et al, 2015: 8-9). Although it is understandable that the WHO may not have had the capacity to evacuate every health worker that contracted Ebola,

ethicists have criticized the organization's selective willingness to evacuate foreign health workers (St. Fleur, 2014).

In Sierra Leone, the government's appeal for the evacuation of two infected doctors was turned down by the WHO on the grounds that it was the responsibility of employers to evacuate their infected health workers (St. Fleur, 2014). Indeed, the only two Africans evacuated from Sierra Leone were a Senegalese expert working for the WHO and a Ugandan doctor employed by an Italian NGO (Friedman, 2014). A prominent case in point involved an attempted intervention by Sierra Leone's president to secure the evacuation of Dr. Olivet Buck, one of the country's eminent doctors for treatment in Germany (Friedman, 2014). Worried about the continuing decimation of his country's small team of only 136 doctors for an estimated population of six million (BBC, 2014), President Ernest Bai Koroma wrote to the WHO, seeking help for Dr. Buck's medical evacuation (St. Fleur, 2014). Lack of funding was often cited as the reason for the non-evacuation of West African health workers, but even President Koroma's assurance that his government was going to pay the \$70,000 required for Dr. Buck's evacuation to Germany fell on deaf ears. (St. Fleur, 2014).

The WHO firmly declined the president's request and Dr. Buck passed away (Friedman, 2014). For Friedman (2014), this selective evaluation of health workers from developing countries was reminiscent of the 1994 Rwandan Genocide against the Tutsi, which saw Westerners evacuated and local co-workers and friends left behind to face the prospect of death.

The Potential Weaponization of

Ebola

From the preceding sections of this article, it appears apparent that globalization has inadvertently made the threat of bioterrorism an increasing reality. Ebola stands out as one of the easier EIDs to be weaponized because of its high fatality rate, lack of a cure, ease of misdiagnosis and propensity to occur in parts of the world that have weak health facilities and inadequate numbers of trained healthcare workers (Maras and Miranda, 2016: 72). As mentioned above, *Zaire ebolavirus* is the most aggressive of the five subspecies and its mortality rates can go up to 90% (Passi et al, 2016: 1). Incidentally, it is samples of the deadly *Zaire ebolavirus* that the Japanese religious-based terrorist group, Aum Shinrikyo, was searching for during its 1992 mission to the DRC. This can be massively devastating if deliberately unleashed on a large civilian population anywhere in the world. Maras and Miranda (2016) opine that human munition is a possible strategy that terrorist groups could use to procure and use the Ebola virus for bioterrorism (p. 75). One way would be to involve deliberate self-infection by individual terrorists, who would then be dispatched to various target destinations of mass infection (p. 75).

Airport screening measures adopted worldwide during the 2014-2015 West African Ebola outbreak were largely ineffective. They simply involved taking passenger temperatures, looking out for flu-like symptoms and asking passengers to fill out questionnaires requiring them to indicate if they had had any contact with infected persons or materials (p. 77). Such screening measures are ineffective because of Ebola's lengthy incubation period which is 8-10 days on average but can at times vary between 2-21 days (Passi et al, 2015: 4)

before symptoms become manifest. It is also possible that a passenger may not be aware that they had had contact with an infected person, or may simply fail to respond truthfully to the questionnaire (Maras and Miranda, 2016: 76). This lengthy incubation period can allow terrorists to travel to distant parts of the world without any detectable symptoms of infection. Moreover, the primary symptoms of Ebola resemble those experienced by people with the common cold, flu, or stomach virus (p. 75). An Ebola terrorist would therefore not stand out and could easily melt into the crowd anywhere, unlike, for instance, a smallpox terrorist who would show more visible symptoms such as the characteristic maculopapular rash on the skin (p. 75). It would as such be easy for the Ebola terrorist to reach their destination undetected, and deliberately get into close contact with unsuspecting people, thus further spreading the virus. The result would almost certainly be a rapid massive outbreak among the general population (pp. 75-76).

Such a scenario becomes real when one pauses to consider the large number of Western citizens who are getting radicalized and are leaving their home countries to join ISIS and other terrorist groups. According to an October 2015 UN report, an estimated 30,000 radicalized foreign fighters from over 100 countries had travelled to join ISIS (UN, 2015). These foreign fighters could form a formidable pool of recruits for human munition. In the event of another Ebola outbreak in a fragile African country, they could gain easy access to the outbreak zones as volunteers or aid workers. Their citizenship status gives them unfettered access to their home countries, where they could return either as human munition agents or as evacuated staff. Those who choose the human munition route could spread the virus in public places,

while those evacuated could use other methods such as infected vials to transmit Ebola to unsuspecting healthcare providers in their home countries, who would then unknowingly spread the infection to the wider population.

Conclusion

As globalization continues to entrench itself with a particular emphasis on international trade and migration, global health becomes an important aspect of any country's foreign policy. Although health diplomacy will for a long time remain common practice between developed and developing nations, discriminative practices of international bodies such as the WHO and UN may dent the cooperation between and among states. The right to health, although well-founded in international law, is however unlikely to be pursued with the altruism it demands, for the most part due to the attendant economic and national security priorities of the developed nations. This suggests that global health will continue to hold a subordinate role to the national security and economic priorities of sovereign states. It has been argued that the public health system can only be a truly effective vanguard against bioterrorism if it works closely with the authorities responsible for defence and law enforcement (Garrett, 2001: 88-89). Garrett however avers that this close association between public health and national security might hurt the credibility of public health (88-89). This is essentially what has been manifested in the securitization of global health, which seems self-defeatist.

One outright risk of the securitized approach is the possibility of the weaponisation of EIDs by terrorist groups. The 2014-2015 Ebola crisis in West Africa exposed the emptiness of the concept of global health in practice. The securitization of EIDs is essentially a fire-fighting approach

that yields temporary solutions to outbreaks and epidemics as they occur. The adoption of systemic changes for better preparedness on the global level would be more effectual in the long run. The experience of the West African Ebola crisis offers an opportunity for the international community to live up to its human rights obligations in the crucial area of global health. The potential speed with which emerging infections can spread in today's global village costs human lives, affects travel and interrupts trade between interdependent economies (Katz et al, 2011: 504). Even more urgently, it exposes the world to the potential threat of bioterrorism if deadly EIDs such as Ebola fall into the hands of terrorist groups.

The current situation calls for a fresh look at the state of public health globally. Harmon et al (2015) suggest three essential elements for a robust, universal health care system, namely access to essential medicines, the services of a doctor and primary medical care (p. 6). The centre-piece of such an approach would be to tackle inequalities and to strive to raise the health security standards of populations in the developing world. On the EID detection level, Ryan (2008) vouches for closer collaboration between human and veterinary medicine scientists and practitioners, in recognition of the fact that zoonoses such as Ebola are the easiest EIDs for bioterrorists to acquire and use (p. 281). The Ebola crisis, therefore, offers a turning point in terms of the lessons it provided by drawing attention to the tendency of developed nations to either be indifferent towards, or to securitize outbreaks of EIDs when they have already arrived at their doorsteps, as well as the slow response of global actors like the WHO, UN and the World Bank.

Failure to reform the global health system will leave the world susceptible to the possible

growth of bioterrorism. It is critical for global actors led by the UN, WHO and developed countries to collectively develop a universal health care system that directly addresses the socioeconomic and contextual factors behind health outbreaks across the world. This is more so in fragile countries where such outbreaks may easily get out of hand and where porous borders could allow easy infiltration by terrorist groups in search of EIDs such as the Ebola virus for purposes of bioterrorism. It is, after all, in the best interest of all nations, both developed and developing, to have a robust global health system. This is because the dividends of universal health care would include enhanced trade, better health and reduced threat of bioterrorism for the entire global community.

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