



Africa Amani Journal

ISSN 2709-2216



Vol. 9 | Africa Amani Journal ©  
Chief Editor: Dr. Michael Sitawa  
Vol. 9 Issue 2 | June 2023  
Email: [aaeditor@ipstc.org](mailto:aaeditor@ipstc.org)

Copyright © 2023 Africa Amani Journal  
(AAJ)  
Editing Oversight: International Peace  
Support Training Centre

## **Conflicts and Protection Issues Affecting Women and Girls in Transit Across Borderlands and Possible Interventions: The Case of Somalia in The Horn of Africa**

### **Author:**

**C.A. Mumma-Martinon (PhD)**

Department of Political Science and Public Administration,  
University of Nairobi, Kenya

### **Abstract**

*For women and girls in the borderlands, violence and abuse is particularly prevalent, with minimal protection from state institutions and courts and only limited monitoring by human rights organizations and non-governmental organizations (NGOs). Men and women are affected differently by violent conflict. As a result, the aim of this paper is to investigate the conflict, peace, and security concerns that women and girls face in the Horn of Africa with specific reference to women and girl's immigrants on the Somalia borderlands. The paper focuses on the stage of transit to safe shelters or havens. There are many protection regimes for women transiting across borderlands, but as a theoretical framework, this study has adopted Galtung's Framework on Conflict and Violence. The study mainly uses secondary data. Information about the borderlands of Somalia has been gathered from books, journal papers, and policy documents, among others. The paper concludes that there are serious conflicts and protection issues that affect both women and girls in the borderlands of Somalia and that the mechanisms put in place to address them are not adequate. The paper recommends regional, multi-sectoral and the use of local institutions, among others as some of the strategies to deal with these conflicts and protection issues.*

**Keywords:** Conflicts, protection issues, borderlands, transit, rape and Sexual and Gender Based Violence.

## 1.0. Introduction

Challenges related to economic, social development, peace and security, and climate change tie most countries of the Horn of Africa (Uganda, Sudan, South Sudan, Somalia, Djibouti, Kenya, Ethiopia and Eritrea). Extreme poverty as well as environmental stress and scarcity of resources cause conflict and violence that pervade the borderlands. Communities along borderlands are usually vibrant with a lot of trade activities taking place, diverse cultures of people from the bordering states and immense power relations. Such spaces provide great opportunities for the flow of different commodities and differences in currency exchange rates, different market patterns and trade regulations. In addition, such borderlands are characterized by political, social and economic marginalization, persistent conflict, intense poverty, environmental degradation, and forced displacement (World Bank, 2021). Nonetheless, different borderlands in the Horn of Africa also support over 100 million people with different opportunities like pastoralism and trade. These are the places where regional and global trade connect hosting well-knit social, economic and cultural networks based on cross- cultural, cross - country clan and ethnic connections (World Bank, 2021).

A borderland may be defined in different ways: from sociological, geographical, cultural and spatial perspectives. Generally defined, it refers to a space where two societies, nations or states border each other. It could be defined as a territory distant from the centre, where new people meet and form different cultures. It can also be delimited based on mountains, rivers or administrative attributes. It can be determined by colonisations, migrations and the intense cultural diversity (E-Scholarly Community Encyclopaedia).

Borderlands can also be places full of violence, conflict, suffering and fierce contestations. There are often clashes between neighbouring states and nations in periphery regions. These usually have devastating effects on societies and communities living in the borderlands. Decisions on these people are also usually made by the governments who live thousands of miles away at the state centre and which do not necessarily understand the dynamics or different activities that take place in the borderlands. The communities more, often face cross border crime, threat of violent incursions and abrupt closures of borders which usually cause havoc on their livelihoods and lives. Such decisions can have negative impacts on the different communities. In cases where borders are contested, such communities also experience neglect from the governments of the bordering states.

Borderland studies question the things that take place when different societies with different traditions and cultures live side by side with each other (<https://journals.openedition.org/belgeo/10532>). More often than not, people living in borderlands – find themselves far away from their own capital cities and closer to foreign countries. However, they have connections with people back at home through ethnicity, culture and family.

The World Health Organization (WHO, 2021) describes violence against women as "any act of gender-based violence that results in, or is likely to result in, physical, sexual, or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life" (WHO, 2021). Hence, gender may be construed to mean characteristics adopted within society, which can change over time and even be discarded. Galtung (1969:168) states that violence occurs when the bodily and mental needs of people are not met.

As men are usually the combatants in conflict, they experience direct violence at higher rates from combat, resulting in injury or death. Women and girls, on the other hand, experience high rates of sexual and gender-based violence. They face systemic rape, higher levels of displacement and are more populated in refugee camps where their mortality rates are higher than those of men (WHO, 2021). Those involved in agriculture and giving basic services lose their livelihoods, causing economic vulnerability (WHO, 2021). In rural areas, especially during elections, women and girls are targeted for violence in places near water sources. Gender differences may lead to imbalanced dynamics and roles between men and women. When this is a motivator for violence, it called Gender Based Violence(GBV). This includes violence such as human trafficking, sexual assault and rape, both inside homes and outside. Violence is pervasive in many countries, as a result of patriarchal traditions and cultures that subjugate women, girls and marginalized groups. It is a major threat to the safety of people.

Based on this background, this paper seeks to determine the conflicts and protections issues affecting women along the borderlands of Somalia with other states and borderlands across the different regions within Somalia.

**Figure1. Borderlands of Somalia**



**Source:** Varalakshmi Vemuru Aditya Sarkar (May 19, 2020).

## **1.1. Methodology**

The paper used purely desktop research to evaluate and examine the extent to which individual, collective, environmental, food, economic, and political conflicts, as well as protection issues affect women along the borderlands of Somalia. Desktop research was conducted rigorously. Furthermore, a case study method was used, citing the case of Somalia borderlands in the Horn of Africa. In this paper, the borderlands of Somalia refer to both spaces between Somalia and bordering countries and spaces between different regions within Somalia. In evaluating secondary data, exploratory method was employed. Primarily, secondary data was applied, which involved reports from Non-Governmental Organizations (NGOs) and governmental institutions, books, magazines, published studies, newspapers were also used.

## **2.0. Protection Regimes for Women and Girls in Transit**

### **2.1. Globally**

There are several regimes that protect women and girls in transit across borderlands. The United Nations Charter and the Universal Declaration on Human Rights both state that there will be no limitation as to rights and freedoms because of a person's gender. It also states that all humans are born free and equal in dignity and rights (AU Gender Policy, Rev2/Feb 10, 2009).

Since then, many resolutions have followed, as well as international instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). It calls upon parties to empower women, eliminate stereotypes and foster gender equality, and further establishes an international bill of rights for women, and an agenda for action by countries to ensure the enjoyment of those rights (*New York, 18 December, 1079*). The Vienna Declaration on Human Rights (14-25 June 1993), whose main outcome was a common plan of different ways human rights work could be strengthened around the world. The International Conference on Population and Development (Cairo, 1994) placed at the very centre of development, human rights, individual dignity and the right to plan one's family.

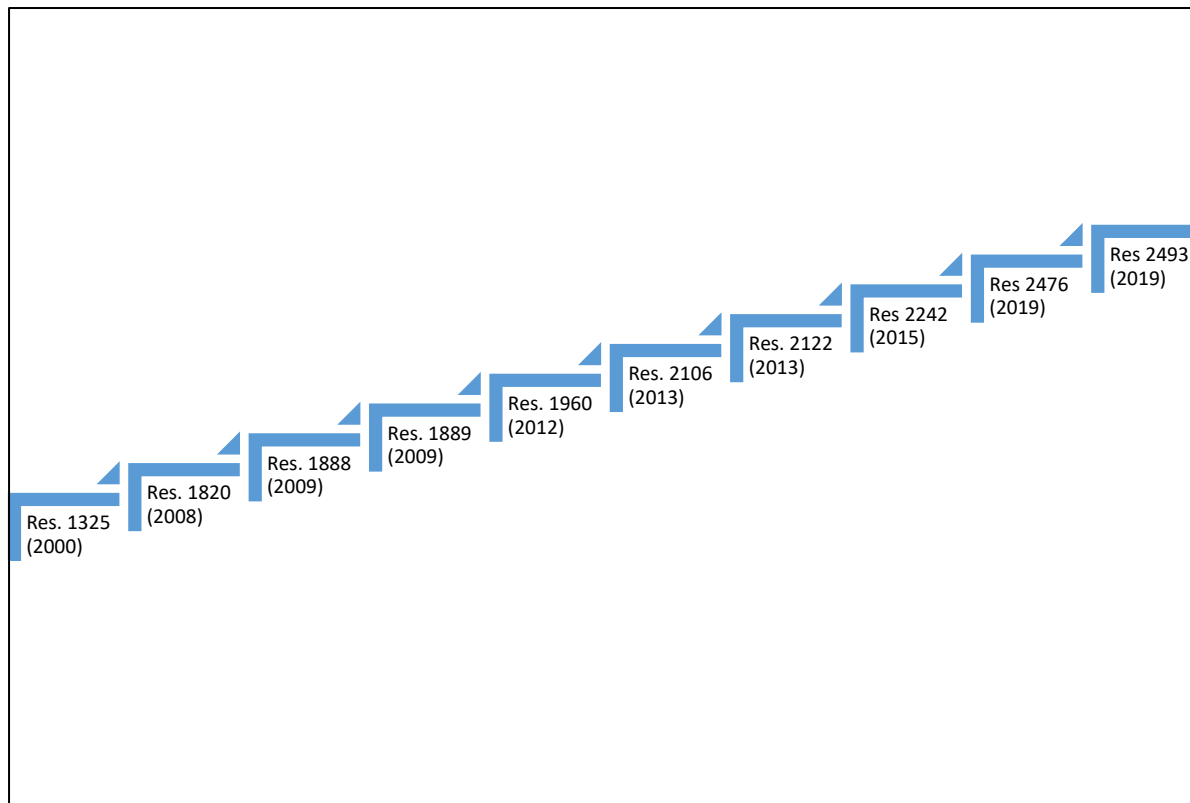
General Assembly Resolution 55/25, 15, (November, 2000) Article 2 of Palermo Protocol urges states to prevent and combat trafficking in persons, pay special attention to women and children (a), assist and protect victims of such trafficking, taking into consideration human rights (b) and to promote cooperation among States Parties in order to meet those objectives (c) The Human Development Report (1994) shifted the focus of human security from security of territories to the security of individuals. It recommends that governments should invest in human development

and create policies to promote peace; thus, promoting peace and sustainable development. It also expands the concept of development to include all facets and not just aid, and establishes an Economic Security Council (UNDP, 1994). Thus, the United Nations Millennium Declaration, (September 2000), calls upon states to combat hunger, poverty, literacy, disease, environmental degradation, and discrimination against women.

The 2030 Agenda for Sustainable Development was adopted by all United Nations Member States in 2015. At the centre are the 17 Sustainable Development Goals (SDGs). All these urgently call upon different states to take urgent actions towards a global partnership. To eradicate poverty and other hardships, the goals emphasize strategies that enhance health, education, reduce disparities, tackle climate change and bring economic growth must all go hand in hand. Agenda 5 of the Sustainable Development Goals 2030 focusses on the achievement of gender parity and empowerment of all girls and women.

UN Security Council Resolution 1325 on Women, Peace and Security (2000) was specifically meant to address specific issues affecting women in terms of peace and security. It is preceded by resolutions 1820, 1888, 1889, 2106 and others, noting that the use of rape and other sexual offences in conflict can amount to war crimes and coming up with recommendations such as installing, naming and shaming systems to emphasize the consequences of sexual violence (UNSCR, 1960) and recommending the creation of awareness for sexual violence and education on the same, calling for leadership by a special representative to address sexual violence in conflict situations (UNSCR, 1888) and for deployment of a team of experts to respond.

In summary, the policy framework on Women, Peace and Security recognizes women as critical actors in any efforts towards achieving sustainable international peace and security. It pushes for equal participation for women and a gendered perspective in all security, peace building and peace processes.

**Figure 2: Women, Peace and Security*****Agenda***

**Source:** *Office of the Special Adviser on Gender Issues and Advancement of Women (OSAGI) – (2002).*

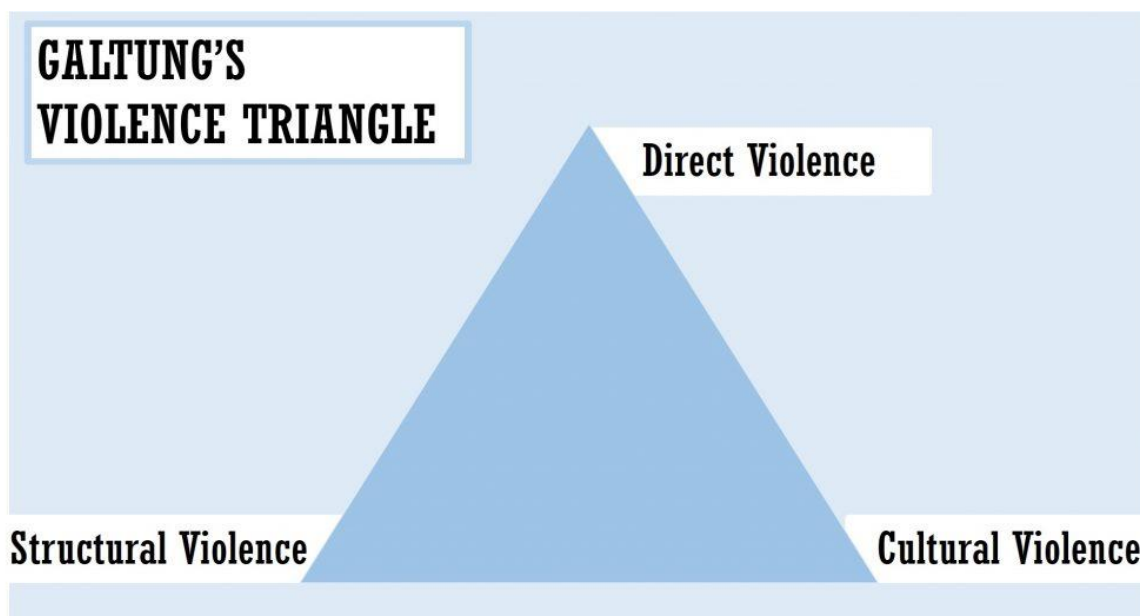
**2.2. Continentally,**

African Charter on Human and People’s Rights (2016), also referred to as the Banjul Charter, demonstrates the dedication of the African Union towards women empowerment. It aims to protect human rights and basic freedoms in the African continent and states that all peoples shall have the right to their social, cultural and economic development. Their identity and freedom must be respected and all people must enjoy equal and common heritage of mankind. States are called upon collectively and individually, to ensure and exercise of the right to development (AU Gender Policy, 2009).

The Solemn Declaration on Gender Equality in Africa ( SGDEA, Addis Ababa, Ethiopia , 2004), reinforces this and urges member states' to continually take action towards the achievement of gender parity and to reinforce their commitment to international and regional women's rights instruments; AU Strategy for Gender Equality and Women's Empowerment (2019), Goal 17 of AU Agenda 2063(2013), The Maputo Protocol (2003) and the Kampala Declaration on Sexual and Gender Based Violence (2011) condemn gender discrimination and sexual violence and promote gender mainstreaming in member states, in line with other international instruments. The Silence the Guns Initiative (2016) also has among its agendas the goal to eradicate sexual abuse and gender based violence among women and children, implementing this goal through member states and international organisations (Lusaka Roadmap, 2016).

### 2.3. *Theoretical Framework: Galtung's Framework of Understanding Conflict and Violence*

**Figure 3. Galtung's Framework of Understanding Violent Conflict**



**Source:** *Institute for Human Rights (AIHR, Accessed November 2022)*

Galtung(1969) explains conflict and violence using three dimensions; cultural, structural and direct violence. He uses a triangle to depict these three.

*Cultural Violence:* Cultural violence refers to the existing beliefs and attitudes which different people use to legitimise any kind of violence, be it structural or violence. These include: different stereotypes, prejudices within different societies and which individuals have internalised and taken to be the truth. As people interact with each other, they develop different stereotypes about them.

*Structural Violence:* These are conflicts embedded within the structures of the society which is made up of different systems, including different institutions, regulations and laws. These are meant to enforce economic systems such as social inter-relationships, religious institutions, the market, the army and their workings. As these systems interact with each other, complex relationships of power are created. Power can be measured in terms of decision making, different opportunities and access to resources. Such power relations, more often than not result in the discrimination and marginalisation and infringement of rights of certain groups. Such conflicts are not intended and, in most cases, invisible. They are as a result of the existing structures. Galtung uses the term, 'social injustice' in explaining structural violence.

*Direct Violence:* Direct conflict or violence is overt and experience and see it. It could be physical assault through killing, etc. It could also be intense psychological behaviour and violence that causes anxiety, stress and trauma.

According to Galtung (1969), these three dimensions of violence reinforce and complement one another. Direct violence is overt and can be seen since it causes physical harm. Cultural and structural conflicts are invisible and difficult to identify thus to resolve. This description of different types of conflict is usually linked to the iceberg model. The iceberg model is a tool that helps us understand the relationship between those problems which are noticeable and those events that are hidden and underlying factors. In the real world, only 10% of an iceberg's mass is seen above water. Galtung thus suggests that addressing conflict, especially structural and cultural conflicts would require that we go below the iceberg since it's there that more factors can be identified as opposed to what we see. What this means is that the tip of the iceberg could represent direct violence. Cultural and structural violence is the part of the iceberg that remains below the waterline as they are not visible. Women in transit across the borderlands suffer all these kinds of violence. And as stated here, some are visible (overt) and some invisible (structural in nature). This study will adopt Galtung Framework of understanding violent conflict.

### **3.0. Literature Review: Global, Continental and National Perspectives**

#### **3.1. Conflict Affecting Women in Transit across the borderlands**

##### *3.1.1. Global Perspectives*

People on transit encounter a number of challenges right from their destinations throughout their journey but at the borderland, the way in which this manifests itself is different to women due to the gendered ways in which this is done universally, but interestingly, it is significant to note that women experience this differently, that is, other structured factors come into play such as race, social class, geopolitics and nationality. This is clear when it comes to the case of migrants trying to



get into Portugal, while women migrants from Brazil, a former colony of Portugal might find it easy to enter Portugal, due to nationality and the agreements that Portugal had with Brazil, women migrants from Nigeria, and Sri Lanka find it difficult to enter Portugal, revealing the geopolitical nature of this.

Moreover, women with a high social class or from a different race other than blacks, find it relatively easier to enter Portugal, even though this still will be done in a gendered manner. Generally, the way in which such conflicts are experienced by both men and women, reveal the way in which violence is done in a directed and structured manner and in some cases, this is done in an opportunistic and systematic way, as the case among women migrants trying to flee from Somalia. Globally, this has been done both by state and non-state actors in a manner that reveals that borders go beyond the territorial boundary.

Some of the conflicts and protection issues that women and girls in particular include: sexual violence as has been the case in the US-Mexico border that has been given much attention (*UNU-GCM Policy Report, 2016*). For women trying to flee from Somalia while entering Yemen, they have reported rape and sexual harassment, so is the case when they used the land route while entering Kenya (Moret, et al 2006). Cases have also been reported of extortions and detention while crossing the border or after crossing the borders of Somalia (Human Rights Watch, 2010).

For women fleeing Burma, there are threats of detention, sexual violence and shame-this is due to the patriarchal and hierarchical structure of the Burmese society that places women below men-from the police, especially among women who have been involved in politics with the Burmese police, and actual sexual assault with the Thailand police (Human Rights Council, 2019).

Women on transit from Ethiopia have reported cases of being raped, seriously beaten, mistreatment and sometimes being locked up for days under very poor conditions that can lead to sickness and death (UN Office on Drugs and Crime, 2008). Reports have been given on women from West Africa who are being raped and sexually exploited in different circumstances (Ouedraogo, 2022)

### *3.1.2 Continental Perspectives*

Many women on transit in Africa are from the Horn of Africa, especially Somalia, fleeing conflicts, persecution or natural disasters such as famine, to either Kenya, Yemen, or Italy via Sudan and Libya and they have reported sexual violence, detention, extortions and being forced into the sex industry while on transit, especially at the borderlands (CARE International, 2011). This is the same case with women from Ethiopia and Eritrea, with the former reporting especially sexual violence and being beaten severely when they refuse to give in to sexual demands; for West

African women, it is sexual violence and being forced into the sex industry to compensate for the smuggling fee and later being released with the help of so called *boyfriends* or *saviours* (CARE International, 2011).

Moreover, in Africa, women have complained of detention, in cases where the borderlands seem to go beyond the defined state borders both by state and non-state actors as has been the case with Sudan and Libya, with the former, the locals raping women while threatening or severely beating men that transport the women should they try to intervene or their husbands are threatened by death (Leifer Manger, et al, 2019). In Libya, the authorities collide with the people transporting the women especially at the borderlands to get more money from them by arresting and detaining them and later releasing them, even in some of the detaining centres, women are reportedly being raped and kept under poor housing conditions. There are also instances of forced labour with either low payments or no payment at all in borderland (ibid).

### *3.1.3. National Perspectives – Somalia Borderlands*

#### *i) Sexual Violence, Abuse and Rape*

Sexual violence "any sexual act, attempt to obtain a sexual act, or other act directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting. It includes rape, defined as the physically forced or otherwise coerced penetration of the vulva or anus with a penis, other body part or object, attempted rape, unwanted sexual touching and other non-contact forms" (World Health Organization, 2021).

For Somali women and girls, rape is the main issue right from their points of departure to their destinations. The routes used out of Somalia are; the Gulf of Aden to Yemen, North-East of the Kenyan border, especially in the course of the outbreak of war in 1991, and the route via Sudan to Libya before entering Italy. For the Yemen route, since it is controlled by smugglers, there are cases of being forced off the boats to avoid being arrested, but while crossing, women and girls have reported being raped on Yemeni beaches while trying to land to a safe place, with sexual harassment and rape being part of the journey (UNCHR (2009)). In the boats while trying to cross, they have reported sexual violence.

For the Kenyan route, both by land and while trying to reach the Kenyan shores, they have confronted sexual violence especially rape from smugglers, militia, the military and the police. (Human Rights Watch, 2008). These violations further extend to the camps near the borders when they arrive and try to register as refugees. Rape cases have also been reported in the camps with the perpetrators being the Kenyan police, fellow refugees and attack from outsiders. Some of the

attacks result from clan feuds, where rape is used as a weapon against one clan and also against women from that clan. The Sudan-Libya route is the dangerous one as it is a long journey through the desert (ibid).

Women have also reported cases of sexual violence, forced labour, extortions, detention and sexual exploitation along the borderlands by people transporting them and the police. This has been sometimes done in collusion with the border authorities as is the case in Libya when it comes to detention. Once they enter Italy and Malta, the biggest challenge is detention under deprived conditions where they report being beaten, raped or put in inhumane conditions (UNHR, 2018).

Within conflict zones in Somalia, women and girls are prone to capture by militia groups and extremist groups such as Al-Shabaab. They are put in detention camps where they experience sexual violence, this include being raped and strip-searched, as a political tool for intimidation (UN, 2020).

## **ii) *Gender Based Violence***

Within the borders in Somalia, women usually face gender-based when collecting water, food and firewood; increased insecurity, as well as forms of structural conflicts coupled with issues of patriarchy, where productive assets are limited and, in most cases managed by men.

When it comes to forced displacement, women and men face different challenges in the borderlands. In such cases, there is immense suffering due to , climate change, environmental degradation and climate, natural hazards and food insecurity (Varalakshmi Vemuru Aditya Sarkar, 2020).

A report of Somalia on December 2017 by the UN Office of the High Commissioner for Human Rights (OHCHR) showed that sexual violence in Somalia was pervasive against both men and women, boys and girls, with the women and girls being severely affected. This was protracted by limited legislative protection and implementation of national and international instruments, which further increased gender inequality and displacement, aggravated by the existing drought (OHCHR, 2017).

Sexual abuse, rape and intimate partner violence among other manifestations of sexual and gender-based violence (SGBV) are still pervasive despite the legal protection. This is as a result to increased insecurity, weak or complete lack of rule of law, internal displacements, gender inequality and limited reliable data on the frequency of these abuses in the borderlands. This is because it is in these areas that the potential, vulnerable refugees go through as they travel to refugee camps. Being a conflict zone, warring parties including militia, government forces, forces of the African Union Mission in Somalia (AMISOM) and Al-Shabaab are present leading to

increased sexual abuse, impunity and violence. Displaced women, women from marginalised ethnic and religious groups and those living in locations under the authority and influence of Al-Shabaab are more susceptible to SGBV owing to inadequate protection from their clans and from the government.

According to UNICEF (2021) 44% of women and girls 15–49 years old affirmed that being hit by husbands is normal. These could be for simple reasons like arguments with the husband, burning food or not giving it to the husband on time, going out without asking the husband for permission or neglecting the children or even refusing any intimate relations with them.

Women and girls in Somalia have continued to experience prevalent rates of sexual abuses related to conflict and violence. In such cases rape is more often than not used as a weapon of war. Members of Militia are usually the main perpetrators of such sexual violence against women with rape being commonly practiced during conflicts between different clans.

Displaced women and girls are very vulnerable since they find themselves in internally Displaced Person (IDP) camps where, abduction and forced marriages are the order of the day. Troops also take advantage of women and girls sexually and use sex as a commodity, trading it for food and money (Social Institute on Gender, 2017). According to the Human Rights Watch report (18 January 2018), gender based violence and sexual abuses are mainly propagated by militia, Somali government soldiers as well as other armed men. In 2017, reports of sexual violence increased around settlement camps. (Human Rights Watch, 2018).

A country report from the Australian Department of Foreign Affairs and Trade (DFAT), dated 13 June 2017, stated that ‘Violence against women, including, domestic violence, rape, trafficking, sexual abuse exploitation and trafficking is rampant throughout Somalia. It was reported by the UN Women that the Government army, national police are the main perpetrators since they operate within a patronage system. Here, loyalties are rewarded, thus creating inequalities in the access to services which cripples efforts at access to justice for women. The pluralistic Somali judicial system required is hampered by limited access to independent financial assets by women (DFAT, 2017).

The European Asylum Support Office (EASO), in December 2017 reported that ethnic minorities, people living in areas under Al-Shabaab control were particularly under a higher threat of sexual and gender based violence as well as sexual exploitation. It was also reported that the perpetrators involved in these violations included camp administrators in the IDP camps, who were reported to have forced girls and women to get food, clothing and shelter through performing sex acts. (European Asylum Support Office (EASO), 2017).

**iii) *Lack of Freedom of Movement***

The USSD ‘Country Report on Human Rights Practices for 2016’ reported on the restriction of movement in some areas, contrary to provisions of the federal constitution which provides for freedom of movement and residence (Somalia, 2011). This restriction was enforced through checkpoints installed by both government agents and armed militia groups, allied groups and *Al Shabaab*, which exposed citizens to extortion, robbery and harassment (USSD, ‘Country Report, 2016’).

Armed actors man roadblocks and usually attack unsuspecting humanitarian personnel. Thus, movement is severely restricted across boundaries or to different regions within the country. The freedom of women is further restricted by the rampant threats of sexual abuse and violence (Social Institutions and Gender Index, Somalia, 2017).

**iv) *Migrations across borderlands within Somalia***

The DFAT ‘Country Information Report – Somalia’ detailed the state of migration in Somalia. It reported on the commonplace internal displacement as a result of conflict and humanitarian disasters, detailing that there exists around 1.1 million IDPs. Even though no barriers exist legally for relocation, the relocation options for the displaced persons are however limited by financial resources available and lack of clan links since Somali people exist mainly in clan settings, their main source of social and physical protection (DFAT, 2017). This clan support is central, enabling sufficient access to food and accommodation (UNHCR, 2016) ‘Position on Returns to South and Central Somalia’). Large numbers of IDPs in Mogadishu and urban centres creates a barrier for opportunities to better their livelihood, discouraging relocation to these areas.

**v) *Internal Relocations - Women Without Families and Networks***

Relocation to south and central Somalia and Mogadishu requires resources and protection, which are mainly availed by family, friends or the clan in the Somali societies. Women and girls that lack these systems experience sexual abuse and gender based violence more frequently than those who do. If they are from marginalised ethnic or religious groups, they are more likely to face treatment that amounts to serious harm or persecution.

Without networks and protection by men, single women, girls and single female heads of households are unable to relocate, especially if they are from marginalised communities, and are at an even higher risk of sexual and gender based violence. Determination for relocation is decided on a case by case basis by the decision makers in each household according to the circumstances with

determination including the humanitarian situation in the proposed relocation areas (United Nations Humans Rights, 2014).

### **3.2. *Protection Issues specific to Girls***

The specific conflicts and protection issues that girls experience are mainly rape and other forms of sexual abuse. They are targeted while going out to do chores, where perpetrators harass and take advantage of them due to their vulnerable position. The Report of the Secretary-General on Children and Armed Conflict 2022 and the Report of the Secretary-General on Sexual Violence in Conflict 2021 found that in 2020, 400 civilians, primarily girls, were victims of rape and other forms of sexual violence, which was an 80% rise from the cases reported in 2019 (United Nations, 2021). According to the reports, these violations were attributed to the extremist Al-Shabaab group, who use sexual violence to assert control over the areas they dominate as well as members of clan militia and police forces. Clan militia were found to have tripled violations, while sexual abuse attributed to security officers were found to be 15% of those reported. These have intensified due to the COVID-19 pandemic, which exacerbated the cases of sexual abuse. Another major source of concern is the rate of Female Genital Mutilation in Somalia. Over 90% of girls in Somalia have undergone FGM, with the discussion of the practice still being taboo. The Somali Demographic and Health Survey (2020) showed that FGM had a prevalence rate of 99% (UN News , 2022)

Covid-19 exacerbated the rate of FGM in 2020. Data from the Information Management System 2020 that the rate of FGM increased by over 61%. This increase was attributed to closing of schools during the pandemic, a period which families took advantage of, to subject the girls to FGM. Girls in borderlands have even less protection due to the conflicts the breakdown of societal structures due to the conflict in Somalia. Due to the COVID-19 pandemic and the drought that has faced Somalia as well as ethnic conflicts and Al-Shabaab attacks, the rates of poverty increased, causing families to marry off their children to obtain dowries. In Puntland, for example, 59% of cases reported to service providers were of child marriage, many of which also included cases of FGM (UNICEF, 2022). This is also exacerbated by the numerous dropouts that occurred during the crisis, putting girls at a higher risk of child marriage and FGM.

### **4.0. *Prevention Mechanisms and Challenges of Implementation***

The Australian Department of Foreign Affairs and Trade (DFAT, 2017) found that sexual and gender based violence against women, exploitation, domestic violence and trafficking in Somalia is rampant. It also found that a high risk of societal and general discrimination plagued women all

over Somalia. The few remedies available to Somali women are inhibited by barriers to implementation.

#### ***4.1. The Constitution of Somalia***

The Constitution of Somalia provides for mandatory inclusion of women in legislation and other institutions, equality and non-discrimination on the basis of sex, the right to life and liberty and personal security (Somalia, 2011). This is in line with international law and its internal policies. However, Somalia is not a party to the UN Convention on the Elimination of Violence against Women. Women who do not have any clan connections and families find themselves exposed and more vulnerable to many of these abuses. They neither have access to justice or protection.

#### ***4.2. The United Nations (UN) Convention on the Elimination of Violence against Women***

Somalia has not ratified the UN Declaration on the Elimination of Violence against Women (20 December 1993). This has exposed women to limited protection by municipal laws, especially if they have no clan, family backing or protection by men. They are disadvantaged by the loyalty system operated by the Somali Army and national police which results in unequal access to services as found by the UN Women Report (2022).

#### ***4.3. The Somalia National Development Plans 2021-2025:***

Incorporates the joint communiqué of Somalia and the United Nations on the prevention of sexual violence, of 7 May 2013,<sup>38</sup> which is strengthened by Security Council resolution 2628 (2022),<sup>39</sup>. This is for the implementation of the Somali Women's Charter as well as the Security Council Resolution 1325.

#### ***4.4. Lack of Enforcement of Laws and Regulations prohibiting Rape***

Somalia's laws have prohibitions for rape. These laws include 5 to 15 year sentences for rape, a death sentence in military court. They are however, barely enforced by the government. Legal provisions punishing spousal rape, sexual harassment or domestic violence are unavailable. (USSD 'Country Report on Human Rights Practices', 2016). On May 27 2016, a national gender policy was approved by the Council of Ministers allowing the government to sue anyone who raped or killed a woman. Non-Governmental Organizations (NGOs) in Somalia reported cases of rape, committed with impunity, especially on women from minority clans and IDPs.

#### **4.5. *Traditional Justice Systems and Weak Legal Frameworks***

Sharia law and customary law are often used to address sexual and gender based violence against women owing to the weak Somali legal framework (Amnesty International, 2015). This is also compounded by weak state judicial institutions (The Human Rights Watch (HRW) report, 2014). Both traditional and formal justice systems are ineffective in addressing this problem since they are male dominated and tend to disregard survivors' rights. Sexual exploitation and violence against women are majorly overlooked under Somali traditional and customary laws, since it is a taboo topic in many cases. These systems are male dominated as well (in Somali Odayaasha Dhaqanka) and women are excluded from the process, usually represented by a male relative. A woman's death is typically compensated by 50 camels, while the figure is usually double for a man and rape victims are sometimes forced to marry their rapists. (Human Rights Watch, World Report, 2018).

#### **4.6. *Puntland Rape Act, 2015***

The 'Report of the Independent Expert on the Situation of human rights in Somalia', submitted to the United Nations Human Rights Council on 6, September, 2017 articulates the steps the government took towards protecting women against gender based violence and sexual abuses. The Minister of Women and Human Rights Development in Puntland explained the provisions of the Puntland Rape Act, which was established in 2015 with the aim to facilitate formal processes towards prosecutions of rape offenders in formal courts. Chapter 19 of the Act delegates certain responsibilities to the government officials charged with prosecution. It also states that the Attorney General has the mandate to decide on any prosecution of sexual offenders. This simply means that the complainant has no say on what judgement she gets.

Rape issues are however, not addressed in the Somali Penal Code. It gives the prosecution officials the mandate to create specific departments which comprises prosecutors specialized in for sexual offence cases. This penal code in its different legal stages, has a requirement that the prosecution authorities must forbid any authorities or elders from the traditional courts from taking any steps to adjudicate crimes provided in the act whatsoever that would be informal dispute resolution mechanism or any traditional mechanisms.

Traditional elders and families have been relinquished the authority to settle rape cases through traditional dispute resolution mechanisms. 'The Rape Act is not yet effectively implemented because of the lack of empowerment and training of magistrates and judges in the formal courts. They still apply sharia law in the cases of inadequate formal legislation.' (United Nations Human Rights Council, 2017).



#### **4.7. *National Gender Policy***

A national gender policy was passed by the Council of Ministers on May 27th 2016. This policy plan was created to empower women by increasing their political participation, economic empowerment and education, including creating those programs and initiatives that can promote awareness and sensitivity to gender issues and tools to measure gender inequities in policies and programs. It was denounced by the Somali Islamic Scholars Union as un-Islamic demanding that its authors be punished. This was followed by death threats to the Minister of women, human rights, and social development, the only woman remaining in the cabinet, from extremist Islamic groups who opposed the policy since it increased representation of women. The Somali Religious Council on October 2<sup>nd</sup> of the same year released a press statement claiming that the provisions providing women with a 30% quota would lead to disintegration of the family and warned the government against its approval and implementation.

#### **4.8. *Inadequate Information on Prosecution***

Rape and other forms of sexual and gender based violence are rarely prosecuted; shame and fear are a barrier to reporting of such cases by survivors, since it is highly stigmatised. Somali police neglect their duties to investigate and sometimes ask victims to investigate themselves, leaving these cases unaddressed. UN numbers captured from January to November 2012, show that 100 cases of violation were reported from January to November 2012 in Mogadishu. Among them, 13 rape cases were specifically reported against Somali soldiers in the military court. One was found guilty and three were acquitted. Data showing the number of convictions and acquittals are not easy to come by as Somali authorities do not release data on the conviction and prosecution of criminals. Insecurity has been a major impediment to access to justice, with rare convictions of rape in Mogadishu courts (Human Rights Watch, 2014).

The USSD ‘Country Report on Human Rights Practices (2016)’ showed that reluctance of police to investigate, traditional approaches to dealing with rape including compensation systems and reprisals from communities prevented women from reporting rape cases’ (USSD, 2016).

#### **5.0. *Summary and Conclusions***

Despite the fact that they are so many conflicts and protection issues that women face in the borders of Somalia, it should be noted that there is still resilience along the borders especially among those women who are determined to cross the borders for any reasons or the other. There is robust trade along the borderlands and especial livestock exports. This is with the aim of tapping

markets from Middle East and Egypt. And this is despite the external market shocks, climate crises and heightened conflicts. Cross-border informal trade is usually dominated by women and this plays a crucial role across the region. Informal and traditional community institutions are still important. They are often based on ethnicity or clan. Though weakened at the borderlands, they still play a significant role in regulating livestock trade, management of trade relations, and disputes resolution especially in areas where there is limited state presence.

When it comes to protection of women and girls, this paper concludes that the main challenge is lack of harmonization between Islamic Sharia laws on women rights and the universal laws, which makes the domestic implementation difficult.

## **6.0. Recommendations for Prevention and response**

### **6.1. *Regional Approaches***

Regional approaches are required since challenges and conflicts in the borderland become regionalized. Governments should therefore, collaborate regionally, at institutional and policy levels. Common border policies among the governments can ease the flow of labour, capital, goods, labour and services across borders. Second, there is need for social services and basic infrastructure along the borderlands, such as energy, electricity, roads, health, education, water, information and communications, and access to financial exchange. The formal and informal institutions for conflict prevention, management and resolution should be strengthened. This is particularly because women and men are impacted differently by the conflicts along the borderlands.

### **6.2. *Multi-Sectoral Approaches***

Evidently, the prevention and response to violent conflict targeted at women requires a cross-cutting attitude. In Somalia, the health sector also has a central role to play. They should be strengthened to take action and advocate for women making violence against them unacceptable by addressing and declaring violence a public health problem; sensitizing and training health care providers to be able to provide comprehensive health services, that can adequately respond to the needs of survivors in a holistic and empathetic way.

### **6.3. *Identification of Forms of Violence Early***

Identification of violence experienced by women and girls early will lead to prevention of further violence. The provision of appropriate support and referral facilities; promoting gender norms, which are egalitarian in nature and as part of comprehensive sexuality education and life skill techniques towards preventing related conflicts. Population-based surveys should be

conducted and evidence based data generated surveillance and health information systems on violence against women.

#### **6.4. *The Use of Local Institutions***

Durable solutions should be sort including financial and resource in peace activities and initiatives. Borderlands should be turned into opportunities, rather than risky spaces they are currently. It's in this line that UNDP recommends the focus on local institutions that are sustainable and empowerment of communities to have those resources and relevant technical expertise that would lead to proper planning, managing and delivering different services, as well as the 'soft' skills that can promote dialogue, consensus-building and trust among the different cultures. All efforts should be aimed towards preventing, managing and resolving conflict and promoting sustainable peace among the communities living along the borders (*UNDP's Deputy Representative for programme in Ethiopia*).

#### **6.5. *Applying the Concept of Respect to Women in Somalia***

'RESPECT' for women was published in 2019 by WHO and UN Women, a move endorsed by 12 other UN and bilateral agencies. This is a structure which aims to prevent violence in conflict against women and also at policy makers. The letters in 'RESPECT' represents seven strategies: The skills of relations making and social networking should be strengthened; women should be empowered and sensitized about available Services and in different ways of reducing poverty. They should be taught how to access enabling environments like work places, schools, and different public spaces especially for their children). The abuse of children and adolescent should be abuse prevented through attitudes transformation, norms and, beliefs (WHO, 2021). Based on well-designed evaluations, currently, one can easily tell what works in preventing, managing and resolving conflicts relating to gender based violence against women.

#### **6.6. *Paying Attention to the context, history and spatial dynamics of border regions,***

Attention should be paid to the context, history the different borderland dynamics. Such attention could offer an analytical lens to help development actors craft better policies, strategies and investments.

#### **6.7. *Supporting women led initiatives***

Women led initiatives such as Generation Equality have sprung up over the years, with advocates representing Somalia working to support policies that protect women from sexual and

gender based violence. These initiatives are supported by organisations such as UN Women, helping to bring change to Somalia's borderlands. For FGM, UN initiatives such as "Dear Daughter Campaign", in collaboration with the IFRAH Foundation which aims to involve parents in the effort to end FGM should be enhanced to reach as many women as possible. It involves signing a pledge to protect their daughters from the practice and support their autonomy.

#### **6.8. *Harmonization of Islamic Sharia Laws and International Laws***

The Government of Somalia should make a conscious effort to harmonize the Islamic Sharia Laws and International Laws, to make the implementation of international laws domestically easier

**References**

- Adepoju, A. (1995). 'Migration in Africa: an overview'. In Baker, J. and Aina, T.A. (eds), *The Migration Experience in Africa*. Uppsala: Nordiska Africa Institute.
- Amnesty International, 'Somalia: Prioritise Protection for People with Disabilities', 5 March 2015, <https://www.amnesty.org/en/documents/afr52/1166/2015/en>. Accessed: 20 November 2022.
- Australian Department of Foreign Affairs and Trade (DFAT), 'Country Information Report – Somalia,' paras 3.21 to 3.23, 13 July 2017.
- CARE International (2011) Horn of Africa Drought: Reported cases of sexual violence have quadrupled among refugees, Reliefweb <https://reliefweb.int/report/kenya/horn-africa-drought-reported-cases-sexual-violence-have-quadrupled-among-refugees>
- Catley, A., Lind, J. and Scoones, I. (2012). *Development at the Margins: Pathways of Change in the Horn of Africa*. London: Routledge.
- Directorate of National Statistics, Federal Government of Somali (2020). The Somali Health and Demographic Survey 2020. DNS: Mogadishu.
- European Union Emergency Trust Fund (EUTF) (2016). 'Cross-border analysis and mapping: cluster 2, Kenya–Somalia–Ethiopia' [available at <https://blogs.soas.ac.uk/ref-hornresearch/files/2020/02/Cross-border-cluster-2.pdf>]. Accessed: 18 February 2021.
- European Asylum Support Office (EASO), 'Country of Origin Information Report, Somalia Security situation', p57, December 2017.
- Fleury, A (2016). *UNU-GCM Policy Report "Women Migrating to Mexico for Safety: The Need for Improved Protections and Rights"* UNU-GCM. Female Agency, Mobility and Socio-cultural Change. Vol. 03/08. ISSN WEB:2412-2173.
- Galtung, J. (1969). Violence, Peace, and Peace Research. *Journal of Peace Research*, 6(3), 167–191. <http://www.jstor.org/stable/422690>
- Human Rights Council Forty second session 9-27 (September 2019). Agenda item 4 Human Rights situations that require the Council's attention Sexual and gender-based violence in Myanmar and the gendered impact of its ethnic conflict.
- Human Rights Watch, 'Here, Rape is Normal', Access to the State Justice System section, 13, February 2014, <https://www.hrw.org/report/2014/02/13/here-rape-normal/five-point-plan-curtail-sexual-violencesomalia>. Accessed: 22 November 2022.
- Human Rights Watch, 'World Report 2018', Somalia, 18 January

2018,<https://www.hrw.org/world-report/2018/country-chapters/somalia>. Accessed: 30 October 2022.

Human Rights Watch (2010, June 17) Kenya: Police Abuse Somali Refugees; Government, UN, Donors Should Address Widespread Violence, Degrading Detention, Extortion, and Policing Failures <https://www.hrw.org/news/2010/06/17/kenya-police-abuse-somali-refugees> Accessed 28 February 2023.

Human Rights Watch, (2008). Kenya: Army and Rebel Militia Commit War Crimes in Mt. Elgon. End Murder, Torture, and Rape of Civilians.

Leif Manger Fekadu Adugna Munzoul Assal Eria Olowo Onyango (2019). *Borderland Dynamics in East Africa. Cases from Ethiopia, Sudan and Uganda*. Organisation for Social Science Research in Eastern and Southern Africa (OSSREA). Printed in Ethiopia ISBN: 978-99944-75-01-8

Little, P.D., Tiki, W. and Debsu, D.N. (2015). 'Formal or informal, legal or illegal: the ambiguous nature of cross-border livestock trade in the Horn of Africa'. *Journal of Borderland Studies*. doi: <http://dx.doi.org/10.1080/08865655.2015.1068206>.

Moret, J, Baglioni, S and Efiyonayi-Mader, D (2006) *The Path of Somali Refugees into Exile. A Comparative Analysis of Secondary Movements and Policy Responses*. SMF Studies 46. ISBN-10: 2-940379-00-9 ISBN-13: 978-2-940379-00-2.

Office of the Special Adviser on Gender Issues and Advancement of Women (OSAGI).

Office of the Special Representative of the Secretary-General for Children and Armed Conflict (2022). *The Gender Dimensions of Grave Violations Against Children in Armed Conflict*

Ouedraogo, A, Scodellaro, C and Trinitapoli, J (2022) *The scourge of sexual violence in West Africa, unveiled*. September 22, 2022 <https://phys.org/news/2022-09-scourge-sexual-violence-west-africa.html> Accessed 28 February 2023

Social Institutions and Gender Index, Somalia,  
<http://www.genderindex.org/country/somalia/>. Accessed: 10 November 2022.

Social Institutions and Gender Index, Somalia section,  
<http://www.genderindex.org/country/somalia/>. Accessed: 14 November 2017.

United Nations, Two United Nations Plaza, 44th St. 12th Floor, NY, NY 10017. URL:  
<http://www.un.org/osagi>

United Nations Human Rights Council, 'Report of the Independent Expert on the Situation

of human rights in Somalia (Advance edited version)', page 15, 6 September 2017, <https://reliefweb.int/report/somalia/report-independent-expert-situation-human-rights-somaliaahrc3662-advance-unedited>. Accessed: 21 November 2022.

UNICEF (2022, June 29) Child marriage on the rise in Horn of Africa as drought crisis intensifies <https://www.unicef.org/somalia/press-releases/child-marriage-rise-horn-africa-drought-crisis-intensifies>

UN Office on Drugs and Crime, (2008). An Introduction to Human Trafficking: Vulnerability, Impact and Action. United Nations New York.

United Nations (2020, March) Report of the Secretary-General on Children and Armed Conflict in Somalia, S/2020/174. Available at: <https://undocs.org/S/2020/174>

UN (2021, August 5<sup>th</sup>) Somalia: Call for urgent action following 'alarming' 80 per cent rise in sexual violence, UN News, Global Perspectives on Human Stories <https://news.un.org/en/story/2021/08/1097142> Accessed 28 February 2023

UN (2021) Conflict-Related Sexual Violence, Report of the United Nations secretary-General

UNHCR (2016) Position on Returnees from Southern and Central Somalia (Update 1)

UNCHR (2009). Hostile Shores: Abuse and Refoulement of Asylum Seekers and Refugees in Yemen

USSD, 'Country Report on Human Rights Practices for 2016', section 2d, Somalia, 3 March. 2017, <https://www.state.gov/documents/organization/265512.pdf>. Accessed: 14 November 2022.

Vladimir Kolossov et James Scott. <https://journals.openedition.org/belgeo/10532>. <https://doi.org/10.4000/belgeo.10532> (accessed, 20<sup>th</sup> January 2023)

Walther, O. (2014). 'Border markets: an introduction'. *Articulo – Journal of Urban Research* 10. doi.org/10.4000/articulo.2532. December 20, 2009

UNHR (2018). Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya. United Nations Support Mission in Libya. Office of the high Commissioner for Human Rights.

UN Women ESARO, (2023) Situation analysis of access to justice for victims and survivors of violence against women and girls in East and Southern Africa. Ending violence against women and girls Human rights. United Nations Entity for Gender Equality and the Empowerment of Women (UN Women).

United Nations Human Rights, (2014). Women Rights re Human Rights. Office of the High Commissioner of Human Rights. New York and Geneva.

United Nations News, (24<sup>th</sup> February, 2022) Global perspective Human stories <https://news.un.org/en/story/2022/02/1111242>. Accessed, 20<sup>th</sup> February 2023

### **About the author**

**Connie Mumma Martinon (PhD)** is a Lecturer in the Department of Political Science and Public Administration at the University of Nairobi, Kenya. I have a PhD in Political Science from the University of Leipzig, Germany, with a focus on International Conflict Management, a master's in diplomacy and international Studies, a Postgraduate Diploma in Diplomacy and International Relations both at the University of Nairobi.

She has taught at the European Peace University, the Institute of Peace Studies and International Relations, the Institute of Diplomacy and International Studies, the National Defence College, the National Staff College and the National Intelligence Academy, Kenya among others. She also worked as a Social Affairs Manager at Total Exploration and Production, Kenya; an Environmental and Social Affairs Coordinator for Total Exploration and Production, Uganda; a Resident Consultant for reconciliation at the Truth, Justice and Reconciliation Commission, Kenya; the head of Applied Research, Facilitator and Curriculum Development Officer at the International Peace Support Training Centre (IPSTC) and a teacher in several High Schools in Kenya including Loreto Convent Valley Road, Lwak Girls High School, Usenge and Onjiko Boys High Schools, among others. For the last ten years, I have supervised PhD, Masters and Postgraduate students in different Universities.