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POROSITY OF UGANDA BORDERS AND TRANSNATIONAL CRIMES: EAST AFRICAN COMMUNITY CRIME MANAGEMENT MECHANISMS

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Abstract

The East Africa community which was reinstated by the East African countries in 2000 after its establishment in 1967 and collapsed in 1977 has underscored the importance of peace and security in order to ensure a successful process of regional integration regarding the control of cross border crimes. In order to enhance cooperation in fighting cross border crimes, a council on Interstate security has been established and some key areas of focus are implementation of the protocol on illicit drug trafficking; small arms and light weapons management programme; and Cooperation in police matters. The thrust of this paper are therefore to trace the evolution of the East African Community and to examine the nature of transnational crimes across Uganda borders. The paper further highlights the porosity situation of Uganda borders and some strategies or mechanisms employed by the East African Community States to address the challenges posed by informal trades in East Africa Community countries borders. The writers relied on primary sources like Charters, Conventions, Treaties and protocols; and secondary sources which include textbook, theses, articles in journals, newspapers and internet facilities. The paper concluded that the East Africa Community states should try into integrate informal trades along their borders to formal trades instead of a faith accompli effort to eliminate informal trades.

Introduction

Eastern Africa comprises of three diverse and traditionally diverse environmental expanses, namely, the East African region (Kenya, Tanzania, Uganda, Burundi, and Rwanda); the Horn of Africa (Djibouti, Eritrea, Ethiopia and Somalia); and the Indian Ocean Islands of the East African coast (Seychelles, Comoros, Mauritius and Madagascar).¹ The East African Community (EAC) is an intergovernmental organization with the six countries.² Other two countries joined EAC on 6th July, 2007.³ EAC, as an integral part of the African Economic Community was originally founded in 1967 but it collapsed in 1977. It was resuscitated on 7th July 2000. In 2008, after successful deliberations with Common Market for Eastern African and Southern Africa (COMESA) and the Southern African Development

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¹ Mazimpaka Eddy, 2012. 'Legal Framework of East African Treaties in Fighting Cross Border Crimes Case Study: Gatuna Border.' *Master Thesis, Kampala International University*, 5 <https://www.memoireonline.com/10/13/524/legal-mechanism-of-the-east-african-treaties-in-fighting-cross-border-crime-case-study-of-gatuna-border> (reference 3 May 2018).

² Kenya, Tanzania, Uganda, Burundi, Rwanda and Southern Soudan.

³ Burundi and Rwanda.

Community (SADC), EAC agreed to an expanded free trade area including the member states of all three organisations. There is a concern of cross border crimes in the region but there is also the co-operation of East Africa Partner States, regional integration and this was a process in which states enter into a regional agreement in order to enhance regional cooperation through regional institutions and rules. The objectives of the agreement are basically on economic to political, although it has generally become a political economy initiative where commercial purposes are the means to achieve broader socio-political and security objectives.⁴

Past efforts at regional integration have often focused on removing barriers in the region, increasing the free movement of people, labour, goods, and capital across national borders, reducing the possibility of regional armed conflict (for example, through Confidence and Security-Building Measures, and adopting cohesive regional stances on policy issues, such as the environment, climate change and migration.⁵

Crime is particularly stimulating delinquent because it is in numerous reverences the obverse of altruism. This is especially true if we define crime broadly as behaviour in which individuals obtain resources from others through coercion, fraud, or inducement.⁶ Cross border crime on the other hand is the fact that an offender crosses the border through the police force boundary to perpetrate a crime or an offence.⁷

Closer integration of neighbouring security is seen as a first step in creating a larger regional confidence by reducing other crimes and risks. The community has established fundamental principles and objectives to fight against cross border crimes. As said above, a criminal who committed an offense in Rwanda could take asylum in Uganda or in any other country through Gatuna border, but now as we are looking for cooperation in security matter, he/she will be caught by Uganda police, that is, East African Police Chief Cooperation (EAPCO). Bilateral and sub-regional interchange arrangements are advocated as development tools of the region. In broad terms, the desire for closer integration is usually related to a larger desire for opening to the outside world. Regional security cooperation is being pursued as a means of promoting development through greater efficiency, rather than as a means of disadvantaging others. The nation-State system, which has been the predominant pattern of international relations since the Peace of

⁴ This means the legal mechanism of the EAC Treaties and their provisions to counter cross border crimes.

⁵ Mazimpaka Eddy (n. 1).

⁶ Crime, classification and categorization. www.wikipedia.com/crime/html. consulted (reference 23 April 2018).

⁷ MIKE Porter, 1996. Tackling Cross Border Crimes, Paper 79.

Westphalia in 1648 is evolving towards a system in which a regional grouping of States is becoming more important than sovereign States.

As the world is facing terrorism acts, the region is also threatened with the same issues. As an evolution against terrorism, it is colossal to mention the Counter-Terrorism Committee (CTC) and its Executive Directorate (CTED) which are actively engaged to develop faster ties with international, regional and sub-regional organisations. The above two play an important role in assisting States with the implementation of Resolution 1373(2001). The thrust of this paper are therefore to examine the nature of transnational crimes, porosity of Uganda borders and strategies for management of transnational crimes across borders among East African Communities countries.

Nature of Crimes across Uganda Borders

A historical review of Africa's borders reveals that while establishes national boundaries in Africa, the European colonialists arbitrarily used 'latitudes,' 'longitudes,' 'geometric cycles' and straight lines to split several ethnic and cultural communities to establish administrative territories of their conveniences which were not effectively controlled.⁸ Most of the challenges purely begin with the fact that the legal lines of contemporary borders do not necessarily match up with the cultural and social practices of the people. In pre-colonial Africa, borders were viewed as a link and zones of contact with the neighbouring communities, their permeability was necessary to further this function.⁹ With decolonialisation, these inorganic frontiers became national borders but they did not always firm up fully in practical term. Cultural connection have continued to thrive shared cross-borders activities, facilitated by the existence of the unofficial entry and exist routes along the frontiers¹⁰, all of which make borders that much more porous. Andreas argued that contrary to conventional wisdom in the new world of globalization, borders have become irrelevant, instead, the state intervention through borders policing has increased due to the rising risk emanating from clandestine cross-borders criminal activities.¹¹ It is the duty of state to restrict territorial access by deterring infiltration of hostile group or individuals into

⁸ Freedom C. Onuoha, 2013. 'Porous Borders and Boko Haram's Arms Smuggling Operations in Nigeria' Al Jazeera Centre for Studies. 8 September. <http://studies.aljazeera.net/en/report/2013/09/2013981045877469.htm>. (reference 2 May 2018).

⁹ Timoty Mechlinski, 2011. 'Towards an Approach to Borders and Mobility in Africa.' *Journal of Borders Studies*, 28 (2): 98.

¹⁰ Isoke Henry, 2015. 'The Dilemma of Porous Borders: Uganda's Experience in Combating Terrorism.' *Thesis, Naval Postgraduate School, Monterey, California*, 5. <https://calhoun.nps.edu/bistream/handle/10945/15Dec-Isoke-Henry>. (reference 2 May 2018).¹¹

Peter Andreas, 2009. *Border Games: Policing the US-Mexico Divide*. New York: Cornell University Press, 4-6.

the country.¹² The borders can be physically barrier, it can also serve as trade and economic opportunity, a balance that states must maintain in their border regimes. At the same time, the Uganda case make clear the regional aspect of borders management underscores the indispensability of cooperation and information sharing.¹³

Scorgie has defined borders as barriers of penetration, lines of separation and the legal limit of a state sovereignty.¹⁴ Herbst argued that states are only viable if they have control over their boundaries and failure to broadcast infrastructural power has been one of the challenges behind the endemic civil war in Africa.¹⁵ This fragile infrastructure particularly at borders contributes to the terrorist threat.

The nature Uganda's borders give room for the operation of organised Crime. This means the unlawful activities of members of a highly organised, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labour racketeering and other unlawful activities of members of such organisation.¹⁶ A statute defined organised crime less in terms of unlawful activities than in terms of those who commit the crimes. This list of unlawful activities in the statute are not necessarily those that define organised crimes.¹⁷

In Germany, Organised crime was defined as the planned of commission of criminal offence, determined by pursuit of profit and power which individually or as a whole, are of considerable importance. This often involves collaboration with more than two individuals for a prolonged of indefinite period of times, with hidden agenda and can use commercial or business-like structures, may invoke violence or other means suitable for intimidation, or by exerting influence on politics, the media, public administration, judicial authorities or the economy.¹⁸ The main components of this definition are planned continuous criminal activities with some sort of organisational division of labour going about business, without regard to

¹² Ibid, 78.

¹³ Isoke Henry, (n. 10) 6.

¹⁴ Lindsay Scorgie, 2011. 'Peripheral Pariah or regional Rebel?' *The Allied Democratic Forces and Uganda/Congo Borders*, 100 (412): 81.

¹⁵ Jeffery Herbst, 2009. *States and Power in Africa: Comparative Lessons in Authority and Control*. Princeton, NJ: Princeton University Press, 94.

¹⁶ In the United States, the definition of organised crime is found in Federal statute set out by public law 90-351, the Omnibus Crime Control and Safe Streets Act of 1968.

¹⁷ Sabrina Adamoli, Andrea Di Nicola, Ernesto U. Savona and Paola Zoffi, 1998. *Organised Crime around the world*, European Institute for Crime Prevention and Control Affiliated with the UN (HEUN), Finland, Helsinki Publication Series 31, 4. <https://www.edu.wp-content/uploads/2016/07-kenya-trade.pdf>. (reference 6 May 2018).

¹⁸ Ibid.

class, ethnicity or supposed formal structures of Cosa Postra, Mafia or other identified criminal groups.¹⁹

However, the UN Convention against transnational organised crime (UNTOC) defines an organised crime group as a structural group of three or more persons existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this convention in order to obtain, directly or indirectly, a financial or other material benefit.²⁰ This is a rather broad definition which does not consider organised crime solely in terms of mafia style organisations with strict hierarchical structure but would also include street gangs, or vigilante groups under the definition of organised crime. Cross border crime in itself refers specifically to that point at which transnational crime impacts on the border, the point at which goods crosses the border.

The East Africa region is characterised by an extensive coastline, weak border controls, limited cross borders and regional cooperation, under resourced police forces, corruption at all levels and in some cases, lack of political will to address crime in sustainable manner. This has created an environment in which organised crime can flourish.²¹ It is against this bedrock that Treaty for the establishment of EAC²² under Article 124 of the Treaty, the EAC partner states agreed that peace and security are prerequisite for the success of the EAC Regional Integration Process. Since inception in 1999, EAC has taken bold steps to create a framework and structure to address issue of peace and security.

The EAC peace and security protocol is one such initiative that identifies among others, at least 20 objectives for fostering regional peace and security. This includes combating terrorism and piracy, peace support operations, prevention of genocide, disaster management and crisis response, management of refugees, control of proliferation of small arms and light weapons and combating transitional and cross border crimes.²³

There is no gainsaying that Border Agency is responsible for both facilitating legitimate travel and trade, and for helping protect the EAC from the harm caused by terrorism and other crimes, including organised crimes, and individuals that seek to exploit our public services and private businesses. Some of those crimes are the following:

¹⁹ Van Duyne P C, 1997. 'Organised Crime, Corruption and Power.' In Kluwer (ed.), *Law and Social Change. Academic Publishers*, 53.

²⁰ Article 2 (a) of the UN Convention against Transnational Organised Crime.

²¹ The UNODC Regional Programme, 2009- 2012. 'Promoting the Rule of Law and Human Security in Eastern Africa.'

²² East Africa community, 2002, 'The Treaty for the Establishment of the EAST African Community (EAC)' 2002, XIV, EAC Publication No. 1, Arusha, Tanzania.

²³ Janerose Wanzira Maroa, 2013. 'Assessing East AFRICA Community Initiative in Managing Emerging Cross Border Criminal Trends.' Master Thesis of Arts and International Management, Nairobi, 1.

Smuggling of Goods: Smuggling is an activity which involves the importation or exportation of goods by wrong or unlawful means with the objective of evading taxes.²⁴ Smuggling of illegal goods, natural resources and cash crops is very common across the borders especially the land borders. It is the main and lasting survivor forms of cross border crimes since the beginning of the definition and demarcation of boundaries.

Drug Trafficking: Drug trafficking is pervasive and ubiquitous in Uganda. Some individuals are involved in the trafficking network in neighbouring countries, for example from Uganda to Rwanda or from Rwanda to Uganda and other places in the region.²⁵ Several arrests have been made but due to extremely slow judicial process coupled with the lack of proper mechanisms to investigate the issues, have led either to the culprits being acquitted or that the cases were dropped for lack of evidence.²⁶ With the issue of human trafficking, almost all Uganda borders have been identified as transits for human trafficking. Unemployed women and children of poor social status are often the victims. Most of them are trafficked on behalf of the developed countries and mostly involves younger women who are taken to countries with the understanding that they have been recruited for jobs in those countries, and most of the time they are recruited for slavery and prostitution. Many children, are often trafficked through the borders from or to neighbouring countries where a lot of them are used as cheap laborers in activities such as farming, fishing and street hawking.²⁷ The victims within this category are also promised job opportunities and better prospects of life. In reality, such promises turn out to be notion and they end up becoming victims of sexual exploitation, prostitution, street children and hazardous conditions of life.²⁸

Refugee Influx: Displaced persons seeking asylum across borders also pose great challenge to border security. The displacement of people could occur anywhere in the world for natural or manmade reasons. In East Africa, eventual armed conflict, civil strife and political instability are the major causes of social dislocation. Six of the world's major refugee producing countries are in Africa and millions of Africans live as refugees in foreign land.²⁹ Refugee influx has implications for internal security. They put strain on the economy, environment and social infrastructure, and can be

²⁴ Uganda Revenue Authority, Smuggling and its effects, F\Y 2008/09

²⁵ Janerose Wanzira Maroa, (n.23).

²⁶ David Collins, Cross border crime and customs, «4th National Outlook Symposium on crime in Australia, Canberra, June 2001).

²⁷ *ibid*

²⁸ Interview with a policeman in the Intelligence Department, (Kigali, Rwanda, July 2012), in Janerose Wanzira Maroa, (n.23).

²⁹ United Nations High Commissioner for Refugees (UNHR) Global report of 2004. In Nyaradzo M, (ed.), 2005. Search of solutions: Advancing Refugees Protection in Twenty-first century Africa Conflict Trends (2), 10.

predisposed to crime especially those coming from civil war situation.³⁰ They could bring their weapons and use them for criminal activities.

Money laundering: Mostly common to all the border crimes is the issue of money laundering. It is the practice of engaging in financial transactions to conceal the identity, source or destination of illegally gained money.³¹ This practice relates to how monies are illegally transferred to criminals through legitimate means into assets that cannot be traced back to the underlying crime.³² The phenomenon thrives in countries where there are flexible security rules, ineffective monitoring, thriving black market, limited assets seizure and confiscation authority and established non-banking institutions. Money Laundering is the end result of a successful and profiting criminal act. Most often, it is not easily detected unless the financial dealings in suspected criminal cases are delved into. As such, its influence is subtle and difficult to determine. Money laundering serves as a means used to perpetuate cycle of other criminal activities especially where they fund and support the very illegal acts they gain their proceeds from. Measures to combat money laundering are established by the Convention whereby each State Party shall institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions and, where appropriate, other bodies particularly susceptible to money-laundering within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasise requirements for customer identification, record-keeping and the reporting of suspicious transactions.³³ To regulate this menace in Nigeria, the Federal government established Economic and Financial Crimes Commission (EFCC) through the enactment the EFCC ACT, 2002.

Arms Trafficking: When East Africa as a region is facing with the challenges caused by different rebel groups, the Uganda borders have been classified as one of the transit points for illicit Small Arms and Light Weapons (SALW) to neighbouring countries like Democratic Republic of Congo, Burundi, Uganda, Kenya, and Tanzania and even from those countries to Rwanda. Most of these weapons are manufactured abroad. These weapons become the major tools used in armed robbery, ethnic and civil conflicts.

Trafficking in persons: Trafficking in persons is a crime against humanity, defined as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat, use of force or other means of coercion,

³⁰ Margaret Mansa Sosuh, 2011. 'Border security in Ghana, Challenges and Prospects.' Occasional paper No. 32, Ghana, March.

³¹ Simon Odey Ering, 2017. 'Trans-Border crime and its Socio-Economic Impact on Developing Economies,' 2 (2):3 Journal of Sociology and Social Anthropology. <https://www.tandfonline.com/doi/abs/10.1080/09766634.2011.1185550> (reference 6 May 2018).

³² Margaret Mansa Sosuh (2011). 'Border security in Ghana: challenges and prospects,' 15.

³³ United Nations Convention against Transnational Organized Crime, Art.7.

of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the receiving or giving of payment to a person having control over another person, for the purpose of exploitation.³⁴

The United Nations Convention against Transnational Organised Crime, adopted by the General Assembly in November 2000, is the main international instrument in the fight against cross-border crime. The Convention's supplemental Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, entered into force in December 2003. As a prevention tool, it encourages states to educate potential victims and address the socio-economic issues which face many of those trafficked. Moreover, as the first global legally-binding instrument with an agreed definition on trafficking in persons, the Protocol allows for a much-needed convergence of national approaches, supporting efficient international cooperation in investigating and prosecuting human trafficking cases. An additional objective of the Protocol is to protect and assist the victims of trafficking in persons with full respect for their human rights.

For those States that are Parties to the Protocol on Trafficking in Persons, Article 5 requires them to establish the offence of trafficking in persons.³⁵

Trafficking in persons is defined, and for the first time internationally, in Article 3 of this Protocol. The majority of those trafficked are female. Gender-based discrimination of women and girls, and the often- resulting poverty, places them at higher risk of becoming targeted by traffickers, who recruit their victims with false promises of opportunity. Human trafficking is in most cases a trans-border crime affecting all regions of the world.

Porosity of Uganda Borders

Informal cross border trade contributes to the economies of EAC countries in various ways. It enables small scale entrepreneurs to escape poverty and to meet the education, housing and basic needs. Globalisation implies increasing flows of people and goods across international borders. Thus, an increasing proportion of personal and freight transportation operations must cope with borders as impediments to movement. EAC states have become a market for counterfeit goods. Counterfeit medicines, drugs, firearms and victims of human trafficking are widely available and their

³⁴ United Nations Protocol to Prevent, Suppress and punish Trafficking in persons, especially women and children, supplementing the UN Convention Against transnational organized crime, Art.3

³⁵ UNODC, 2003. Legislative guide for the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in person, especially women and children, supplementing the United Nations Conventions Against Transnational Organized Crime.

availability will continue to spread if no proper and coherent action is taken to stem the flow of illegal activities and products.³⁶

Addo³⁷ argues that porous borders continue to encourage cross border crimes and instability in sub-region due to lack of an appropriate mechanism for monitoring movement and illegal activities across these borders. He further argues that cross border criminal activities have obviously undermined good governance and security, with negative impact on rule of law, economic activities and growth, human rights and general societal and cultural advancement within the sub-region. Some of these activities he talks about involves the illicit trafficking of small arms and light weapons/ammunitions and human beings, especially women and children. Addo argument, though refers to West Africa, are applicable to initiative of EAC in management of cross border criminal activities.³⁸

Cross-border trade is also the major business along Uganda's borders. Though, the trade is of high economic significance to Uganda and its neighbouring countries, it also poses a challenge to

National security. This trade is conducted through foot paths. Okum³⁹ states that illegal border crossing points, usually called 'mice or rat routes,' are used by smugglers who charge a fee ranging from \$15. Transporters usually refers to as 'boda boda' aid the movement of unaccustomed goods across borders because of their familiarity with security officials and other border officials.⁴⁰

Due to the intricacy of casual activities along the border, monitoring by security has not been effective enough to counter likely infiltration of transnational crimes, particularly terrorists along Uganda's borders.

³⁶ Godwin S, 2011. 'Crime Pattern, Definition for Tactical Analysis Standards.' Methods and Technology (SMT) Committee white paper.

³⁷ Addo P, 2006. 'Cross-Border Criminal Activities in West Africa; Option for effective Responses.' KAIPTC paper No. 12, 3 May.

³⁸ Ibid.

³⁹ Wafula Okumu, 2011. *Border Management and Security in Africa* (Concordis Briefing 4) Cambridge, England: Concordis International, June. http://concordis.international/wpcontent/uploads/2012/11/2011_Sudan_Border_Regime_Briefing_4_BORDER-MANAGEMENT-SECURITY-II_LR.pdf (reference 15 April 2018)

⁴⁰ In Uganda, the term *boda boda* is used to mean bicycle or motorcycle taxi. It is derived from the Phrase "border to border movement." The term originates from the early 1980s, when bicycles were used to transport travelers to Uganda/Kenya border points of Malaba and Busia because there were no vehicles. Since then, transport by cyclists became popular and spread all over the country. Laura Sellmansberger, "Boda-Bodas: Kampala's Most Efficient Form of Transportation, for Better or for Worse," *Fellows Blog*, October 18, 2012 <http://fellowsblog.kiva.org/fellowsblog/2012/10/18/boda-bodas-kampalas-most-efficient-formof-transportation-for-better-or-for-worse> (reference 15 April 2018).

South Sudan and Uganda's Northern Border

Uganda borders South Sudan in the north, without any reasonable natural barriers between the states. The outbreak of the civil war in South Sudan in December 2013 almost led to the collapse of the state, a fate that was promptly intervened by the Ugandan forces. As a result of the outbreak of the civil war, Uganda's northern border was overwhelmed by an influx of refugees. Some of them were armed deserters who posed a security threat to the country.⁴¹ Although, peace agreement was signed between the South Sudan government and the opposition rebel leader, war raged in some parts of Uganda.⁴² Obviously, there was no evidence of terrorist cells in South Sudan but there was suspicion that terrorists from the Horn of Africa exploited the country's porous borders to transit to Uganda and the rest of the region.⁴³ The Lord's Resistance Army (LRA) continues to exploit the confusion in South Sudan and the region to manoeuvre and survive in the vast and difficult terrain and this remains a potential threat to Uganda's northern border. For instance, LRA fighters rustle elephants for ivory in the DRC's Garamba National Park. A source revealed that LRA sold ivory to Sudan Armed Forces at Kafya King in Sudan and to unidentified individuals flying white helicopters, who in turn supplied guns, ammunition and food to LRA fighters.⁴⁴ Unless regional pressure against LRA is intensified, rustling of elephants halted, and those involved in the ivory trade apprehended, the threat of LRA to Uganda's northern border remains unabated.

DRC and Uganda's Western Border

The Allied Democratic Forces (ADF) terrorists in collaboration with the then-Congo government established bases in 1996 from where to terrorise the neighbouring western Uganda districts of Kasese, Kabarole and Bundibugyo, killing more over 1,000 civilians. In Kasese, a border district, by 2001, revenue collection had fallen by 75 percent as effect of the

⁴¹ More than 60 military uniforms and ammunitions were recovered by Ugandan security personnel from the refugee camps in Amuru District. Refugee Law Project, *Sudan Crisis: Impact on Northern Uganda: A Rapid Assessment Report, January, 2014* (Kampala, Uganda: Refugee Law Project, 2014), http://www.refugeelawproject.org/files/ACCS_activity_briefs/14_01_24_Rapid_Assessment_Brief_Impact_of_South_Sudan_Crisis_in_Uganda.pdf (reference 29 April 2018).

⁴² Marc Santora, 2015. 'Salva Kiir, South Sudan's President, Signs Peace Deal with Rebels.' *The New York Times*, 26 August. http://www.nytimes.com/2015/08/27/world/africa/south-sudan-peace-deal-rebelspresident.html?_r=0 (reference 29 April 2018).

⁴³ South Sudan, 2015. 'Crime and Safety Report.' Bureau of Diplomatic Security, 12 January. <https://www.osac.gov/pages/ContentReportDetails.aspx?cid=16898> (reference 29 April 2018).

⁴⁴ Kasper Agger and Jonathan Hutson, 2013. 'Kony's Ivory: How Elephant Poaching in Congo Helps Support the Lord's Resistance Army.' Washington, DC: Enough Project, June. <http://www.enoughproject.org/files/KonysIvory.pdf> (reference 29 April 2018).

interruption and loss caused by ADF.⁴⁵ In the Democratic Republic of Congo, (DRC), ADF committed various atrocities, like kidnapping and enslaving women and children, human trafficking, forced conversion, forced marriage, torture, summary execution, attacking hospitals and using child soldiers.⁴⁶ Consequence upon these atrocities by the ADF, in 1998 the Uganda government deployed its forces to pursue them in their hideouts in the eastern DRC. At the same time, Rwanda deployed forces in eastern DRC to pursue armed rebels who perpetrated the genocide four years prior and fled to the eastern DRC and now were threatening security across its border. In July 1999, the regional leaders signed the Lusaka Ceasefire Agreement, demanding the two countries to withdraw their forces from DRC. Chapter 4 of the agreement specifically provided for the orderly withdrawal of all foreign forces from the DRC; Chapter 12 required that the DRC government must ensure the elimination of threats posed by armed groups along the DRC's borders with its neighbours.⁴⁷

Despite the Lusaka Agreement, the situation along the border did not improve. Because the DRC government lacked the capacity to effectively control its eastern region and the UN Mission in Congo was not mandated to dislodge armed groups in the rebel affected Congo. ADF maintained their camps, and therefore continued to threaten the Uganda border. Due to the threat posed by the armed groups along the borders, the United Nations Security Council (UNSC) passed Resolution 1304 (2000), accusing Rwanda and Uganda for violation of the sovereignty and territorial integrity of DRC.⁴⁸ The UN demanded the immediate withdrawal of their troops under pain of punitive measures.⁴⁹

However, the actual withdrawal of these foreign forces was not possible because of the continued presence of ADF near the common borders with DRC that persistently crossed over and terrorised local communities. In September 2002, Uganda and DRC leaders signed an agreement for the orderly withdrawal of troops, while DRC pledged to take measures to deny sanctuary to the rebels.⁵⁰ By this time, the ADF's capacity to launch attacks

⁴⁵ Kristof Titeca and Koen Vlassenroot, 2012. 'A Biography of the Allied Democratic Forces.' *Journal of Eastern African Studies* 6 (1): 159.

⁴⁶ Daniel Fahey, 2015. 'New insights on Congo's Islamist rebels.' *The Washington Post*, 19 February. <http://www.washingtonpost.com/blogs/monkey-cage/wp/2015/02/19/new-insights-on-congos-islamistrebels/> (reference 15 April 2018).

⁴⁷ Bureau of Political-Military Affairs, 1999. Lusaka Ceasefire Agreement.' U.S. Department of State, July. <http://2001-2009.state.gov/t/ac/csbm/rd/22634.htm> (reference 15 April 2018).

⁴⁸ Security Council, 2000. 'Security Council Demands that Ugandan and Rwandan Forces Withdraw

Immediately from Kisangani, Democratic Republic of Congo.' (S/C/110/816), United Nations, June. <http://www.un.org/press/en/2000/20000616.sc6877.doc.html>. (reference 15 April 2018).

⁴⁹ Ibid.

⁵⁰ Bureau of Political-Military Affairs, 2002. 'Agreement Between the Governments of the Democratic Republic of the Congo and the Republic of Uganda on Withdrawal of Ugandan

in Uganda had been significantly degraded by Uganda forces. In March 2007, ADF attempted a major comeback to Uganda through the Bundibugyo district but were repelled by the Uganda forces, with massive losses. While the Uganda military has pacified the Ugandan side of the border, the DRC side remains volatile. A

UNSC report revealed that by 2013, ADF occupied about 162 square miles of the eastern DRC's Beni province, along the Ugandan border.⁵¹ However, in 2014, DRC and UN forces launched operations against the ADF; the rebels have been uprooted from their bases and were scattered in the DRC's jungle-mountainous terrain.

The current challenge to Uganda's security at the western border is its porousness due to cross-border social relations. Scorgie observes that the familial ties among the Congo (Banande) and Uganda (Bakonzo) borderland communities over the years created an independent borderland identity that complicates border control and generates friction in the border region.⁵² Due to the fact that the border is open and border communities are⁵³ bound by cultural and economic ties, individuals and groups move freely across the borders. These movements make it difficult to identify likely terrorists who could infiltrate the country through the border. The geostrategic position of the ADF in a remote mountainous terrain along the Uganda-DRC border has facilitated the survival of the rebels.⁵⁴ The accessibility to Congo's abundant gold and timber, and the ability to penetrate the vibrant cross-border trade using local agents, provides the ADF with resources to commit terror. A good example in the ADF's area of control, timber dealers paid \$300 per chainsaw to the ADF to harvest timber, while defaulters paid \$500.⁵⁵ Accessibility to resources by the ADF, coupled with the DRC's inability to deny them sanctuary across the border, perpetuates the survival of the terrorist group.

Troops from the Democratic Republic of the Congo, Cooperation and Normalization of Relations between the Two Countries (Luanda Agreement.' U.S. Department of State, 6 September. http://www.beyondjuba.org/BJP1/policy_documents/Ug_gov_and-DRCongo_gov_security_agreement.pdf. (reference 18 April 2018).

⁵¹ Emilie Serralta, 2014 *'Final Report of the Group of Experts on the Democratic Republic of Congo.'*

(S/2014/42) New York: United Nations Security Council, 23 January, 20. <https://monusco.uncommissions.org/files/default/files/n1466372.pdf> . (6 May 2018).

⁵² Lindsay Scorgie, 'Peripheral Pariah or Regional Rebel?' (n.13)

⁵³ Security Council, 2000. 'Security Council Demands that Ugandan and Rwandan Forces Withdraw Immediately from Kisangani, Democratic Republic of Congo.' (S/C/110/816), United Nations, June. <http://www.un.org/press/en/2000/20000616.sc6877.doc.html> (reference 18 April 2018).

⁵⁴ International Crisis Groups, 2012. *'Eastern Congo: The ADF-NALU's Lost Rebellion.'* Crisis Group Africa Briefing No. 93. Nairobi, Kenya: International Crisis Group, 19 December, 1. <http://www.crisisgroup.org/~media/Files/africa/central-africa/dr-congo/b093-eastern-congo-the-adf-naluslost-rebellion-english.pdf> (reference 18 April 2018).

⁵⁵ Ibid, 11.

Kenya and Uganda's Eastern Border

The Kenya–Uganda border is the most vivacious of Uganda's borders. It is the threshold for Uganda's imports and exports through the Kenyan coastal port of Mombasa. Like other borders in Uganda, this border accommodates a substantial amount of trade. Though the substantial of trades are formal, a momentous amount of them are informal (not documented by customs). Also along the border, illegal trade by petty smugglers takes place. Informal trade plays a significant role in Uganda's economic development. In 2012, for example, informal imports contributed 16.1 percent of the total imports, while informal exports contributed 4.2 percent of all exports. Most informal imports were from Kenya, contributing 46.3 percent of the formal imports.⁵⁶

In 2013, Kenya received 49.4 percent of Uganda's informal exports. The Busia border point hosted the greatest amount of Uganda's informal exports to Kenya, accounting for 33.9 percent (US \$18.2 million).⁵⁷ Lack of capital, high taxes and cumbersome bureaucratic procedures discourage low income traders to engage in formal transactions. Instead, based on speculation, they smuggle a variety of items in small quantities across the border.⁵⁸ Goods are delivered at the border in concealment, temporarily stored and later smuggled across the border, using head porterage or bicycles, through illegal entry points. Among the items smuggled are agricultural products and manufactured items.⁵⁹

Kenya and Uganda's North Eastern Border

Obviously, Uganda's North Eastern border is part of the 580-mile eastern border with Kenya, it is unique in terms of activities and the terrorist threat in Uganda. Karamoja, a region in the northeast of Uganda hosts five major Karamojong nomadic pastoral tribes, including the Dodoth, Jie, Bokora, Matheniko, Tepth, and Pian.⁶⁰ All live in a semiarid savannah bushland area. The region borders the nomadic Turkana and Pokot communities of Kenya and the Toposa nomadic tribe of South Sudan.⁶¹ Prior 1926, when the British colonialists arbitrarily established the Kenya–Uganda border, the Turkana and Pokot pastoralists of West Kenya lived and shared

⁵⁶ Bank of Uganda, 2012. *The Informal Cross Border Trade Survey Report*.

⁵⁷ Bank of Uganda, 2013. *The Informal Cross Border Trade Survey Report* Kampala, Uganda: Uganda Bureau of Statistics, November 2014. <https://www.bou.or.ug/bou/downloads/publications/TradeStatistics/ICBT/All/ANNUAL-INFORMAL-CROSS-BORDER-TRADE-SURVEY-REPORT-2013.pdf> (reference 18 April 2018).

⁵⁸ Chris Ackello-Ogutu, 1997. *'Unrecorded Cross-Border Trade between Kenya and Uganda: Implications for Food Security.'* Bureau for Africa Technical Paper No. 59. Washington, DC: USAID, July.

⁵⁹ Ibid.

⁶⁰ Isoke Henry, (n.10)

⁶¹ Kiperer Ngeiywa, 2008. 'Deterring Cross-Border Conflict in the Horn of Africa: A Case Study of Kenya-Uganda Border.' Master's Thesis, Nairobi University, 17.

resources with the Karamojong pastoralists in the then Rudolf Province of Uganda.⁶² The Karamojong share cultural and linguistic ties with the communities across the border.⁶³ Whereas informal trade and smuggling are the main activities along most of the Kenya-Uganda border, in contrast, armed cross-border raiding of livestock has been the main activity along the Uganda–Kenya north-eastern border.

Cattle rustling, in turn, has cultivated the illegal arms trade in the territory, among other questionable enterprises that today have terroristic potential. The Karamojong and other nomadic communities for decades provided markets for illicit weapons from the region. The first modern rifles in Karamoja were brought by Arab and Swahili merchants in the mid-19th century, when ivory was exchanged for guns with the Karamojongs.⁶⁴ In addition to this, the Shifta, a banditry group from Ethiopia and Somalia, supplied guns in exchange for ivory with the pastoralist tribes of Karamoja region.⁶⁵ Though no major occurrences related to terrorism have been recorded on the north-eastern border, the region remains vulnerable to an influx of illegal arms, which could fall in terrorist hands. Some of the weapons are suspected to originate from terrorist-infested Somalia and infiltrate into the Karamoja region through the porous Uganda–Kenya border. The continued inflow of arms and persistent cattle rustling led to stagnation of development in the north-eastern region of Uganda.⁶⁶

To curb the challenge of cattle rustling and to halt the infiltration of arms, in 2001, the Uganda government launched a phased disarmament exercise. The first phase was to mobilise, sensitise, and encourage the voluntary hand-over of illegal guns in Karamoja.⁶⁷ The second phase called for military pressure on violent armed warriors to apprehend and prosecute whoever failed to voluntarily surrender their illegal arms. The second phase is also referred to as the forceful disarmament phase, focused on recovering an estimated 40,000 illegal guns in Karamoja.⁶⁸ By 2012, the disarmament process had registered remarkable success, with cattle rustling halted and most of the illegal guns recovered; peace has been restored in Karamoja region.⁶⁹ So far, Uganda has been fortunate that apart from cattle rustling

⁶² Kiperer Ngeiywa, (n. 61).

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Kiperer Ngeiywa, (n. 61), 23.

⁶⁶ Joe Powell, 2010. 'Karamoja: A Literature Review.' London: Saferworld, March. https://www.google.com/?gws_rd=ssl#q=cattle+rustling+undermine+karamoja+development. (reference 2 May 2018).

⁶⁷ IRINnews 2002. 'Uganda: Army to Begin Forcible Disarmament of Karamojong.' Humanitarian News and Analysis, February. <http://www.irinnews.org/report/30469/uganda-army-to-begin-forcible-disarmament-of-karamojong>. (reference 2 May 2018).

⁶⁸ IRINnews, 2002. 'Army to Begin Forcible Disarmament of Karamojong.'

⁶⁹ UNDP, 2014. 'Community Policing Promotes Peace in Karamoja Region.' UNDP in Uganda.

along the porous north-eastern border, no terrorist related activity has been registered. However, the challenge of illegal arms across the borders persists because neighbouring Kenya, Ethiopia and South Sudan are yet to disarm their warriors.⁷⁰ The permanent deployment of Ugandan security forces along the border to keep guard against suspicious cross-border movements may control cattle rustlers but does not guarantee safety against infiltration by terrorists.⁷¹

East Africa Community Crime Management Mechanisms

The inclusion of Rwanda and Burundi into EAC is an avenue for opening up and enhancing regional security governance and geared toward implementing a common foreign and security policies as enshrined in the EAC Treaty. The EAC Court of Justice is an example of regional judicial body that is empowered to serve as guardian of justice, uphold the rule of law, protects human rights and good governance across the region.⁷²

East African Communities have set up campaigns forum at the reducing of illegal small arms owned by pastoralist communities who live closer to the borders. Such campaigns have helped communities to live harmoniously at the borders following the disarmament process that was carried out along Kenya/Tanzania border and every other borders among EAC Countries. A number of illegal weapons were collected from the cattle rustling communities who live along borders.⁷³

East African Communities have also installed common communication facilities for border and interstate security. This has raised the level of security and reduced cross-border crimes such as drug trafficking and money laundering. It has also promoted exchange programmes and training for their military, therefore, reducing suspicions among member states where member countries saw their neighbours as potential enemies. This has reduced security threats across the borders as well as reduced criminal activities following the improved collaborative system in tackling criminals at borders.⁷⁴

It has also been through EAC initiative to manage cross-border criminal activities that several meetings have been attended by the Chiefs of Defence Forces of the region to share security and defence related intelligence

<http://www.ug.undp.org/content/uganda/en/home/ourwork/crisispreventionandrecovery/successstories/community-policing-promotes-peace-in-the-karamoja-region.html> (reference 2 May 2018).

⁷⁰ Xinhua News Agency, 2009. 'Kenya Says not to Disarm Pastoral Communities. *China View*, 11 August. http://news.xinhuanet.com/english/2009-08/11/content_11864444.htm. (reference 2 May 2018).

⁷¹ Ibid.

⁷² Art 9 of EAC, 2000.

⁷³ Mwita Paul, Chief Bwirege East, Kuria, Kenya on 10 June 2013.

⁷⁴ Janerose Wanzira Maroa, (n. 23) 70.

on issues affecting the region. This has helped the Kenyan military to acquire information and intelligence on mutual threats affecting the region such as terrorism, piracy and proliferation of small arms.⁷⁵

In addition, EAC has enhanced the exchange of criminal intelligence and other security information between partner states through joint operations and patrols along the cross-border. Indeed, it has installed common facilities for borders and interstate security.⁷⁶ However, EAC has also adopted the UN model law on mutual assistance on criminal matters. This seen through the EAC implementation of the Protocol on combating illicit drug trafficking. To ensure proper security along the border, EAC has also introduced exchange visits by security authorities, exchange training programmes for security personnel thus, establishing a common management of the cross-border crimes like cattle rustling.⁷⁷

It has been a great measure that EAC has involved civil society organisations in formulating and implementing some of the policies that are supportive and beneficial to the cross-border traders. This was a laudable initiative which helped to reduce criminal decimal as civil society organisations can get involve to the extent that they have the ability to network, create awareness and encourage cross-border traders to reform their activities so that they may benefit from policy reforms and benefits linked to formal business sector.⁷⁸

This should go along with the demystification of the term formalization to remove any unnecessary tensions that are currently associated with.

Stigmatisation and damage that has been done on human psyche of the players in the informal sector, meaning that, EAC governments are urged to begin to embrace, encourage and promote trade exhibition involving informal traders across EAC borders points. EAC government must also consult with ICBT traders more regularly as well as introduce market development programmes to promote formalization.⁷⁹

EAC countries should create friendlier operating environment with fair cross-border trade rules and regulations taking account of the characteristics of the Informal Cross Border Trades (ICBT) player will not only benefit the ICBT players but all EAC economies could be the start of a successful process of formalising activities of informal traders and consequently enable the countries to collect better information in order to

⁷⁵ Ibid, 71.

⁷⁶ Augustus Muluvi, Paul Kamau, Simon Githuku and Moses Ikiara, 2012. 'Kenya's Trade within the EAC: Institutional and Regulatory Barriers' Kenya Institute of Public Policy Research and Analysis (KIPRA) www.heuni.fi/material/attachments/heuni/reports/6kdD32XX/Hreport-31.pdf. (reference 6 May 2018).

⁷⁷ Janerose Wanzira Maroa, (n. 23) 70

⁷⁸ Ibid, 71.

⁷⁹ Ibid, 70.

improve the planning and decision making. Similarly, to ICBT players, creating favourable environment for trade may lead to a better understanding of their rights as they trade across the region, hence, cases of paying bribes to border officials and smuggling of goods and trafficking in human across the borders will be reduced. The EAC governments should therefore undertake aggressive publicity and dissemination of the EAC Treaty, the Custom Union Protocol, the Common Market, the Community Policies and other applicable laws and principles.

Furthermore, the EAC government should apply practical approaches toward ensuring the benefits of the EAC regional integration process reach the citizens by increasing information dissemination and capacity building for small scale border traders on how they can benefit from EAC integration.

Conclusion

It is the opinion of these writers that the security officials at various borders should be well equipped to meet the challenges of the miscreants along the borders. More so, they should be well paid in order to avoid temptation of being bribed by the operators of the informal trades.

It is further suggested that the immigration officials and other security agencies manning Uganda borders should stop compromising their duties with the smugglers and they should equally avoid flirting with them.

Conclusively, EAC states governments should stop effort seeking to eradicate the ICBT practice because it has formed part of socio-economic lifestyle and practice of EAC citizens, especially as a source of employment and income generating for traders who cannot maintain formal trading. In this perspective, it would be proper for the sector to be formally recognised and measures be taken to provide it with an appropriate operating environment while making sure its adverse effects to the economies of EAC are fully understood and addressed.⁸⁰

⁸⁰ Ibid, 70.