The HORN Bulletin is a bi-monthly publication by the HORN Institute. It contains thematic articles mainly on issues affecting the Horn of Africa region.

About the HORN Institute

The HORN International Institute for Strategic Studies is an independent, applied research and policy think tank based in Nairobi (Kenya). Its mission is to contribute to informed, objective, home-grown, definitive research and analytical inquiry that shape national, regional, and international policies, primarily in the greater Horn of Africa region. Its vision is a progressive Horn of Africa region served by informed, objective, and domestically produced, evidence-based policy research and analysis that positively inform scholarship, policy, and practice, regionally and globally.

The East African Community and Threats to Peace: Tensions between Common Purpose and Collective Responses

By Kisiangani Emmanuel, Ph.D

Abstract

The East African region suffers from a range of debilitating threats to peace and security. The regional body, the East African Community (EAC), cognizant of the implication of these threats to the economic growth and development of member states, has set up an institutional framework to coordinate collective responses. However, when compared to the primacy placed on aspects of economic integration, the EAC seems unable or unwilling to translate its peace and security principles and policy frameworks into practical action. This article examines the EAC's institutional framework governing responses to threats to peace and security and questions why the regional body is slow at institutionalizing and operationalizing collective responses. Ultimately, the article argues that for the EAC to fashion viable solutions to the many threats to peace and security in its backyard, it needs to be more proactive in promoting political processes and political values that transcend narrow state centric interests.

Introduction

The East African region and its neighborhood have, for some time now, witnessed insidious and protracted conflicts. From the Civil War in Rwanda (1990-1993) to the ongoing conflicts in South Sudan, the region has consistently transitioned from one conflict to another. This

(L-R) Kenyan President Kenyatta, Ugandan President Museveni, Tanzanian President Magufuli, and Rwandan President Kagame during the 17th Summit of the EAC in Arusha in 2016

has not only undermined prospects for economic growth and development, but also challenged the capacity and resolve of regional groupings to act collectively.

One such regional grouping is the East African Community (EAC). Charged with the responsibility of widening and deepening co-operation among the member states, this regional intergovernmental organization of the Republics of Burundi, Kenya, Rwanda, Uganda, the United Republic of Tanzania, and the newest entrant, the Republic of South Sudan, identifies peace and security as prerequisites for the success of its integration project (Kiraso, 2009). The question is, why is the EAC slow or unable to fashion viable solutions to the many threats to peace and security in its backyard? Is it because peace and security issues operate in a "high" political environment?

This article examines the EAC's range of instruments and mechanisms for dealing with threats to peace and security. Given that peace and security threats in the East African region are diverse including cross-border crimes, such as auto theft, drug trafficking, money laundering, among others, this article limits itself to those threats that test the collective political resolve of the EAC member states. The aim is to bring out the current tensions between the EAC's expression of a common sense of identity and purpose and challenges to collective action that undermine the process of regionalism in East Africa.

Combining both explanatory and analytical approaches, the article maintains that the EAC needs to be more proactive in promoting regionalism, through solid political processes, and shared political values that transcend the prevailing traditional nationalistic and politico-military interests and approaches to dealing with threats to peace and security.

The EAC and Peace and Security Threats in Context

The Eastern African region has, over the last three decades, largely remained unstable. From the civil war (1990-1993) and genocide (1994) in Rwanda, civil war in Burundi (1993-2005) and political instability in the same country, the Lord's Resistance Army insurgency in Uganda (mid-1980s), post-election related violence in Kenya (2007-2008), and the protracted conflicts in South Sudan, the region seems to intermittently move from one conflict to another, with the exception of the United Republic of Tanzania, that has shown a veneer of stability. Even so, Tanzania has not escaped political and religious tensions emanating from the political union between mainland Tanzania and semi-autonomous Zanzibar.

Significantly, too, the EAC borders an unstable neighbourhood with countries such as Somalia and the Democratic Republic of Congo (DRC) being affected by armed conflicts that spill over into the regional member

states (EAC). A number of EAC's zones of armed conflict and instability, such as northern parts of Kenya and Uganda, are located near border areas thereby extending their effect and featuring strong cross-border drivers, interests, and actors (USAID, 2012).

In terms of patterns of conflicts in the region, the diversity of socio-economic and political contexts of EAC member states and their neighbours make it difficult to generalize, but broadly, several trends are apparent. For instance, on a scale of authoritarianism on the one hand and democracy on the other, the governance patterns of most countries across the region fall in between the two extremes. Most governments in the region reflect 'elected dictatorships' practicing a semblance of democracy by holding regular elections but retaining an overbearing state with a high concentration of power within the executive and countenancing little or no checks. The stakes over the control of power thereby become very high, contributing to intense political rivalry. What this means is that most countries in the region are at high risk of becoming caught in a conflict trap because governments are preoccupied with promoting regime security rather than human security. The upshot of this is that political competition in much of the East Africa often translates into violence as those in power use coercion and intimidation to perpetuate their stay in office.

In fact, most of the armed conflicts across the region are fuelled largely by frustration over limited economic opportunities and politics of exclusion. Due to politics of marginalization, recruits for armed violence are often readily available and their grievances are easily tapped into and manipulated by political elites. The East African region has endured many internal armed conflicts over the past decades to the extent that some of these conflicts continue, today, to engender unresolved historical animosities.

The Development Assistance Committee of the Organisation for Economic Cooperation and Development (OECD/DAC), in its Fragile States 2013 report, classified four of the five EAC countries (all but Tanzania) as fragile (OECD/DAC, 2013). The report notes that fragile states lack the ability to develop mutually constructive relations with society. They are more susceptible to instability and are at high risk of being caught in a conflict trap because their governments have weak capacities to carry out governance functions. This undermines development which in turn increases the risk of further conflict. The protracted nature of armed conflicts in places such as Somalia, South Sudan, and DRC has created systems of adaptation and entrenched economies, and interests, which in turn reinforce instability. This includes the rise of war economies in which powerful interests seek to perpetuate conditions of lawlessness and violence. Thus the initial causes of armed conflict in East Africa have not always been the same as the factors that perpetuate them (OECD/DAC, 2013). Overall, poor governance in Eastern Africa is largely behind the eruption of armed conflict and instability. The situation is compounded by ungoverned spaces and the emergence of violent extremism.

For a region that is burdened by the above peace and security challenges, it is troubling that the EAC continues to struggle with the slow levels of institutionalization of collective responses to threats to peace and security. Clearly, the EAC has made more progress and placed more premium on developing and implementing economic integration measures, for instance, by consolidating a Customs Union and currently setting up a Common Market, as compared to promoting collective mechanisms for dealing with threats to peace and security. Compared to, for instance, the Economic Community of Western African States (ECOWAS), which has undertaken various military and non-military initiatives to promote peace and security in member states (Elowson & Macdermott, 2010) the EAC's efforts has been quite nominal.

EAC's Emerging Peace and Security Architecture

The East African region has had a history of co-operation in the areas of trade and economic development dating back to pre-independence. The peace and security agenda, however, has been more evident from the late 1990s following the re-establishment of the EAC after the initial regional grouping collapsed in 1977 due to personality differences between its leadership and failure to reconcile divergences in national interests, a challenge

---

The East African region has endured many internal armed conflicts over the past decades to the extent that some of these conflicts continue, today, to engender unresolved historical animosities

It is important to reiterate that the EAC Peace and Security Protocol has not come into force because it has not been ratified and deposited with the Secretary General by all the member states as per Article 20 of the Protocol

that the organisation has to occasionally deal with today.

The current EAC's Charter contains provisions that specifically empower it to deal with threats to regional peace and security including armed violence. Many chapters of its treaty elaborate on this mandate. This includes Chapter 23 of the Treaty which details the measures necessary to promote successful regionalism, by facilitating a predictable and enabling security environment. Article 5 (3) of the Treaty further mandates the EAC to engage in peace and security issues and stipulates the promotion of political stability within, and good neighbourliness among the Partner States as one of the objectives of the Community. Article 124 of the Treaty recognises the need for peace and security within the East African States and underlines the close linkage between peace and security and social and economic development, and ultimately with the achievement of the objectives of the Community

In terms of policy framework, the EAC has a range of mechanisms and instruments to deal with threats to peace and security. Essential to the EAC's peace and security agenda, is the Strategy on Regional Peace and Security adopted at the 13th Council of Ministers meeting held in November 2006, and the EAC's Peace and Security Protocol signed by the Council of ministers on February 15, 2013 in Dar es Salaam, Tanzania. The two instruments detail a number of areas for collective action and underline possibilities for harmonized regional approaches to dealing with threats to peace and security. The Regional Strategy on Peace and Security (hereafter the Strategy) operationalizes Articles 123 and 124 of the EAC Charter by anchoring Peace and Security Sector activities in the EAC cooperation arrangements. Among the priority areas it outlines include police matters, conflict resolution, refugees and internally displaced people, drug trafficking, Small Arms and Light Weapons (SALW), Resource based conflict and Terrorism and Piracy.

To accommodate a broader and coordinated approach to regional peace and security, the EAC initiated mechanisms for the establishment of a Peace and Security Protocol, which was signed by the Council of Ministers on February 15, 2013. The Protocol, approximated to the continental peace and security architecture, identifies about 20 objectives for fostering regional peace and security. These include Conflict Prevention, Management and Resolution (CPMR), combating terrorism and piracy, peace support operations, prevention of genocide, disaster management and crisis response, management of refugees, control of proliferation of small arms and light weapons and combating transnational and cross border crime, among others. The CPMR is, in particular, important as it is informed by the African Union's requirement that Regional Intergovernmental Organisations support the Continental Peace and Security Architecture by establishing CPMR's. The EAC's CPMR is made up of the Panel of the Eminent Persons, and also includes provisions for Mediation and Conciliation; Conflict Resolution; Peace Support Operations and Humanitarian Assistance; Post Conflict Reconstruction and Development and an EAC Peace Fund.

It is important to reiterate that the EAC Peace and Security Protocol has not come into force because it has not been ratified and deposited with the Secretary General by all the member states as per Article 20 of the Protocol. As of May 2017, the Protocol had only been ratified by Rwanda and Uganda (Karuhanga, 2017).

On the whole, while the Regional Strategy on Peace and Security and Peace and Security Protocol offer opportunities for cooperation and collective responses, the EAC member states have, in practice, been slow at institutionalizing and operationalizing collective responses to threats to peace and security in the region. As will be demonstrated in the next section, the EAC's influence on issues of peace, security and political stability in the region reflects at best tokenism with most of the current threats to peace including the current phenomena of violent extremism being handled by external actors and individual partner states.

EAC and Collective Responses: Prospects and Challenges

For the most part, the EAC is slowly developing an infrastructure to manage conflicts and deal with threats to peace and security. This constitutes a window of opportunity and a platform for more collective and effective approaches. The emerging EAC peace and

Demonstrators and army soldiers confront each other in the Cibitoke district of the capital Bujumbura, Burundi on May 22, 2015. Photo Credit: AP

security architecture promises a lot in dealing with conflicts and threats to peace and security. With the body being one of the building blocks to the African Peace and Security Architecture, EAC's initiative to build a regional peace and security architecture is, in principle, commendable, not only because of the essence of recognizing threats to stability in the region, but also for contributing to the search for collective solutions. David Mitrany, in one of the earliest essays on regional integration, observes that a key challenge to bringing about international peace and cooperation "is not how to keep nations peacefully apart but how to bring them actively together (Mitrany, 1943 & Mitrany, 1966). Mitrany (1943) was illustrating conditions, which, in his view, would lead to the avoidance of armed conflicts in the international system. To him, peace can only be brought about when states do things together rather than protecting only their internal peace.

The EAC has on a few occasions demonstrated a desire for collective action against threats to peace and security. For instance, in April 1998, even before the actual signing of the EAC Treaty, the EAC partner states Kenya, Uganda and Tanzania, working under the aegis of the Permanent Tripartite Commission, signed a Memorandum of Understanding on Co-operation in Defence. Additionally, in an effort to demonstrate joint rapid and proactive response to threats to peace and security, organized a joint training exercise, code-named

Natural Fire, in the desert terrain of Northern Kenya. The one-month exercise was undertaken with the support of the United States Army and involved 1,500 soldiers from the three countries. On October 18, 1998, an EAC Summit on the security situation in the DRC took place in Nairobi. The summit agreed to support the Southern Africa Development Community (SADC)'s efforts that were already under way in partnership with the United Nations and the then Organisation of African Unity (OAU) (International Crisis Group, 1999).

The EAC has, as outlined above, established various mechanisms on peace and security and held a number of meetings, *inter alia* to exchange information on common responses to issues of refugees, peacekeeping operations, counterterrorism and military level participation in disaster response. For some time now, the EAC has been working on providing a legal domicile pursuant to giving form to the various peace and security goals.

Despite the above attempts, there is room for the EAC to do more. The EAC's efforts in peace and security stands in sharp contrast to the notable EAC successes in economic integration. There is no doubt that significant parts of the East African region are, today, relatively stable and peaceful but some parts and at least the EAC's neighborhood continue to suffer from chronic instability. There have been cumulative incidents of violent

extremism, compounded by conflicts in South Sudan, Somalia, and eastern DRC plus inter-communal pastoral conflicts in Kenya and Uganda, all which continue to undermine the region's economic prosperity and political stability. Under such circumstances, regional bodies such as the EAC can ill-afford to ignore cases of armed violence including in neighboring countries. The fact that most conflicts in the region have had consequences on other regional states, underscores the need to exploit the regional institutional mechanisms to deal with them. Oloo (2016) underscores this dimension noting that, in addition to its own insecurity, the EAC is affected by different stratifications of conflict including the Horn of Africa, the Great Lakes, and the East African Community states conflict systems – all which affect the EAC partner states. It is for this reason that the EAC has established cooperative agreements with other organizations in the region that have a peace and security mandate. These cooperative arrangements include the Memoranda of Understanding (MoU) with the African Union (AU) and the International Conference on the Great Lakes Region (ICGLR) to promote peace and security, democracy and good governance. In fact, some of the EAC partner states such as Uganda, Kenya and Rwanda have, too, been involved in external conflicts such as South Sudan (before it joined the EAC), the DRC and Somalia.

It is in on the context of both internal and external threats to peace, especially involving armed violence that the EAC has attempted to strengthen collective action towards regional stability. The problem however, is the lack of genuine commitment to peace and security cooperation, which has seen the EAC develop a range of instruments but organisationally remained weak and unable to apply its own instruments and policy frameworks.

From my conversations while at the EAC Headquarters in 2015, a running theme on why the EAC has been slow on the operationalization of rapid response mechanisms was the absence of a stable and consensual regional power to provide leadership. The absence of a sub-regional hegemon in East Africa, as is the case with Southern African Development Community (SADC) and the Economic Community of West African States (ECOWAS), which have South Africa and Nigeria respectively, has undermined collective responses to threats to peace and security. The view is that these anchor or hegemonic states can single-handedly support and drive peace and security initiatives including military interventions to create conditions for peace (Siebert, 2008). The fact that no single state in the EAC can command undivided hegemonic leverage, both through hard and soft powers, over the rest of the region, gives EAC partner states a disincentive for greater cooperation among themselves.

President Kaguta Museveni of Uganda addressing the Heads of State summit on February 2018.

The EAC also suffers from structural weakness at the Secretariat in that it has no executive powers to enforce policy directives and decisions. In addition, the peace and security sectors at the EAC suffer from inadequate staffing and financial constraints impede the implementation of programs. One EAC official told me that worthy peace and security instruments such as the Peace Facility had no funding at all.

There is also the question of overlapping mandates of regional groupings such as the EAC, SADC and COMESA, which weakens the ability of states in sub-regions to pull together their resources in building up relevant security institutions. It also causes potentially conflicting political commitments as evident in the diplomatic tensions between Tanzania and Rwanda, from May 2013-2014. This followed accusations over the latter's alleged backing of rebels in eastern Democratic Republic of Congo. The situation degenerated into a war of words between officials of the two EAC partner states to the extent of Tanzania expelling thousands of Rwandan refugees who were referred to as "illegal immigrants," in a move that was viewed by the Rwanda government as politically motivated. Tanzania even ended up siding with South Africa, a SADC partner to intervene in East DRC against rebels that some have alleged are backed by Rwanda. The two countries, have however, been mending relations in the recent past after almost two years of a cold war between the neighbours, which was threatening to undermine the EAC's regional integration.

Instructively, regional peace and security initiatives by EAC partner states seem to privilege short-term actions that reflect state security interests and largely focus on protecting political regimes. This has contributed to regional conflict complexes in places such as the DRC and South Sudan, where security interests of neighboring states are tied together by cross border linkages. The two contexts have witnessed regional interventionists where militaries from neighboring countries are deployed, sometimes, in pursuit of economic interests. The impact of regional armed interventionism has been varied—in some cases, it has worsened insecurity and armed violence, in other cases it has reduced it. It is, however, this context of national posturing and maneuvering that has made the need for an overarching regional security approach necessary.

On paper, the EAC is a strong regional organization with an extensive framework for responding to threats to peace and security. The body has, however, remained

> The impact of regional armed interventionism has been varied—in some cases it has worsened insecurity and armed violence, in other cases, it has reduced it

relatively weak in regional diplomacy largely because of inter-state security dynamics that are influenced by national interests. Johannes Langer (2014) sums up the place of the EAC in responding to conflict by observing:

The good news is that there are a lot of institutions out there that are in theory dedicated to conflict prevention and conflict resolution. The problem is mostly their partner states that follow national interests instead of giving into a higher goal of regional security for its people. Overcoming this problem will be a huge task, because it is entrenched in the apparatus of all national governments and bureaucracies in the region. Sovereignty first, cooperation for regional development is mostly rhetoric that is hardly matched in reality.

Conclusion

The EAC has a number of promising regional avenues and instruments to pursue collective action in the area of peace and security. However, the problem is that these avenues are currently largely not being sufficiently applied. Cooperation on peace and security matters in the EAC remains weak exhibiting a deficit of functional regional platforms to routinize and codify interstate cooperation on conflict management issues.

Recommendations

1. Indeed, the EAC needs to do more to promote greater support for and commitment to regional institutional approaches in the same area. The EAC's emerging peace and security architecture can only be as effective as its EAC decision-makers' willingness to concretize its policy and agree on political objectives to guide its peace and security activities.

2. A robust and comprehensive regional peace and security architecture calls for a concrete and clear appreciation of the shared threats to the EAC member states' survival.

3. Compared to other regional groupings across the continent, the EAC has done well in the sphere of shared economic interests but is lagging behind in collective approaches to peace and security. The way the EAC has made substantial progress on the economic integration front with the establishment of a customs union, followed by a common market and currently working on setting up a monetary union, it needs to replicate similar enthusiasm in to planning, coordinating and evaluating the implementation of collective plans in the area of peace and security.

4. Ultimately, the EAC's peace and security architecture remains an unfinished project. It will remain weak if the EAC partner states continuously fail to be proactive in taking common and stronger positions on issues of peace and security. For the regional body to position itself as a strategic actor in the region and beyond, it has to devise ways of overcoming parochial national interests, raise more funds, strengthen the relevant peace and security personnel and establish monitoring and evaluation of policy implementation and compliance.

5. The prospects for a successful EAC peace and security architecture rests on the ability of partner states to increase incentives to abandon their hitherto strategy of pursuing national interests and conducting of security through national military prisms rather than focusing on collective interests and approaches.

References

East African Community (2018). *EAC Peace & Security Strategy Overview.* Retrieved from http://www.eac.int/security/index.php?option=com_content&view=article&id=67&Itemid=143

East African Community (2018). *Article 124: Regional Peace and Security.* Retrieved from http://www.eac.int/treaty/index.php?option=com_content&view=article&id=193:article-124--regional-peace-and-security&catid=60:chapter-23&Itemid=318

East African Community (2018*). 27th Ordinary Meeting of EAC Council of Ministers Concludes in Arusha.* Retrieved from http://www.eac.int/index.php?option=com_content&view=article&id=1357:27th-ordinary-meeting-of-eac-council-of-ministers-concludes-in-arusha&catid=146:press-releases&Itemid=194

East African Community (2018). *28th Meeting of the Council of Ministers, Kampala, Uganda 22nd–29th November, 2013,* Report of the Meeting (Ref: EAC/CM/28/2013)

East African Community (2018). *Cooperation in Political Affairs.* Retrieved from http://federation.eac.int/index.php?option=com_content&view=article&id=176&Itemid=137

Elowson, C. & Macdermott, J. (2010) ECOWAS Capabilities in Peace and Security: A Scoping Study of Progress and Challenges. Retrieved from http://www.foi.se/ReportFiles/foir_3114.pdf Accessed 31 July 2017.

Thandrayan, P. (2013, February 20). The EAC: Regional Engine, African Model. *World Politics Review.* Retrieved from http://www.worldpoliticsreview.com/articles/12733/the-eac-regional-engine-african-model, Accessed 29 July 2015.

Oluoch, F. (2013, July 28). Leaders Launch Economic Bloc. *Sunday Nation.* Retrieved from https://www.nation.co.ke/lifestyle/dn2/Leaders-launch-economic-bloc-/957860-1929534-10ksbk8/index.html

Githaiga, N. (2011). *Regional Dimensions of Conflict in the Great Lakes.* ISS Regional Workshop Report (12–13 September 2011). Retrieved from https://www.issafrica.org/uploads/RegDimConGreatLakes.pdf Accessed 14 July 2018

Gochhayat, A. (2013). *Regionalism and Sub-regionalism: A Theoretical Framework with Special Reference to India, in African Journal of Political Science and International Relations.* Retrieved from http://www.academicjournals.org/article/article1393314864_Gochhayat.pdf.

International Crisis Group (1999, August 20). *The Agreement on a Cease-fire in the Democratic Republic of Congo - An Analysis of the Agreement and Prospects for Peace.* Retrieved from https://reliefweb.int/report/democratic-republic-congo/agreement-cease-fire-democratic-republic-congo-analysis-agreement

Langer, J. (2014). Constructing a Security Architecture in East Africa, Available at https://johanneslanger.com/2014/01/31/constructing-a-security-architecture-in-east-africa/

Karuhanga., J. (2017, April 05). Regional MPs Weigh in on Ratification of EAC Peace and Security Protocol. *New Times.* Retrieved from https://www.newtimes.co.rw/section/read/210169

Kiraso, B. (2009). *EAC Integration Process and the Enabling Peace and Security Architecture.* The EAC Peace and Security Conference - Kampala, Uganda. Retrieved from http://www.eac.int/news/index.php?option=com_docman&task=doc_view&gid=68&Itemid=78

Ligami, C. (2014 August 16). EAC adopts proposal for Peace Security Council, in the East Africa. East African. Retrieved from http://www.theeastafrican.co.ke/news/EAC-adopts-proposal-for-Peace-Security-Council--/-/2558/2421312/-/11digspz/-/index.html

Mitrany D. (1943). A Working Peace System In Mattli, Walter (1999),*The Logic of Regional Integration: Europe and Beyond.* Cambridge, UK.

Mitrany, D. (1966). *A Working Peace System.* Quadrangle Books.

OECD-DAC International Network on Conflict and Fragility (INCAF), (2013), Fragile States 2013: Resource flows and trends in a shifting world, Retrieved from https://www.oecd.org/dac/conflict-fragility-resilience/docs/FragileStates2013.pdf

Oloo, A. (2016). *The Status of Security in the EAC Region.* Retrieved from http://www.eala.org/key-documents/doc_download/517-status-of-insecurity-in-the-eac-region.html

East African. (2015, March 14). Kagame meets Kikwete, signalling bid to mend relations between countries. Retrieved from http://www.theeastafrican.co.ke/news/Tanzania--Rwanda-quietly-mending-fences-after-cold-war/-/2558/2653016/-/md02qd/-/index.html

East African Community. (2018). The East African Community, Treaty Establishing the East African Community. Retrieved from http://www.eac.int/treaty/

The East African Peace and Security Protocal, Available at http://www.eac.int/legal/index.php?option=com_docman&task=doc_download&gid=203&Itemid=47. Accessed 16 July 2018.

The German Development Cooperation Programme, Promotion of Peace & Security in the East African Community. Retrieved from http://eacgermany.org/peace-security/

USAID (2012). East Africa Regional Conflict and Instability Assessment Final Report, http://conflict.care2share.wikispaces.net/file/view/USAID+East+Africa+Conflict+Assessment+March2012.pdf Accessed 20 July 2015.

Waffubwa, I. (Ed). (2015), Towards Political Federation in the East African Community Achievements and Challenges. Retrieved from http://eacgermany.org/wp-content/uploads/2015/03/Achievements-and-Challenges-Towards-EAC-Politcal-Federation.pdf Accessed 28 June 2018.

Terrorism: Ambiguous Definitions are Taking the Edge off Kenya's Key Anti-Terrorism Legislation

By Roselyne Omondi

Abstract

The Prevention of Terrorism Act of 2012 frames many of Kenyan government's efforts in preventing the spread of terrorism in the country and region. While there may be good reasons for not defining 'terrorist' and 'terrorism' in the Act explicitly, doing so creates grey areas that can be exploited to the benefit of individuals suspected to be involved in, or who have participated in the commission of a terrorist act. To rid the Act of grey areas and ambiguities that take the edge off it, the Act should be revised. The revised version should provide an explicit interpretation of the two terms, and link these to 'terrorist act,' 'terrorist group,' and 'terrorist property' whose meanings are clear.

Introduction

The Prevention of Terrorism Act (No. 30 of 2012) is one of several legislative tools that Kenya has been using in its attempts at addressing the increasing threat of terrorism in the country. Curiously, the Prevention of Terrorism Act (POTA) is silent on three key concepts and issues pertaining to curtailing terrorism in Kenya. First, it does not provide a definition or explicit interpretation of who a terrorist is. Secondly, and this is closely related to the first issue, the Act does not define or provide an explicit interpretation of what terrorism is, and what terrorism is not. Lastly, while the Act makes reference to radicalization and deradicalization, it does not explicitly distinguish between defectors and returnees or provide for the handling of the returnees who reoffend. This makes it difficult to categorize and distinguish terrorist acts and actors from non-terrorist ones. These grey areas hand some of the individuals who have been apprehended for committing or supporting the commission of terrorist acts a lifeline – they can appeal the decision of a judge, for instance, and get away scot-free. Besides taking the edge off this anti-terrorism legislation in this way, such grey areas also invite the question of how Kenya can prevent terrorism effectively when the 2012 Prevention of Terrorism Act is silent on the identity of the attacker, and on what constitutes terrorism.

Further, the Act mandates the National Counter Terrorism Centre to coordinate efforts to counter terrorism in the country. Of the five activities linked to this coordination effort, only one refers to prevention of terrorism. Even then, prevention is envisaged as a result of a public awareness campaign. This skewing of efforts to countering terrorism on the basis of a legal framework to prevent terrorism has the potential to blur the line between these two different, complementary efforts (preventing and countering terrorism). This, in turn, makes it difficult to measure the extent to which efforts to push back the threat of terrorism in the country are achieving the desired results. To prevent and/or counter terrorism, and respond to the evolving threat of violent extremism more effectively, the Act should make the definition of who a terrorist is explicit, and delineate clearly, what constitutes terrorism, and what terrorism is not. This revised version should also provide guidance on the issue of reoffending returning foreign fighters.

Background

On October 20, 2018, suspected al Shabab militants reportedly killed two teachers at Arabia Boys Secondary School in Mandera, Kenya, presumably because the educators were 'outsiders'. This kind of attack is not uncommon in the north eastern region of the country; the government is struggling to recruit and post qualified teachers to the area (*The Standard*, 2018). The exploitation of 'otherness' is the subject of '*Watu Wote:*

All of Us,' the Oscar-nominated 2017 Kenyan short film based on a true account of the singling out of non-Muslim passengers in a chartered, Mandera-bound bus by suspected al Shabab militants, in December 2015. The Muslim passengers helped to save the lives of the non-Muslim ones by, among other things, giving them head coverings. The latest attack, another in a string of attacks in Kenya dating back to 1970s (Ridley, 2014), indicates the country's continued vulnerability to both terrorism and the threat of extremism.

A Historical Overview

At the beginning of 1975, Startlight, a night club in Nairobi, and a travel agency that was located near the Hilton Hotel were bombed. That same year and period (early 1975), several bombings that have been associated with the now deceased J.M. Kariuki, an influential Kenyan politician, occurred. At least 30 people reportedly died as a result of these attacks. On the last day of 1980, Norfolk Hotel was bombed, killing at least 20 people, and injuring almost 90 others. In August 1998, the American embassy, then located in Nairobi's Central Business District, was bombed. Two hundred and thirteen (213) people reportedly died, and thousands others were injured. In these attacks, actors ranging from government operatives, to sympathizers of Hezbollah, and al Qaida, were implicated (KDF, 2014; Schaefer, 2006; Ridley, 2014).

Since the turn of this Century, Kenya has experienced more such attacks. Most notable of these were the November 2002 missile attack on a flying plane (Arkia Airlines), and the subsequent bombing of Kikambala Hotel, both in Mombasa. Ten (10) years later, several attacks were reported in different parts of the country, mostly in eastern (north east and south east) parts of Kenya. In September 2013, Westgate Mall, a shopping complex in Nairobi, was attacked. Less than a year later, in June 2014, Lamu's Mpeketoni area was the scene of several attacks in which more than 60 people were reportedly killed. In April 2015, Garissa University College was attacked; almost 150 people were killed. Several incidents involving improvised explosive devices (IEDs) targeting both security officers and civilians in different parts of

the country have been reported since then. Tourists and aid workers have not been spared; several of them were kidnapped in Kenya in the first years of this decade. These attacks have been linked to al Qaida and al Shabab terrorist groups, but al Shabab has been implicated in most of the ones that have occurred in Kenya in this decade (Schaefer, 2006; Ridley, 2014).

In the face of increasing attacks on Kenyan soil mostly by the al Qaida-affiliated al Shabab militants, and in response to the growing threat and increasing sense of insecurity in Kenya, Kenya launched *Operation Linda Nchi* on October 14, 2011. This military operation involved securing the country's borders and degrading the capacity of the militants to stage attacks on Kenya from Somalia. The exact number of al Shabab militants is unknown, but the Kenya Defence Forces (KDF) estimates place the number in the group, made up mostly of Somali youth in Somalia and in the diaspora, and foreign fighters, in the range between 3,000 and 7,000 militants. The Kenyan troops captured Kismayu (a Somalia's port city, and al Shabab's stronghold) on September 28, 2012. Kenya's Western allies, many of whom have larger, better equipped forces, acknowledged this fete. Not too long after this, Kenya contributed at least 2,000 troops to the African Union Mission in Somalia (AMISOM), to consolidate these gains and to help to keep peace in Somalia (KDF, 2014; International Crisis Group, 2012).

Al Shabab, which has considered Kenya's move as an occupation, has staged retaliatory attacks in Kenya and Somalia since then. In mid-January 2016, al Shabab attacked a Kenyan base in El Adde (a town in Somalia) (BBC, 2016). The official death toll is yet to be publicized. However, scores of military personnel are suspected to have been killed in what has been described by some observers as the country's most significant military loss yet.

Even as *Operation Linda Nchi* was taking hold, the aforementioned victories and loses in Somalia notwithstanding, some al Shabab militants and their sympathizers began to occupy parts of Boni Forest (in Lamu County, Kenya, near the Kenya-Somalia border)

The exact number of al Shabab militants is unknown, but the Kenya Defence Forces (KDF) estimates place the number in the group, made up mostly of Somali youth in Somalia and in the diaspora, and foreign fighters, in the range between 3,000 and 7,000 militants

and using it to plan attacks in Kenya. A KDF camp at Baure, for example, was attacked by some of the Boni-based militants under the leadership of Luqman Issa, a Kenyan member of the terrorist group. 16 people died in the process. The government responded by launching another military operation, the Boni Enclave Campaign (previously *Operation Linda Boni*) in September 2015, to rid the Forest of the militants. Boni Forest lies between Kenya and Somalia (KDF, 2015). Unlike *Operation Linda Nchi*, the Boni Enclave Campaign is Kenyan-based.

Fighting Terrorism

Kenya stepped up its efforts to push back terrorism in the country further by enacting the Prevention of Terrorism Act (POTA), through Parliament, in 2012. The Act seemingly adopts a legal definition of terrorism. This is evident in its treatment of terrorism as a criminal issue. As such, Part III of the Act, which is titled 'Offences,' indicates that the commission of a terrorist act will be met with imprisonment for a period of up to 30 years, and life imprisonment if the death of another person is attributed to such an act. It is safe to say that a legal instrument, by necessity, provides legal definitions and related implications. This does not have to be the case. In Part

I (Preliminary) POTA provides explicit interpretations of 'communication,' or 'financial institution,' for example. The same could be done for 'terrorism.' However, the Act does not define, explicitly, who the individual committing a terrorist act, essentially a 'terrorist,' is. It also does not explicitly define what terrorism is. This may or may not be intentional. However, it raises the question, *How can clear definitions of terrorism and terrorism improve the effectiveness of the Kenya's 2012 Prevention of Terrorism Act?*

Trailing the Unidentified Enemy

Terrorist acts have been used as part of political messaging for decades. Some of these messages have involved the taking of territory, and have been about (historical) grievances of the local populations such as displacement and forceful occupation of land by 'foreigners.' Others have involved arson, beheadings, kidnapping, piracy, and have been largely criminal. Even so, the 'terrorists' have used violence against both civilian and non-civilian populations to make a point about the presence of weak governance structures and their ability to meet hitherto unmet basic needs of local communities that the government has forgotten

President Kenyatta inspects a guard of honour during a surprise visit to the Kenya Defence Forces (KDF) camp in Dhobley, Somalia in March 2017. Photo Credit: Ministry of Defence-Kenya

about (Schmid, 2011). This suggests that terrorism can be viewed in more ways than simply as crime. Schmid (2011), for example, has identified 12 elements of terrorism that include the conception of terrorism as both a doctrine and a practice, the identification of perpetrators, and the use of terror tactics in spreading terror. As such, terrorism could also be seen through the lens of religion and warfare. The latter one could explain the motivation for *Operation Linda Nchi*.

Table 1: 12 Elements of Terrorism Definition

According to Schmid (2011), a definition of 'terrorism' should make reference to these 12 elements:

- ❑ **Doctrine** and/or **practice** of violent action
- ❑ **Context**
- ❑ **Physical violence**
- ❑ **Communication** based on threat
- ❑ **Fear-inducing**
- ❑ Presence of **direct victims**
- ❑ Direct victims are **not** the **ultimate target**
- ❑ **Perpetrators**
- ❑ Predominantly **political**
- ❑ **Intent** of the act
- ❑ **Motivation** to engage in terrorism
- ❑ The act is part of a **campaign** of violence

Source: Adapted from Schmid (2011)

It is one thing to say that Kenya has been experiencing terrorism, and quite another to describe which of these attacks have been acts of terrorism without clear definitions of who a terrorist is, and what terrorism is. Content analysis of the Act, which relates to the Laws of Kenya regarding the Prevention of Terrorism, retrieved from the Kenya Law website in October 2018, reveals that:

1) no explicit reference to 'terrorist' has been made, and that neither has the term has been defined clearly, nor an interpretation of the same been provided. However, the meaning of 'terrorist' is implied in the words …'a person who carries out a terrorist act…' (Part III, section 4), and is used to qualify other terms such as 'act,' 'group,' and 'property,' as in 'terrorist act,' 'terrorist group,' and 'terrorist property.'

2) 'terrorism' appears at least 10 times in the 31-paged document

3) no definition or an interpretation of 'terrorism' is provided

4) 'terrorism' is envisaged as a criminal act

5) interpretations of 'terrorist act,' 'terrorist group,' and 'terrorist property' have been provided.

Kenya is not the first country to grapple with the matter of terrorism definitions. Scholars in different countries around the world have debated who a terrorist is, and what terrorism is, for decades (Schmid & Jongen, 1988). As already noted, scholars have also observed that individuals adopt definitions of terrorism that speak to their immediate needs or goals. One of the results of this is varied interpretations of terrorism. Take 'terrorist,' for example. The individual or group of individuals that one community may consider as (a) 'terrorist(s)' may be seen as (a) 'freedom fighter(s) by another individual or group of individuals in the same or in another community (Rapoport, 2002). The British colonialists, for instance, regarded the Mau Mau as a Kenyan terrorist group, and the fighters as terrorists. Local communities lauded the Mau Mau as freedom fighters fighting to liberate the country from the yoke of colonialism (Bennet, 2013). Further, an individual may be considered a terrorist today and a freedom fighter tomorrow, by his community or others in another community. This could explain why there is a statue of South Africa's former president, and anti-Apartheid activist, Nelson Mandela, a man who was once regarded as a terrorist, in England. Outspoken Muslim cleric, Aboud Rogo, for instance, was considered a hero by some residents of parts of Kenya's coastal areas such as Kwale who feel marginalized by the government, and a terrorist by the state. It is important to note here that the legal instruments of most states do not necessarily criminalize freedom fighting. Hence, if the law is to be used to punish a person who commits a terrorist act, that law must distinguish between 'freedom fighting' and 'terrorism'.

Considering that the use of violence against others could be an attribute of terrorism, then, in the absence of a precise definition of terrorism, terrorism risks becoming a blanket term that also includes other violent acts such as robbery with violence, post-election violence, and manslaughter. The legal consequences of violent robbery and manslaughter are different from those of terrorism.

'Terrorism', like 'terrorist', divides opinion because it can be interpreted variously. Worse still, none of the more

than 100 definitions of 'terrorism' that exist are precise or enjoy universal acceptance. Schmid and Jongman (1988), for example, have concluded, after studying 109 definitions of terrorism, that there are at least 22 definitional elements of the concept. Bruce (2013) notes that different stakeholders – international non-governmental organizations such as the United Nations, academics, lawyers, law enforcement and counter-terrorist agencies, governments and political parties, terrorist groups, medical professionals, and the media, among others, define 'terrorism' in a way that suits their purposes. In other words, the definition of 'terrorism' depends on the immediate needs or goals of these stakeholders. The main goal of the judicial profession, he notes, is to prosecute and convict individuals accused of committing terrorist acts successfully. He also notes the tendency of criminal code to produce better results than legislations such as Kenya's 2012 POTA. While it is understandable that Kenya's POTA (2012) conceives terrorism as a criminal act, implied rather than explicit definitions of terroris* can grant individuals accused of committing terrorist acts a lifeline. Such individuals, Bruce (ibid) argues can then "defend themselves or appeal against judges' decisions."With its bias on the legal definitions of terrorism, Kenya needs to provide and define 'terrorism' accurately to bolster the investigation, prosecution, and conviction of individuals who have committed or supported the commission of acts of terrorism. When all is said and done, the "definition of terrorism," as Bruce (2013) observes, impacts "society and politics" as well as "communication and how individuals respond to terrorism" (Bruce, 2013, p. 26).

The use of a legal definition of terrorism should not stop Kenya from defining the term further. Like Kenya, Europe's law enforcement agency, Europol, uses a legal definition of terrorism. But, unlike Kenya, Europol identifies five terrorism types: jihadist (religiously-inspired); ethno-nationalist; separatist; left-wing, anarchist, and right-wing; and single issue terrorism (Europol, 2018). The

> The dangers of conflating preventing terrorism with countering terrorism are the absence of clarity, and the disconnect between the Act and NCTC's mandate

Terroris* means 'terrorist' and 'terrorism'

application of the law to each of these variants is different, but that does not change the reality that there are certain laws to try and convict individuals who commit terrorist acts. Kenya could borrow a leaf from Europol to clarify 'terrorism.'

The difficulties associated with these grey areas notwithstanding, the Act established the country's counter-terrorism body, the National Counter Terrorism Centre (NCTC) (Part VI, 40 A-C), to coordinate counter-terrorism measures in the country. This is curious because although the Act is primed on preventing as opposed to countering terrorism, the Centre has been mandated to counter terrorism. Prevention is not a catch all for all measures to curtail the spread of terrorism. The dangers of conflating preventing terrorism with countering terrorism are the absence of clarity, and the disjoint between the Act and NCTC's mandate. Whereas the lack of clarity can create confusion, the disjoint between the provisions of the Act and NCTC's mandate can create both legal and operational challenges. Worse still, focusing NCTC's mandate on countering terrorism gives the impression that NCTC's measures are reactive rather than proactive. These factors can reduce the effectiveness of the Centre to deliver on its mandate.

Returning Foreign Fighters

The Prevention of Terrorism Act (2012) is also silent on the topic of reoffending Returning Foreign Fighters (RFFs). When Parliament enacted POTA, RFFs who return to the theatre did not seem to be a significant problem in the country and/or region. The threat of RFFs was spoken to in relation to terrorist attacks in parts of Europe and North America.The number of foreign fighters returning to Kenya, primarily from theatres of war in Somalia, Syria, and Iraq, is reported to be increasing (ICSVE, 2018).

It could be assumed that the government's efforts to counter narratives used by terrorists to radicalize individuals, and to reintegrate RFFs, result in some of these individuals demobilizing and deradicalizing. Such individuals are being referred to as 'defectors.' However, a distinction can be made between demobilizing and deradicalizing, on the one hand, and defecting, on another hand. It is not immediately clear, on analysing POTA (2012), what the distinction between RFFs who are defectors and RFFs who have simply left a terrorism theatre temporarily is. There is also no mention of the 'new camp' that the defectors join. Further, the Act does not speak to what measures should be taken to support defectors, and to deradicalize returnees. Neither does it spell out how the legal system will handle supposed

Wife of the slain radical cleric Sheikh Aboud Rogo, Haniya Said Sagar at Mombasa High Court. She was acquitted by the High Court in October 2018. Photo Credit Kelvin Karani

defectors and returnees who 'reoffend.' Even with the risk of double jeopardy, will they (reoffenders) be prosecuted and convicted a second time? Will they be handed longer sentences? POTA (2012) highlights the reality that Kenya still lacks amnesty and does not have a robust policy on (reoffending) returning foreign fighters.

Conclusion

The Prevention of Terrorism Act (2012) is a good first step to reduce the threat of terrorism in Kenya. However, the Act may be misunderstood at best, and rejected at worst on account of its silence on key concepts and issues related to terrorism in Kenya. Without such clarity, it is difficult for ordinary citizens to understand it, and for the country to effectively assess the extent to which efforts at preventing 'terrorism' are yielding the desired result(s). This impedes both prevention and counter-terrorism efforts in the country.

Kenya, as evidenced by *Operation Linda Nchi*, for example, has used 'hard power' to complement other measures to reduce incidents of terrorism in the county. However, the Act, which focusses on the 'offender' (individual who commits terrorist act or supports the commission of the same), does not make any reference to this use of 'hard' power to reduce the impact of the offender, and secure the country against internal and external threats. This can bolster claims of 'invaders' and

'occupiers' that terrorists such as al Shabab exploit to spread their ideology.

Recommendations

Clear definitions can bolster efforts to prevent terrorism, which is why the Prevention of Terrorism Act (POTA) of 2012 should be revised and updated. The revisions will improve the effectiveness of POTA. The revised version should:

1. **Define 'terrorist.'** If the 'terrorist' is seen as the deliverer of 'terrorism,' then the identity of 'terrorist' should not be left to interpretation. Kenya should use a definition that not only includes elements of terrorism such as those provided by Schmid (2011), but also speaks to the reality of terrorism in Kenya, and in the Horn of Africa. The adopted and adapted definition should be stated clearly alongside other words in Section 2 of Part 1 (Preliminary) of the 2012 POTA.

2. **Demarcate, clearly, the border of 'terrorism.'** Clarity on what terrorism is and what terrorism is not will sharpen legal instruments to curtail the spread of terrorism. It will also help to seal any loopholes that individuals arrested for committing terrorist acts or for supporting the commission of such acts could use to reduce the chance of being convicted.

3. **Include some of Schmid's 12 elements of terrorism.** Key among these are the conception of terrorism as both a doctrine and a practice, the identification of perpetrators, and the use of terror tactics in spreading terror. This will help to broaden the definition of terrorism, and net more individuals involved in terrorism.

4. **Speak more directly to the emerging issue of Returning Foreign Fighters (RFFs) in Kenya.** Specifically, the revised version should make a clear distinction between a 'defector' and a 'returnee', and provide a definition for both, as well as guidance on the handling of both categories of RFFs, and those who reoffend.

5. **Accommodate the state's use of 'hard' power** to defend the country (Kenya) and its people, as provided for in Kenya's Constitution. This will boost complementary ('soft' power) efforts of preventing terrorism such as the use of counter and alternative narratives.

References

Bennett, H. (2013). *Fighting the Mau Mau: The British Army and Counter-Insurgency in the Kenya Emergency.* Cambridge: Cambridge University Press.

Bruce, G. (2013). 'Definition of Terrorism – Social and Political Effects.' *Journal of Military and Veterans' Health. 21*(2). 26-30.

Europol. (2018) *European Union Terrorism Situation and Trend Report 2018* (TESAT 2018). Retrieved from https://www.europol.europa.eu/activities-services/main-reports/european-union-terrorism-situation-and-trend-report-2018-tesat-2018

Gichuhi, *G.* (2018, October, 13). 'TSC, Ministry clash on minimum entry grade for teacher training colleges.' *The Standard.* Retrieved from https://www.standardmedia.co.ke/article/2001298920/tsc-ministry-clash-on-minimum-entry-grade-for-teacher-training-colleges

International Centre for the Study of Violent Extremism. (2018). *Breaking the ISIS Brand: A Counter-Narrative Project.* Washington.

Kenya Defence Forces. (2014). *Operation Linda Nchi - Kenya's Military Experience in Somalia.* Nairobi: Kenya Literature Bureau.

Kenya Law. (2012). 'Prevention of Terrorism, Act No. 30 of 2012.' Nairobi. Retrieved from http://www.kenyalaw.org/lex/actview.xql?actid=No.%2013%20of%202012

National Counter Terrorism Center. (2018). 'The Mandate' and Policy Functions of NCTC.' Retrieved from https://www.counterterrorism.go.ke/

Oladipo, T. (2016, January 22). 'What Happened When Al-Shabab Attacked a Kenyan Base in Somalia?' *BBC Monitoring/BBC.* Retrieved from https://www.bbc.com/news/world-africa-35364593

Rapoport, D. (2002). 'Four Waves or Rebel Terror and September 11.' *Antropoethics. 8*(1). 1-14.

Ridley, N. (2014). *Terrorism in East and West Africa: the Under-focussed Dimension.* Cheltenham: Edward Elgar Publishing Limited.

Schaefer, T. (2006). When Terrorism Hits Home: Domestic Newspaper Coverage of the 1998 and 2002 Terror Attacks in Kenya. *Conflict and Terrorism. 29*(6). 577-589.

Schmid, A.P. (Ed.) (2011). *The Routledge Handbook of Terrorism Research.* London: Routledge.

Schmid, A.P. (1988). *Political Terrorism.* New Jersey: Transaction Books.

Women in Disarmament, Demobilization and Reintegration (DDR) Programs in the Horn of Africa: Northern Uganda and Somalia in Review

By Mfon Umoren Ekpootu, Ph.D.

Abstract

Most countries in the Horn of Africa provide a fertile ground for the proliferation of dissident groups who engage in terrorist acts destabilizing states and socio-economic structures. Widespread poverty, high levels of illiteracy, and deep-rooted marginalization are some of the drivers into terrorism. Female members of such groups have elicited interest especially with the use of women in combat. Increased radicalization of women has also prompted more attention on the gendered dimension of terrorism, armed conflict and peace keeping incluiding Demobilization and Reintegration (DDR) programs. This article engages in a comparative analysis of the gendered impact of DDR programs in selected countries in East Africa. It employs a multiple case studies approach grounded in content analysis of existing literature. Such an approach will enable access to a wide array of data over a cross regional context and make it possible to tease out trends, and thus, facilitate a realistic regional and international framework for more inclusive DDR.

Introduction

Africa in the 21st Century has become a theater of terrorism with a large percentage of terrorist acts occurring on the continent. In a study of terrorism in Africa, Lins de Albuquerque (2017) uses data from the Global Terrorism Dataset (GTD) to show a significant increase in the rate of attacks from 2012 to levels above 1000 attacks yearly, a substantial increase over levels recorded in previous years. He observed that from 1997-2015, 65 per cent of all terrorist attacks occurred in 5 countries - African countries prone to terrorist attack include Nigeria (22 per cent), Somalia (13 per cent), Algeria (13 per cent), Libya (9 per cent) and Egypt (8 per cent). Narrowing it down to a 10 year period from 2005 -2015, Sudan made the list of top 5 while Algeria was excluded. The total share of violence committed rose to 69 per cent. Nigeria still topped the list with 26 per cent, Somalia (16 per cent), Libya (11 per cent), and Egypt (10 per cent). *Boko Haram* and al Shabab account for about 50 per cent of all terrorist acts in Africa within the 1997-2015 period under review. Others include the Lord's Resistance Army (LRA), and Al-Qaeda in the Islamic Maghreb (AQIM). Janjaweed

in western Sudan and eastern Chad, and National Union for the Total Independence of Angola (Lins de Albuquerque 2017).

The role of women in these terrorist organizations is acknowledged in the literature and policy papers. Women have participated in armed conflicts in Algeria, Eritrea, Ethiopia, Mozambique, South Africa, and Zimbabwe (Rajivan & Senarathne, 2011). *Boko Haram*'s predominant use of female suicide bombers foregrounds women's capacity to engage in terrorism, as well as the ability of terrorist groups to mobilize them. Despite these, women's role in terrorism whether in plotting, recruiting, facilitating or combat action gets represented through a trope of victimization. Such positioning of women in terrorist discourse shapes disarmament, demobilization and Reintegration (DDR) programs. This paper examines the gendered impact of DDR programs in selected countries in East Africa. It employs a multiple case studies approach grounded in content analysis of existing literature. Such an approach will enable access to a wide array of data over a cross-regional context and make it

possible to tease out trends and thus facilitate a realistic regional and international framework for more inclusive DDR. The article is organized into four sections: first, the introduction and layout of the paper; second, the overview of women in terrorist organizations in Africa; third, the examination of the concept of DDR as conceived by the United Nations and finally, the DDR programs in Africa and its gendered impact through northern Ugandan and Somalia case studies. In conclusion, will be evaluation of DDR programs in Africa with possible recommendations.

Women in Terrorist Organizations in Africa: an Overview

Women's involvement in terrorist and armed activities in Africa span a long history and extends to national liberation wars. Weinberg and Eubank (2011) argue that in this wave of wars, terrorism was a 'minor component of the violence' except in Algeria, and to a lesser degree, Kenya. In Algeria's fight for independence from the French (1954 – 1962), the National Liberation Front (NLF) used women to detonate bombs often targeting the French (Weinberg & Eubank, 2011). From the late 20th Century, religion became an important fulcrum of terrorism with new ideologies, which justified killing for purposes of cleansing the land of infidels and bringing about a desired state. In this new wave of terrorism, suicide bombing came to be a distinct strategy employed to hit its targets at minimal cost while eliciting publicity for the cause. For women in these *jihadi* movements, their roles varied. They served as couriers, fundraisers/financiers, recruiters, *jihadi* wives, and in recent times, as suicide bombers. As human bombs, women were able to evade suspicion, capitalizing on social norms around womanhood, female members of terrorist organizations make the 'ideal stealth operatives' (Bloom, 2007). The female terrorist became a prominent feature of fundamentalist groups across Africa. Justification for the use of female *jihadists* is seen in some *fatwas* (rulings on Islamic law by certified Islamic scholars) and other selected publications, which legitimatize women martyrdom (Bloom, 2011; Knop,

> The female terrorist *jihadist* became a prominent feature of fundamentalist groups across Africa

2007). Al Shabab and *Boko Haram* are noted for their use of women and young girls, and to a lesser extent boys, for suicide bombing. In most of terrorist organizations, abduction and kidnapping are some of the tools used to increase membership. Knop, however, reiterates the danger of underestimating the more visible roles of women in terrorist movements noting that they exert tremendous influence within the group and on future terrorists (Knop, 2007).

Despite the number of women in terrorism, policy frameworks and public perception are guided by understandings of femininity. Rooting explanations of female extreme violence in men according to Tervooren (2016) makes it difficult to properly situate women's engagement in terrorist activities. Mahmood (as cited in Tervooren 2016) points to female agency as context specific and calls for an understanding of women's specific, socio-cultural, political and cultural beliefs. Inattention to the heterogeneity of female experiences results in misconceptions that can hinder effective reintegration of 'ex terrorists' into society.

The Concept of Disarmament, Demobilization and Reintegration (DDR)

The process of DDR is a prominent feature in efforts at post-conflict reconstruction in Africa. The expansion of the scope of the United Nation's peacekeeping activities has meant a sustained effort at disarming and demobilizing warring actors and reintegrating ex-combatants into society. The United Nation breaks down the definition of DDR as follows:

Disarmament refers the collection, documentation and elimination of combatant small arms and light weapons (SALW), ammunition, and explosives. Demobilization entails the formal and controlled discharge of active combatants from armed forces or other armed groups. It involves the registration and cantonment of fighters in designated camps (or, if necessary, initial temporary holding centers), familiarizing them with fundamental rights and obligations of a given cease-fire/peace accord, and arranging for their eventual return home or to some other point of origin. Reintegration is concerned with assisting ex-combatants make the immediate transition back into civilian life. It has embedded within it another component-insertion, which is a form of transitional assistance prior to the more open ended developmental phase of reintegration. This could be in the form of providing basic amenities, education and vocational training (IDDRS, 2006, Para. 5).

This phase of DDR is essentially a social and economic process with an open time-frame, primarily taking place in communities at the local level. It is part of the general development of a country and a national responsibility, and often necessitates long-term external assistance (IDDRS, 2006). There are other typologies of DDR and a variant engaged by a country depends on different qualifiers. As put forward by Caramés and Sanz (2009), the type of DDR policy a country uses is dependent 'on the characteristics of the phases which need implementing, the kinds of participants, the numbers of armed groups, the quantity of combatants, the program context, and the programming geared towards vulnerable individuals'. In Africa, different strategies were used. For instance, while Uganda, Somalia, and Nigeria opted for amnesty programs, Angola, Chad, Sudan, and Côte d'Ivoire DDR policies targeted bilateral demobilization of militias and armed forces for security sector reforms in a post conflict context.

Case Studies of DDR Programs in Africa

Uganda

The conflict in Uganda has span decades, and the Lord Resistance Army (LRA) is one of the longest running insurgencies in Africa. Northern Uganda is the worst hit by conflict particularly, the districts of Gulu, Kitgum and Pader known as Acholiland after the Acholi people who predominate in the region. The Lord Resistance Army led by its supreme commander Joseph Kony have over the years of conflict extended their sphere of influence to other parts of Uganda, Southern Sudan and the Democratic Republic of Congo (Borzello, 2007). The resilience of the rebel group was greatly boosted by the alleged support of the Sudanese government from 1994. Aid in the form of military bases and supplies strengthened the LRA. From 1995, there were renewed attacks and abductions by the group until the governments counter attack in 2002 after bilateral talks with the Sudanese government enabled invasion of LRA's military bases in Southern Sudan (Blattman & Annan, 2008).

The long drawn out conflict has resulted into massive devastation of the infrastructure and social service delivery, and destroyed the social fabric with many people internally displaced. More than 90 per cent of the Acholi people were displaced, 67 per cent of those lived below poverty levels in contrast with the national average level of 38.8 per cent (Borzello, 2007). In 2003, the government, as part of their counterinsurgency, forcefully displaced the Acholi's from their communities to a camp (Annan, Mazaruna & Carlson, 2011).

Abduction was widespread and a common form of recruitment in the LRA. In the more than two decades of conflict, over two-thirds of LRA fighters were abducted meaning that most ex-combatants including senior commanders were captured (Compton, 2014; Blattman & Annan, 2008). Girls were abducted and taken to camps in Sudan where they were trained to fight or used in support activities for the group (Mckay & Mazaruna, 2004). In the camps, they could be kept from two weeks to 12 years and for females, those abducted for shorter periods were most likely used to fight. As rites of passage, abductees were made to engage in violent acts against family and community members to instill obedience in the group and erase the fear of killing (Annanet al, 2011).

In 2000, the Ugandan government enacted the Amnesty Act as a framework for demobilizing and reintegrating ex-combatants. The Amnesty commission oversees the implementation of the Amnesty Act. Specifically, it is entrusted with sensitizing potential reporters to the benefits of amnesty, demobilizing, reintegrating and resettling ex-combatants. Implementing partners included the government in collaboration with NGOs and inter-governmental bodies such as UNICEF, IOM, and UNDP. Ex-combatants who willingly reported to authorities for amnesty were known as 'reporters,' and according to Tamusiime (2010), over 21,000 reporters had been granted amnesty by December 2006, out of which 19,000 had received initial reinsertion packages. Of these, 20 per cent were women and 29.2 per cent children. Borzello (2007) argues that the program was, at least prior to 2006, a non-systematic and informal response to the influx of escaping former abductees within an ongoing conflict. She, however, acknowledges that the informal DDR process enabled the integration of a large number of ex-fighters but observes that they were sent back into a conflict-ridden environment with practices that violate human rights, and this posed a great challenge to effective reintegration. Blattman and Annan (2008) report a low turnout of 'reporters' because most of them were escaped abductees and so preferred to go back home without passing through government channels. Others either reported to an army cache or were picked up in the bush by the army. For female ex-combatants, reintegration poses peculiar challenge especially for mothers with children born in the bush. Tamusiime (2010) argue that for child-mothers, it is easier to be accepted when they abandon their children in the bush. This is similarly observed by Crampton (2014) who points to the peculiar difficulties faced by mothers impregnated by rebels stating that children were often separated from their mothers and in some cases denied basic support

Displaced women in Northern Uganda. Women and girls were abducted by Lord's Resistance Army and taken to South Sudan. Photo Credit: UN

Blattman and Annan (2008) however refuted the claims of psychological trauma as hindrances to reintegration, rather pointing to human capital deficiencies such as lower education, diminished productivity and increased poverty and inequality. An examination of the activities of the various NGOs tend to support Blattman and Annan's argument of insufficient attention paid to psycho-social needs and the relative neglect of economic needs. The latter becomes absolutely necessary considering the utter destruction of the economic fabric of the region. Reintegration meant returning to a sub-human level displacement camp. Without economic empowerment, returnees were relegated to the margins of society. From 2005, through the assistance of the Multi-Country Demobilization and Reintegration Programme, monetary assistance as part of resettlement packages were given to 15, 310 reporters (Tamusiime, 2010). In spite of challenges in the implementation of DDR programs in Africa, it still constitutes a critical element in post-conflict reconstruction

Somalia

The historical antecedents of conflict and violence in Somalia has been documented in several studies (Hansen, 2013; Wise, 2011). The volatility of the country makes it susceptible to ideologies and consequent activities of terrorist organizations. Somalia degenerated to civil war with the ousting of General Siad Barre in 1991. Growing instability, pervasive repression, and economic insecurity pushed the country into state collapse. Indeed, it is quite often referred to as a failed state. This lacuna in governance was filled by clan based militias and other dissident groups, prominent among them the Islamic Court Union (ICU). The ICU functioned for a long time as a parallel government in Somalia and controlled large parts of Mogadishu and south central Somalia. The collapse of ICU saw the emergency of al Shabab that became a serious terrorist threat in the Horn of Africa. With a nationalist focus, al Shabab utilizes religion-Islam and politics (liberating Somalia from infidel alien rule) to garner support for itself. Thus, it self-images

In 2000, the Ugandan government enacted the Amnesty Act as a framework for demobilizing and reintegrating ex-combatants

as a liberation force and seeks to establish an Islamic Caliphate (Jones, 2013). Recruitment is done through socialization in places like the mosques, coercion, and economic incentives. In 2008, an alliance with al Qaida transformed al Shabab from a local nationalist group into a transnational group in tandem with the broad ideals of al Qaida, thus, positioning Somali as part of the global war against the West (Wise, 2011). Members were drawn locally and regionally from Kenya, Tanzania, and to a lesser extent Uganda. It was also around this time that al Shabab began to employ the use of women as suicide bombers. UN estimates that Kenyans constitute about 10 per cent of al Shabab members (Ndung'u, Salifu & Sigsworth, 2017). Religious and nationalist indoctrination is a major means of attracting members. The low level of illiteracy observed among low-risk members of the group underscore the ease of indoctrination.

Somalia remains a challenging site of DDR intervention because of the presence of multiple militia groups and the volatility of the terrain. This has hindered the implementation of a nationally-integrated DDR program. In its place, there are several intervention processes administered in an ad hoc manner and dependent on the political and security situation at the time. These reintegration programs are largely funded by the United Nations who work in collaboration with national institutions and local NGOs. The Somali government, with the support of international donors and local NGOs, has provided amnesty for low-level al Shabab defectors. Embedded in these programs are religious and ideological rehabilitation (UN Peacekeeping). DDR interventions are primarily carried out in Mogadishu, Somaliland, and Puntland. In Puntland and Somaliland, DDR programs carried out from 2005 – 2007 targeted security forces as part of security-sector reform. In 2008, an assessment of the DDR program recommended a more broad based and community-centered approach. Drawing from these, in 2011, the "Youth at Risk" project was launched, an initiative of UNDP's Disarmament, Demobilization and Reintegration/Armed Violence Reduction (DDR/AVR) in partnership with the United Nations Children Fund (UNICEF) and the International Labour Organization (ILO). This intervention, with its bottom-up approach, towed the second generation agenda of the UN.

The amnesty program is primarily focused on defectors from al Shabab. The government has experimented with several measures to deal with members of the group. As described by Felbab-Brown (2018) in an exhaustive study, these include "government deals with high value al Shabab; formal justice processes for high-risk detainees; DDR processes for …low-risk defectors or detainees; and traditional clan – based justice mechanisms" (p. 10).

Alongside countries like Uganda, Angola, Sierra Leone, and Mozambique, Somalia has made use of traditional justice mechanism in the reintegration of ex-combatants. In the capital Mogadishu, it is the community leaders that determine beneficiaries of the DDR program. The clan system is a formidable institution in Somalia, and in conjunction with Islam, wield a strong influence over the social and economic life of the people. As argued by Bleie (2002), transition to non-combatant life is influenced by male and female guardians, as well as local imams. Felba-Brown (2018) however, describes these amnesties as arbitrary, lacking legal consequence. Ted Morse, a World Bank Consultant, notes the need for a reframing of DDR concept in Somalia given its peculiarity. The author argues that emphasis on DDR planning is on 'political negotiations and security' and less on integrated DDR planning (Morse, 2005). Lack of legal framework for implementation, absence of transparency in setting criteria for defining different categories of defectors (high/low risk, or high value) and poor entry/ exit processing are some of the criticism of Somalia's DDR intervention (Felbab-Brown, 2018; Morse 2015). The role of the Community Justice System (CJS), the *Xeer* has also been problematized because of its subjugation of women and divisive tendencies in clan relations (Ubink and Rea, 2017).

For women in al Shabab, reintegration into home communities has posed a lot of challenges. The deep cleavages in Somali's gender relations has meant that with poorly developed reintegration and rehabilitation programs, women's needs are sidelined. By their membership, either directly or indirectly in al Shabab, female members destabilize prescribed gender norms. Women with children are perceived as shaming their family and community especially within the context of culture and laws governing male/female relationship (Felbab-Brown, 2015, p. 8). The social stigmatization of women impedes economic reintegration because of ostracism and resulting inability to access markets.

Security concerns pose another challenge to the success of reintegration programs for men, women and children. The likelihood of attacks from al Shabab, Somali security agents or other militias and clan armies is a tangible reality. Felbab-Brown (2015) observes that the women's section of Baidoa rehabilitation centre shut down as a result of security fears, lack of funding and community rejection

because inmates were perceived as high-risk female al Shabab agents. The closure not only underscores the reality of security threats but also exemplifies the vital role of communities in determining re-insertion and re-integration processes. With the closure of Badoa facility, low-level female al Shabab defectors lacked rehabilitation centres up till 2017. As a result, female defectors could either be released to their communities; or taken back to the point of encounter with security forces exposing them to deeper vulnerabilities.

The utilization of Customary Justice System (CJS) in Somali particularly in Mogadishu continues to be problematized. Issues of corruption, gender insensitivity and inadequacy of traditional dispute settlement mechanism are some of the trepidations facing CJS. Ubink and Rea (2017) opines that 'an ethnojustice approach could reduce local initiative, popular participation…and reproduce local power differences and structures of exploitation, carrying with it the potential for renewed conflict.'

Another area of challenge is the vocational training designed for amnesty recipients, which portray a gender-insensitivity and inadequate grasp of Somalian culture. Somalia like many African countries is patriarchal and women face marginalization in political and economic spheres, as epitomized by Xeer (Ubink & Rea, 2017; Felbab-Brown, 2015). In such circumstances, vocational training in construction, plumbing and mechanical repairs, tailoring, barber services and agricultural and livestock husbandry give women little room for participation. The ability to access the market is further reduced for women by the complex factors of environmental degradation, insecurity, famine, and high levels of unemployment. These pose a problem of economic integration for defectors particularly women who would be sidelined in the competition for scarce economic goods.

Conclusion

Despite an array of impressive policy papers and micro and macro-level studies on gendering DDR programs, the representation of women in these programs as the case studies show fall below their participation level in terrorist and armed organizations. This has been seen as part of a broader trend of female marginalization in peacebuilding and conflict resolution (Ollek, 2005). The construction of war and violence in masculine terms impede an in-depth understanding of women who commit extreme violence. The scramble to present other female members of terrorist and armed groups as playing support roles is evidence of efforts to restrain them within culturally recognized roles. It is these 'normalized' conceptions of womanhood that guide policy frameworks including DDR programs. The UN Resolution 1325 on Women, Peace and Security was a response to increased knowledge of women in violent extremism and the inadequacies of earlier DDR programs in acknowledging women's role in armed groups. The 21st Century thus, saw a more inclusive DDR agenda commonly labeled second generation DDR. Despite this

stride, gaps remain between provisions for women and girls in DDR and implementation (Enloe, 2000). As noted above, Somalia had no rehabilitation centres for women up till 2017, after the one in Baidoa was closed.

Recommendations

1. The studies underscore the need to apply a nuanced and context–specific lens in examination of the trajectories of women's involvement in terrorism and armed conflicts. The victim/perpetrator dichotomy denies the 'complexities of shifting roles and experiences' (Mckay, 2005). Rebel wives could turn fighter and vice versa and victims could become perpetrator.

2. Also visible in the Somali and Ugandan case studies, is the double marginalization of women with children. They have to grapple with stigmatization from their communities as women associated with terrorism and children make it difficult to forget the past for both parties. This problem needs to be adequately addressed in DDR interventions.

3. The use of traditional mechanisms of reconciliation as a tool of reintegration was applied in the two countries studied. It would seem to have yielded more positive results in Uganda. This is not unconnected with Somalia's state failure and goes to show the necessity of a needs assessment and contextualization in DDR designs. Nonetheless reintegration was facilitated to a certain degree by the Xeer in Somalia. More research is needed into traditional mechanisms that can facilitate reintegration for women in conjunction with women groups.

4. The common problem of insufficient funds often result into a narrow focus on DDR designs with the primary intent of forestalling outbreak of hostilities. In this regard, the men seen as the more dangerous threat are given priority. Women are seen as being able to reintegrate easier than men. The 'victim' trope and the support role attributed to women in dominant narratives on terrorism ensures that for men, the re-integration process is 'securitized, or emphasized as an essential part of the transition from war to peace'. On the contrary, the process for women is couched as 'social concern and 'moralized as a return to normal' (Mckenzie, 2009, p. 259). Emphasis becomes more focused on social integration to the neglect of economic (Blattman and Annan, 2008). For DDR to make meaning and achieve desired results for female ex-terrorists, the strategies employed must be sensitive to the heterogeneous roles played by women and how these impact on their meaning-making of terrorism.

References

Annan, J., Blattan, C., Mazaruna, D., & Carlson, K. (2011). Civil War, Reintegration, and Gender in Northern Uganda. *The Journal of Conflict Resolution*, *55*(6), 877-908.

Blattman, C., & Annan, J. (2008) Child Combatants in Northern Uganda: Reintegration Myths and Realities In R. Muggah (Ed.), Security and Post Conflict Reconstruction: Dealing with Fighters in the Aftermath of War. Routledge 103 – 126.

Bleie, T. (2012). *Post-War Moral Communities in Somalia and Nepal: Gendered Practices of Exclusion and Inclusion*. Retrieved from https://uit.no/Content/307291/Post_War_Processes_Report_Final.pdf.

Bloom, M. (2007). Female Suicide Bombers: A Global Trend. *Daedalus, 131*(1), 94-102.

Borzello, A. (2007). The Challenge of DDR in Northern Uganda: The Lord's Resistance Army. *Conflict, Security and Development* 7(3) 387-415.

Caramés, A., & Sanz, E. (2009). *DDR: Analysis of Disarmament, Demobilisation and Reintegration   (DDR) Programmes in the World during 2008*. Retrieved from https://www.scribd.com/document/69222731/DDR-2009-Analysis-of-the-World-s Disarmament-Demobilization-and-Reintegration-DDR-Programs-in-2008.

Compton, N. (2014). *A Disjointed Effort: An Analysis of Government and Non-Governmental Actors' Coordination of Reintegration Programs in Northern Uganda*. Independent Study Project (ISP) Collection. Paper 1920.

Cunningham, K. J. (2003). Cross- Regional Trends in Female Terrorism. *Studies in Conflict and Terrorism, 26*(3), 171-195.

Enloe, C. (2000). *Maneuvers: The International Politics of Militarizing Women's Lives.* Berkeley: University of California Press.

Felbab-Browb, V. (2018). The Limits of Punishment: Transitional Justice and Violent Extremism, Somalia Case Study. *Institute for Integrated Transition.* Retrieved from https://cpr.unu.edu/the-limits-of-punishment-transitional-justice-and-violent- extremism.html.

Hansen, S. J. (2013). *Al Shabaab in Somalia: The History and Ideology of a Militant Islamist Group.* 2005 – 2012. Oxford: Oxford University Press.

Jones, S. G. (2013, October 3). The Terrorist Treat from Al Shabaab. Testimony Presented before   the House Foreign Committee. *Rand.* Retrieved from https://www.rand.org/content/dam/rand/pubs/testimonies/ CT400/CT400/RAND_ CT400.pdf.

Knop. K. V. (2007). The Female Jihad: Al Qaeda's Women. *Studies in Conflict and Terrorism*, Vol. 30.

Lins de Albuquerque, A. (2017). *Terrorism in Africa: A Quantitative Analysis.* Retrieved from file:///C:/Users/mfon/ Downloads/http___webbrapp.ptn.foi.se_pdf_ab7952a8-3bd5-4593-8342-acdbd2ba3b69 per cent20(2).pdf.

Mckay, S. (2005). Girls as "Weapons of Terror" in Northern Ugandan and Sierra Leonean Rebel Fighting Forces. *Studies in Conflict and Terrorism, 28*(5), 385-397.

Mckay, S. and Mazuran, D. (2004). *Where Are the Girls: Girls in Fighting Forces in Northern Uganda, Sierra Leone and Mozambique. International Centre for Human Rights and Democratic Development.* Retrieved from http://pdf2.hegoa.efaber.net/entry/content/1507/MCKAY_y_MAZURANA_2004_- _Where_are_the_girls._ Gilrs_in_fighting_forces_in_Northern_Uganda__Sierra_Leone_a nd_Mozambique_.pdf.

Morse, T. (2005). *Disarmament, Demobilization and Reintegration: Somalia Militia.* Retrieved from https:// openknowledge.worldbank.org/handle/10986/12911.

Ndung'u, I., Salifu, U., & Sigsworth, R. (2017). Violent extremism in Kenya-why women are a priority. *Institute for Security Studies Monographs, 2017*(197), 1-124.

Ollek, M. O. (2007). *Forgotten Females: Women and Girls in Post-Conflict Disarmament, Demobilisation and Reintegration Programs.* (MA Thesis). Retrieved from http://digitool.library.mcgill.ca/webclient/ StreamGate?folder_id=0&dvs=1540197371009~252.

Rajivan, A. K., & Senarathne, R. (2011). *Women in Armed Conflicts: Inclusion and Exclusion. Asia- Pacific Human Development Report Background Paper Series.* Retrieved from http://www.undp.org/content/dam/rbap/ docs/Research per cent20& per cent20Publications/human_development/RBAP-APHDR-TBP_2010_11.pdf.

Tervooren, K. H. (2016). *Representing Women and Terrorist Violence: A Feminist Interrogation.* (MA Thesis). Retrieved from https://dspace.library.uu.nl/handle/1874/338328.

Ubink, J., & Rea, A. (2017). Community Justice or Ethnojustice? Engaging with Customary Mechanisms to Reintegrate Ex-Combatants in Somalia. *International Journal of Transitional Justice 11*, 276-296.

Weinberg, L. & Eubank, W. (2011). Women's Involvement in Terrorism. *Gender Issues, 28*, (1-2) 22-49.

Wise, R. (2011). Al Shabaab AQAM Future Projects Case Study (2). Retrieved from http://www.operationspaix.net/ DATA/DOCUMENT/4039~v~Al_Shabaab.pdf.

The Third Term Crisis in Africa: "the last mile of (de)-democratization?"

By Edmond John Pamba

Abstract

The third wave of democratization that begun at the sunset of the Cold War in early 1990s heralded 'new independence' in Africa as more democratization upset authoritarian systems on the continent. The most salient aspect of this wave was the widespread adoption of constitutional innovations - term limits - for heads of states and governments in Africa. The two-term limit model was popularly adopted, though with few aberrations. However, this period also recorded some political mutations that created illiberal democracies across Africa, with permissive political cultures, which have led to a new type of presidentialism. Constitutional revisions to abrogate term limits have been and are the most common assault on democratic consolidation in Africa, while in some instances, democratic buoyancy has proved itself in the defeat of such revisionist attempts. This unveiling dialectical struggle begs the question, "is the third term crisis, 'the last mile' of (de-)democratization?" This article highlights the third term crisis in Africa and attempts to answer this question.

Introduction

During the third wave of democratization (1991 - 2000), many African states adopted term limits for presidents. This was to tame neo-patrimonial systems that straddled Africa for previous three decades. Prior to 1990, only five African countries had term limits – South Africa, Comoros, Liberia, Tunisia, and Tanzania (Namakula, 2016). The local civil society movements, media, opposition politicians, international financial institutions such as International Monetary Fund (IMF), and Western donor countries led the reformist charge (Schraeder, 1995).

The two-term limit model, ranging between four and seven years each, was widely adopted except for Seychelles and Cape Verde which allow for third terms, and monarchies – Morocco, Swaziland, and Lesotho. Mauritius, South Sudan, Gambia, and Somalia have no constitutionally fixed term limits. Term limits, therefore, came as a democratic gain and constitutional innovation to improve governance in Africa.

However, between 1999 and 2018, a worrying trend of tampering with term limits to push incumbents into third terms, if not totally obliterating them, has observably developed across Africa. Constitutional revisions and juristic manoeuvres around term limits have been done through parliaments, plebiscites, and constitutional courts. So far, 17 countries have succeeded in these

manoeuvres. They include Namibia (1999 – reinstated in 2004), Gambia (2002), Togo (2002), Tunisia (2002 – reinstated in 2014), Burkina Faso (2003), Gabon (2003), Guinea (2003), Uganda (2005), Chad (2005), Cameroon (2008), Senegal (2008 – to be reinstated effective 2019 due to non-retroactivity), Algeria (2008), Comoros (2009), Djibouti (2010), Rwanda (2015), Republic of Congo (2015), and Burundi (2018).

However, Zambia (2001), Nigeria (2006), Malawi (2003), Niger (2009), Senegal (2012), and Burkina Faso (2014) have tried in vain. Other presidents toyed with the idea of tampering with term limits before backing down in the face of opposition. They include Daniel Moi of Kenya, Benjamin Mkapa of Tanzania, and Joachim

> The most salient aspect of this wave was the widespread adoption of constitutional innovations - term limits - for heads of states and governments in Africa

Burundians protest against the third term of President Nkurunziza in March 2018 (Phil Moore/Al Jazeera)

Chisano of Mozambique and Hassan Mwinyi of Tanzania (Haynes, 2012).

The surge in constitutional revisions against term limits reveals a temptation among African leaders, to revert to patrimonialism or entrench "new presidentialism." The role of parliaments, the people through plebiscites, and the apex courts of law in this trend may suggest that the political culture in Africa has not sufficiently evolved to protect democracy. However, the failed attempts in other African countries to revise term limits in favour of incumbents may actually prove the resilience of democracy in those countries. However this disarticulation confirms the dialectical struggle that African states are undergoing. It begs the question of whether this (third term crisis) is the 'last mile' in the (de-) democratization of Africa.

Permissibility of Constitutional Revisions

The observable trend of constitutional revisions that have created the third term crisis in Africa is a function of the extant illiberal nature of the given African democracies, single party rule, subject and parochial political cultures, and to an extent, bureaucratic authoritarianism. These factors create an enabling environment for systematic de-democratization epitomized by *de-institutionalization* of power.

To mollify unyielding pressure to democratize, some neo-patrimonial regimes in Africa allowed term limits and other political reforms. The systemic spirit being contra-democratic, the resultant political systems are semi-democratic, semi-authoritarian or illiberal democracies (Nur, 2015).

Regular and periodic elections were held but did not meet democratic threshold of free, fair, credible, and transparent process (Diamond, 1999). Sham elections are, still prevalent in "post-third wave" African democracies resulting in many electoral disputes. Many presidential election petitions have been adjudicated in favour of the status quo and dismissed on flimsy technical, procedural, and substantial effect rule, thereby sabotaging merit and justice (Kaaba, 2015). This is seen in presidential election dispute cases of Cote d'Ivoire in 2010, Kenya in 1997 and 2013, Namibia in 2009, Sierra Leone in 2012, Uganda in 2006, Ghana in 2012 and Zambia in 2001 among others (Kaaba, 2015).

Competitive politics were allowed in principle, but in reality, political opponents of incumbents and their supporters have suffered intimidation, persecution, arrests and imprisonment, violence and disenfranchisement (Collier & Vicente, 2012). This has happened in Kenya (2007), Sierra Leone (2018), South Africa (2009), Sudan (2015) and Uganda (2016). For instance, Uganda's opposition leader Kizza Besigye, and the leader of the Forum for Democratic Change (FDC), has been arrested and mistreated numerous times since 2011 while leading anti-government protests.

Political and civil rights were granted constitutionally, but restricted in various instances. Demonstrations and

protests have been repressively banned and quashed, government critics arrested and jailed, free speech limited, and media freedom frozen. These events have happened in DR Congo (2015), Burundi (2015), Ethiopia (2017), Kenya (2017), and Uganda (2016) among other countries. The Right to information has in many instances been censured such as Burundi's media bill of 2013, Ethiopia's Mass Media and Freedom of Information Proclamation of 2008, and various Social Medial laws in Uganda (Frivolous Petitions Bill), Nigeria and Kenya (Computer Crimes and Cyber Crimes Bill). The rule of law has been selectively applied with the powerful elites not being held accountable by it. In such cases, law follows power and justice remains elusive. O'Donnell (2014) links persistence of corruption to weaknesses of rule of law in transitioning societies. The transitioning democracies in Africa still exhibit high levels of corruption which can be attributed to weak law enforcement.

Institutional independence and the principle of separation of powers (*trias politica*) are guaranteed in the constitutions of many African countries, but feebly obtained in reality. The executive wields power over other branches of government and this allows their manipulation by the former. The judiciaries and legislatures of such countries have become respecters of power, and thus perfunctorily lend legitimacy to constitutional abrogation and revision (Mangu, 2009; Kefale, 2003). Separation of powers is otherwise the bastion of constitutionalism, liberty and democracy because a system of checks and balances and separated functions limits interference that might undermine the rule of law (Mangu, 2009).

The political cultures across many countries in Africa are majorly of subject or parochial stripe. The traditional charismatic clout of African kingship and chieftaincy is still promoted by current heads of states and governments, and the African publics offer reverential submission to their rule (Diamond, 1999). Long-serving African presidents also promote personality cultism through titles, portraits, and pledges of allegiance to them (Diamond, 1999). Also, the disillusionment with politics among citizens in Africa is appalling. This has pushed them into apathy, disaffection, and diminished willingness to participate in governance. Participation in elections, public debate on national issues, active protest, and popular clamour is also low. The civil society is also less vibrant (Baker, 2001). This undermines growth of collective consciousness into collective action among the electorate such as mass action against misrule. Where political cultures have acquired affective wavelengths, political power is institutionalized and accountable to the electorate, and constitutional revisions have failed. The civil society, media, opposition politicians and the people have stood in solidarity to condemn and disallow constitutional revisions for authoritarian designs, in defence of liberal democracy. This happened in Burkina Faso in 2015, Malawi (2003), Nigeria (2006), Senegal (2012), and Zambia (2001) where popular rebellion and parliamentary disapproval denied incumbents third terms.

Finally, long serving African leaders have, over time, established structures for neo-patrimonialism and clientelism through single-party systems. This undermines democratization across Africa where such systems exist. Single party dominance in politics undermines constitutionalism through the parliamentary tyranny they command (Oseni, 2012). The mix between presidential systems and single party dominance in the environment of institutional incapacities has also helped entrench neo-patrimonialism and clientelism which helps tout authoritarian designs of incumbents seeking constitutional revisions (Oseni, 2012). It is apparent that many of African countries experiencing third term crisis and struggles have single party dominance problem, such as Rwanda, Ethiopia, and Burundi among others.

Bureaucratic authoritarianism in the spirit of reform consolidation, on the other hand, has led to centralization of power in the executive and institutionalization of repression in transition societies (Bermeo, 1995). The economic successes of such regimes boosted their legitimacy dividends, while suppression eliminated dissidence and competitive politics (Bermeo, 1995). In countries such as Ethiopia, Rwanda, Cameroon, and Guinea among others, there is institutionalized coercion that, in part, permits constitutional revisions that abrogate term limits.

The transitioning democracies in Africa still exhibit high levels of corruption which can be attributed to weak law enforcement
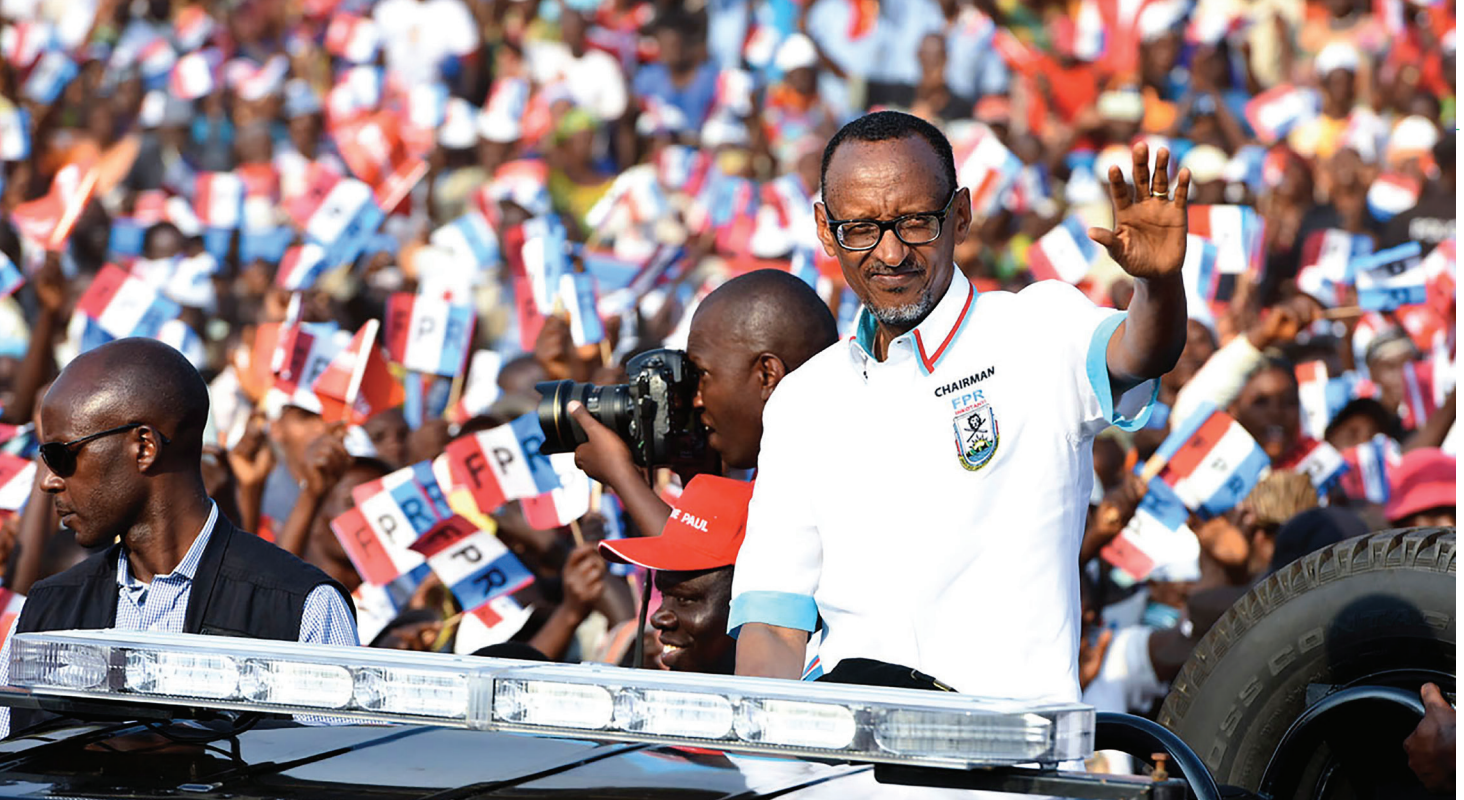
President Kagame of Rwanda waves to supporters. Rwanda voted to amend its Constitution to allow him to seek a third term

Implications of the Third Term Crisis on Governance in Africa

Abrogation of term limits for heads of states and governments especially in presidential systems in Africa is an assault on the growth of liberal democracy on the continent. It undermines the process of democratization and good governance premised on institutionalization of power. This trend of constitutional revisions in Africa, inimical to term limits will thus have the following implications on governance in Africa:

Constitutionalism, which is a central tenet of liberal democracy, will be weakened through frivolous constitutional revisions. Abrogation of term limits, a democratic safeguard, undermines the spirit of law and institutionalization of power as it introduces discretion and arbitrary power. It undermines legal force of the respective constitutional provisions and supremacy of the constitution. It is, however, noteworthy that constitutional review is also an important element of democratization for its progressive effect of improvement of law (Rousseau, 2015).

Term limits promote electoral accountability (Smart & Sturm, 2013) which is highly circumvented in their absence. Suspension of term limits or revision thereof, promotes authoritarianism which the electorate or citizenry can hardly hold to account.

Term limits allow enjoyment or exercise of franchise rights by citizens. They make power or governance to be shared, public and participatory (Namakula, 2016). They

also boost voter turnout (Veiga & Veiga, 2018). Perpetual incumbency especially of misgoverning presidents promotes apathy and the authoritarian repression interferes with electoral integrity and franchise rights. Eritrea, for instance, has term limits but have never been observed, and no presidential elections have ever been held since independence in 1993. Electoral mismanagement and infringement of political and civil rights by authoritarian regimes or illiberal democracies in Africa is not new.

Term limits allow for alternation of government presenting alternative reforms, strategies, visions, and styles that inspire new hopes among the citizenry (Namakula, 2016). Therefore, perpetual incumbency will hinder realization of these benefits of political turnover.

Term limits also promote stability of polity because they manage succession politics in a democratic and predictable process, thereby ensuring smooth transitions of power (Namakula, 2016). This, therefore, reduces vicious competition for power among the elite that otherwise leads to undemocratic acquisition of power through coups, assassinations and civil war. Term limits will open up political competition in a manner that promotes electoral processes, equal rights, and opportunities to political power (fair power distribution) and free participation in politics (Namakula, 2016).

Lastly, term limits promote institutional development - promote respect for political institutions which are central to democratization, by institutionalizing power and guarding against personalization of this power

by incumbents through authoritarian schemes. The executive is, thus, limited in power and balanced with the judiciary and parliament in governance.

Conclusion

The constitutional 'coups' seen in a number of African countries undermine democratization on the continent and grind against African Charter on Elections, Elections and Governance of 2007. They roll back political liberalization and human rights. They perpetuate political struggle in Africa which might trigger political crises and conflicts that will undermine security, peace and stability on the continent. This reverses democratic development in Africa and delays Africa's *Agenda 2063* aspirations. African Union, regional economic blocs and national political players should exercise maximum political responsibility to protect political institutions, constitutional order, and hitherto democratic gains. In this regard, African civil societies need to rise again

> Eritrea, for instance, has term limits but have never been observed, and no presidential elections have ever been held since independence in 1993

and lead the way to civil consciousness. Countries without term limits for presidents should consider (re) introducing them. The 'contagion of the third term' needs to be contained and reversed to constitutionalism. Otherwise, the third term crisis puts African countries at the tipping point – (de-)democratization, given that extant elements of political illiberalism are threatening the resilience of liberal democracy and aiding the relapse to authoritarianism, in many countries.

References

Baker, B. (2001). *Escape from Domination in Africa: Disengagement and its Consequences.* Trenton: Africa World Press.

Bermeo, N. (1995). Classification to consolidation. Some Lessons from the Greek Dictatorship. *Political Science Quarterly, 110*(3), 435-452.

Collier, P. & Vicente, P. C. (2012). Violence, bribery and fraud: the political economy of elections in Sub-Saharan Africa. *Public Choice, 153*(1/2), 117-147.

Diamond, L. (1999). "Introduction." In Diamond, L. & Plattner, M. F. (Eds.) *Democratization in Africa.* Baltimore: The John Hopkins University Press.

Haynes, J. (2012). *Routledge Handbook of Democratization.* London: Routledge.

Kaaba, O. (2015). The challenges of adjudicating presidential election disputes in domestic courts in Africa. *African Human Rights Law Journal,* 15(2), 329-354.

Kefale, A. (2003). The Role of National Institutions in Multiparty Democracy in Africa: Some Observations. Retrieved:http://www.elections.org.za/content/WorkArea/DownloadAsset.aspx?id=1946

Mangu, A. M. D. (2009) Separation of Powers, Independence of the Judiciary, and Good Governance in African Union Member States. Retrieved from http://www.cpahq.org/cpahq/cpadocs/Good%20Governance%20in%20African%20Union%20Member%20States.pdf

Namakula, C. S. (2016, August 03). The efficacy of presidential term limits in Africa. Retrieved from https://www.researchgate.net/publication/312880882

O'Donnell, M. (2006). *Post-Conflict Corruption: A Rule of Law Agenda?* In Hurmitz, A & Huang, R. (Eds.). *Civil War and the Rule of Law: Security, Development, Human Rights.* Boulder: Lynne Rienner.

Oseni, B. A. (2012). *One-Party Systems and Constitutional Democracy in Africa: A comparative study of Nigeria and South Africa.* A thesis for Political Science (PhD thesis). University of Exeter.

Rousseau, D. (2015, May 11). Constitutionalism and Democracy. *Books and Ideas*. Retrieved from http://www.booksandideas.net/Constitutionalism-and-Democracy.html

Schraeder, P. J. (1995). Review: Understanding the "Third Wave" of Democratization in Africa. *The Journal of Politics,* 57(4), 1160-1168.

Smart, M. & Sturm, D. M. (2013). Term limits and electoral accountability. *Journal of Public Economics,* 107, 93-102.

Nur, S. (2015). Third Wave Democratization in Post-Cold War Africa: The Rise of Illiberal Democracy in Comparative Perspective. *CEU Political Science Journal, 10*(1-2), 51-83.

Veiga, F. J. & Veiga, L. G. (2018). Term Limits and Voter Turnout. *Electoral Studies,* 53, 20-28.

About the Writers

Kisiangani Emmanuel, Ph.D.

Dr. Kisiangani is Lecturer at the University of Nairobi, Institute of Diplomacy and International Studies. He has previously worked in various research and teaching capacities in South Africa and Kenya. Kisiangani holds a Ph.D. in International Relations from the University of the Witwatersrand, Johannesburg (South Africa). His areas of interest include conflict analysis and early warning, political governance and democracy, radicalization, violent extremism and terrorism, international conflict management, peace building, transitional justice and diplomatic discourse.

He can be reached at emmanuh@yahoo.co.uk

Roselyne Omondi

Roselyne Omondi is the Associate Director, Research, at the HORN Institute. She holds Erasmus Mundus Master's degrees in Journalism, Media, and Globalisation from Aarhus University, Danish School of Media and Journalism (DMJX) (Denmark), and Swansea University (UK), specializing in War, Conflict, and Terrorism, and in International Humanitarian Action, Rijksunivesiteit Groningen (the Netherlands), specializing in Comprehensive Security. She also holds a Bachelor's degree in Sociology and English Language from Kenyatta University (Kenya). She is also an experienced writer-editor who works at the intersection of Peace, Conflict, and Terrorism Research; International Development; and Media and Communication.

She can be reached at roselyne@horninstitute.org

Mfon Umoren Ekpootu, Ph.D.

Dr. Mfon is a Senior Lecturer in the Department of History and Diplomatic Studies at the University of Port Harcourt, (Nigeria). She holds a PhD in Gender History. Her research interest is on the African woman, with a focus on gendered migration, social policy, and in recent times, the gendered spaces of conflict. Her publications include *Sexualizing the City: Female Prostitution in Nigeria's Urban Centres in a Historical Perspective (2017), Interrogating Human Trafficking in Nigeria (2012)* and *Beyond Victims: Gendered Constructions of Militancy in the Niger Delta* (forthcoming). She is a life member of the Historical Society of Nigeria.

She can be reached at mekpootu@yahoo.co.uk

Edmond J. Pamba

Pamba is a Research Assistant at the HORN Institute. He holds a Bachelor of Arts in International Relations and Diplomacy from Maseno University (Kenya). He researches international security, terrorism and counter-terrorism, international law, international political economy, global governance and globalization, diplomacy and foreign policy, regional integration, international trade, and migration development.

He can be reached at edmond@horninstitute.org

Upcoming Activity
Book Volumes (I and II) Launch

The HORN Institute will soon launch two book volumes: *The Changing Dynamics of Terrorism and Violent Extremism: An Analysis* and *The Changing Dynamics of Terrorism and Violent Extremism: Policy and Practice.*

These publications contain peer-reviewed chapters presented at the international conference on terrorism and violent extremism held on 24 – 26 April 2018 in Nairobi-(Kenya). The conference was organized by the HORN Institute to provide a platform for exchange of ideas and experiences in countering terrorism and violent extremism in Africa.

The volumes' contributors comprise of leading scholars and practitioners who examine the subtleties and complexities of terrorism and violent extremism in Africa today. Some of the topics in the books include political and religious extremism; ideological dimensions; state responses to terrorism; preventing and countering violent extremism; gender and terrorism; role of schools in countering extremism; media and terrorism; terrorism financing; terrorism and human rights; critical infrastructure protection; conflict dynamics in the Gulf and the wider Middle East, and their impact in Africa; global trends in terrorism and violent extremism; terrorism, trauma and counselling; radicalization and deradicalization; and case studies from Somalia, Nigeria, Jordan, Egypt, and Syria, among others.
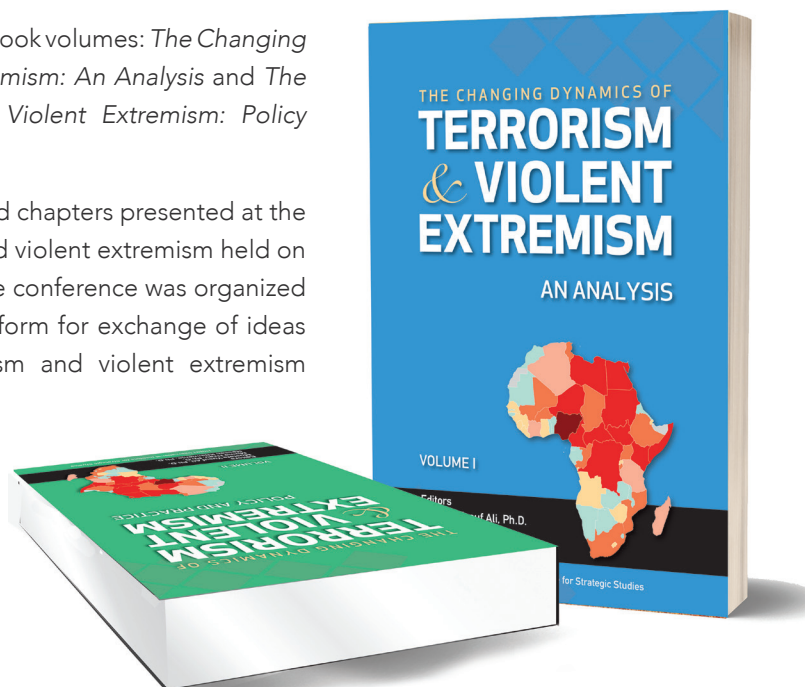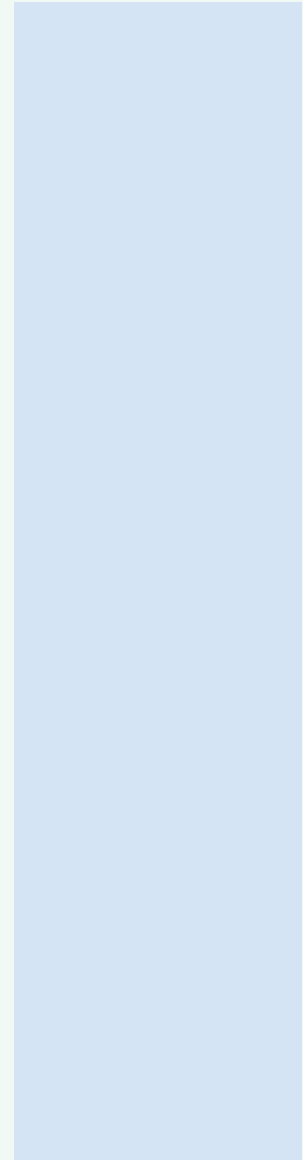
Editor's Note

Dear our esteemed readers,

We are excited to release our fourth bi-monthly issue of the HORN Bulletin. We bring to you well-researched articles and analysis of topical issues and developments affecting the Horn of Africa. We welcome contributions from readers who wish to have their articles included in the HORN Bulletin. At HORN, we believe ideas are the currency of progress. Feel free to contact the Editor for more details at info@horninstitute.org.

Hassan Khannenje, Ph.D.
Editor, the HORN Bulletin