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Proliferation Of Small Arms and Light Weapons in Kenya: An Appraisal of Security Protocols and Instruments Since Independence

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Abstract

The study recognizes that Kenya has been entangled in intermittent conflicts, internally and externally, since independence. The illegal flow of small arms and light weapons (SALWs) in the Horn of Africa has undermined peace initiatives, intensified violence and increased crime rates. Internally, conflicts experienced in Kenya have had consequences such as loss of lives, destruction of property, stagnating economic growth, and displacement of people, especially women and children and persons with disabilities. Empirical evidence for this study has been drawn from conflicts experienced in the pastoral regions in Kenya, the rising social crimes in the countries and the negative impacts these unlawful acts are associated with. The study addresses two key questions: in view of the increasing flow of SALWs in the country, what are the security protocols and instruments established to manage this trend? second, how effective are these protocols in pursuit of their objectives. A comprehensive desktop literature review focusing on these questions was conducted. Findings from some of the studies revealed that the demand for small arms and light weapons is significantly increasing at a relatively low cost. This finding mirrors the trend across the country where the trafficking of SALWs has also increased. From the policy perspective, sustainable solutions towards addressing the problem of cattle rustling, the proliferation of SALWs and improved human security are well articulated and documented. However, for these policies to be actualized, there is a need for political will and commitment from responsible leadership, especially towards the implementation of protocols and agreements signed by the government. For this to be achieved, there also needs to be sufficient budgetary allocation in view to realize developmental commitments meant to improve regions that have continued to lag due to insecurity. Findings from this study reveal that over the past decade, the

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Kenyan government has played an active role in advocating stricter controls on SALWs and arms trade in regional and international forums. This subsequently led to Kenya adopting Arms Trade Treaty in 2013. The study recommends the need for a comprehensive implementation of state-led weapons marking initiatives, through the adoption of weapons and ammunition registration. It also recommends strengthening national capacities in charge of monitoring and controlling border areas and transport systems. There is a need for policymakers to introduce alternative economic activities to the citizens living in pastoral areas.

Key Words *Proliferation, Arms, Security, Pastoralists, Weapons*

Introduction

Kenya has faced various forms of conflict since independence. Some of these conflicts have continued unabated and can be witnessed today ranging from internal to cross border conflicts. Regional conflicts in the horn of Africa have been the order of the day.¹ Some of these conflicts are spawned by poor governance in the countries, poverty, ethnicity, terrorism and competition for scarce natural resources. Amongst other challenges, the unmanned flow of small arms and light weapons (SALWs) in the horn of Africa has undermined peace initiatives, intensified violence and impacted more crimes.²

Some of the conflicts in the Horn of Africa have led to loss of life, destruction of property, stagnated economic growth, as well as displacement of people. The most affected population segments are women, children, the elderly, and the disabled. Various dimensions of this conflict also caused both physical and psychological torture thus affecting a larger population than anticipated. The impact of these conflicts on mental health, in particular, is a greater concern in the region as people have been exposed to many different traumatic events, thus raising the chances of developing mental health complications such as post-traumatic stress disorder (PTSD), depression, and anxiety.³ To assuage these effects, most of the affected populations seek solace in religion and cultural practices. There is however more to these practices, SALWs should be well managed so that they do not fall into the wrong hands.

¹ GoK. 2007. *Interventions in Peace Building and Arms Reduction*. Nairobi: Ministry of State for Provincial Administration and Internal Security.

² "Statement by His Excellency Hon. Daniel T. arap Moi," given at the Great Lakes Region and the Horn of Africa Conference on Proliferation of Small Arms and Light Weapons," Nairobi, Kenya, March 14, 2000, p. 3.

³ Murthy, R Srinivasa, and Rashmi Lakshminarayana. 2006. "Mental Health Consequences of war: a brief review of research findings." *World Psychiatry* 5(1): 25-30

Beyond the impact on the individual, conflicts have far-reaching implications on the economic, political, social and cultural practices of the entire community. This compromises productivity and other institutions thus incapacitating production and enhancing more destruction of available resources. Tourism and foreign direct investment have been highly affected by conflicts in the horn of Africa. The crime and insecurity rates in such areas lead to loss of income since investors shy away from investing in such high-risk environments.⁴ Conflicts have led to an increase in the number of refugees and other internally displaced people in the horn of Africa.⁵ The availability and mismanagement of small arms and light weapons (SALWs) have been endemic in Kenya for so many decades, but the determination to decrease the arm weapon improved during the post-election violence which occurred in 2007.⁶ There are so many cases that have been reported in Kenya on the proliferation of SALWs. Likewise, there are so many factors that have contributed to the increased cases of SALWs which includes politically unstable countries in the region, porous or not properly guarded borders, an increasing number of refugees entering the country, and inadequate security in some areas, among others. These factors have contributed to the high rate of the production and spread of the SALWs. As a result, there has been an increasing rate of crimes in the urban centres, intensified cattle rustling between the pastoralist communities, and inter-ethnic conflicts.

Small arms and light weapons have highly been proliferated in the region with the pastoral community in Kenya. There have been high rates of insecurity with these communities being internally displaced by their counterparts. The situation gets worst as you approach the borders. The conflicts have been accelerated by the availability of small arms and light weapons (SALWs) that comes to Kenya, mostly through the neighbouring, country, Somalia.⁷ Some of these SALWs originate from the United States, Europe and the Middle East.⁸ The Kenyan locals

Ali, Fathi A, Fiess Norbert F, and MacDonald Ronald. 2010. "Do Institutions Matter for foreign direct investment?" *Open Economies Review* 21 (2) 201-219.

⁵ Hampton, Janie. 2014. *Internally displaced people: a global survey*. Routledge.

⁶ Small Arms Survey. n.d. "Security and firearms proliferation in Kenya: progress and challenges." *Small Arms Survey*. <http://www.smallarmssurvey.org/about-us/highlights/highlight-kenya.html>.

⁷ IRIN. (2007, Aug 10). Kenya: Call for Stronger laws to curb small arm's proliferation . *IRIN*.

⁸ Human Rights Watch. (2002). *Human Rights Watch*. Retrieved from Small Arms Proliferation in Kenya: <https://www.hrw.org/reports/2002/kenya/Kenya0502-03.htm>

can easily access firearms through the black market.⁹ According to OECD (2005), the presence of SALWs has inhibited development through the destruction of infrastructure such as schools, hospitals, markets and roads, they also inhibit trade and agricultural activities in the affected and the neighbouring areas.¹⁰ Cognizant of the dangers of SALWs, the Government of Kenya has put policies in place to address the issues of small arms. Indeed, such weapons have become primary catalyzers of insecurity, piracy, and terrorism. Currently, Kenya has several legislations focusing on SALWs. These include the Firearms Act, National Police Act, Prisons Act, Kenya Defence Forces Act, Explosives Act, Customs and Excise, Extradition Act, Penal Code, Immigration Act, Forests Act and the Refugee Act.¹¹ Although important development has been achieved, the efforts of implementing the law of controlling the production of the SALWs are still encountering a lot of challenges. This study was guided by the Conflict Transformation Theory. This theory explicates the independent and dependent variables in the phenomenon of small arms and security in Kenya.

Conflict Transformation Theory

The transformation-oriented approach to solving conflicts was developed by John Paul Lederach.¹² This is a major theory relating to national security and countering the proliferation of small arms and light weapons (SALWs) presented in the conflict transformation school of thought. This school of thought focuses on transformation from armed conflicts to peaceful coexistence through various processes and peacebuilding initiatives. This school of thought affirms that conflicts are in flux and a constant state of change. They should be transformed to be socially useful and not destructive. The processes that seek to alter conflicts should be dynamic and changeable, just as the conflict itself is dynamic and changeable.¹³

⁹ Ibid Page 3

¹⁰ DAC. (2005). *Small Arms And Light Weapons (SALW)*. OECD.

¹¹ GoK. (2011). *National Policy on Small Arms and Light Weapons*. Nairobi: Ministry of State for Provincial Administration and Internal Security.

¹² Lederach, John Paul. 1998. *Building Peace: Sustainable Reconciliation in Divided Societies*. Washington DC: United States Institute of Peace.

¹³ Bloomfield, David, Martina Fischer, and Beatrix Schmelzle. 2009. *Social Change and Conflict Transformation*. Berlin: Berghof Research Center for Constructive Conflict Management.

John Paul Lederach is of the view that conflicts disrupt the natural flow of relationships, whereby there is immense focus on presenting problems and their solutions while neglecting the underlying causes of the conflict.¹⁴ He affirms that building a long-term infrastructure for peace is by supporting the reconciliation potential of society as well as strengthening their peacebuilding potential. He further posits that any third party intervening in the conflicts should first concentrate on supporting the internal actors of the conflicts and coordinate external peace efforts. The third party should be very sensitive to the culture of the locals and its long-term effects. Lederach suggests that we look at conflicts with three different lenses to help create a bigger picture. You should first purpose to see the content in the conflict. Secondly, one should have a lens that can see beyond presenting problems and patterns of relationships. Lastly, one needs a conceptual framework that connects the immediate situation with relational patterns.

Conflict transformation theory postulates that one should seek to address the content, the context and structure of relationships before they deal with the conflict itself. The conflict transformation process should pursue developing a change of process that focuses on creating positives from the negatives and improving the relationship. According to Lederach, peacebuilding should be a long-term transformation of a conflict into a peaceful system.¹⁵

Peace-building focuses on reconstruction, rehabilitation and healing and involved identifying the individuals or groups in conflict and empowering them to build peace and support reconciliation. This shall flow from the grassroots to the top. The grassroots can be reached through community dialogue projects, trauma healing, and peace commissions. Civil society and ordinary people are the most emphasized in this theory.¹⁶

Methodology

¹⁴ Deutsch, Morton, Peter T Coleman, and Eric C Marcus. 2007. *The Handbook of Conflict Resolution: Theory and Practice*. Washington DC: HB Printing.

¹⁵ Katz, Neil, and Kevin McNulty. 1994. "Conflict Resolution." *Conflict Resolution* 1-19.

¹⁶ Fischer, Martina. 2006. *Civil Society in Conflict Transformation: Ambivalence, Potentials and Challenges*. Berlin: Berghof Research Center for Constructive Conflict Management.

The study used secondary sources such as books, journal articles, reports, policy documents and newspaper reports. The available literature was reviewed and evaluated on the subject matter. The information was surveyed, synthesized, and critically analyzed by identifying the gaps. Investigation reports have shown that insecurity is escalating due to small arms and weapons being illegally possessed by the community members. The secondary information from these materials was analyzed to examine the perspective on the counter-proliferation of small arms in Kenya to enhance national security. The secondary data sources used by the researcher include electronic journals, books, websites and publications on conflicts and food security. At times, the researcher might opt to use secondary data alone, when they do not want to incur the burden of collecting secondary data.¹⁷

¹⁷ Daas, Piet, and Judit Arends-Tóth. 2012. *Secondary Data Collection*. Hague: Statistics Netherlands.

Policies and Legal Frameworks

Over the years, the government of Kenya has enacted security-oriented policies to address the issues of SALWs in the country and improve security at both the national and county levels. In 2003 the government established the Kenya National Focal Point (KNFP) to address the issues of SALWs. Through KNFP several declarations and protocols have been signed at the global, continental, and regional levels so that they can manage and control the production and the trade of SALWs in Kenya. The main objective of KNFP is to develop a policy to manage and control SALW, coordinate with all the states that are managing the firearms, and establish a database with these states. The KNFP also manages the implementation of the international and national resolutions of the SALW.¹⁸

Legal regimes and related measures have been established to address the SALWs which are also in agreement with the United Nations Programmes of Action (UNPoA) which has an arms management policy. Further, Kenya partners with other countries to reduce the accessibility of the SALWs to the pastoralist communities and the rest of Kenyans. Kenya and Uganda have come up with initiatives that ensure that peace has been restored to the communities involved. There have been capacity building and awareness campaigns where the communities that are involved in the SALWs activity are educated, and the initiatives launched on the safety of the communities and creating for them a different means of generating their income. This has been done through the Establishment of the Multi-Prolonged Community Based Strategy so that they can stop the use of the SALWs.

The Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa and neighbouring countries was signed in April 2004 and entered into force in 2006. For the protocol to be implemented, the best practices guidelines that were in relation to the Nairobi Protocol were signed in May 2005 and

¹⁸ The Presidency. 2015. "Kenya National Focal Point and Small Arms and Light Weapons." *Ministry of Interior and Coordination of National Government*. <http://www.interior.go.ke/index.php/2015-02-28-06-43-52/state-department-of-interior/small-arms-control-management>.

later in August 2008 another protocol was signed which its main objective was to prevent, fight and eliminate cattle rustling.

The National Policy on SALWs was developed in 2005 and its main objective was to ensure that peace was maintained with a high level of security with no destruction from the SALW and to manage all the activities that are in place for solving the issues that are associated with the SALWs. There are four objectives that drive the policy, these objectives include; minimizing all the means and the materials that are used in the production of the SALWs, provision collaboration and organizing the control and management of the SALWs through the regulatory, legal and institutional framework, awareness creation to the general public, sensitization and enlightening the communities on SALWs, coming up with the required measures that will be needed for the improvement of the international support, consistent legislation and sharing the information.¹⁹

The Firearms Act of Kenya which was revised in 1972 controlled certification, licensing, acquirement, upkeep of premises, and the certificates of the firearms. The Act was clear and suitable even though some of the punishments and fines that the offenders are very compassionate for discouraging the illegal possession of the SALWs, most of these cases are treated as very minor cases and hence they are not given the consideration that was required.

The firearms protocol's main objective is to ensure that they are controlling and managing the law that is in place in the production and transfer of SALWs, they control the interstate trade of the firearms. The SALWs that comes into the country through the protocol regulation ensures that they are under the government supervision and the procedure of keeping the SALWs is observed. The protocol regulates the policy that manages organizations that import and export firearms through formal approvals and ensures that they follow the existing procedures.²⁰

¹⁹ GOK. 2011. *National Policy on Small arms and Light Weapons*. Nairobi: Ministry of State for Provincial Administration and Internal Security.

²⁰ Chebet, Sigei Eve. 2017. "Influence of Small Arms and Light Weapons on Human Security." Master's Thesis, Nairobi.

The member countries of the Nairobi Declaration include the countries from the East Africa Community and Sudan, Djibouti, the Democratic Republic of Congo, Eritrea, and Ethiopia. According to the Nairobi declaration, the continuous availability of the SALWs is a result of the previous existence of conflicts and clashes and the illegal exchange of weapons. The countries agreed that for them to control and manage the SALWs, they should come up with policies and strategies that will be effective in minimizing the SALWs in the member countries and while doing this, measures should be put in place to observe human rights, development and restoration.²¹ The declaration ensured that there is a solid solution to addressing the issues and that all the member states had strategies in place to control the acquirement of the SALWs and ensure that security was maintained.

The availability and the continuous production of the SALWs is one of the biggest challenges to security in East Africa. Illegal trading and the high rate of accessibility are some of the biggest threats to Kenyan security and development. The rate of crime is rising every day – both in the rural and urban areas – thanks to the availability of the SALWs. The net effects of the increasing proliferation of SALWs are mostly felt in the pastoralist communities where youth engage in cattle rustling activities. Most of those affected by the armed violence are those who live below the poverty line. Worse off are those who live in the underdeveloped regions and informal settlements because they already have certain vulnerabilities such as lack of access to basic needs. Additionally, in cases of emergency, humanitarian agencies find it difficult to reach these populations, hence exacerbating their already dire socio-economic conditions.

The pastoralist communities have been the most affected because the number of law enforcement agencies and peacekeeping mission troops operating in these areas is insufficient given the high number of reported conflicts. Some of the hostilities in such areas emanate from conflict on water accessibility which is already a scarce commodity in these arid and semiarid areas. Conflicts over grazing lands are also common among these communities.

The insecurities spawned from SALWs have also had a negative impact on the investment sector, mostly in the ranching and horticultural industries. Other impacts that are the

²¹ Muthike, Ndambuki. 2016. "The Impact of Illicit Arms on Security: Case Study of Cattle Rustling in Northern Kenya." Master's Thesis, Nairobi.

result of SALWs include low productivity in the agricultural sector, a high rate of the destruction of properties mostly infrastructure, the level of the foreign investment was highly reduced due to the security threats, the increment in the cost related to transport is also highly experienced and lastly, there was high growth in the insurance percentages.²²

The easy acquisition of SALWs affects security since armed people will use violence in settling their conflicts rather than using peaceful measures and as a result, this will interfere with the security measures. The unauthorized acquisition of the armed weapons, particularly those who are using the SALWs, do not have the skills required in handling the weapon because they acquire them illegally. These people are also not well trained in the use of these weapons further endangering their lives and those in their immediate environs. As mentioned previously, the availability of the SALWs is one of the root causes of other types of violence including political and ethical conflicts, an increase in the rate of crime and interference with humanitarian assistance and other agencies in addition to disruption of supplies such as food, medicine, and clothes. In most cases, where the civilians feel like they are not getting the required protection from the government, they feel more secure and safe when they own a SALWs so that they can protect their families.

The production and the misuse of the SALWs were among the leading factors of underdevelopment in some parts of Kenya. The economic development was mostly affected by the long-term influence of the SALWs and this contributes to the suffering of human beings. The destruction of properties can also indirectly impact daily income-generating activities which will, in turn, thus a trigger for unemployment, a threat to investment hence; and a catalyst for the underdevelopment of that particular region and the entire country.

The Kenyan Government have been participating in conferences that are organized to address the issues of SALWs. One such conference titled *African Small Arms Experts* was held in 2005. Kenya was also a participant in the conference that recognized SALWs as a factor that affects development: also articulated at the Tokyo International Conference on African

²² Lenengwezi, Gabriel Samia. 2017. "The Impact of Small Arms and Light Weapons (SALW) on the State of Security in the Horns of Africa Region." Master's Thesis, Nairobi.

Development. One of the measures that the government has established to ensure the reduction of the SALWs was by ensuring that they are involved in the peacekeeping missions in the neighbouring countries including Somalia and Sudan.

Kenya was among the first countries to approve the Nairobi protocol which was the key point in developing the procedures that are used in the transportation of the global arms. United Kingdom has since partnered with Kenya to ensure that there is global agreement on the SALWs. Kenya has been at the forefront in participating in the Great Lake Process which was a recognized international conference that addresses the issues of the SALWs.

The Government of Kenya has been collaborating with the East Africa Community to improve the security and come up with more security measures at the borders mostly on the Kenya-Uganda border, this will help in the conflict reductions across the borders. The main objective of the collaboration was to ensure that there was a reduction in the production of the SALWs and to control the issues of cattle rustling. The countries agreed that for this to be successful, they will be collaborating through thorough operations, information sharing about the SALWs and brainpower.²³ There was a formation of the Eastern Africa Police Chiefs Organization (EAPCO) which was formed by the Police Chiefs from all East Africa Countries and including the police chiefs from Seychelles, Sudan, South Sudan, Eritrea, Ethiopia, and Djibouti. The main of this agreement was to ensure that resources are mobilized so that they will be able to address the issues of transnational misconduct.

The Government of Kenya has been on the front line to ensure that every citizen who possesses a firearm illegally surrenders the weapon willingly. This strategy was implemented in 2006 to ensure that there was a reduction in the numbers of the SALWs in the conflicting regions. One of the successes of this program was the massive number of weapons that were surrendered.²⁴ Later in the same year, a security operation was conducted to collect the remaining SALWs which the owners refused to surrender in the previous exercise. More than

²³ Muchai, Augusta. 2010. "Disarmament and destruction of Firearms not a panacea to Insecurity in Kenya." *Relief web*. April 22. <https://reliefweb.int/report/kenya/disarmament-and-destruction-firearms-not-panacea-insecurity-kenya>.

²⁴ Njoroge, Mbugua. n.d. "Small Arms and Light Weapons." *Africa files*. www.africafiles.org/article.

3,800 SALWs were burned by the Minister of Interior Security (Kenya) in June 2005. The main aim of destroying these weapons was to ensure that they get them out of the system and to demonstrate the government's determination the reduction and control the production of the weapons.

There are many other initiatives spearheaded by the government to reduce SALWs with the main of improving security. One of the initiatives that were implemented to ensure the reduction of the SALW was *Dumisha Amani* (Maintaining Peace), the initiative managed to recover so many SALW.²⁵ Later in 2006 and 2007, the government came up with another initiative that was dubbed the *Operation Okota* (collect) which was conducted by the Security interventions. In 2010, at the Uhuru Park Garden in Nairobi, more than 2,545 assorted firearms were destroyed during the public celebration that was specifically for authorization of the Nairobi Declaration on the SALWs. Each and every year, during the signing of the Declaration since 2000, the government ensures that they collate and burn the SALWs to affirm their determination in the fight against the illegal proliferation of SALWs.

Even though the government of Kenya has accomplished so much in ensuring they are controlling and managing the production and the availability of SALWs in the country, there are still so many cases of armed robbery, cattle rustling, and other criminal activities. The fact that community members are not involved in the measures undertaken and in the decision-making process achieves the desired result as a challenge. The government should come up with new strategies for managing and controlling SALWs and ensure that they have an aspect of community participation in the designing and implementation processes of the policies. To guarantee that there was sustainability in destroying the SALWss, the government and other partners should conduct the destruction activities in the interior areas where they have collected the weapons so that they can give the community members a sense of ownership of the operation. Kenya can also come up with strategies in which instead of destroying the SALWss, they can recycle and manufacture useful goods such as farm tools.

²⁵ Njoroge, Mbugua. n.d. "Small Arms and Light Weapons." *Africa files*. www.africafiles.org/article. pg. 10

Procedures and Effectiveness of the Methods Destroying and Curbing Small Arms in Kenya

Small arms availability and misuse in Kenya is a growing problem. The proliferation of arms and smuggling into the country has negatively impacted the levels of security. Unchecked possession and circulation of small arms have become a national security threat in Kenya.²⁶ For instance, the insecurity and locals' reaction to bandits in Turkana led to the suspension of the Tullow Oil project in 2018 – a major blow to Kenya's oil export drive. According to statistics generated in a study done by Geneva in June 2018, over 740,000 private guns are illegally held.

The long porous borders between Kenya and her neighbours, regional instability, a large refugee population and vast areas that cannot be properly policed have contributed to the proliferation of small arms and weapons in the country. The weapons have fueled urban crime, cattle rustling, banditry and ethnic conflicts as well as the increasing social crimes such as robberies and mugging. The net effect of this has been high-security costs, underdevelopment in the arid areas inhabited by armed pastoralists, and increasing cross border pastoral conflicts and fears in the cities. Recent increasing cases of terrorism and piracy have further strengthened the resolve of the government of Kenya to work to address the issue of small and illicit arms and weapons.

To address the above challenges, Kenya is committed to the implementation of the United Nations Programme of Action (UNPoA) on illicit trade and the use of small arms and weapons. Even with considerable challenges, significant progress has been made in controlling the proliferation of firearms through law enforcement efforts.²⁷ Kenya has developed a national action plan (NAP) for small arms and light weapons. The government, Civil society organizations and other NGOs have been in the fight against the illegal small arms in the community.

Kenya has a stringent legal regime when it comes to arms. Nevertheless, measures are underway to ensure compliance with UNPoA, including a national policy on arms management.

²⁶ Security and firearms proliferation in Kenya: Progress and challenges. Retrieved from <http://www.smallarmssurvey.org/about-us/highlights/highlight-kenya.html>

²⁷ Business Daily, Thursday, July, 26,2018

The government of Kenya has been working with neighbouring countries to reduce the accessibility of arms to nomadic communities. There is a joint disarmament programme with Uganda to restore peace amongst these communities. Kenya has established a multi-pronged community-based strategy to discourage ‘gun culture’. Measures include public awareness campaigns, community safety initiatives, creating alternative means of livelihood, disarmament and destruction of illegal arms.

1. Disarmament Programme

Disarmament initiatives in Kenya are aimed at promoting stability. Since independence, the government of Kenya has undertaken several initiatives to address the problem, especially disarmament and destruction of recovered firearms. Successive governments have been committed to the process of reducing illicit firearms in circulation with the view to improving human security. The disarmament operation *Dumisha Amani* (Sustain Peace) was designed with an elaborate and inclusive multi-sector approach and paired dismissal of weapons by the communities with incentives (alternative livelihoods and refurbishing of local infrastructures)²⁸. The *Dumisha Amani* operation undertaken between 2005 to 2010 led to the collection of 3,499 firearms and 6,083 rounds of ammunition. Since 2005, the *Dumisha Amani* disarmament program started and has been ongoing. When the program started, 2,433 arms and 5,260 rounds of ammunition were recovered. The process applied amnesty and voluntary surrender approaches from 2006 to 2007. In 2008, the government launched *Operation Okota* (collect), a rather more forceful approach by security agencies. Later on, the government applied *Dumisha Amani 2* to continue with the disarmament process.

The intentions and spirit of disarmament have been to reduce the number of illicit firearms, particularly amongst the nomadic pastoralists and pave the way for the development initiatives and improve security. The result of disarmament has not always been impressive amongst the affected communities and human rights groups. The government has been accused of violating human rights by the respective communities through their representatives and the

²⁸ 37 In origin, the operation was intended to be conducted with a regional approach and in cooperation with Uganda and Ethiopia, but talks with these partners were temporarily interrupted in 2006 and 2007. Other joint operations to monitor common borders have however been conducted with both Ethiopia and Uganda.

media, opinion leaders and politicians. Each time a community gets disarmed, they feel exposed and vulnerable to their armed neighbours and adversaries

2. Destruction of Illicit firearms

To reduce the number of illicit firearms in circulation, the government has on several occasions conducted the destruction of firearms in public. In November 2016, 5,250 illegal firearms (120 tonnes) were set ablaze at the Nairobi National Park as part of the fight against poaching. The weaponry included an assortment of illicit firearms and small weapons, recovered during various security operations burns during its destruction in Ngong Hills near Kenya's capital Nairobi. The move also formed part of the efforts to fight crimes such as cattle rustling, and carjacking to eliminate threats of terrorism, human trafficking, piracy and drug trafficking. The destroyed weapons were illegal and were gotten through two main ways: confiscation by law enforcement officials and voluntary surrender by the agents collecting the illegal small arms and light weapons.²⁹

In May 2003, 8,299 firearms were destroyed while 3,800 were destroyed in 2005. In March 2010, over 2,545 firearms were burnt in Uhuru Gardens in Nairobi as part of a campaign by the government to mop-up illicit small arms and light weapons that are reported to be at the Centre of increasing violent crime in Kenya and Africa at large.³⁰

In every subsequent year, since the signing of the Nairobi Declaration in March 2000, the government has been collecting and burning firearms in public to demonstrate its commitment to the reduction of illicit firearms in circulation and to create awareness amongst the general public about the dangers of SALWs. Despite these accomplishments, cattle rustling, armed robberies, hijackings and terrorist attacks and other insecurity incidences continue to be reported with several fatalities occurring in different parts of Kenya.³¹ Government sources indicate that illegal small arms have been used in to implicate deaths in acts of violence and intensified the threats posed by transnational crimes. For instance, the Al-Shabaab militia group which sought to

²⁹ Shaban, Abdur Rahman Alfa. 2016. *Africanews*. November 16th. Accessed March 19, 2019.

<https://www.africanews.com/2016/11/16/photos-arms-on-fire-kenya-destroys-over-5200-illegal-firearms//>

³⁰ ABC NEWS. 2010. *ABC NEWS*. March 25. Accessed March 19, 2019. <https://www.abc.net.au/news/2010-03-25/illegal-firearms-are-burnt-in-the-kenyan-capital/376928>

³¹ Disarmament and destruction of firearms not a panacea to insecurity in Kenya. Retrieved from

<https://reliefweb.int/report/kenya/disarmament-and-destruction-firearms-not-panacea-insecurity-kenya>

overthrow the Kenyan government and impose a strict version of *sharia* law has carried out grave assaults and killings in Kenya and Somalia, killing both civilians and soldiers.

3. Capacity Building of Civil Society Organizations and Communities

One of the issues encountered in countering the proliferation of small arms and weapons is the lack of capacity of local NGOs to effectively engage with the issue. There is also lack of knowledge on national, regional, continental and intercontinental small arms agreements and processes. Civil society organizations are weak and very few can engage in the implementation of the National Action Plan. Local NGOs can be capacitated to assist the National Focal point and mobilize the support of the civil society for the implementation of the National Action Plan through *inter alia* and establishment of a network of NGOs on small arms and related issues. In East Africa and beyond, there is little awareness of the impact of firearms on livelihoods and the work of CSOs. For instance, the presence of firearms in refugee camps can impact the work of refugee support organizations. Capacity building ensures that civil society organizations can engage more effectively with the collection of information and are better placed to assist with the implementation at an early stage.³² NGOs can be capacitated to specifically conduct education and awareness-raising programs in key regions where the small arms problem is most acute.

4. Conferences and Community Barazas

Raising awareness of the small arms issue is a fundamental aspect of curbing the proliferation of small arms and weapons. To date, Kenya has conducted over 20 sensitization and awareness campaigns, some of which have resulted in the voluntary disposal of weapons in North Rift, Western, South Rift, Upper Eastern and North-Eastern Provinces.³³

Efforts have been made in organizing national conferences to bring together government officials and a broad spectrum of national and local civil society actors not necessarily dealing with the issue of small arms and weapons. The groups have been brought together to discuss the nature of the small arms problem in the country and the possible ways and means for civil society and the government to deal with it. Conferences and *barazas* can bolster the political and

³² SafeAfrica and Saferworld. n.d. *Resolving Small Arms Proliferation*. Pretoria, South Africa: Business Print Centre

³³ Gramizzi, Claudio. 2014. *Tackling Illicit Small Arms and Light Weapons (SALW) and Ammunition in the Great Lakes and Horn of Africa*. Working Paper, China Arms Control and Disarmament Association

public will and momentum to effectively tackle the proliferation of small arms. This has successfully worked in Namibia, Botswana and now Tanzania.

Identification of civil society organizations to attend a national conference is of paramount importance. The participation must be apolitical and representatives of all sectors of society. A national conference must have not just NGOs, but also professional associations, trade unions, traditional leaders and authorities, private sector representatives, members of parliament, and provincial and national authorities that should reflect the inter-agency composition of the national focal point.³⁴

5. Kenya's Joint Efforts with Other Countries at Sub-Regional, Regional and Global Levels

Kenya continues to take action against illicit SALWs at the sub-regional, regional, and global levels. At the regional level, Kenya participated in the African Small Arms and Weapons Conference in 2005. It also participated in the Tokyo International Conference on African Development which recognized SALWs as a development issue. At the sub-regional level, Kenya was among the first countries to ratify the Nairobi Protocol. It has continued to participate in the International Conference on the Great Lakes Region proceedings. It also remains in South Sudan and Somalia peace processes.

Through the regional centre for small arms, Kenya as one of the Nairobi Protocol countries has developed guidelines for global arms transfers. With the UK, it co-hosted a conference to advance prospects for an international agreement on SALWs. Kenya continues to appeal for international support, particularly for developmental interventions to address SALWs. It continues to work with the UN Development Programme and other partners to address the developmental dimension of SALWs.

6. Firearms Database and Record-Keeping

Kenya has acquired marking machines and established a national mechanism for record-keeping and data management. Accordingly, marking and registration of the stockpile of the state has been an ongoing exercise. In March 2019, the government of Kenya conducted an exercise of

³⁴ Ibid Pg. 5

verifying the existing private firearms and registering afresh. The gun owners were requested to surrender the weapons for registration and forensic investigations. The procedure involved making an application with the firearms bureau, getting a clearance certificate from the Criminal Investigation Department, and submitting the application form with proper records of the national ID card, certificate of good conduct and doctor's certificate to show that you are mentally and physically fit before one could be cleared. It is only through this procedure that one can legally own a firearm.

The Government issued a statement saying that whoever did not surrender their guns for verification through this procedure be owning them illegally, and if found, they be charged with illegal possession. The exercise was treated as a national baseline assessment that aimed at understanding and measuring the extent and the nature of the phenomenon. However, Kenya has a history of security challenges which increases the demand for private firearms. Having data on the prevalence of armed violence might represent an obstacle to the establishment of appropriate measures.

Policies on the Management of Small Arms in Africa in General and Kenya in Particular

Over the past two decades, the international community has initiated programmes and policies to address the worldwide accessibility and flow of small arms and light weapons. These efforts are principally aimed at curbing the illicit transfer and retransfer of small arms and light weapons conflict is a security concern that is common to any society in transition. The lack of adequate measures to disarm post-conflict societies continues to pose a security threat to the peace and stability of nations and surrounding regions.

Since the adoption of the Nairobi Protocol on small arms and weapons, the government of Kenya has dedicated significant efforts to reduce the circulation of illicit SALWs. Despite the challenges, the process has proved to be quite encouraging. From an institutional point of view, Kenya has developed policies aimed at restricting ownership and usage of Illegal firearms. The policies also refer to the acquisition and registering of the weapons.

1. **Nairobi Protocol of 2004**

Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region, the Horn of Africa and Bordering States on April 21, 2004, which was ratified on May 5, 2006, as a legally binding instrument. The Nairobi protocol was formed after the eleven countries were gravely concerned with the problem of proliferation of illicit small arms and light weapons in the Great Lakes Region and the Horn of Africa which led to devastating consequences as a result of armed conflicts, armed crime, degrading environment, illegal exploitation of natural resources and terrorism among other crimes. The protocol had five objectives. The protocol also set to prevent, combat, and eradicate illicit manufacturing, trafficking, possession and misuse of SALWs in the sub-region. Secondly, the protocol aimed at preventing the excessive and destabilizing accumulation of SALWs in the sub-region. Thirdly, it aimed at promoting and facilitating information sharing and cooperation between the eleven governments in the sub-region, intergovernmental organizations and civil society, in all matters relating to the illicit trafficking and proliferation of SALWs. The protocol was aimed at encouraging accountability, law enforcement and efficient control and management of SALWs in collaboration with relevant partners.³⁵

2. **Kenya National Focal Point on Illicit Small Arms and Light Weapons**

The Kenya National Focal Point on SALWs (KNFP) was established in 2003 under various protocols and declarations that Kenya signed at international, continental and regional levels to ensure stringent control and management of the small arms and weapons in the country. It has a focal point – a committee that brings together government and civil society. Its mandate is to develop the policy on small arms and weapons, establish a database on all state-owned firearms, provide civic education on SALWs and coordinate the implementation of National and international conventions on SALW.³⁶ As part of the NAP, the KNFP has developed a draft arms management policy, while the government of Kenya has commonly adopted community policing.

³⁵ The 2004 Nairobi Protocol

³⁶ The Kenya National Focal Point and Small Arms and Light weapons retrieved from <http://www.interior.go.ke/index.php/2015-02-28-06-43-52/state-department-of-interior/small-arms-control-management>

KNFP developed a National Policy document which was presented to the minister for onward transmission for cabinet approval. The policy has been used to inform the review of legislation. It is key to the implementation of UNPoA, the Nairobi Protocol and the National Action Plan (now the strategic plan). The National policy was meant to provide for strict access to and restriction on possession of small arms by civilians, renewal of the license to possess small arms, control relating to the marking, quantity and classification of ammunition in the possession of a license holder and to prohibit civilians from possession and use of all weapons and automatic and semi-automatic rifles and machine guns.³⁷

Since its establishment, KNFP has adopted a multi-disciplinary and multi-stakeholder approach and worked with relevant institutions and the national civil society in the county. National SALWs mapping was undertaken in 2003. The outcomes of the mapping enabled KNFP to elaborate its strategy and formulated a National action plan that gave ten priority areas and directly contributed to the drafting of the National Small Arms Policy, which was finalized and submitted to the government for adoption in December 2009 but has not yet been adopted.

After operating for five years, KNFP realized that it can improve its efficiency by endorsing a second strategic plan that complies with provisions contained in UNPoA (the strategic plan 2010/11-2014/15) which aimed to lay peaceful, secure and prosperous society that is free from illicit SALW for sustainable development. They also wanted to refine their monitoring and evaluation strategy in 2011.

KNFP has applied a bottom-up approach and created Provincial task forces (PTFs) in each province and then districts by then.³⁸ In 2013, KNFP developed the National Disarmament Action Plan 2013 as a strategy for arms collection programmes for three years.

³⁷ Small Arms and Light Weapons. retrieved from

<http://www.ke.undp.org/content/kenya/en/home/operations/projects/peacebuilding/smallarms.html>

³⁸ After the entry into force of the new constitution, the PTFs are expected to be replaced with County Task Forces (CTFs). It is important to note that the administrative structure in Kenya has changed since the promulgation of the new constitution in 2010. The new administrative structures, which revolve around county governments (47 in total), are now reflected in the SALW Policy mentioned.

3. **Firearms ACT**

The government of Kenya has an Act of parliament for regulating, licensing, and controlling the manufacture, importation, exportation, transportation, sale, repair, storage, possession and use of firearms, ammunition, air guns and destructive devices for connected purposes. A firearms licensing board was established, (appointed by the cabinet secretary) and is composed of a chairman, two representatives from the National Police service, one representative from the attorney general's office, one from a private members group, one from the Kenya wildlife service, one from national intelligence service and one from the national focal point. This board is mandated with various roles.

Certifying the suitability of the applicant and the period they will possess the firearm, issue, cancel and terminate licenses, register civilian firearm holders, dealers and manufacturers, register, supervise and control shooting ranges, establish, maintain and monitor centralized record management system and perform such other functions assigned by the cabinet secretary. The Act has outlined the penalties given to those purchasing firearms or ammunition without a firearm certificate. No one is supposed to own a firearm without a certificate, no one should manufacture, assemble, purchase acquire or have possession of armoured vehicles unless he holds a certificate of approval. Those found guilty of the offences shall be convicted. The act provides provisions for who should be granted the firearm certificate and who should be exempted from holding a firearm certificate. In the act, there is a provision prohibition of manufacture of firearms and ammunition. All the offences regarding the use, ownership, manufacture and distribution of firearms and the penalties for each criminal offence have been well outlined in the document.³⁹

4. **Regional Centre for Small Arms (RECSA)**

Kenya has been part of the regional and international initiatives for the reduction and control proliferation of small and light weapons. The initiatives include the UN Programme of Action on SALW (UNPoA), the Geneva Declaration on SALWs, the Nairobi Protocol and the Declaration on SALWs among other regional instruments. Kenya currently hosts the Regional Centre on Small Arms (RECSA) which is an intergovernmental body supporting member states. RECSA's

³⁹ Firearms Act Chapter 114

principal objective is to ensure the efficient and effective implementation of the Nairobi Declaration and Nairobi Protocol, which relate to the prevention, control and reduction of illicit small arms.

Created in 2005, RECSA originated from the Nairobi Declaration of March 2000 and the Nairobi Secretariat was created to assist its ten signatories to attain their objectives. The members of RECSA include Seychelles (joined in 2004), Somalia (joined in 2005), Congo (Joined in 2009), Central African Republic (joined in 2011) and South Sudan (joined in 2011).

RECSA activities are funded by external donors such as the European Union (EU), Japan, and the United States. RECSA'S member states have been contributing less in terms of funding. Most of the members have arrears.⁴⁰

5. Kenya National Police Reserves

The National Police Reservists are deployed in the pastoralist regions in Turkana, West Pokot, Elgeyo Marakwet, Laikipia, Baringo County and other counties that face security challenges, as a result of cattle banditry and rattling. The security situations in these regions have been bad with communities killing one another and livestock stolen from one community to another. It is overwhelming for the National Police to deal with the situation as they maintain law and order in other sectors. Therefore, the need to establish NPR to operate in the insecure Pastoralist regions.⁴¹

Despite the transformation of the Kenya Police to the National Police Service (NPS) and the change of the Kenya Police Reserve to the National Police Reserve (NPR), Kenya still experiences the challenge of arms accountability which has led to unauthorized possessions by NPR and increased mistrust between community and police service providers.

⁴⁰ RECSA retrieved from <http://www.smallarmssurvey.org/tools/ro-poa/profiles-of-regional-organizations/africa/recea.html>

⁴¹ Saferworld. 2015. *Effective SALW Control in Kenya: Community Driven Approaches*. Saferworld briefing, Saferworld

6. Small Arms and Light Weapons (SALWs) Control and Management

Small Arms and Light Weapons (SALWs) Control and Management is a body by the government of Kenya that is mandated to control and manage the proliferation of small arms and light weapons across Kenya, reduce the demand for illegal SALWs, establish and operationalize policies and institutional framework for KNFP. The programme organizes district awareness forums that create awareness and interact with citizens on the issue of SALWs. These forums are held in crime-prone districts across Kenya. The programme also works in the retrieval of Illicit SALWs. They have conducted extensive research work in the Eastern African region on insecurity with regards to SALWs. More research processes need to be established to seek efficient strategies for reducing the demand for illegal SALWs. In addition to research, the programme aims to establish income-generating activities through county administrations in the conflict-prone regions in Kenya.⁴²

Conclusion

The circulation of illicit and easily available small arms and weapons has posed immense security challenges for Kenya. The availability of SALWs has led to the militarization of society and armed criminals. The weak governance structures, and limited law and order, compounded by abject poverty, social exclusion and cultural practices have made it difficult to control the flow of SALWs. Availability of SALWs has also caused inter-community armed tensions that result from competition over natural resources, especially amongst the pastoralist communities in North-Eastern Kenya. The diversion of arms and ammunition from state-owned stockpiles and domestic ammunition manufacturing facilities has caused widespread corruption amongst officials, and a lack of transparency and stockpile practices of law enforcement agencies.

The demand for small arms is increasing significantly with a relatively low cost. The trafficking of small arms into Kenya from the neighbouring countries including South Sudan and Somalia has increased the proliferation of weapons in the country. The trafficking of these weapons has increased issues of insecurity in Kenya. The proliferation of small arms has

⁴² The constitution of Kenya was promulgated in 2010. SALW control and management is one of the things outlined in the constitution. Some of the initiatives are yet to get started. However, a lot has been achieved in the security sector.

impacted the socioeconomic and humanitarian impacts in the rural areas and urban centres negatively. The proliferation of these weapons poses a threat to sustainable development, reconciliation, life threat, and peace and hinders security both at the national and international levels.

Over the past decade, the Kenyan government has played an active role in advocating stricter controls on SALWs and arms trade in regional and international forums. It is because of this positive attitude that Kenya adopted ATT in 2013. This was an initiative by six other countries in which Kenya played a supportive role as a co-sponsor of the initiative.

Continued insecurity caused by the proliferation of illicit firearms is a clear indication that while disarmament and destruction of firearms are progressive solutions, the government needs to do much more to address the problem to improve security and development. Perhaps, it is time for the government to re-think strategies of disarmament as well as the destruction of firearms.

Within the policy milieu, sustainable solutions toward addressing the problem of cattle rustling, the proliferation of SALWs and improved human security are well articulated and documented. Political will and commitment certainly need to be improved in the implementation of Protocols and Agreements signed by the government. For this to be achieved there needs to be sufficient budgetary allocation in view to realize developmental commitments meant to improve regions that have continued to lag due to insecurity both in rural and urban Kenya.

More importantly, there is a need for a change of attitude by government officials entrusted with the welfare of affected communities and the general public. The allegation of marginalization of pastoralist communities could be disputed depending on how one looks at it. While on the one hand a lot of resources have been spent on addressing their plight and they also should explore complementary means of livelihood, it is also true that there must be a change of attitude in viewing pastoralists and other affected communities as citizens capable of contributing to the national gross domestic product.

The vast lands occupied by pastoralists and other marginalized communities could be turned into gold mines if only their potential would be tapped through improved community involvement at all levels; from formulation to the implementation of policy. Addressing the reasons for demand and supply of both firearms and ammunition would also increase available funds for the development of pastoralist regions and other marginalized parts of the country as opposed to expensive disarmament operations that the government has continued to conduct.

Destruction of recovered firearms should also be conducted at the village level to increase ownership of disarmament processes as the communities would feel it is their responsibility to cooperate with security agencies in view to improve much-desired security and achieve high levels of development. Also, the government might wish to borrow a leaf from countries that are melting recovered firearms to manufacture farming and other tools that are tailor-made to the needs of affected communities.

Recommendations

The study recommends the strengthening of the already existing systems that focus on countering the proliferation of small arms and weapons in enhancing national security. Firstly, there is a need for a comprehensive implementation of state-owned weapons marking programmes, through the adoption of weapons and ammunition registration. Recently, Kenya was conducting private gun owners' verification process. The marking exercise of guns establishes a comprehensive inventory and database that is of fundamental importance in the registration of weapons. There should be good software to mark and register weapons. The local area networks should be improved to guarantee interconnection of the registers, provision of computers and training modules for staff in charge of the database.

The study also recommends the strengthening of national capacities in charge of monitoring and controlling border areas and transport systems. Trans-border flow of SALWs and ammunition is a common trend in the borders of Kenya as well as in other borders in Africa. The borders could be strengthened through equipment that increases border control agencies' mobility and efficiencies such as vehicles and surveillance systems. It can also be achieved through the provision of adequate training modules to the personnel in charge of border control,

sensitization initiatives, peace and conflict management awareness programmes and designing development programmes to respond to communities' needs and requests.

Introducing programmes that can bring livelihood alternatives to the pastoral community can bring some change. This should start with programs that are aimed at changing the mindset that, livestock are the only source of wealth and livelihood. Unemployment, especially amongst the youth in Kenya is a big challenge. When the youth are idle and unengaged, they indulge in social crimes and other evils which are necessitated by the availability of illegal arms and weapons. Providing job opportunities and engaging the youth is one certain way for the government to deal with the proliferation of illegal small arms and weapons.

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