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DEPARTMENT OF HISTORY AND ARCHAEOLOGY

MA IN ARMED CONFLICT AND PEACE STUDIES

**UNDERSTANDING CATTLE RUSTLING AND THE ROLE OF
INDIGENOUS CONFLICT RESOLUTION MECHANISMS AMONG
THE TUGEN, ILCHAMUS AND POKOT OF BARINGO COUNTY,
2000-2015**

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M.A PROJECT

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DECLARATION

THIS IS MY ORIGINAL WORK AND HAS NOT BEEN PRESENTED FOR A DEGREE
IN ANY OTHER UNIVERSITY.

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DR. MARY MWIANDI

DEDICATION

This work is dedicated to my late father, Mzee Kwonyike Cheptoo (Kimutus), without whose efforts, I would not have gone to school. His personal focus and sacrifice as an illiterate herdsman was incredible.

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In my efforts to accomplish this study, there are people whose contributions cannot be ignored. I would like to pay special thanks to my two supervisors Prof. G. Muriuki and Dr. M. Mwiandi for finding time to review my work (Prof. Muriuki retired before I graduated, though he signed the initial Project Paper I defended at the department). Their time spent and critique was invaluable. To you two, special thanks. I would also like to express gratitude to the departmental post-graduate coordinator, Dr. G. Gona whose contribution to this work is worth a mention. A special mention also goes to Prof. V.G. Simiyu for helping in the reconstruction of the topic. Mention also goes to the other lecturers in the Department including, Prof E.W. Wahome, Dr. M.W. Gachihi, Dr. Misigo Amatsimbi and Mr. D. Masika for the endless advices and encouragement. My family's endurance of my absence while in the field for data collection deserves appreciation too.

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ABSTRACT

This study was on understanding cattle rustling and application of indigenous conflict resolution mechanisms among the Tugen, Ilchamus and Pokot of Baringo County. The study sought to assess the hypotheses that cattle rustling activities have been rampant in the County since 2000. Violent conflicts involving pastoralists in Baringo County are widespread and severe.

In analysing the data, the study used Opportunity Theory by Cohen Lawrence, Ray Jeffrey and Land Kenneth. The theory argues that human actions including tendency to commit a crime (for instance, cattle rustling) is motivated by existence of systemic gaps in institutions charged with responsibilities of curbing such vices. The research utilised both primary and secondary data. The study interviewed 22 respondents and held 4 focus group discussions with respondents from the three communities, plus government officials in the study area. Respondents were picked by use of snowball and random sampling techniques based on researcher's prior knowledge of key respondents.

The study established that pastoralists in the area are largely nomadic, living primarily in arid / semi-arid areas and depend on livestock for their livelihood. Among the factors contributing to conflict in the area are rampant cattle raids, proliferation of illicit arms, inadequate policing and inadequate security arrangements, diminishing role of traditional governance systems and competition over access to natural resources. The existence of crime-supportive norms in cultural set ups serve as a motivator for criminal commission in the study area.

The study argues that in Baringo, there has existed in the past and still exist indigenous mechanisms of prevention and resolution of conflicts, based majorly on elders. These are men and women of a certain age who make use of their status as the custodians of the communities' culture and traditions to curb conflicts. However, most of the indigenous practices of conflict prevention/resolution and peace building are intra-communal, and little effort in academic or policy have been made to assess the possibility of widening the applicability of these mechanisms beyond a single community. The study established that through harmonisation of indigenous conflict resolution mechanisms, Baringo can realize peace that has been a pipe dream for long due to frequent cattle rustling and banditry in the county.

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DEFINITION OF KEY TERMS

Cattle rustling is the act of acquiring or planning, organizing, attempting, aid or abetting the stealing of livestock by any person from any community by use of violence means.

Cattle raiding refers to the forceful acquisition of livestock from one community by another without destroying property or killing people.

Pastoral communities refer to people who keep animals.

Learners refer to people including children, youth and adults who participate in education programmes.

Commercialization refers to the ready market or cash for stolen or raided animals.

Displacement of population refers to people being forced to find alternative safer places within their home regions.

Bridewealth is the betrothal gifts the groom gives to the bride's family. Bridewealth is practised commonly in patrilineal systems where the matrilineal system is absent, unimportant or irrelevant.¹

Conflict prevention refers to the act of inhibiting the occurrence of conflicts as well as mitigating conflicts.

Conflict management focuses on measures aimed at reducing the intensity of violent conflict. The phrase includes pre- and post-conflict prevention measures.

¹ Lemos, T. (2010). Marriage Gifts and Social Change in Ancient Palestine: 1200 BCE to 200 CE New York: Cambridge University Press, p.83.

LIST OF ABBREVIATIONS

ADR	Alternative Dispute Resolution
ASALs	Arid and Semi-Arid Lands
DRC	Democratic Republic of Congo
FGM	Female Genital Mutilation
GDP	Gross Domestic Product
GLR	Great Lakes Region
IDPs	Internally Displaced Persons
KARI	Kenya Agricultural Research Institute
KCPE	Kenya Certificate of Primary Education
KES	Kenya Shillings
KHRC	Kenya Human Rights Commission
LRA	Lord's Resistance Army
Rtd	Retired
SALW	Small Arms and Light Weapons
UNICEF	United Nations International Children's Education Fund

CHAPTER ONE: INTRODUCTION

1.0 Introduction

Baringo County, being a cosmopolitan county, is many times in the national news, mostly for reasons related to cattle rustling conflicts. This is due to the economic interests and strong attachment to livestock by the major resident communities in the area. In Baringo County, cattle have both cultural significance as well as commercial being means for survival. Livestock is everything in the lives of Tugen, Ilchamus and Pokot communities, whose lifestyle revolve around nomadism. Climate change has worsened the situation as grass and water – two major resources, on which they rely on - have diminished leading to increased competition over the now scarce resources. This has resulted in conflict in the area. Both the local and national governments have tried to normalize the situation, but with little success thus far. The contributory factors to this problem and possible remedies are detailed in ensuing pages/chapters.

1.1 Background to the study

The frequency of violent conflicts around the world is on the rise. This has been attributed to the increasing environmental degradation which has put pressure on much of the world's resources. Natural resource scarcities are most severe in less developed countries that lack well defined or enforceable property rights and resources for research and development, thereby relying heavily on ecosystem for subsistence.² In Africa, for instance, war and poverty remain dominant realities. Wars causing at least 1,000 battle deaths yearly have plagued Angola, the two Congos, Eritrea, Ethiopia, Rwanda, South Sudan, Somalia, and Sudan. Meanwhile, low-intensity conflicts have been witnessed in Burundi, Chad, Djibouti, Senegal, Sierra Leone, and Uganda.³

Kenya has not been spared these conflicts, courtesy of, especially, pastoralist communities. Baringo County is one of the most affected when it comes to internal conflicts. This is because of its geographic nature, and demographic composition. A majority of the population are livestock keepers, with a significant percentage who practise nomadism. Pastoral communities in arid and semi-arid lands (ASALs) depend on livestock for their livelihood. However, these ASALs are characterized by temporal and spatial climatic variation, making

² Maxwell, J.W., & Rouveny, R., 2000. Resource Scarcity and Conflict in Developing Countries. *A Journal of Peace Research* vol. 37 no. 3; Sage Publication, Oslo, pp. 301-322.

³Stremlau, J., 2000. Ending Africa's Wars. *Foreign Affairs*, Vol. 79, No. 4, pp. 117-132: *Council on Foreign Relations*. Available. <http://www.jstor.org/stable/20049813> Accessed: 07/07/2009

availability of resources uneven. Mobility is a key strategy used by pastoralists to efficiently utilize available resources, notably pasture and water. This strategy is being interrupted by a vicious cycle of livestock rustling. The practice of livestock rustling, rampant amongst pastoralist communities in Kenya and sometimes occurring across borders influences pastoralists' decision to migrate and also their herd sizes. It destabilizes communities and undermines their normal livelihood strategies, thus contributing to increased poverty.⁴

The pastoralists in Baringo County are mainly transhumant pastoralists, and they exemplify communities in ASALs that are dependent on livestock for their livelihood. Traditionally, they move seasonally from their home bases and drive their herds to places with pasture and water and come back to their homesteads in other seasons when pasture improves. Because of the importance attached to cattle, there is a tendency to accumulate them even under unfavourable environmental conditions, often exerting a lot of pressure on the meagre range resources, notably pasture and water. Inevitably, there is competition amongst pastoralists in the county for the available range resources, necessitating frequent livestock movements within the area in search of pasture and water. The occurrence of frequent droughts in these lands, perhaps a manifestation of climate change, contributes to range resource shortages, leading to intense competition for the available pasture and water, hence conflict. Mobility remains the key pastoral risk management strategy during times of pasture and water shortage.⁵

Pastoralists who migrate with their herds during climatic disasters have considerably fewer livestock losses than those who do not. However, this mobility in itself causes conflict among the pastoralists due to competition for scarce pasture and water. Pasture and water conflicts have long been part of the socio-cultural pattern of the pastoral communities in Kenya. The communal land ownership tenure system, mostly evident in pastoralist areas, provides everyone an equal right of exploiting the resources. The lands are traditional communal grazing areas, such that migration in search of pasture and water by one community into areas that belong to other tribes often causes conflict between them. Besides, livestock movements into grazing lands and watering points that stretch into crop-growing areas also result in conflicts between farmers and pastoralists. Over time however, pasture and water around the settled areas steadily decreases, leading to emaciation and loss of livestock. Traditionally,

⁴Brock-Utne, B., 2001. Indigenous conflict resolution in Africa. University of Oslo, Oslo. Pp.3-27.

⁵ Little, P. D et al., 2001. Avoiding disaster: Diversification and Risk Management among East African Herders. *Journal on Development and Change*, Nairobi, 32(3): 401-433.

whenever scarcity of pasture and water or disease depleted a community's livestock, it often seeks to replenish numbers through raiding/rustling.⁶

Cattle rustling in Kenya involves forceful acquisition of livestock (mainly cattle) and is quite common amongst the pastoralists of Baringo being one of them. Traditionally, cattle rustling often involved small-scale violence and theft of the best livestock or replacement of animals lost through rustling, drought or disease. Loss of human lives in ethnic conflicts was rare, and when this occurred, compensation in the form of cattle was paid by the killers' families to the victims or their families in case of death (*Labai*-blood price). However, in recent years, due to the proliferation of small arms and commercialization of cattle rustling, there is an emergence of large-scale violent cattle raiding between neighbouring pastoralist communities in Kenya. Moreover, there is an emergence of commercialized cattle rustling where wealthy businessmen, politicians, traders or local people pursuing economic objectives finance raids among these communities. This greatly interferes with the future and assets of the pastoralists. Consequently, pastoralist communities arm themselves for protection against hostile groups. The threats caused by the increasing numbers of human deaths and livestock losses due to cattle rustling and other organised raids probably influences the pastoralists' mobility and/or their migratory decisions as well as herd size, thereby undermining their asset base and livelihood sources.⁷

Pastoralist communities in Baringo County have long been subject to inter-communal and inter-ethnic conflicts. Disputes are triggered by the shortage of natural resources, political skirmishes and a general lack of development in the region. The communities have been existing on the periphery of government development assistance and service delivery. This includes a lack of service provision by justice sector institutions. Most intra-communal disputes are handled either by community elders or by chiefs and assistant chiefs on the basis of informal conflict resolution mechanisms.

According to the Kenyan constitution, the judiciary is supposed to be the principal actor in resolving disputes, in particular those involving more serious crimes. However, there are various shortcomings which hamper the impact of the judiciary in these regions. Vast

⁶ Little, P. D et al., 2001. Avoiding disaster: Diversification and Risk Management among East African Herders. *Journal on Development and Change*, Nairobi, 32(3): 401–433.

⁷ Ibid.

geographical distances to the nearest court, and high cost of travelling and filing cases have made it nearly impossible for citizens to seek redress through the courts. Internal systemic flaws, such as unavoidably long duration to process cases, non-conducive work environments for magistrates, poor physical conditions of court houses, the lack of public defence lawyers, the lack of official legal aid, and the lack of private lawyers, have rendered the role of the judiciary insignificant in the region.⁸

One of the gravest challenges to the role of the judiciary in the arid lands, however, is the difference between concepts of justice underlying the formal system and the local perceptions of what constitutes misconduct and who is responsible for a crime. Most cases filed in courts are of a criminal nature and are filed by the police. While most of the acts are defined as criminal under the formal law, they are not necessarily perceived as criminal among the local communities. Cases such as gambling or the brewing of alcoholic beverages are not at the heart of what triggers serious conflict among communities. On the contrary, some of these charges are not perceived as ‘wrongdoing’ at all, and the pursuit of such cases through the formal legal system does not instil the population’s trust in the official institutions.⁹

As such, communities in the region have lived in hostility for years and their conflicts have just recently picked up due to the proliferation of modern weapons. The common source of conflict in Baringo County is cattle rustling. Initially, all people who owned cattle in the region used ordinary spears and arrows for protection of their cattle against rustlers. With the proliferation of light arms, such methods of defence have now been overtaken and almost all cattle owners have now acquired deadly automatic rifles. The Pokot and Turkana together have been notorious cattle rustlers even across borders into Uganda, Ethiopia and South Sudan.

However, despite the known effects of cattle-rustling on the populations of Baringo, and the failures of legal mechanisms of conflict resolution, little attempts to incorporate traditional mechanisms of conflict resolution have been made. This study, therefore, investigated the role that traditional mechanisms could play to bring about an end to cattle rustling menaces in

⁸Chopra T., 2008. Reconciling Society and the Judiciary in Northern Kenya. Legal Resources Foundation Trust. *Journal of African Studies, Law Reforms* pp. 2-5.

⁹ Ibid, pp. 2-18.

Baringo County, with special emphasis on the belligerent communities of Tugen, Ilchamus and Pokot.

1.2 STATEMENT OF THE RESEARCH PROBLEM

Livestock plays multiple roles in the lifestyle of pastoralists. It acts as a livelihood source, soothes socio-cultural and religious functions. It also acts as an asset and security against risks. Additionally, livestock serves as the main source of food by providing milk, blood and meat. It is the basis of traditional social relations, for instance, payment of bride wealth during marriage, compensation of dead/injured parties in tribal feuds, symbol of prosperity, prestige, store of wealth, and serves as security against environmental calamities. Livestock is the main source of income. A cow is like a modern account in the bank. A cow is payable as pride price in marriage negotiations or used in exchange for grain during hunger situations. As such, cattle are a highly regarded asset and each community believes that all the cattle of the world belong to them by divine right. They also believe that as a community, each of them is bestowed with the divine right to retrieve by stealth or armed force all cattle that neighbours possess or which each ethnic group might claim to be their own. Responses to a neighbouring groups raid quite often leads to conflicts.¹⁰

Due to the centrality of livestock in the lives of the pastoralists, they have developed various beliefs which tend to legitimise cattle rustling as a way of life. As such, Baringo County is characterised by raids and counter-raids that have repeatedly engulfed the communities in the region in endless conflict. Traditionally, raiding often involved small-scale violence and theft of the best livestock or replacement of animals lost through drought or disease. Loss of human lives was rare. However, recently, cattle raiding has taken a different dimension due to the proliferation of small arms and commercialization of cattle rustling. There is an emergence of large-scale violent cattle raiding often accompanied by use of sophisticated weaponry, resulting in many deaths. These new forms have coincided with the disruption of social order affecting provision of health services as well as education in the affected areas.

The communities in the region have over time, employed indigenous mechanisms in addressing local conflicts. These mechanisms have been helpful in resolving marital,

¹⁰ Chopra T., 2008. Reconciling Society and the Judiciary in Northern Kenya. Legal Resources Foundation Trust. *Journal of African Studies, Law Reforms*, Nairobi, pp.5-7,

inheritance and land-related conflicts with far-reaching success. The strong attachment to culture and great reverence shown to elders has often implied that decisions reached by the elderly are respected and abided to by the community members. Additionally, the cultural place attached to certain categories of women such as lactating mothers and women who have reached menopause make it easy to call upon them to resolve certain cases.

The main argument of the study is that the indigenous mechanisms applied in other cases of conflicts could be used in resolving cattle rustling conflicts in Baringo County. The intensity of the recent cattle rustling conflicts coupled with the failures of state-sponsored 'elitic' approaches have created a necessity for alternative mechanisms. Most of the available data on conflict resolution in cattle rustling regions base their argument on state-sponsored approaches or the role of culture as an impediment to resolution of cattle rustling. However, this study focused on how indigenous systems embedded in cultural norms could be put to use in resolving cattle rustling related conflicts in Baringo County.

1.3 OBJECTIVES OF THE STUDY

1. To examine reasons why cattle rustling has become rampant since 1990.
2. To assess the shortcomings of state-sponsored peace initiatives in Baringo County.
3. To investigate how indigenous mechanisms of conflict resolution can be enhanced to resolve cattle-rustling in Baringo County.

1.4 JUSTIFICATION OF THE STUDY

Despite the rise in the intensity of cattle rustling and increased failure of state-sponsored mechanisms of conflict resolution, no research has been done in Baringo County, to assess the role of indigenous mechanisms in addressing such conflicts. The role of communal/clan elders, women and church leaders have been omitted in previous studies on cattle rustling in Baringo County. The fact that scholars have omitted this perspective provided a strong basis for the study.

The study sought to demonstrate how cattle-rustling has mutated in recent years. It revealed why government system of using the security forces to resolve the problem has so far failed. By incorporating the role of traditional mechanisms in resolving Baringo cattle-rustling problem in its analysis, the study hoped to generate knowledge to fill in the gaps in

understanding and resolving cattle-rustling conflicts in the county. Due to its economic nature, the study hoped to contribute an understanding of the economic history of the three communities under study in Baringo County, and how such economies have impacted on their recent relationships.

1.5 SCOPE AND LIMITATIONS OF THE STUDY

The research was on indigenous conflict resolution mechanisms and how they could be employed in resolving cattle rustling among the Tugen, Ilchamus and Pokot communities of Baringo County. The three communities have been most hit by cattle rustling incidences. They are both perpetrators as well as victims as they raid each other and are raided as well. These communities have been selected because they have experienced some of the most violent conflicts emanating from cattle rustling and banditry in the past. The research covered the period from 2000-2016. This period witnessed intensified cattle rustling conflicts due to a number of factors like proliferation of firearms and commercialisation of rustling activities. The research was carried out in Tiaty, Mukutani, Marigat, Mochongoi, Bartabwa, Kampi Samaki, Koroto, and Loruk, which witnessed intensity of cattle raids and its effects, in the study period.

A number of challenges were encountered while conducting the research. The main one being security. Baringo is a volatile county characterized by sporadic attacks. The communities are also heavily spread out over vast regions and accessing all target respondents was difficult. These challenges were, however, addressed in a number of ways. The security problem was solved by liaising with county security office for provision of escort when visiting the area. The area expansiveness problem was solved by random selection of areas of interest based on how hard hit by the cattle rustling problem.

1.6 Literature review

The area of communal conflict among pastoralists has been researched and written on severally. Aspects like gun-culture, age-set system, and pastoralist migration have been heavily written on. But the idea of conflict resolution mechanisms has relatively been ignored. In Baringo County for instance, much effort concentrated on how government systems, like the police, could be used to address cattle rustling conflicts. However, recent experiences have shown that many of the pastoral communities are closely knit with strong communal allegiance as opposed to the loyalty shown to the state. It has, therefore, proven

very difficult for state institutions to be effective in addressing these conflicts because of lack of an understanding of the root causes of these conflicts. For these efforts to be successful there was need to give traditional conflict mechanisms a chance. The existing literature on the topic of interest is here analysed.

Tanja Chopra¹¹ discusses the debate between formal justice and local communal conflict management mechanisms. In developing countries, formal justice system can be at odds with conflict management initiatives. Often, due to inaccessibility or incompatibility with local socio-cultural values, official justice institutions in developing countries do not fully pervade society. The notion of 'justice' in the courts is at variance with what local communities consider as 'just'. The formal system, therefore, often proves inefficient and incapable of re-establishing peaceful relations in communities following conflict. In response, practitioners and policy makers increasingly turn to the conflict management and peace building fields, which can be more flexible and responsive to local values and realities, and consequentially have a higher rate of success in settling disputes and establishing lasting peace. Given the frequently occurring droughts in the arid lands of Kenya, disputes over pasture and water, or cattle rustling activities are common. Official justice institutions have proven too weak or ill-suited to preventing or resolving conflicts. This called for an assessment of alternative resolution mechanisms that were easily accessible to the local population. This is where traditional mechanisms could be practised bearing in mind that each community had its version of the system since time immemorial. Chopra does not explain how traditional mechanisms could be put to use to address cross-cultural conflicts.

According to Elisabetta Grande¹², there is need for adoption of Alternative Dispute Resolution (ADR) in resolving African affairs especially in the Horn of Africa. She argues that the transplant of Western judicial systems have failed in the Horn. She asserts that the Western kind of judicial processes fail to put into account the collective nature of African society and therefore by targeting a single individual for crime committed is contrary to African culture. This analysis was an eye opener to policy formulators in the Baringo cattle rustling conflicts as it asserts the need to give more emphasis on traditional judicial set-up. Because of the strong communal attachment of the Baringo pastoral people, decisions should

¹¹ Chopra, T. 2008. *Peace Versus Justice in Northern Kenya*. Vienna. Pp.2-11.

¹²Grande, E., 1999. *Alternative Dispute Resolution, Africa and the Structure of Power: The Horn in Context*. *Journal of African Law*, 43:63-70.

take into account the interests of the general community accused and affected as it has been established that culture is a major motivation for this heinous economic activity. This highlighted the importance of traditional elder-led judicial decision making.

Bruce Baker¹³ discussing lawlessness of law enforcers in Africa, argues that, over much of Africa, crime and insurgency are a serious problem and one in which the distinction between the two is being eroded. Left without state protection, people have sought to protect their lives and property through vigilante groups and militias that pay scant attention to the law or human rights. Likewise, the state security forces, under pressure to cut crime and rebel activity, readily discard lawful procedures. Torture provides them with vital information, whilst extra-judicial executions save the need to go through the prolonged criminal justice system. After a general overview of the role of the rule of law in a democratic society, Baker provides five case studies that capture the current complex realities and their impact on the new democracies. The government, out of lack of a solution, sometimes makes rushed decisions by sending military expeditions to conflicting areas, leading to a lot of suffering by innocent citizens. Government's failure to assure its citizens of security has also led to growth of the vigilante groups of circumcised youths who offer alternative security among the pastoralists. Baker's argument however, has not covered how such governmental shortcomings could be addressed by involving traditional mechanisms of conflict resolution.

Analyzing land conflicts in Africa, Yakashi Yamano¹⁴ talks of increasing small scale land disputes in family and communal set ups which he argues are impacting on land productivity. These small scale land conflicts could erupt into large scale civil wars if not addressed in time. Land is increasingly becoming a source of conflicts in Sub-Saharan Africa, where land access had traditionally been characterized as relatively egalitarian. It has been shown that local land conflicts can erupt into large-scale civil strife and political movements. The current land tenure systems in Africa may not be well-equipped to resolve such conflicts. In many Africa countries, formal institutions for land administration were often simply superimposed on traditional structures without a clear delineation of responsibilities and competencies, implying that they lacked both outreach and social legitimacy. Conflicts over grazing land are common among the pastorals. However, the author failed to capture how such conflicts could

¹³Baker, B., 2000. Taking the Law into their Own Hands: Lawless Law Enforcers in Africa. *The Making of Modern Africa*, vol 2 pp.2-7.

¹⁴Yamano, Y., and Deininger K., 2006. Land Conflicts in Kenya: Causes, Impacts and Resolutions. *Foundation for Advanced Studies on International Development/ National Graduate Institute for Policy Studies*. pp. 3-11.

be related to cattle rustling and banditry though he stressed the need for consideration of traditional mechanisms to solve conflicts, which current land tenure laws fall short of addressing. This study looked at the cattle rustling menace not analysed by the above literature.

Militia groups such as the *Mai Mai* and *M23* have been blamed as the major sources of insecurity in the Democratic Republic of Congo. The disarmament and repatriation of such groups, including the former Rwandan military and Uganda's Lord's Resistance Army (LRA), have been blamed for DRC's insecurity and the destabilisation of the entire Great Lakes Region (GLR), argues Mwesiga Baregu¹⁵. This assertion captures to a certain extent, the situation in the Baringo case. The existence of illegal armed groups have heavily destabilised the region leading to intensification of conflict including culture of cattle rustling. To address this, there is need for a concerted disarmament effort which should involve traditional clan elders through traditional mechanisms of peace making. The idea of traditional resolution of conflicts was not captured by the author as he concentrated on the actors, interests and strategies for peace in Great Lakes Region.

Throughout Sub-Saharan Africa, land is a fundamental issue for economic development, food security and poverty reduction. Land is of crucial importance to the economies and societies of the region, contributing a major share of GDP and constitutes the main livelihood basis for a large portion of the population. In many areas, however, land is becoming increasingly scarce due to a variety of pressures, including demographic growth. These pressures have resulted in increased competition for land between different groups, such as multiple land users (farmers, herders, etc.). Moreover, Lorenzo Cotulla¹⁶ argues that, socio-economic change has in many places eroded the customary rules and institutions that have traditionally administered land rights. Tensions in relation to land are particularly acute in Southern Africa due to the extremely inequitable land distribution existing in this sub-region. These tensions have major political implications at national and regional level, as they involve issues like control of scarce valuable resources and the distribution of wealth and power in society. To respond to these challenges, a large number of African states have adopted over the last decade, new policies and laws aimed at restructuring land relations. However, the frequency

¹⁵Baregu, M., 2011. Understanding Obstacles to Peace: Actors, Interests, and Strategies in Africa's Great Lakes Region. *International Development Research Centre*, pp. 1-5.

¹⁶Cotulla, C., et al, 2004. Land Tenure and Administration in Africa: Lessons of Experience and Emerging Issues. *International Institute for Environment and Development*, London; pp.1-4.

with which these conflicts continue to erupt is a pointer to the failure of these new waves of land laws. The idea of land scarcity and resultant pressure captured by the author is applicable, where demographic, as well as increase in number of animal population, has put untold pressure on land leading to increased competition and conflict. However, how these conflict can be resolved through the traditional resolution mechanisms have not been analysed.

Janine Ubink and Kojo Amanor¹⁷, argue that there has been a resurgence of interest in land tenure reform in Africa since the 1990s. In policy circles, recent concerns with land tenure are characterised by a distinctive approach, which focuses on building and facilitating the emergence of land markets, on promoting the rule of law and property rights, and on integrating customary and formal land tenures and the ‘empowerment’ of customary institutions as part of a trend towards decentralised government administration. In contrast to the dominant global approaches to land reform under modernisation during the 1960s, the major focus is now on institutional and administrative reform rather than equitable redistribution of land. The authors note that while it is true that institutional building and strong land laws can address land problems, it is worth noting that pastoral land tenure systems are so communal that resolving them by attaching interest and guilt to a single individual becomes improbable. The authors assess the relationship between the chief as a local leader, government representative and the citizen in relation to land tenure disputes. In this study though, the emphasis is on the traditional mechanisms of conflict resolution where decision making powers are vested in a selected group of individuals and not a single leaders as discussed by Ubink and Amanor. The assumption is that, having lived within the community for long and participated in such activities, these elders could be of help in bringing about a lasting solution to the problem.

Discussing the role of non-state actors in peace building, Ken Menkhaus¹⁸ argues that, in an anarchic corner of northern Kenya in the mid-1990s, a collection of local non-state actors led by a women’s market group created an umbrella movement that came to establish an impressive level of peace and security across an entire region. The Kenyan government forged a formal relationship with this group in Wajir, essentially sub-contracting out

¹⁷ Ubink, J.M. and Amor, K., 2008. *Contesting Land and Custom in Ghana*. Leiden University Press, pp. 2-13.

¹⁸ Menkhaus, K., 2008. *The Rise of a Mediated State in Northern Kenya: the Wajir Story and Its Implications for State-Building*. *Afrika focus* – Volume 21, Nairobi:2, pp.23-38.

important functions of local government to local civic leaders, and using its partnership with the Wajir group as a template for similar state-sanctioned governance arrangements in other troubled border areas of the country. The Wajir case exemplified a “mediated state” approach to rebuilding rule of law through non-state actors in a conflict and post-conflict setting. This approach is very important especially in pastoral communities which are in most cases marginalized, hence mostly depending on clan leadership for conflict resolution. Negotiated peace strategy could be applied in Baringo to bring about peace through the involvement of elders from all the affected sections. However, this literature did not analyse how elder-dominated traditional set up could be the frontrunners instead of civil societies.

Lanek¹⁹ contrasts the indigenous approaches especially the Acholi approach, with the western legal ones where he argues that Western legal approach emphasises establishing guilt and executing retribution and punishment without reference to the victim or the wider families or future reincorporation of the offender into the community. Physical and material penalties and use of force, including costly prisons, provide the sanctions against offenders. According to him, Western legal approaches are adversarial and evidence must be direct and specific. The process, according to Lanek, effectively encourages the accused to deny responsibility while the Acholi method of peace, conflict resolution and reconciliation are co-operative and can be indirect and circumstantial which does effectively encourage the accused to admit responsibility. The reconciliation process he describes is called the "Mato Oput" process (Mato Oput - an Acholi vernacular meaning drinking the herb of the Oput tree). The process involves the guilty acknowledging responsibility, the guilty repenting, the guilty asking for forgiveness, the guilty paying compensation, the guilty being reconciled with the victim's family through sharing the bitter drink – Mato Oput. The bitter drink symbolises the psychological bitterness that prevailed in the minds of the parties in the conflict situation. The Mat Oput process covers offences across the board. This is a case of a success story of a traditional conflict mechanism. The study sought how this case could be applied to the rampant cattle rustling menace among the three communities.

¹⁹ Lanek, R., 1999: Integrating Indigenous approaches with national and international mechanisms for conflict resolution and reconciliation. *Paper presented to the All-Africa Conference on African Principles of Conflict Resolution and Reconciliation*. November 8th - 12th 1999 in Addis Ababa, Ethiopia, pp. 4-11.

Brock-Utne²⁰, discussing traditional conflict resolution among the Luo, argues that decision making process is characterised by consideration of the social importance of conflict solving as social relations and internal solidarity are crucial. At this stage having looked at both sides, a community may suggest that one party to the conflict make a certain concession. The other party is expected to respond by reciprocating concession. The point is to make a fair exchange for public recognition. Consensus seeking is the next important approach. He argues that patience is very important in traditional mechanisms as every new consensual outcome confirms the validity and value of the time-proven tradition of this process. He proposes greater participation of women because women are still carriers of life as in the traditional African belief. They can still have a strong moral obligation to say 'no' to violent ways. They still have the capacity to form networks that cut across ethnic, national and racial barriers. So, the increasing number of women's organisations and networks that have started in war-torn parts of Africa can stand, as in the case of the Luo women, between the opposing parties. It is not enough that women should be the court of last resort, because the last resort is too far away and may come too late. This literature was useful to this study in the sense that it looked at traditional mechanism as a possible success story in conflict resolution. The study however, fell short of addressing the same case in relation to pastoral communities.

According to Guyo Haro²¹ et al, there has recently been a great deal of attention paid in the literature to the issue of local participation in natural resource management in Africa. Studies illustrate that community participation is a critical component of efforts that attempt to cause positive economic and ecological change in African communities. Local participation can lead the natural resource management project to take an unexpected route to achieving positive economic and ecological change by encompassing issues of conflict management. Pastoral areas present particular challenges and opportunities to community-based management programmes especially where there are multiple definitions of the community that uses a resource; these definitions are both nested and overlapping. The authors find that addressing conflict can be a measure to address resource scarcity. The importance of inculcating broad-based communal approaches is discussed here. However, this is more of a civil society interest with little consideration of giving more decision making powers to traditional clan elders. However, this was the focus of this study.

²⁰ Brock-Utne, B. 2001. Indigenous Conflict Resolution in Africa; *Journal of Peace Studies*. University of Oslo, Pp.11-16.

²¹ Haro, O. G., et al, 2004. Linkages Between Community, Environmental and Conflict Management: Experiences from Northern Kenya, *World Development* Vol.33, No.2, pp.285-299.

According to M.J. Ducey,²² decisions among pastoralists are made based on risk and uncertainty. Decisions on whether to migrate or raid are informed by imprecise probabilities and partial information in an involuntary decision-making. Pastoral risk management involves making decisions in the face of uncertainties. Most of such decisions including migratory decisions, involve perceptible risks. Such risks are managed instinctively and intuitively. Risk is restricted to situations where probabilities are allocated to the occurrence of an event. On the other hand, uncertainty arises when the chances governing stochastic factors are imperfectly known. In this case, a herder contemplating a decision at the height of cattle rustling would be likely to face both risk and uncertainty. Just like in many other forms of risks, there is no formal probabilistic assessment done before making a decision to migrate by a pastoralist herder. However, there are two things that are obvious under such circumstances. First, herders prefer higher social economic status in the community to lower status. Secondly, under uncertainty, all herders face the possibility that they would suffer heavy losses. They each must compare what he has to gain against what he has to lose before making a decision. Therefore, decisions made due to risk and uncertainties like the fear of cattle rustling or loss of livestock through drought should be able to contend with chances and degree of belief. This underlines the fact that pastoralists encounter decision-making challenges. The fact that every pastoralist wants to be on a higher social class is one of the reasons for increased cattle rustling. Thus, the author clearly underlines factors that may lead to cattle rustling. This study looked into how such conflicts could be resolved through indigenous mechanisms.

Kenya experiences major droughts every decade, with minor ones every three to four years, with the exception of the arid northern part, where it is experienced yearly, with varied consequences. These droughts have resulted in immense loss of resources and affected the livelihoods of many, who depend on the ecosystem for survival, particularly pastoralists. The impact of these droughts on the population is increasing exponentially.²³ This piece of literature advocates the need for adoption of a mechanism that will resolve pastoralist

²² Ducey, M.J...2001. Representing uncertainty in silvicultural decisions: An application of Dempster-Shafer theory of evidence; *Journal of Forest Ecology and Management* 150: 199–211.

²³Orindi, A.V., 2007. Pastoral Livelihood Adaptation to Drought and Institutional Interventions in Kenya. *Journal of Human Development*, pp.2-23.

conflicts due to increasing frequency of droughts. Indigenous mechanisms were not discussed here as a likely resolution mechanism, and therefore, this study focused on that.

1.7 THEORETICAL FRAMEWORK

This research used the opportunity theory in understanding cattle rustling as a source of conflict among the Tugen, Ilchamus and Pokot in Baringo County. The proponents of this theory include Cohen Lawrence, Ray Jeffrey and Land Kenneth.²⁴ Opportunity theory is the idea that people look for opportunity, whether through legitimate means or otherwise, to gain what they desire. It is a crucial element of the theory of deviance. The origin of the opportunity theory lies in the way that society functions. In society, there is the concept of norms and the concept of deviance. The norms of a society are a system of shared values that determine how a society perceives those within it. These norms include values that dictate a standard acceptable lifestyle. When a standard lifestyle established by a society becomes unachievable, people become deviant in attempts to achieve that standard in order to continue to be perceived as living within the realm of the norm.

Theorists of opportunity theory argue that there is not only the deviance of deciding to go outside of cultural norms to attain those things valued by society, but the deviance of looking for opportunities to attain them in the fastest and most reasonable way possible. Those who commit crime as a result of their deviance also look for opportunities that make the crime efficient, thus the idea of minimum security and easy access being variables of concern to a criminal. According to criminologist Jeffrey, crime results partly from the opportunities presented by the physical environment, therefore, it is possible to make crime less likely to occur by altering the environment.²⁵

The theory was used to analyse the conflict situation among the Tugen, Ilchamus and Pokot of Baringo County. The poor policing of the expansive region by the state security apparatus had presented an opportunity for banditry and cattle-rustling to prevail. The perpetrators often took advantage of the mountainous nature of the physical environment to orchestrate their acts. The “norms” of the pastoralists in the region, who gave more respect to those with a lot of cattle regardless of the manner of acquiring them, was the main motivation for youths to

²⁴Lawrence, C., et al, 1980. Property Crime Rates in the United States: A Macro-dynamic Analysis; 1947-1977; with an ex-ante forecasts for the 1980s. American Journal of Sociology 86:90-118.

²⁵ Ray, C.J., 1977. Crime Prevention through Environmental Design (2nd Edition). Beverly Hills, C.A: Sage Publications.

engage in rustling activities. The fact that most youths would like to be identified with what was considered a “norm” and avoid being seen as deviant (poor/without cattle), has influenced them to engage in raiding to avoid being ridiculed.

The theory was, used in guiding the understanding of how societal norms, including cultures and values by the Tugen, Ilchamus and Pokot, offered opportunities for youths to engage in cattle rustling. The theory brought out the relationship between societal laid down values and expectations and how this related to cattle rustling. It was then used in explaining how societal norms could be used in eradicating cattle rustling through readjustment of values and norms that supported cattle rustling.

1.8 RESEARCH HYPOTHESES

The research investigated the assumptions that:

1. Cattle rustling activities in Baringo have not been rampant since year 2000.
2. The government has made successful efforts at resolving cattle rustling in Baringo County.
3. Indigenous conflict resolution mechanisms have not played a role in resolving cattle rustling in Baringo County.

1.9 METHODOLOGY

The research targeted residents of Baringo County from the three communities under study. The sample comprised of community leaders, church leaders, elders and members of provincial administration. The research focused on areas such as Tiaty, Mukutani, Marigat, Mochongoi, Bartabwa, Koroto, Kampi Samaki and Loruk, which have recently experienced rampant raids.

This study used a qualitative research design. This is because much of the data collected was descriptive and applied to cattle rustling in many different parts of Africa. The aim was to describe factors that have led to intensification of cattle rustling in Baringo County and explain how the menace could be eradicated using indigenous conflict resolution mechanisms. The study used snowball sampling technique. The researcher having worked and lived in the area had identified several individuals knowledgeable about the study topic who guided him on identifying other informants. The point man in the area was Retired

Senior Chief Jones Ole Kirati of Mukutani and Joshua Chepsergon of Kambi ya Samaki who introduced the Researcher to Chelimo Kimutus, Amos Ole Chesuswo and Musa Terter, among others. From this group, the researcher was able to identify other informants with whom he conducted oral interviews and held focus group discussions.

The study used both secondary and primary data. Secondary data was collected through literature review on issues related to cattle rustling and conflict resolution mechanisms. The materials reviewed include books, journal articles, newspapers, magazines, periodicals and internet sources. To get these documents, the researcher made visits to several libraries including Jomo Kenyatta Memorial Library of the University of Nairobi, Kenya National Library at Ngong Road Nairobi and Kenya National Archives and Documentation Centre in the city centre.

Primary data was obtained through field work and review of reports on cattle rustling, small arms and light weapons as well reports on Conflict Mapping in Kenya. The process began with the review of reports after which the researcher proceeded to the field. While there, he conducted oral interviews with lead respondents purposively identified. This category eventually introduced him to other respondents whom he interviewed with the help of interview guide. Focused group discussions were also conducted in Marigat, Bartabwa and Kabarnet town. Where consent was given by the respondent, a tape-recorder was used to store the collected data. However, in most circumstances, much of the data was note-taken by hand while in the field.

The collected data was carefully stored after which it was analysed. The findings were presented qualitatively using descriptive narratives and arguments of respondents.

CHAPTER TWO

HISTORICAL BACKGROUND TO CATTLE-RUSTLING AMONG THE TUGEN, ILCHAMUS AND POKOT

2.1 INTRODUCTION

Cattle rustlings are old vices whose roots are embedded in the cultural traditions of most African societies. Though this practice has some precedence in the cultural histories of most pastoral communities, it has degenerated into a vicious criminal enterprise that has broken free of all checks offered by respective cultures. Some conflicts within and among pastoralist communities, such as cattle rustling and raiding of livestock, have a long history, thus becoming an aspect of traditional pastoralist culture. However, such traditional conflicts have become increasingly destructive and less manageable. This makes it become one of the forms of insecurity especially in communities where it is practised. The economic, political and social consequences of civil conflicts are immense since they displace people, destroy resources, infrastructure, disrupt schooling, damage the social fabric and endanger civil liberties.²⁶

2.2. GEOGRAPHY OF BARINGO COUNTY

Baringo is one of the arid and semi-arid counties in Kenya. It is a dry area, save for the high catchment area of the Tugen hills. The county is hot and dry throughout most of the year. Rainfall is highly variable, with an annual mean of 635 mm, with weak bimodal peaks recorded from March to May and June to August, especially in the semi-arid north-eastern part of the county. The average minimum and maximum temperatures are 20°C and 35°C, respectively. The county is characterised by bare ground and loose sandy loam soil with stones on the surface. The hottest months are January and February. The temperature can drop as low as 10⁰ C particularly in the higher Tugen hills. Much of the vegetation in the area is acacia woodland dominated by acacia tree species.²⁷ Natural vegetation is mainly found in the forests situated in the Tugen Hills and in the higher Southern and South Eastern parts of the county. The forests are mainly preserved for soil and water conservation together with provision of timber, poles for fencing and electricity transmissions, fuel-wood and employment.

²⁶Harbum et.al 2009. Armed Conflicts, 1946-2003. *Research Journal of Peace Education and Social Justice*. In *Moran no more: The Changing Face of Cattle Rustling in Kenya*. pp. 1-3.

²⁷Kaimba, G.K., et al, 2011. Effects of Cattle Rustling and Household Characteristics on Migration Decisions and Herd Size amongst Pastoralists in Baringo District, Kenya, p1-17.

Baringo County can be divided into four topographical features. They include river valley plains, the Tugen Hills, floor of the Rift Valley and Northern Plateau. The troughs of the rift trending north-south are occupied by Lakes Baringo and Bogoria in which are several hot springs.²⁸ Of the three lakes in the county, Lake Baringo is the largest. It is a fresh water Lake because of an underground outlet discharging water northwards to Lake Turkana via Kapedo.²⁹ The major rivers in the area are Kerio, Perkerra and Molo. The Kerio river flowing along the fault-line is perennial and draws its waters from the Nabkoi and Ainabkoi rivers, from the streams draining the northern end of Lembus forest and from short seasonal streams on the western flanks of the Tugen Hills and Keiyo escarpment. The latter are only perennial on their upper reaches but lose water underground and by evaporation before reaching the main river. It eventually drains its water into Lake Turkana in the far north.

2.3. THE PEOPLE OF BARINGO

The county is inhabited by many migrant communities, but for purposes of this study, Tugen, Ilchamus and Pokot, whose major occupation is livestock keeping, are the focus of this study.

2.3.0. The Tugen

2.3.1. Social Structure of the Tugen

The Tugen are a sub-tribe of the Kalenjin speakers. In Baringo, they occupy the divisions of Barwessa, Bartabwa, Kipsaraman and Kabartonjo in the north. Eldama Ravine, Mogotio, Tenges, Kabarnet, Marigat and Mochongoi in the south and centre. They believe that they came from Misri/Miot/Gipta (Egypt). On reaching Mount Elgon, they started wandering off eastward until they reached Londiani at a place known as *Purkei* (meaning warm).³⁰ When the Tugen arrived in Southern Baringo, the main group occupied Chamorgon hill which was until recently referred to as Kamasia hill. In fact, the Europeans at one point used to refer to the Tugen as *Kamasia*, derived from Kamasin, meaning ‘that hill over there’. The Tugen nowadays do not like the name because it expresses neglect/degradation.³¹

²⁸ Were, S.G., & Akong’a, J., 1986. (eds). Baringo District Socio-Cultural Profile. Government of Kenya, Ministry of Planning and National Development, pp .1-7.

²⁹ Ibid, pp. 1-9.

³⁰ Ibid

³¹ Were, S.G., & Akong’a, J., 1986. (eds). Baringo District Socio-Cultural Profile: Government of Kenya, Ministry of Planning and National Development, pp 1-14.

The Tugen are subdivided into four subgroups. The *Arror* live in the highlands of Kabartonjo and the lowlands of Kerio Valley and Lake Baringo, of North Baringo District. They are perceived as the most advanced group in terms of education and wealth accumulation, owing to the early missionary settlement at Kabartonjo. *Samor*, who live in the wider Kabarnet in Central Baringo district, is the group from which the second president of Kenya, Daniel Toroitich arap Moi, comes from. *Lembus* occupy the fertile and well drained farmlands of Koibatek District, and *Endorois* inhabit Marigat, and Mogotio Districts. They claim to be a marginalized community and are known to take great pride in their culture.

Among the Tugen, clans which have the same totems do not intermarry. They may have been one clan before, but due to quarrels or overpopulation, they separated. They chose the same animal as their totem for quick identification such that they are taboo to each other in terms of marriage. The totems in general were used for quick identification of both human beings and livestock because each clan had a specific pattern of ear marks in addition to the other individual and family livestock body marks.³²Traditionally, like other Kalenjin people, the Tugen prayed to a God called *Asis* (which means sun). Most them have converted to Christianity, but Islam has flourished in the major towns.

2.3.2. Economic Organisation of the Tugen

Traditionally, the Tugen were/are cattle keepers and cattle occupied a central part in their cultural lives, for meat, milk, currency, and dowry. Among the Kalenjin communities, they are known to be the most resilient since they live in harsh climatic conditions. Other than cattle-keeping, the Tugen also engaged in crop production especially in the fertile areas of Kabartonjo, Mochongoi Barwessa and Eldama Ravine.

Tugen economic organization during the pre-colonial period was in the form of a mixed economy. They practised agriculture, animal husbandry and trade. Agriculture was the most important of all, whereas animal husbandry was used as a secondary reserve source of food during the early period of their settlement on the hills. However, animal husbandry increased gradually over time in such a way that it tended to overtake agriculture towards the end of 20th century.

³²Were. S.G., &Akong'a, J., 1986. Baringo District Socio-Cultural Profile. Government of Kenya, Ministry of Planning and National Development, pp 1-14.

The reason why agriculture was more important than animal husbandry in the beginning was because the environment the Tugen inhabited was not conducive to the practise of pastoralism. Late in the 19th, century therefore, Tugen would move their animals from *Soi* to *Mosop* (highland) seasonally. A person in *Soi* (lowland) would contact a relative or a friend in *Mosop* at the time of crisis, especially during dry seasons, to assist him by keeping his livestock. During the movement of cattle, the owners would send *Murenik* (young men or warriors) to accompany their cattle. For a whole season each person's relative or friend looked after the cattle for the duration in which *Soi* was dry, while *Mosop* had plenty of grass and grain stalks which remained green long after harvest. In *Mosop* during the months of December (*Ng'otiotonebotai*) and May (*Mamut*) each year, millet would be sprouting and grass would have grown by the March rains. The livestock owners were thereafter expected to take back their cattle when the rains began at *Soi*, but would leave a few animals behind with a relative or friend in *Mosop* for security purposes in case disease broke out in *Soi*.³³

The Tugen practised agriculture in *Mosop* long before the colonial era, in areas such as Kabartonjo and Kituro. They would keep one or two cows for milk and between four to ten goats at most. Among the Tugen the indigenous crops were millet and sorghum. Women acted as the main source of labour in the cultivable areas. Traditional methods of agriculture were used. Millet and sorghum were planted by the use of broadcasting method. There were, however, some special individuals, particularly women, who did the planting of millet and sorghum when the season was due.³⁴

During the pre-colonial period trade was conducted through barter, a system where traders exchanged goods for other goods without using money. Some items such as honey played the role of a currency. A person with millet, for example, exchanged it with a fixed amount of honey measured in a standard wooden vessel called *keto* or a leather bag called *tokol*. There were two major industries and several other minor industries in pre-colonial Tugenland. The two major industries were iron-making and bee-keeping. Among the minor industries were basket-making, wood-carving, leather-making and pottery.

2.3.3. Political Organisation

The Tugen social organisation centres on the age-set, or *ibindo*. There are seven age-sets (*ibinwek*) which are rotational, meaning at the end of one age-set, new members of that

³³ Oral interview, Jackson Chebor, Kabarnet Town, 21st November 2017

³⁴ Ibid

generation are born. According to Tugen tradition, women had corresponding age sets with their male folk, but different in names. Unlike their male counterparts, the women age sets were namely, Chelemei, Chebarkamai, Chepingwek, Chesiran, Chemasunya, Chepsur and Selengkwech. Morality was accorded the highest of societal norms. Therefore, women were forbidden from socializing or marrying their fathers' age set. Tugen male age-sets are Chumo, Sawe, Korongoro, Kipkoimet, Kaplelach, Kipnyigei and Nyongi. The Tugen is the only Kalenjin subtribe with seven age-sets while the rest have eight. This is because of the alleged battle of *Borrut* in south western shores of Lake Nakuru, in which the Masaai are said to have decimated the Maina age set of the Tugen leading to its dissolution. It is alleged that the remnants of this age sets were distributed between the Kipnyigei and Nyongi, hence its disappearance from the category of age sets.³⁵

The Tugen political organisation also depended on totems. The elders stood as the most respected and their decisions were taken as final. Totems were and are still considered whenever major decisions were transacted. Military operations were by warriors (*murenik*). The warrior groups are regimental, based on age-sets. A warrior group is divided into three regiments when the Tugen conducted own operations, but join the Kokwet when in joint operations with other Kalenjin subtribes. The three groups were *Kapsirwon* (top organ) *Kaasowe* (middle group) and *Kibarnot* (young group). The fighting force could compose elements of the same category, but different age set, depending on their ages.³⁶

In the event of major decisions touching on land, livestock, boundary disputes, theft, curses, etc, the elders would call for a meeting in which every member of the community attended, with the exception of women and uncircumcised boys. Special boys with special standing in the community, identified by the elders would be allowed into the meetings as 'listening posts' or carriers of stools for their grandfathers, but warned never to leak out anything discussed. These young, carefully identified and selected lads were inductees for future community assignments. Their presence in such gatherings was therefore part of training.³⁷

The conduct of such meetings was such that a prominent elder would introduce the purpose of the meeting and guide the deliberations. Upon his sitting down, another elder would rise to second it. In conflict resolution cases, he would ask the affected parties to leave the meeting

³⁵ Oral interview, Kipkirui Chebiyet, Marigat Centre, Baringo County, 22, June, 2017.

³⁶ Ibid

³⁷ Ibid

while the issue was being discussed. However, they are not allowed to leave until a ceremonial curse is administered by an elder of either the *Assis* (Sun) totem, *Kimoiy* (Buffalo) or *Toyoiy* (Lightning) clan. This was to ensure the truth was told, failure to which it would lead to severe consequences.³⁸

The Tugen, therefore, consider their council of elders as the supreme decision making organ. This is followed by the *murenik* whose main duty is to safeguard the welfare of the community. In the Tugen community, the contributions of women in key decision making is considered inconsequential, save for logistic support like provision of milk gourds and other necessities during such meetings.

When a decision is arrived at, it is ‘blessed’ and anyone going against it is cursed. In case of war, the elders’ role was to okay it by blessing the *murenik* before they set out on that mission. After battle, they come home and remain in seclusion until ‘*ntasim ceremony*’ is performed. That was to cleanse and accept them back to join normal life with their families.

2.4.0. The Ilchamus

2.4.1. Social Structure

The Ilchamus (also known as Njemps), are a Maa speaking people living south and southeast of Lake Baringo. They number about 35,000 and are closely related to the Samburu, living more to the north-east in the Rift Valley. Their language is one of the Eastern Nilotic Maa languages, closely related to the Samburu and Maasai language (between 89% and 94% lexical similarity), to the point of it being considered a Samburu dialect by some scholars. Together, Samburu and Ilchamus form the northern division of the Maa speakers.³⁹ Ilchamus is considered the second smallest community in Kenya after Elmolo. They are regarded as one of the minority groups in the world. They live around the shores of Lake Baringo, within Baringo South constituency. They occupy areas like Salabani, Mukutani, Ngambo, Ilchamus, Mochongoi and part of Marigat Wards of Baringo County. They regard themselves as one of the indigenous communities pushed to the area by Maasai clan wars.⁴⁰

³⁸ Oral interview, Kipkirui Chebiyet, Marigat Centre, Baringo County, 22, June, 2017.

³⁹ Heine, Bernd, 1980. *The Non-Bantu languages of Kenya: Language and Dialect Atlas of Kenya 2*. Berlin: Dietrich Reimer. PP. 1-27.

⁴⁰ Heine, Bernd, 1980. *The Non-Bantu languages of Kenya: Language and Dialect Atlas of Kenya 2*. Berlin: Dietrich Reimer. PP. 1-28.

The term “Ilchamus” means a good guesser; it is a deviation from *amusoo*, meaning guessing power. In the beginning, Ilchamus made jokes by guessing such things as what a distant traveller was carrying by the way he walked; who was approaching; where a traveller was headed to, and so on. Usually, the guessing turned out to be correct. When the Europeans arrived at Marigat, they could not pronounce the term “Ilchamus” correctly, so they referred to this people as the Njemps.⁴¹

Their oral history states that in the pre-colonial time, the Ilchamus, the Pokot, the Samburu and the Maasai grazed their herds in the lowlands around Lake Baringo (an area of around 750 km²), while the Tugen carried out small scale agriculture on the highlands. In the 18th century, the Ilchamus are said to have started to settle down around south of Lake Baringo, to take advantage of the water for small scale irrigation schemes and for fishing and to hunt in the plains. Due to the more permanent settlement style which resulted from their involvement in agriculture, their herds mostly consisted of goats and sheep at this time, while the Pokot, Samburu and some Maasai groups (Loosekelai, Laikipiak and Purko) depended mostly on cattle. While the relation between the cattle herders have been dominated by conflicts, their relation with the Ilchamus is said to have been more a form of coexistence with the neighbouring communities. The differences between the groups in the lowlands had not been clearly defined and boundaries did not exist.⁴²

The co-existence changed with the advent of the colonial administration which invented tribal boundaries and a framework of political and social relationships. In the quest for an “organised” regional set up, there was no space for a minority such as the Ilchamus. The land was distributed between the larger ethnic groups and filled with more people, who had been displaced from other areas to create space for the white farmers especially in the arable regions. This resulted in an increasing assimilation of the Ilchamus, thus transforming them from an independent group into a subgroup of their dominant neighbours. They transformed into a group which faced double oppression by the colonial powers and the dominant groups. As their lebensraum has been mapped out to be at the northern edge of Maasai land, the

⁴¹Were. S.G., &Akong’a, J., 1986. (eds).Baringo District Socio-Cultural Profile. Government of Kenya, Ministry of Planning and National Development, pp27-30.

⁴² Kenya Agricultural Research Institute (KARI), 2006. Indigenous Peoples Plan (Ilchamus, Ogiek and Sengwer) of the Kenya Agricultural Productivity Sustainable Land Management Project. Pp. 29-31.

frequent clashes between the Maasai and the Pokot were carried out on their land, making them particularly vulnerable and poor.⁴³

Ilchamus were considered as a Maasai subgroup by the government. Their cordial relations with neighbours and dependence on land for their small scale agriculture have not been considered when “developing” the area. The Ilchamus have been moved around by all kinds of people and for all kinds of activities and interests. The last major displacement took place in the 1940s and 1950s, when significant Ilchamus population was moved away from their settlement to create the Perkerra Irrigation scheme near Marigat. They did not receive any compensation or resettlement assistance as they were considered to be mobile pastoralists. The swamps south of Lake Baringo into which they were forced and which they are presently occupying is not suitable for human settlements due to prevalence of tsetse flies, ticks and malaria.⁴⁴

Ilchamus who first settled in the area are the *Ilkeroi*. To date, the clan of *Ilkerois* are still instrumental in communal sacrifice offerings such as those for cleansing the land and for rain. They are, so to speak, the “owners” of the land. The second group to arrive were the *Parsaina*. The *Ilkeroi* were fish eaters while the *Parsaina* were crocodile eaters. They both depended on Lake Baringo for survival before they acquired livestock. It is still believed today that if a crocodile bites someone, the victim, in order to survive, has to be blessed by a man from the *Parsaina* clan. If a man from the clan curses another, invoking the crocodile, it bites him. The third clan to arrive was that of the *Ilkapis*. Subsequent to the arrival of the three clans, refugees and exiles from the neighbouring ethnic groups began to arrive and be assimilated into the language and culture of the *Ilkeroi*. Baringo, therefore, served as the destination for many people who individually or in groups were in search of a better and safer place to live. These individuals and groups were not only brought together by kinship, cultural and linguistic bonds, but the desire for co-operation, especially in the form of unified defence against former enemies.⁴⁵

⁴³Kenya Agricultural Research Institute (KARI), 2006. Indigenous Peoples Plan (Ilchamus, Ogiek and Sengwer) of the Kenya Agricultural Productivity Sustainable Land Management Project. Pp. 1-31.

⁴⁴Ibid

⁴⁵ Kenya Agricultural Research Institute (KARI), 2006. Indigenous Peoples Plan (Ilchamus, Ogiek and Sengwer) of the Kenya Agricultural Productivity Sustainable Land Management Project. Pp. 1-31.

They have clans with various totems. Those clans whose totems are living organisms are said to be imbued with the power to neutralize their poisonous bites with a blessing. Those who consider the rope as their totem are said to be generally witches, while those who consider the sneeze to be their totem cannot proceed on a journey if they sneeze during the preparations, for that is a bad omen. Each clan has a clan elder responsible for settling disputes.

The Ilchamus have many cultural associations with these groups and there are several theories as to their actual origin. One possibility is that they descended from a Samburu clan known as the Il-Doigo while another theory sees them as descendants of a Maasai clan driven out of the Lakipia area. The community abandoned the main characteristic of most pastoralists (nomadism), and settled down to grow crops on the shores of the lake.⁴⁶

2.4.2 Economic Organisation of the Ilchamus

Ilchamus inhabit Marigat Division of Baringo County, immediately south of Lake Baringo. They are historically considered an amalgam of refugees, war-wounded survivors and exiles from all the major neighbouring ethnic groups such as the Tugen, Samburu, Turkana, Maasai, Rendile and others.⁴⁷ They are originally a pastoralist people who used to live on the mainland but due to clashes, some have been forced to migrate to some islands in Lake Baringo. They practise both agriculture and livestock keeping. Fishing is also practised by those living mainly on the Islands of Lake Baringo, and along the rivers of Mukutani, Perkerra and Molok (Molo). Their produce is locally sold in the neighbourhoods of Marigat, Kabarnet, Mogotio and Nakuru. Lately, Kenya Seed Company has contracted some of the Ilchamus farmers under the National Irrigation Board to grow seed maize for sale to farmers in other areas of the country.

Many of those in the island community also have goats and cows which they herd across the island. They are famous for their small *Ambach* wooden boats that they use to move around the lake and fish.⁴⁸ However, this evolving system did not survive the challenges of the

⁴⁶ Ibid

⁴⁷ Little, P.D., 1983. From Household to Region: The marketing/Production interface among the Ilchamus of Northern Kenya. Ph.D. Thesis, Bloomington, Indiana University, p28.

⁴⁸ Spencer, Paul, 1998. *The Pastoral Continuum: the Marginalization of Tradition in East Africa*, Clarendon Press, Oxford, pp129-203.

capitalist economy in post-colonial Kenya, leading to a more polarized society with diminishing prospects for the majority of Ilchamus.⁴⁹

The majority of Ilchamus practise both livestock rearing and agriculture, but on the islands in Lake Baringo there are about 800 Ilchamus who live entirely on fishing, save for a few goats and sheep. The Ilchamus on the mainland south of Lake Baringo, live in permanent settlements, which are loose conglomerates of individual compounds, which are quite a distance from each other. An obvious feature which separates Ilchamus settlements from their neighbours is the missing fences and the much higher number of houses without solid roofs. The social infrastructure in these settlements is significantly worse than in the neighbouring communities. Water comes in most cases from open water holes, which are used by animals and people alike.

The Mainland Ilchamus are semi-pastoralists with a long history of small scale agriculture. The main types of livestock owned by the Ilchamus are cattle (zebus), sheep and goats. The nearest markets are at Marigat and Kiserian. Agriculture is carried out at a very small scale and nearly entirely for subsistence due to limited rainfalls in the area and due to the fact that the Ilchamus have been displaced from their former land in which they had established small scale irrigation schemes. Two modern irrigation schemes (with small dams) at the Perkerra and Molo rivers have enhanced the situation and enabled the families involved to produce enough to even commercialize part of it. The main crops cultivated are maize, beans and millet. The main problem here is that the irrigation scheme, which at the beginning involved 400 Ilchamus families, has attracted the interest of their neighbours, leading to fear or actual displacement.

Commercial activities beside livestock rearing and agriculture are beekeeping, the production of charcoal and some work as farm labourers in the irrigation schemes which earlier belonged to them. Both beekeeping and charcoal production are carried out for subsistence and for commercial reasons and are often the only source of revenue for the Ilchamus.⁵⁰

⁴⁹Little, P. D., 1992. *The Elusive Granary: Herder, Farmer and State in Northern Kenya*. Cambridge University Press, Cambridge, pp.2-23.

⁵⁰Little, P.D. 1992. *The Elusive Granary: Herder, Farmer, and State in Northern Kenya*. Cambridge: Cambridge University Press, pp. 1-12.

The Ilchamus communities on the islands of Lake Baringo practise fishing. Among the Ilchamus, the fishing communities live in four of the seven islands of Lake Baringo, with a total population of around 800 people. The only source of income is fishing and jobs for few people in the Lake Baringo island camp. Income from fishing (tilapia, catfish and mudfish) has reduced significantly over the last years as industrial fishing carried out in 1970s and 1980s from the mainland and by migrants from other areas has significantly reduced the stocks. As they are unable to stop fishing to allow the stock to recover, even their very limited fishing reduces the stocks further. The ever reducing stocks are associated by the villagers to environmental degrading (sedimentation from erosion along the contributors) and overexploitation in the 1970s and early 1980s, and on the other hand to the increasing population of crocodiles, which are totally protected and are said to affect not only the fish stocks, but also cause significant losses of livestock and human lives. Fishing is carried out by men while women smoke and market the fish on the mainland.⁵¹

2.4.3 Political Organisation of the Ilchamus

Ilchamus is a very traditional and culturally bound society, hierarchical, and male-dominated. The community is composed of twelve clans (*Ilkeroi*, *Parsaina* whose totem is crocodile (*Ukinyang*), *Ilkaps* (totem is Small green bird/Igueret), *Ilmae* (Millet/Nkapa), Long'ele, Loiborkichu (Snake/lesurai), Upasikirit (Mosquito/Ngonyangoni), *Ilmasula* (Tick/Ilmacheri), Loimisi, Iltoimal, Ilkesiani (Nose/sneeze local word is Ngume/ngisingat) and the last clan is Ilkungan (Rope/ *mkopito*).⁵²

Traditionally, the Ilchamus did not have a central authority, but were ruled by the elders of the patrilineages. The Ilchamus claim that structures above the level of the clan were first introduced in the 1960s in preparation for independence. The first sub-chief was elected around 1970. Presently, Ilchamus chiefs and councillors have been elected in all six locations where they constitute the majority, but none where they are in the minority. With the help of the Community Capacity Support Programme, and implemented by the District Department for Social Affairs, a central structure for the Mainland Ilchamus (*Nkatampoi*) exists. There are four registered women groups, three self-help groups, some youth groups at sub-location level and in two sub-locations (*Kailerr* and *Longewan*), village development committees have

⁵¹Kenya Agricultural Research Institute (KARI), 2006. Indigenous Peoples Plan (Ilchamus, Ogiek and Sengwer) of the Kenya Agricultural Productivity Sustainable Land Management Project. Pp. 31-33.

⁵²Were. S.G., & Akong'a, J., 1986. (eds). Baringo District Socio-Cultural Profile. Government of Kenya, Ministry of Planning and National Development, pp27-29.

been established. The influence of these bodies is said to be quite limited, as the county government met only in Kabarnet, which is over 50 km away from the settlements of the Ilchamus. Because of this, the Ilchamus continue to rely on the Council of elders in key decision making within the community.⁵³

2.5.0. The Pokot

2.5.1 History of the Pokot

The Pokot people (also spelled *Pökoot*) live in West Pokot and Baringo Counties. They form a section of the Kalenjin ethnic groups and speak Pokot dialect, which is broadly similar to other members of Kalenjin language speakers, but incorporates words from the neighbouring Karamojong and Turkana. Kenya's 2009 census puts the total number of Pokot speakers at about 133,000 in Baringo County. The Pokot people can be divided into two groups; the Hill Pokot and the Plains Pokot.⁵⁴ The Hill Pokot live in the rainy highlands in the west and in the central south of the Pokot land and are both farmers and pastoralists. The Plains Pokot are pastoralists living in the dry and infertile plains, herding cows, goats and sheep. This is the main group found in the Baringo and Tiaty areas.

The Pokot believe that they originally came from the direction in which River Nile flows, in Egypt. They then stopped for a while in Mount Elgon just like all the other Kalenjins believe. From Mt. Elgon, the Pokot went in the direction of sunrise, the east. In Pokot cosmology, this is associated with forward movement towards light, the right hand and masculinity, and is therefore auspicious. The west however, is a backward movement towards darkness, left handedness and femininity, and is therefore, inauspicious.⁵⁵

Halfway through the 19th century, the Pokot expanded their territory rapidly into the lowlands of the Kenyan Rift Valley, mainly at the expense of the Laikipia Maasai. This was the formation of the plains Pokot, and is captured in their historical narratives. In that account, when the Pokot nation was forming on the Elgeyo escarpment, the Kerio Valley was occupied by the Samburu. Whenever the Pokot descended into the valley, they were harassed

⁵³Kenya Agricultural Research Institute (KARI), 2006. Indigenous Peoples Plan (Ilchamus, Ogiek and Sengwer) of the Kenya Agricultural Productivity Sustainable Land Management Project. Pp. 31-32.

⁵⁴Rottland, Franz 1982. Die Südnilotischen Sprachen: Beschreibung, Vergelichung und Rekonstruktion (Kölner Beiträge zur Afrikanistik vol. 7). Berlin: Dietrich Reimer pp.26, 138-139
Translated version available at https://en-wikipedia.org/wiki/pokot_people#cite-note-1.

⁵⁵Were. S.G., & Akong'a, J., 1986. (eds). Baringo District Socio-Cultural Profile. Government of Kenya, Ministry of Planning and National Development, pp23-26.

and raided by the Samburu, until there arose a wizard among the Pokot who prepared a charm in the form of a stick, which he placed in the Samburu cattle kraals, with the result that all their cattle died. The Samburu are said to have then left the Kerio Valley and moved to *Nginyang* where they formed a large settlement. Once the Kerio Valley was no longer occupied, the Pokot descended in large numbers and occupied Tiaty hills and as far south as *Ka-ruwon*.⁵⁶ Many Pokot people from the present eastern part of the Pokot area claim that they came from the hilly areas of northern Cherangany hills.⁵⁷

Throughout the colonial period, Baringo was a "closed" district, a status consistent with its role as a buffer between the northernmost reaches of the "White highlands," and the shifting frontiers of Turkana. With the exception of a handful of colonial civil servants and Protestant and Catholic missionaries, few Europeans ventured into the district.⁵⁸

2.5.2 Pokot Social organisation

Socially, marriage in Pokot is underwritten by gift giving, with the flow of gifts moving from the groom and his family to the bride and her family, often over a period of years. The bride's family often receives a combination of livestock, goods, and cash, while the bride receives milk cows and rights to land. Divorce owing to incompatibility or to lack of children is not uncommon in the early years of a marriage but, after the birth of children, divorce is rare. The bond between a husband and wife and their respective families and clans endures for three to four generations, after which time the relationship is said to "disappear," and marriages may again take place between the two families. A man may have more than one wife, though polygamy is uncommon among men less than 40 years of age.

Socialization is a communitywide affair with the community involved in teaching children ethical rules and responsible behaviour during initiation, the most important rite of passage for most Pokot. Initiation consists of a series of neighbourhood-based ceremonies organized by adult men and women, who, by turns, teach, encourage, remonstrate, cook for, and laud the initiates during and after their ordeals (circumcision for boys; clitoridectomy for girls).

⁵⁶Beech M.W.H, 1911. *The Suk - Their Language and Folklore*. The Clarendon Press, Oxford, London, pp. 1-4. available at, https://en-wikipedia.org/wiki/pokot_people#cite-note-2.

⁵⁷Bollig, Michael 1990. 'An outline of pre-colonial Pokot history', *AfrikanistischeArbeitspapiere*, pp.23-91.

⁵⁸Bianco, B. A., 1992. *The Historical Anthropology of a Mission Hospital in Northwestern Kenya*. Ann Arbor, Mich.: University Microfilms International, PP. 14.

Initiation is organized by gender, with women taking primary responsibility for girls' initiations, and men for boys' initiations.

Distinctions based on gender and generation are essential to the etiquette of everyday life within homesteads and neighbourhoods, the two principal social groupings. When boys are circumcised, they acquire membership in one of eight age sets, the names of which rotate cyclically through time. A second age-based system for men, called *sapana*, has two divisions. Adopted from the neighbouring Karamojong, *sapana* may take the place of circumcision in the lowlands, but in the highlands the ceremony follows circumcision.⁵⁹

In Pokot cosmology, the universe has two realms, the above and the below. The above, remote and unknowable, is the abode of the most powerful deities—*Tororot* (heavens), *Asis* (sun), and *llat* (lightning); the below is the abode of humans, animals, and plants. Men and women are responsible for the peace and prosperity of the realm that they inhabit, but they must rely upon divine vitality and knowledge to achieve and maintain these conditions. The Pokot communicate with their deities through prayer and sacrifice. *Tororot* listen to his creatures below, *Asis* witnesses their activities, and *llat* serves as a messenger between the two realms. Deities, in turn, communicate with humans, warning and rebuking them about their misconduct. Christianity has reshaped Pokot cosmology, primarily by reducing the number of deities, while augmenting their attributes.⁶⁰

The main ceremonies mark transitions in the social lives of individuals and communities. Especially notable among these are the cleansing of a couple expecting their first child; the cleansing of newborn infants and their mothers; the cleansing of twins and other children who are born under unusual circumstances; male and female initiation; marriage; *sapana*, a coming-of-age ceremony for men, harvest, and healing ceremonies. Singing, storytelling, and decorative arts, especially bodily adornment, are highly valued. Singing accompanies ceremonies, dances, and beer parties; folktales often incorporate songs. Bodily adornment consists of beadwork, hairstyling, scarification, and the removal of the lower central incisors.⁶¹ A death in Pokot is signalled by the mourning of close kin, but the Pokot have no

⁵⁹Peristiany, J. G., 1951. "The Age-Set System of the Pastoral Pokot." *Africa* 21:188-206; 279-302.

⁶⁰Peristiany, J. G. 1975. "The Ideal and the Actual: The Role of Prophets in the Pokot Political System." In *Studies in Social Anthropology: Essays in Memory of E. E. Evans-Pritchard by his Former Oxford Colleagues*, edited by J. H. M. Beattie and R. G. Lienhardt., Oxford: Clarendon Press, pp. 166-212

⁶¹Hasthrope, E., 1983. A Study of Pokot Songs. *Ph.D.dissertation, School of Oriental and African Studies, London*, pp.2-23.

funeral ceremony per se, and no singing accompanies the burial of the body or the subsequent distribution of the deceased's effects.

2.5.3. Economic Organisation of the Pokot

During the colonial period, the Pokot were called "*Suk*" by Europeans. *Suk* is an ethnic slur that Europeans borrowed from the Maasai, who denigrated non-pastoral pursuits. The name is said to derive from *chok*, a short curved bell-hook sword or staff used by Pokot cultivators to till the soil.⁶² *Suk* is a Maasai name for, "ignorant people", probably referring to Pokot's economic activity at the time which entailed cultivation. By 1950, the Pokot were 60% pastoralist and 40% agriculturalist, although they are now entirely pastoralists especially in Baringo.⁶³

Owing to their social and political-economic isolation during the colonial period, the Pokot was the least developed community in the Rift Valley Province at the time of independence. Economically, cattle keeping and grain growing (traditionally, sorghum and finger millet; more recently, maize) are at the core of Pokot subsistence and commercial activities, but their relative importance varies regionally. In general, cattle are more essential to subsistence in the lowlands than they are in the highlands. To ensure an adequate food supply, Pokot herding and cultivating practices take advantage of the region's complex ecology. Herds are moved seasonally, and crops are planted in different ecological zones in order to stagger harvests and maximize yields. Furrow irrigation is practised in the highlands.⁶⁴

Pokot obsession with cattle according to elders is based on their myth of origin. They argue that God (*Tororot*) on Mt.Mtelo created the first Pokot man and gave him cattle. No other community was given cattle and hence, all cattle are theirs. They dispute the notion that they steal livestock from other communities. To them, other communities traditionally do not own livestock by right. So, they go for them to bring them back home. Hence the Pokot world

⁶²Crazzolaro, J. P., 1973. *A Study of the Suk (Pokot) Language*. Bologna, pp. 3-24.

⁶³Mutsotso, M.B., Kimaiyo, D., March 2014. The Centrality of Cattle in the Social Organization of the East Pokot Pastoralists of North Western Kenya. *European Scientific Journal*, pp491-499.

⁶⁴ Dietz, Ton, 1987. Pastoralists in Dire Straits: Survival Strategies and External Interventions in a Semi-Arid Region at the Kenya/Uganda Border: Western Pokot, 1900-1986. *Netherlands Geographical Studies*, 49. Amsterdam: University of Amsterdam, pp. 12-14.

view is what accounts for their strong emphasis on cattle.⁶⁵ It is this obsession and myth that has often led to cattle raids on her neighbours.

Pokot also engage in trading activities where surplus maize is sold to a government-operated marketing board, along with sunflowers, pyrethrum, coffee, and cotton, the other major field crops that were introduced in the colonial and post-colonial periods. Surplus vegetables and fruits (potatoes, beans, cabbages, onions, kale, bananas, and oranges) are sold locally. Livestock marketing has been less successful than grain marketing. The most important forms of exchange are the marriage and *tilia*, a stock partnership based on the exchange of a cow for an ox. The bartering and selling of grain, vegetables, cattle, and forest products (primarily honey) takes place between highland and lowland neighbourhoods and in the local markets.

Productive activities are organized by homestead and by neighbourhood, with women performing the greatest part of the homestead work, from milking cows to cultivating the fields to cooking. Children assist with herding, cultivation, and miscellaneous tasks. Women weave baskets, work leather, and make milk gourds and unglazed pots for cooking and water storage.⁶⁶ Men specialize in woodworking, making beehives, headrests, and the handles for spears, knives, and hoes. Blacksmiths forge metal tools, but the art of smelting seems to have died out with the growth of the iron trade.

2.5.4 Political organisation of the Pokot

There are some thirty-six exogamous patri-lineal clans. Clans are conceptualized as 'pathways' and fellow clan members as children of the same father or grandfather. Relatives are differentiated according to the logic of clanship, generation, and gender. Relatives are categorized as 'father's people' (*kapapo*), 'mother's people' (*kamama*), and 'spouse's people' (*kapikoi*). Father's people are fellow clan members and hence the source of fathers, brothers, sisters, and aunts. Mother's people are differentiated according to their relationship to "uncle" (mother's brother). Terms for spouse's people are often derived from the names of the livestock that have been exchanged to establish filial ties. In addition, people who share the

⁶⁵Mutsotso, M.B., Kimaiyo, D., March 2014. The Centrality of Cattle in the Social Organization of the East Pokot Pastoralists of North Western Kenya. *European Scientific Journal*, pp. 4-9.

⁶⁶Bianco, B. A. 1991. Women and Things: Pokot Motherhood as Political Destiny. *American Ethnologist* 18: 770-785.

same name, marry into the same family, establish stock partnerships, or are cut by the same circumcision knife are also considered relatives.

The Pokot have divided their countryside into named and bounded neighbourhoods or settlements. These neighbourhoods vary in size, topography, ecological potential, and population density. As social units, they are organized around local councils, which are composed of household heads who meet periodically to discuss community affairs, resolve disputes, and coordinate productive activities, such as the clearing and sowing of fields, the digging of dry-season wells, and the repairing of irrigation furrows. The social, economic, and ritual ties that link people within and between neighbourhoods derive from proximity and kinship. The highland neighbourhoods are more likely than lowland neighbourhoods to be populated by a small range of clans. Exchange relationships between settlements in different ecological zones help reduce economic risk, which is especially important in periods of environmental adversity

2.6. Background to Recent Conflicts in Baringo County

The pastoralist societies of the arid lands in Kenya have long been subject to inter-communal and inter-ethnic conflicts. Disputes are triggered by the shortage of natural resources, political skirmishes and a general lack of development in the region. Arid lands populations have been living on the periphery of government development assistance and service delivery. This includes a lack of service provision by the justice sector institutions. Most intra-communal disputes are handled either by community elders or by chiefs and assistant chiefs on the basis of informal conflict resolution mechanisms.

Pasture and water conflicts have long been part of the socio-cultural pattern of the pastoral communities in Kenya. The communal land ownership tenure system, mostly evident in pastoralist areas, provides everyone an equal right of exploiting the resources. The lands are traditional tribal grazing areas, such that migration in search of pasture and water by one tribe into areas that belong to other tribes often causes conflict between pastoralists. Besides, livestock movements into grazing lands and watering points that stretch into crop-growing areas also result in conflicts.⁶⁷ Over time however, pasture and water around the settled areas steadily decreases, leading to emaciation and loss of livestock. Traditionally, whenever

⁶⁷ Dietz T., 1987. Pastoralists in Dire Straits; Survival Strategies and External Intervention in a Semi-arid Region at the Kenya/Uganda Border; Western Pokot, 1900–1986. *Nederlanse Geografische Studies* No 49, University of Amsterdam, 10-11.

scarcity of pasture and water or disease depleted a community's livestock, it often sought to replenish numbers through raiding/rustling.⁶⁸

Cattle rustling is an old tradition among pastoralist communities in Kenya, which has been brought forth by the acquisition of sophisticated weapons. With modernization and technology sweeping across the world, these old practices are mutating into a criminal practice where proliferation of small arms into the hands of civilians. This has given rise to violent criminal gangs who kill and rob with violence, replacing the old time cattle rustling that was meant to replenish diminishing stock, due to drought and other factors. Baringo County has not known peace for a long time, owing to the growing insecurity due to banditry and cattle rustling.

Cattle rustling is described by Kenya's national press as a great menace. In November, 2012, forty police officers went on a mission to retrieve stolen cattle in Samburu County. They tracked the armed raiders to a remote valley, where they were ambushed. All of them were shot dead and their weapons taken away.⁶⁹

Cattle rustling involving the Pokot dates back to the 17th century when the Maasai roamed about with their livestock in Baringo. In 1970s and 1980s, cattle rustling in Rift Valley reached its climax due to proliferation of small arms in the region. During those days, large organized groups of about 400 people, with blessings from the community and under one command, could raid a large area occupied by the other community and sweep away a large number of livestock. Then, cattle rustling was carried out to bring back stolen livestock or replace those lost through natural calamities like drought.⁷⁰

Historically, among the Pokot, cattle rustling took place on a seasonal basis and was mainly associated with rites of passage into adulthood. Before *sapana*, (the rite of passage which happens every year), the newly initiated men took part in cattle raids to demonstrate their prowess. Such raids were also organized to raise the dowry paid as pride price to a bride's parents. Further, such raids served as a means to restock the community's livestock especially

⁶⁸Mkutu K., 2000. Cattle rustling and the proliferation of small arms: The case of Baragoi division, Samburu district in Kenya. In African Peace Forum on Improving Human Security through the Control and Management of Small Arms. Africa Peace Forum/International Resource Group (APFO/IRG), Nairobi, pp. 2-12.

⁶⁹Channer, A., 2013. Initiatives for Land, Lives and Peace in Baringo County, Kenya. Initiatives of Peace available at <http://www.iofc.org/initiative-land-lives-and-peace-baringo-county-kenya#sthash.shU1zj5E.dpuf>.

⁷⁰Kipkorir B.E. and Welbourn F.B. 1973. The Marakwet of Kenya: A Preliminary Study. Nairobi: East African Literature Bureau, pp. 1-17.

after a dry spell wiped out livestock. The raiders were mainly interested in cattle and sometimes women of child bearing ages who were taken as wives. The raided communities would in turn organize counter-raids to recover the stolen livestock. The main weaponry used in these raids was traditional spears, bows and poisoned arrows. Such raids did not fundamentally disrupt the lives and livelihoods of the communities affected since they were not as frequent or fatal as they are today.⁷¹

Over the years, the organization of cattle raiding has metamorphosed and has taken a different form where a few individuals, usually five or a maximum of fifteen, who do not take orders from anybody can stage a raid and efficiently drive a relatively few number of livestock away. The livestock is not necessarily driven to their homes, but kept for a short while before driven to the markets.⁷²

Since the 1990s this cultural practice transformed itself and is now referred to as ‘cattle rustling’, with the main weapons used being guns. Prior to 2000, cattle raids were meant to steal livestock, by scaring away their owners, but cattle rustling involve destruction of property and murder. Cattle rustlings have become a commercial entity along the boundaries of pastoral communities and stolen livestock are never recovered. The actors in cattle rustling involve politically linked and power wielding personalities, sometimes not pastoralist. The cattle rustling menace has left the communities in Baringo County to bear the brunt of destruction and murder. It is interesting, therefore, to enquire what went wrong to a culture of reciprocity that turned violent.

The causes of conflicts are blamed on Pokot aggressors who invaded pasture/grazing lands along Kerio River. As Pokot raids intensified, her neighbours were forced to purchase firearms to counter attack them. It is estimated that by 2012, about 3000 illicit firearms were in the hands of the Pokot. The first automatic gun is reported among West Pokot in 1976,

⁷¹Yego, C., Apri, 29 2013.Causes of Cattle Rustling- Case Study Baringo County, available at <http://chumbasimbolei.blogspot.co.ke/2013/04/normal-0-none.html>.

⁷²Akeno, J., June 2014. Cattle Rustling; Do Leaders Finance it? Baringo County News, available at International Journal of Liberal Arts and Social Science ISSN: 2307-924X www.ijlass.org 110.

East Pokot in 1979 and Marakwet in 1993.⁷³ Proliferation of illegal weapons among the Pokot and her neighbours has increased the severity of cattle rustling.⁷⁴

The human cost of raids is immense: hundreds are killed every year and many thousands forcibly displaced. According to the Anti-Stock Theft Unit, a division of the Kenya police charged with preventing cattle theft, an estimated 580 people were killed between January 2012 and January 2014 as a result of cattle raids. The cattle raids by armed young men involve attacks on rival ethnic groups or clans. At times, raiders come from the neighbouring countries such as South Sudan and Ethiopia. But while traditional cattle rustling did not always involve killing, it is now invariably lethal. Increasingly, it is argued that cattle-raiding is motivated by a competition for political power and resources: political barons use organized attacks to drive out their political rivals and extend their business interests.⁷⁵

According to the Baringo County Kenya National Union of Teachers Executive Secretary, Charles Kamuren, other than the Ilchamus people killed by the Pokot, they lost over Sh1 billion in livestock in the areas affected by the attack in Mukutani in 2014. These remarks were made following a protest against the alleged massacre of about 60 Ilchamus including women and children, in cold blood by Pokot raiders in 2014.⁷⁶ According to the protesters, thousands of livestock had also been stolen and property of unknown value destroyed in the menace that had negative impact on the economic status of the region. The Kenya National Union of Teachers Chairman in the County, Reverend Joshua Cheptarus who accompanied them said that 27 schools had since been closed affecting over 7,000 students who had been displaced from their residences. He said that over a period of two years, 188 people had been killed by bandits, among them 9 students and 5 teachers.

In December 2012, armed bandits hit Arabal Primary School and villages around, stealing cattle, destroying property and displacing residents. At that time, 17 people were killed and many displaced. Children who walked from as far as ten kilometres, crossing seasonal rivers

⁷³ Kenya Human Rights Commission [KHRC].2001. *Raiding Democracy: The Slaughter of the Marakwet in the Kerio Valley*. Nairobi: KHRC, 1-13.

⁷⁴ Cheserek G.J, Omondi P, and Odenyo V.A.O., 2012. Nature and Causes of Cattle Rustling among some Pastoral Communities in Kenya. *Journal of Emerging Trends in Economics and Management Sciences*, Scholarlink Research Institute Journals, Issue 3 Vol(2): pp. 173-179.

Available at (ISSN: 2141-7024) jetems.scholarlinkresearch.com.

⁷⁵ IRI. 27 March, 2014. Cattle-rustling and the Politics of Business in Kenya, available at <http://www.irinnews.org/report/99846/cattle-rustling-and-politics-business-kenya>.

⁷⁶ Daily Nation, May 13, 2012: A group of professionals from Baringo County are now demanding the removal of top security officials in the region, accusing them of failing to tame insecurity, available at <http://www.newsjs.com/n/baringo-and-nakuru-residents-are-set-to-benefit-from-chemususu-dam-project>

to get to school, unsure of their security, opted out of schooling according to reports by the Daily Nation. Most schools in the county recorded fluctuating number of enrolled pupils as people in the area kept on fleeing from their villages.⁷⁷

In instances of bandit attacks, even children are not spared. In 2012, a pupil from this school was killed while another had his leg amputated after he was shot by suspected cattle rustlers. This is one of the schools in Mukutani that has recorded a decreasing number of pupils amid rising cases of insecurity. In some areas, displaced people have been forced to make do with makeshift schools in a bid to ensure that education continues. In the makeshift schools, pupils learn under trees with no roof above them.⁷⁸

As Josphat Liali, the chairman of Loosampurpur Primary School said “We are like a forgotten lot who have to mind about our children’s education as if we are under no governance” (The Daily Nation newspaper, 9th October, 2014) While in other areas of the country people are busy debating about free laptops, Liali said, a roof on their children’s heads while learning is all they want. Residents joined hands in starting this school after they were displaced from their original homes by cattle rustlers.

But the trend has not only affected this sub-county, but most parts of Baringo where some schools have since been closed. This is despite the reducing number of teachers in the regions as some seek transfers and others resign fearing for their lives due to insecurity. In Mukutani division within Baringo Southl, the number of pupils has reduced from 2,961 in 2010 to 2,341 in 2014.⁷⁹

Area Education Officer, David Lechamakany, said that at least 543 pupils could not be accounted for between 2013 and 2014. In the last four years, Lechamakany said candidates presented for Kenya Certificate of Primary Education (KCPE) national exam had dropped by 30.7 per cent. A drop in performance has also been witnessed during this period. He said, “In 2012, 28.3 per cent scored above 300 while in 2013, only 21.7 percent attained the same.”

A recent report by Uwezo Kenya indicated that only seven per cent of children in East Pokot Sub-County, within Baringo County could read or do simple mathematics. The report, which

⁷⁷ Rachel Kibui, Kenya Daily Nation, 9th October, 2014. School Enrolment Drops as Cattle Rustling Thrives in Baringo County. Source, www.dailynation.co.ke/school enrolment drops in Baringo County.

⁷⁸ Ibid

⁷⁹ Ibid

was released last June, also ranked East Pokot as the worst in East Africa. “In East Pokot, there are more children out than in school,” reads the report. Women and their children are the most vulnerable groups when conflict arises. Often, schools are turned to refugee centres when conflict occasioned by cattle rustling occurs in the region. In February 2013 three police officers were killed by cattle rustlers in Baringo County.⁸⁰

This analysis from 2012 to 2014 brings out the situation in the conflict-ridden Baringo County. Though not analysing all the cases and effects of rustling, it reflects the environment when an act of raiding takes place. Loss of life, displacements, dropping out of school and general decline in economy are assured due to raiding. This does not even take into account the disruption of normal routine of production like fishing, cultivating and grazing which are affected leaving many at the mercy of relief aid.

2.7 Conclusion

Baringo County of Rift Valley is inhabited by several communities including the Tugen, Ilchamus and the Pokot. The communities are traditionally herders with a strong attachment to cattle. Additionally, they practice small scale farming, fishing and trade that historically supplemented produce from livestock. The communities are regimentally organised with strong age set systems that often serve as a source of warriors. Because of the nomadic and semi-nomadic nature of its inhabitants, Baringo County has a long history of conflict. The main cause of the conflict has historically been associated with cattle raids and subsequent cattle rustling. The Tugen, Ilchamus and Pokot traditionally rely on livestock animals for food products such as milk, meat, blood and for skins and hides relied upon by the communities for making mats and traditional regalia for the locals.

Baringo County has recently witnessed an upsurge in livestock related conflicts that have affected most aspects of society including education, health, agricultural production and tourism as people are displaced and children scared out of schools. There are various factors responsible for the recent increase in the cattle rustling conflicts in the area. These will be discussed in the next chapter.

⁸⁰ Rachel Kibui, Kenya Daily Nation, 9th October, 2014. School Enrolment Drops as Cattle Rustling Thrives in Baringo County. Source, www.dailynation.co.ke/school enrolment drops in Baringo County.

CHAPTER 3

CHANGING NATURE OF CATTLE RUSTLING IN BARINGO COUNTY IN THE 21st CENTURY

3.1 Introduction

Proliferation of illegal weapons among Tugen, Ilchamus and Pokot since the 1990s has increased the severity of cattle rustling. As such, Baringo County has not known peace for quite some time now. The causes of conflicts are blamed on the Pokot aggressors who invaded Tugen and Ilchamus pasture/grazing lands. As Pokot raids intensified, people were forced to purchase firearms to counter-attack the neighbouring Pokot. This cycle of arms race between the communities was the foundation of the conflict and the reasons for its intensity.

Historically, according to retired senior chief Alexander Moi of Ngorora location of Baringo North, the Pokot community is the main perpetrator of the cattle rustling menace which has been problematic since pre-colonial days. It originates from the community's embracing of Elijah Masinde's Dini Ya Msambwa in the early 1950s. Though the Pokot of Baringo was always regarded as troublesome in the region, their notoriety was often checked by their populous and warlike neighbours, the Samburu, and their Kalenjin cousins (the Tugen, and Keiyo/Marakwet). By embracing the Dini Ya Msambwa, the Pokot were indoctrinated to believe that they were superior to the Europeans and that the latter's skin colour was just but a curse which could bring a bad omen to their land, their superior weapons notwithstanding. They believed that their gun powder would turn to water on being fired at them (Pokot warriors). This gave credence to the 1952 Koloa Uprising, where Pokot herdersmen were killed by the colonial government forces for assassinating the then Tambach District Commissioner, a Mr. Lambard, and six of his guards.⁸¹

Following the Kolowa uprising, the Pokot enjoyed a relative peaceful coexistence with their neighbours and the local administration. Having lost many of their own while confronting the White man, the Pokot considered themselves a superior community, an idea which was inculcated in their subsequent generations. Having realised the power of the gun that decimated their kin, they developed a quest to acquire whatever arsenal the whites had used

⁸¹ Oral interview, Senior Chief (rtd) Alexander Moi, Ngorora location, Baringo North Constituency, Baringo County, 28th June, 2017.

to decimate their population at Koloa. This drove them to purchase guns in the 1970s. Initially the cost and source of these weapons was prohibitive. Their qualities were also poor (mainly mark II type, known locally as *Logonkonet*, meaning “the long pipe spitting fire”).⁸²

Livestock being the Pokot’s socio-economic mainstay and livelihood, they naturally gravitated to cattle rustling expeditions into their neighbours’ territories. In April 1973 and using their traditional weapons, the Pokot led by their female fortune-teller Cheposait or (Miss Time), raided the homestead of Mzee Kanyaaman, a respected Turkana livestock tycoon near Lokori. In this raid, they made away with his entire stock after killing him and 23 members of his family. This was the turning point in the Pokot cattle rustling history. From this raid, the Pokot acquired a variety of firearms (*Lokongonet*) from the victims’ family arsenal. Although they acquired a few new weapons in their subsequent raids, they could not risk using them for lack of necessary weapon handling skills. Instead, they opted for the former home made guns together with their traditional spears and arrows with which they were more familiar.

The guns acquired from Kanyaman’s family were rather a mixture of homemade and pre-World War II type (mostly Mark 2 type rifles). Later, the Pokot acquired sophisticated/automatic weapons from the Turkana around 1979, before purchasing from Somali merchants in the 1980s. To utilise these newly acquired tools of trade properly, they employed the services of their skilled kinsfolk in the uniformed services (both police and military, serving and retired). The training was not regimentalized or institutionalised but fragmented depending on when one purchased a firearm. Training was always centred on handling skills, stripping and assembling through to marksmanship. These techniques were the key tenets of owning a gun, without which one surrendered his weapon to a better-qualified colleague when they went for raids, in return for a share of the loot.⁸³

The cost of acquiring a weapon was and still is always dependent on the type, but ranges from 8 to 24 cows for a G3 (G3 is expensive because of minimal stoppages and is weather resistant). The number of weapons one possesses is determined by his livestock, wealth, number of wives/sons and homesteads. Most Pokot, therefore, have more than one rifle. This has defeated the Government disarmament operations, whereby the Pokot surrender only one weapon, especially the over-used old ones.

⁸² Oral interview, Senior Chief (rtd) Alexander Moi, Ngorora location, Baringo North Constituency, Baringo County, 28th June, 2017.

⁸³ Ibid.

Their sophisticated operations in cattle rustling threatened the peace not only amongst the Turkana, their perennial enemies, but spanned to their cousins the Marakwet, Tugen, Ilchamus, Samburu, not forgetting the Kikuyu of Ol Moran Division of Laikipia District. This threat comes with the alternative of these communities arming themselves, to defend their rights to livestock and land ownership.⁸⁴

In Baringo County, livestock is the main economic mainstay of the people. It is through livestock that one can eat, dress and go to school. However, there are various reasons as to why the people here raid each other for livestock. The lead reason goes beyond economic survival and stems from their cultural belief that “a man’s worth is measured by the number of cattle that he owns”, for example, be allowed to address a *baraza*, eat with other men, arbitrate in any dispute, pay dowry, have a family, and socialise.⁸⁵

Among these communities, the ideal is to keep cattle. Their life revolves around the cattle. A man without cattle is looked upon as dead. Other than being a means of subsistence, the communities make clothes, blankets and shoes from the skins. The cattle have a great ritual value as one has to have the skin for rituals or ceremonies. At a certain age, every boy is given a bullock – a prize bullock upon which they compose songs and after which he is named. One is known by his bullock’s name, which is shouted in war when one is spearing/shooting the enemy. As such, cattle are the objects of raids among the Tugen, Ilchamus and Pokot within the County. Cattle are a form of legal tender and considered a mobile bank. They give a man prestige and wealth. They are also the means for purification during rituals.

As such, these communities have intense interest in cattle. A cow to them is sacred. Cattle is the most dominant basic commodity for their subsistence and used as measure of wealth. Cattle are a medium of exchange, an object of emotional interest and symbolic elaboration. Cattle are part of self, the lens through which social life is perceived. According to retired Senior Chief Solomon Kapkoyo of Ribko location, to the Pokot, their ultimate gift to God is the cow and God’s ultimate gift to them is the cow. They have more or less a religious attachment to cattle, but not simply economic value. Hence, they prefer to and accumulate cattle not to sell them, but for multiplication. Therefore the involvement with cattle is less economic, but more culturally complex. Hence, it is more logical for the Pokot to build up a

⁸⁴ Oral interview, James Lekichep, Ilchamus area, Baringo South, Baringo County, 29th March, 2017

⁸⁵ Kimaiyo, D. & Mutsotso, M.B., March 2014. Report on the Centrality of Cattle in the Social Organization of the East Pokot Pastoralists of North Western Kenya, *American Journal of social science*, Nairobi, pp.500-504.

large herd of cattle as a fall back against drought, cattle rustlers, and disease as well as a reserve of social capital to reclaim their identity.

3.2 Cultural Ceremonies among the Communities

According to Amos Ole Mpaka, a resident of Lorobil in Baringo South, culture has played a role in fuelling cattle rustling in Baringo County. Amongst the Pokot, the value of livestock, especially cattle is beyond other treasures. They glorify them through songs of praise during their traditional dances. A poor person (one who has no livestock) is not allowed to participate in such dances (save for his contribution in cheering others to dance). It is this ridicule that psyches/encourages a young and able Pokot to go out and acquire wealth for himself and hence cattle rustling.⁸⁶

The most interesting of the reasons for conducting a cattle rustling operation is a traditional ceremony known as “*Sapana*”. This is the occasion when a young, newly circumcised Pokot is initiated into warrior-hood, by being decorated with the “star-of-David”, ochre headgear (*munyaan*). The ceremony is carried out by the youth when they have undergone circumcision so as to be allowed to participate in public meetings or ceremonies. It is believed to make them resistant to catastrophes in life and they are offered blessings to have all good things in abundance e.g. riches of animals and many children. The ox, ram or he-goats to be killed in the ceremony are exchanged with a heifer or female sheep or goat from other chosen rich families. The ceremony brings together families and relatives from the oxen families and the heifers, she goats or rams too, while a lot of milk is brought by the surrounding families who come for the celebration. This is done once in one’s lifetime. *Sapana* is a highly respected ceremony, which requires one to slaughter as many animals as his wealth determines to show off his prestige/worth.⁸⁷ One slaughters for his older associates (elders) and his age-mates. Feasting is in a style akin to war-mongering and woe unto those who have nothing to show. They are fed like scavengers- meat is thrown backwards for them to grab – an insult befitting the worthless scam of society that they are believed to be. The quest for livestock, therefore, drives a young Pokot to rustle.⁸⁸

It is this acrimonious ceremony that sets the prelude for the conduct of cattle rustling amongst the Pokot; followed by the need to pay bride price; and thirdly, the songs of

⁸⁶ Oral interview, Amos Ole Mpaka, Marigat Centre, Baringo County, 28th November, 2016.

⁸⁷ Ibid

⁸⁸ Oral interview, Amos Ole Mpaka, Marigat Centre, Baringo County, 28th November, 2016.

praise/glorification. In the context of marriage for the Pokot cattle is currency for paying bride wealth. Hence, the strong bond between women and cattle is made. A man without cattle is poor, hence, no woman will accept him for a husband and no father will accept his daughter to be married “free” to a man who owns nothing. Put in another way, no man will dare approach a lady for marriage if he has no cattle to pay bride wealth with. And since age mates marry almost at the same time, each will ensure he gets cattle for this cause.⁸⁹

Pokot is a polygamous society, where men can marry as many wives as they can afford to pay the pride price for. Hence, gender dynamics in the Pokot community are also embedded in the wider dynamics involving cattle. The social, economic and cultural processes in the community are closely tied to cattle as potentially economic commodity to a community which view it more as a cultural normative symbol. In other words, the moral economy of the Pokot outweighs its political variant and depends almost entirely on cattle. This is why to the Pokot, the logic of cattle keeping transcends the usual economic or material concerns to situate itself in the mythical, cultural, and paradigms that frame the meaning of being Pokot.

Among the Tugen, a ceremony equivalent to Sapana in Pokot, was known as *kororya*. The ceremony entailed slaughtering of bulls to celebrate young men about to undergo initiation. According to Francis Kimuge of Tibingar, this ceremony was like a ‘pass out’ for youths who had acquired raiding skills and were thus a proof of their readiness to engage in the practice. It was a sign that the group was ready to be unleashed for cattle rustling activities. The ceremony, and the subsequent tales associated with brave raiders and their wealth served as motivation for the young initiates to emulate their tribesmen by engaging in raids.⁹⁰

In the Ilchamus community, Senior Chief Ole Kirati, argues that this practice was called *ilmokoeti*. This followed a circumcision ceremony, *muratata*. This was followed by *Eunoto* - an age-set ceremony - which signified graduation to elderhood requires youths to share a feast of bulls (feasting ceremony known as *ilbul*). The eating was meant to fatten would-be-rustlers who were then required to replenish the bulls they had feasted by acquiring livestock from other communities. The ceremonies were characterised by praises for warriors and rich men, and how they had exemplified their bravery in war and raids. By such activities, the young initiates were psychologically prepared to be involved in cattle rustling.⁹¹

⁸⁹ Oral interview, Amos Ole Mpaka, Marigat Centre, Baringo County, 28th November, 2016.

⁹⁰ Ibid

⁹¹ Oral interview, Jones ole Kirati, Senior Chief (rt), Mukutani, Baringo County, 14th June, 2017

3.3. The Centrality of Cattle among the Pastoral Communities of Baringo

To the pastoralists Tugen, Ilchamus and Pokot, a cow carries all that they need to survive – food, horns used as drinking cups, and furs, hides and also given as presents. Cattle are everything for livelihood and existence, for even day- to- day experiences are expressed in terms of cattle. For a Pokot, for instance, cattle (*tany*) are everything because it features prominently in rituals, sex, circumcision, subsistence, moranism, war, religion and bride price payment.

Many proverbs and sayings among the pastoralists use a cow as a symbol of learning and the most important element in their existence. For example, *anyiny tany aki ngwan* (a cow is sweet and sour). The saying among the Pokot is intended as a lesson that everything has its good and bad side, and is often used to warn people over irrational behaviour, uncontrollable celebration towards success or total pessimism over failure. *Anyin le chepo roryan* (as sweet as milk of a cow that has just calved), is another proverb used in reference to something that has brought so many blessings to a person or family.⁹²

The centrality of cattle among the Pokot is such that, at times, they occupy positions of importance than women. This is captured in their sayings, for instance, *kaikai ku wete chi nko tany kisir nko korka* (better walk with a cow than with a woman). This implies that one is materially rich walking with a cow relative to walking with a woman. This also implies that cows are more important than women. Thus a Pokot man attaches more importance to his cattle than his children and wives. This personification of cattle has led the Pokot to do all that is necessary to accumulate as much cattle as possible. Due to this attached importance, cows are rarely slaughtered for meat except on key occasions during *sapana* ceremony. Among the Pokot, women may manage goats or sheep, but cattle is always under men. They define cattle as *karan* (good) but the colours of their skin are praised as *pachigh* (beautiful/pleasant).⁹³ According to a 2012 report by Schilling H, a Pokot girl, Chepkoronto Losililee (pseudo name), captures the picture of what it feels to be a Pokot devoid of cattle:

“I am 15 years old, a 3rd born in a family of seven. I did not go to school. I am employed by a fellow Pokot to work in his hotel. I have been employed for 3 months now. Our home was in Kapau (in Akoret area). My father was killed in 2006 during a Turkana raid in which we lost all our livestock, so we came to our uncle in Chemsik that was where I was introduced to this person who was in need of somebody to work in his hotel. The problem with this work is that men who keep coming they have

⁹² Oral interview, Amos Ole Mpaka, Marigat Centre, Baringo County, 28th November, 2016.

⁹³ Oral interview, Amos Ole Mpaka, Marigat Centre, Baringo County, 28th November, 2016.

many questions and many of them do not even know Pokot language. This job is not good because you stand most of the time, there are too many people looking at me. After some time, I will go back home so that my uncle can buy us some cattle.”⁹⁴

This story depicts the plight of many Pokot pastoralists dispossessed of cattle. They find themselves wandering in the wilderness as it were, yet in spite of that, their hope is that one day they will own cattle and become the real Pokot that they were before. In spite of her obtaining a wage, Ms Losililee understands it as servitude, an attribute the pastoral Pokot do not cherish. Interviews with the Pokot show that traditionally, they hardly raid for commercial purposes. For them, the motive for raids is cattle accumulation, not desire for money. In this view, most of those involved in commercial livestock activities are hardly Pokot. They view them as being Burji, Tugen and Kikuyu who then sell the livestock in Nakuru, Eldoret, Nairobi and Athi River.

Going for cattle belonging to other cultural groups known in Pokot as *ket walak*, is based on the Pokot belief that all cattle in the world are theirs. Hence raids for cattle are justified and embedded in every aspect of their culture. Raiders are blessed by the seer (*werkoyon*) before they embark on the event. It is sanctioned by the highest office in their community. Cattle is looked at as the main factor that will improve or worsen their life, hence whatever involves bringing in more cattle, whether legal, moral or not, is justified in the world view of the Pokot. The elaborate preparations the cattle raiders go through before executing the mission and the support their mothers give them also reflects the seriousness of cattle in Pokot. Discussion with Pokot elders concur that the process that is taken prior to raiding involves the following:

“The moran go into seclusion for about fourteen days. They practice and ensure each of them has the most effective weapon. At the end of the fourteen days, they visit the manyatta of the seer (*werkoyon*). The *werkoyon* slaughters a black he-goat and checks through the offals to interpret what they potent for. If the *werkoyon* finds the offals to be ok, he sanctions the cattle raid, if not he calls it off. If he sanctions it, he directs them on how and where to follow and kinds of things they will come across. Each moran is smeared with red soil a wrist tied with a lace from the goat skin as a sign of good luck. Mothers of the morans are also tied with the goat skin lace till the time their sons return from the raid. The raiders are under strict instructions to follow the *werkoyon*'s advice in order to ensure safety.”⁹⁵

⁹⁴ Schilling, J. et.al 2012. Raiding Pastoral livelihoods: Motives and Effects of violent conflict in North-West Kenya. Pastoralism: Research Policy and practice: 2, p.25.

⁹⁵ Kimaiyo, D. & Mutsotso, M.B., March 2014. Report on the Centrality of Cattle in the Social Organization of the East Pokot Pastoralists of North Western Kenya, 2-20.

Among the Tugen, the process was slightly similar to that of the Pokot, though with varying names. Joshua Chepsergon observed that:

The process taken before going for raids was a little complicated and heavily secretive. A number of ceremonies and rituals were conducted. *Chore* was a feasting of bulls or he-goats in preparation for raid or after conduct of raids. It was in this period that the warriors were given herbal concoctions that would strengthen their health. It was at this time that inciteful messages against the neighbouring Pokot and Ilchamus were passed. *Chore* was conducted at village or clan level. On day of raids, war-cry (*ryombut*) was sound to assemble the raiders from the different villages. Meanwhile the elders would be consulting *orkoiik*. Before setting out for the raids, a ceremony known as *munyaan* (totemic blessings) in which a totem(s) known for good luck were picked to lead and bless the rest. After returning from the raids, the raiders stayed in seclusion until *ntasim* – cleansing ceremony was conducted after which they shared the loot and returned to their families.⁹⁶

On Ilchamus conduct of cattle rustling, Ole Kirati, argues that there was feasting (*ilbul*), ceremony of morans. This was an assembly of initiates and warriors in the community. During the *ilbul* ceremony, the *Laibons* were consulted on how the raids would be and the level of opposition they would face among other uncertainties. After the consultations, a ceremony known as *maiyan* (blessings) in which bulls (*lerinyoren*) were slaughtered was conducted. During this time, motivational song (*loitirii*) is sang to psyche the warriors to conduct the raids. The returned rustlers were not allowed to rejoin their families. They stayed in the bush for some time until cleansing was conducted.⁹⁷

The Tugen hold livestock lives in high esteem as depicted by their sayings. For instance, “*merop chi rop tany*” meaning “you better assist a cow than a human being”. “*Muren tany*” “meaning cattle are like a men”. This implied the superiority of cows over categories like women and children. This is because men were seen in traditional Tugen community as achievers and indispensable. According to Mzee Chelimo Kimutus, “*ireriei korgo lakwa agenge ak kureriei tany moitonyen ak lakok chechan*” meaning “a woman breastfeeds only one child, while a cow breastfeeds a calf plus many children”. This according to Chemaswet signifies the importance of cows to the community, something whose ownership was the prime pride of every family. To achieve this, youths and young men were willing to go to any extent to acquire them.

⁹⁶ Oral interview, Joshua Chepsergon, Kambi Samaki, Baringo County, 2nd July, 2017

⁹⁷ Oral interview, Ole Kirati- Ilchamus elder, Kajiado, 1st September, 2017

The same centrality of livestock also applied to Ilchamus community as signified by sayings such as, “*Kataa sirwa*” meaning, “I’ve my white cow”. This was a praise attached to cows, something that men boastfully discussed during meetings.

It is such sentimental attachment to cows that the youths were willing to go to any level to acquire them, including raiding their neighbours.

3.4 Reasons for Increased Cattle Rustling Since 2000

Beginning in the last decade of the 20th Century, developments within the pastoral communities of Baringo County shaped the events that culminated in the intensification of cattle rustling in the 21st century. By the turn of the century, cattle rustling became more violent involving more sophisticated weaponry with more telling figures in casualty. There are a number of factors that have resulted in the increased rustling and banditry in the county since year 2000. They include;

3.4.1 Improved Girl-Child Education Leading to Increasing Bride Price

Rev. Chemaswet argues that due to the government school feeding program of 1980s and 1990s in Pokot, most parents took their children, mostly girls to school. By the late 1990s, most of these girls had completed primary school education, but due to parental ignorance on the importance of education past this level, the girls were ready for marriage. Armed with a primary school education, and bearing in mind that most boys of their marriage category had not taken up the opportunity, bride price for these girls shot up. For the Pokot boys to acquire the educated young girls for marriage, they had to pay a higher number of cattle as bride price in order to marry them. As such, they resorted to increased raiding to acquire the extra cattle required for bride price.⁹⁸

3.4.2 Corrupt Provincial Administrators

Simon Ole Lepene argues that, it was also within the same period from 2000 that coincidentally, the provincial administration, made up of administrators of Somali descent were posted into some administrative areas of Baringo. The coming of these administrators led to an influx of their Somali relatives into Baringo County. Being aware of the presence of arms cartels from Somalia, the newcomers soon felt persuaded to sale guns and ammunitions to the Pokots, Ilchamus and Tugen pastoralists who desired them. This trade was barter, as

⁹⁸ Oral interview, Rev. Peter Chemaswet, Marigat town, Baringo South, Baringo County, 20th June, 2017

the arms were exchanged with livestock, mainly cattle, sheep and goats from the Baringo pastoralists. The animals were then sold for slaughter in urban markets like Kariobangi, and Dagoretti in Nairobi, Nakuru, Eldoret, Naivasha. Other shopping centres within Baringo benefited too.⁹⁹ The ready market acted as a motivation for cattle rustling.

3.4.3 Unprofessional Police Reservists

According to Richard Kampala, misuse of firearms by community police reservists is to blame for the increase in cattle rustling activities in Baringo. He traces this to government's efforts to curb cattle rustling in the county. Due to numerous raids involving the Pokot and her neighbours, the government, after the 1997 elections, issued firearms to Pokot police reservists. The aim was to help prevent cattle rustling by the Pokot morans whom the reservists were believed to know well. They were also to prevent counter raids by the Tugen and Ilchamus. Eventually, the good intentions of government were abused by the reservists who used their acquired skills and weapons to train and arm raiders in the area. They gave out their guns to be used in raids and in return, received a share of the raided loot. This resulted in increased raids on the Turkana and Ilchamus by the Pokot. The government, in response, issued the two communities with guns to protect themselves from the invading rustlers. With these guns, the three communities repeatedly raided and counter-raided each other.¹⁰⁰

By the Pokot acquiring more weaponry for cattle rustling, the Ilchamus and Tugen responded by acquiring modern guns both for counter raids and for pursuit of the lost stock. Historically according to a senior chief Ole Kirati, the Ilchamus and Tugen do not raid other communities to acquire livestock, but only do so to recover lost herds. He argues that this is because the Ilchamus and Tugen have historically been seen to be ahead of their Pokot counterparts in education owing to the missionary influence, and erosion of cattle rustling culture by modernity. Comparative high level of education among the Tugen and Ilchamus is based on their early exposure to missionaries who opened up mission schools in their areas. The Pokot within the urban centres of Chemolingot, Nginyang, Loruk, and Tangelbei are in most cases the only ones who had the opportunity for an early education due to the influence of government within these establishments.¹⁰¹ However, these claims were objected by Henry Losikiriyotum, a Pokot, who observe that Tugen and Ilchamus especially those from areas like

⁹⁹ Oral interview, Simon Lepeke, Lorobil, Baringo South Constituency, Baringo County, 20th June, 2017

¹⁰⁰ Oral interview, Rev. Peter Chemaswet, Marigat town, Baringo South, Baringo County, 20th June, 2017

¹⁰¹ Oral interview, Senior Chief (rtd) Ole Kirati, Mukutani Location, Baringo South, Baringo County, 14th June, 2017

Aratuko, Arabal, Chepkesin, Kalabata and Kerio Valley for the Tugea, and Mukutani, Legumgum, Meisoril, Kailer and Kiserian for Ilchamus raid both the Pokot and each other as well. They too have acquired guns from their kinsmen who are police reservists.¹⁰²

3.4.5 Divisive Local Politics

Focus group discussions held in Lorobil and Marigat revealed the existence of politicized cattle rustling among the three communities. Discussants argued that politicians from the area use cattle rustling for political gain. They allegedly use Constituency Development Fund to purchase firearms and ammunitions for cattle rustlers in a bid to acquire political support. Armed with the now easily accessible guns, and with political support, the rustlers have doubled their efforts in a bid to deprive their neighbours of cattle. The motivation for raiding has now acquired new impetus based on the political support that the raiders get from their representatives in national and county assemblies.¹⁰³

3.4.6 Commercialization of Cattle Rustling

According to Mr. Samuel Chebor, an elder of Kampi ya Samaki, commercialization of cattle rustling is a key factor that has led to an increase in the intensity of cattle rustling in Baringo County since the year 2000. He attributes the commercialization to events within government in the 1990s which led to a rise in school fees and standards of living. This coupled with the rise in bride price due to emerging class of educated girls prompted the need for increased raiding. It was also at the tail end of 1990s that bride price adopted a monetary form together with livestock. This necessitated the selling of livestock to get money for school fees and to pay the bride price. The payment of bride price in form of cattle and money is known as “*mwaay /mwaii*” among the Pokot. The need for more money led to the selling of livestock. To replace the sold stock, the Pokot had to sanction the morans to raid their neighbours.¹⁰⁴ According to Likryatum, unlike Pokot who rustle to keep their stock, it’s the Tugen and Ilchamus that began the business of cattle rustling for commercial purposes. The raided livestock found their way into markets outside the county through Nyahururu, Solai and Nakuru routes.

¹⁰² Oral interview, Mr. Henry Losikiriyotum, Churo, Tiaty Constituency, Baringo County, 21st June, 2017

¹⁰³ Oral focus Group Discussions, Loruk, Kiserian, Baringo South, Baringo County, 13th, March, 2017

¹⁰⁴ Oral interview, Mr. Samuel Chebor, Kambi Samaki, Lake Baringo, Baringo North, 14th March, 2017

3.4.7 Government Laxity and Neglect

The Pokot argue that government neglect is responsible for the intensified cattle rustling in the area. They say that the government never responds to their calls for help when they are attacked by the neighbouring communities, so they have no choice but to defend themselves. Assistant chief Evelyn Kapkoyo (Chemoril) remarks that lack of schools has deeply affected the Pokot populations. She also argues that lack of water sources in the county has impoverished many resulting in nomadism that leads to rustling. According to her, when drilled water sources dry up, most of the schools have to close down. She argues that all the people need in order to get out of the misery that leads to rustling are roads, schools and power to take off. “But no one remembers the Pokot” she argues.¹⁰⁵

Tukong’ Ng’olekou, an elder, argues that Pokot in Baringo have been neglected and forsaken by the national and county governments, and by the Tugen (majority in the county) as well as the Ilchamus neighbours. He argues that:

“We are people like any other but we have been left in our natural state. We remain in the state of our creation. We suffer twice. We suffer as a people and we suffer when we see our livestock suffer. Under the sun, there is no respite for a Pokot. He’s assailed from all directions. The Pokot have become an object of ridicule in the area since only they no longer have Kenya Police Reservists or guns. Left without a defender, we’ve been forced to defend ourselves. It is this need for self defence against our hostile neighbours that has increased conflicts in the county as our neighbours, suspicious of our acquisition of arms, have also bought guns leading to frequent attacks.”¹⁰⁶

The Ilchamus also blame state security institutions in the area for rampant conflicts in the County. They observed that Pokot and Tugen politicians defend their communities in parliamentary committees investigating cattle rustling in Baringo County, yet they, with no constituency of theirs are left with no channel of expressing their concerns. The same extends to county government which they say is dominated by Tugen and biased against them.

3.5 Effects of violent raids on the people of Baringo County

Mrs. Chepkolel Francis argues that hunger is the main characteristic of the area. She argues that most of Pokot women are young but look old because of poor diet. “*Wako nusu nusu*”, she noted. They neither look young nor old. She complains of lack of health facilities,

¹⁰⁵ Nation Reporter, “Why Peace Remains A Pipe Dream,” Daily Nation, Tuesday August 11, 2014. DN2 p.2 Available at [www.dailynation.co.ke/why/peace/remains/a/pipe dream](http://www.dailynation.co.ke/why/peace/remains/a/pipe%20dream), Accessed, August 2014.

¹⁰⁶ Nation Reporter, “Why Peace Remains A Pipe Dream,” Daily Nation, Tuesday August 11, 2014. DN2 p.2 Available at [www.dailynation.co.ke/why/peace/remains/a/pipe dream](http://www.dailynation.co.ke/why/peace/remains/a/pipe%20dream). Accessed, August 2014

arguing that scorpions and snake bites are common threats on the children. They either die before they get to Nginyang health centre or the referral hospital in Kabarnet.

3.5.1 Displacement

With better and easily available weaponry, raiding increased in frequency and the herds stolen are in large quantities. Counter raids and pursuits have also increased. There have also been displacements of individuals and communities from their ancestral lands. For instance, due to the acquisition of firearms, the Pokots extended their raids to include communities like Marakwet, Turkana, Samburu and the Kikuyu of Ol-Moran division, Laikipia County. As they raided these communities, their number of livestock grew, necessitating the need for more grazing area. This resulted in them annexing various divisions that previously belonged to the Ilchamus and the Tugen. The areas taken over by the Pokot include Mukutani and Arabal locations of Ilchamus in Baringo South, and Kaporion, Lemuyek and parts of Ngartuko and Chemoe areas of Tugens of Baringo north. These invasions have degenerated into boundary disputes among the three communities with occasional confrontations between grazing groups from the three communities. The displaced populations have become IDPs in Marigat, Kambi Samaki, Lobo, Sibilo and Bartabwa. Some have moved in with relatives in Kajiado and adjacent divisions of Baringo. The case in point is Mukutani retired senior chief, Jones Ole Kirati who is an IDP in Isinya, Kajiado County. His house and other properties were taken over by the Pokot raiders who have eventually settled in the area permanently. In 2014, more than 400 residents of Mukutani Division were forced to abandon their homes after a clash. At least 23 houses were burnt after 2,500 heads of cattle were stolen, reportedly by Pokot bandits.¹⁰⁷

3.5.2 Disruption of Schooling

Other than the displacements, schooling has also been affected. Schools have often been used as the hideout for rustlers. When raiding is over, the displaced often use the schools as IDP camps. As a result, schooling is often suspended. This is coupled by the fact that most teachers in the area, especially Pokot divisions, come from other region/ communities. Whenever cattle rustling take place, the teachers flee from the insecurity zones. Pupils and students are also affected directly as some lose their lives when they come across fire. Cattle rustling involves youths who under normal circumstances, should be in school. This has led

¹⁰⁷ Ngare Kariuki, “*The Government has Abandoned us, so we Resort to Self-Defence*”, Daily Nation. Tuesday August 11, 2015. DN 2, P 2-3. Accessed September 2015.

to a situation where a majority of the schools in the Pokot area are often devoid of learners. The factor that youths shun schooling in the area has created a cycle of uneducated and ignorant population. Nzau Musau a print journalist with Standard newspaper argues that a majority of Pokot youths can hardly pronounce or spell their names.¹⁰⁸ According to Robert Kanyakera, acting District Officer for Mondri Division:

“90% of the areas’ 50,000 residents are illiterate yet only 10% of children in school-going age attend school. Yet still, the attendance is not regular as Cattle rustling often break the schooling momentum making part of this pupils and students to abandon the process.”

The Kenya National Union of Teachers Chairman in the County, Reverend Joshua Cheptarus argues that in 2012, 27 schools were closed in Ilchamus area following an attack by Pokot raiders, affecting over 7,000 students who were displaced from their residences. He said that over a period of two years, 188 people were killed by bandits, among them 9 students and 5 teachers. In December 2012, armed bandits hit Arabal Primary School and villages around, stealing cattle, destroying property and displacing residents. At that time, 17 people in the area were killed and many more displaced. Children who walk from as far as ten kilometres, crossing seasonal rivers to get to school, unsure of their security opted out of school. In 2012, most schools in the County recorded fluctuating number of enrolled pupils as people in the area repeatedly fled from their villages.¹⁰⁹ Mr Cheptarus argued that:

"In instances of bandit attacks, not even children are spared. In 2012, a pupil from Arabal primary school was killed while another had his leg amputated after he was shot by the cattle rustlers. This is one of the schools in Mukutani that has recorded a decreasing number of pupils amid rising cases of insecurity. In some areas, displaced people have been forced to do with makeshift schools in a bid to ensure that education continues. In the makeshift schools, pupils learn under trees with no roofs over their heads.¹¹⁰"

This, according to respondents has affected education as many parents have opted to taken their children out of schools in the area, since the schools have increasingly become targets by raiders and counter-raiders.

¹⁰⁸ Musa Nzau, “Groups gather in Yet Another Meeting But Still There is No Peace”, Sunday, July 12, 2015/ The Standard. Week in Review, p. 26. Accessed July 2015

¹⁰⁹ Rachel Kibui, “School Enrolment Drops as Cattle Rustling Thrives in Baringo County” Kenya Daily Nation, 9th October, 2014.

¹¹⁰ Ibid

3.5.3 Economic Losses

Other than death, displacement and the interruption in education, cattle rustlings have serious negative impacts on economy of the affected areas. Baringo County KNUT Executive Secretary, Charles Kamuren observed that in 2014, the Ilchamus lost livestock worth 1billion KES to Pokot raids in Mukutani and neighbouring areas.¹¹¹ A protest was launched by the Ilchamus. According to the protesters, thousands of livestock had also been stolen and property of unknown value destroyed in the menace that negative impact on the economic status of the region.

Other than schools, health facilities and services also get impacted upon due to cattle rustling events. For instance, the large numbers of casualties sometime overwhelm the few health officers in the county. The insecurity created by cattle rustling expeditions, often lead to doctors and health staff from other counties to abandon Baringo County. As a result, levels of malnutrition and mortality rates are very high in the county. Treatable diseases like malaria and polio have killed and maimed many due to poor health services resulting from the insecurity created by cattle rustling.

Economic activities are also disrupted whenever cattle rustling take place. According to Amos Ole Mpaka, an activist in Lorobil, Baringo South, pasture and grazing areas taken over by intruders when communities are displaced. There is also the closure of markets, affecting the sale of livestock. Fishing and farming are also interrupted as mixed farmers flee leaving their farms unattended to. The rustlers often drive the stolen animals through farms and grazing areas destroying crops. This has made famine to be a constant plight in Baringo. This explains the reason why the county is constantly in need of relief food aid in most parts of the year.¹¹²

3.5.4 Political Ramifications

There have also been political ramifications as affected populations like the Ilchamus have been demanding to be given their own constituency so as to have a representative to air their views in parliament. According to Mzee Stephen Lampaine, an Ilchamus elder, the fact that

¹¹¹ Nation Reporter, “: A group of Professionals from Baringo County are now Demanding the Removal of Top Security Officials in the Region, Accusing them of Failing to Tame Insecurity”, Daily Nation, May 13, 2012. available at <http://www.newsjs.com/n/baringo-and-nakuru-residents-are-set-to-benefit-from-chemususu-dam-project>

¹¹² Oral interview, Amos Ole Mpaka, Community Activist, Lorobil, Baringo South Constituency, Baringo County, 20th March, 2017

they are pooled into one constituency with the majority Tugen has denied them an opportunity to elect one of their own to represent their issues in parliament. He argues that whenever the Pokot attack them, the government does not respond due to the strong representation of Pokot in parliament. However, every time they counter raid to recover their stolen animals, the police are unleashed on them. This to him has created the need to demand for demarcation of a constituency for them since their small numerical strength cannot match that of the Tugen whom they share a constituency with. They also claim of having only three Wards as the others have been taken over by the Pokot.¹¹³

In Chemeril, Lemaruk Teta, residents argued that their neighbours –the Tugen - took away all the important seats in the county government and only left them with the Speaker’s seat. He argued that the Pokot feel fooled to have entered an agreement to share posts with the Tugen.¹¹⁴ Mzee Charles Sarich Serpel of Sereton - a former assistant chief - argued that Baringo County is Tugen-led. He argues that the Tugen are oppressing and colonizing them. He believes that the leadership crisis in the county should be resolved to bring an end to conflicts and pave way for talks on cattle rustling. Lipole Ewoi argued that the Pokot have been branded as warmongers and raiders. He argues that Pokots have been forced to raid because all economic opportunities have been closed.¹¹⁵ These sentiments have led to increased demand for their own county/constituency within Baringo County.

3.5.5 Culture of Negative Peace

A culture of hatred has also been sowed and grown in the county following decades of conflict and cattle raids. The attitude of Ilchamus and Tugen towards the Pokot is that of hatred. The view of some Ilchamus young boys about the Pokot is that of an irrational savage from the jungle. James, a seven year old interviewed by Daily Nation on his view of Pokot in the area argued that, “I hate them. I can’t wait till I am old enough to become a warrior and join the local home guards so that I can kill them”.

Tugen and Ilchamus have a love-hate relationship and occasionally clash when a group from one community steals cattle from the other, but they always manage to work out their differences. However, they are strongly united by their hatred for the Pokot. The grievances of a community losing cattle or loved ones to another’s attack have with time, planted feeling

¹¹³ Oral interview, Stephen Lampaine, Community elder, Lorobil Village, Baringo South, 20th March, 2017

¹¹⁴Standard Reporter, “Community Saying Neighbours Favoured During Conflict” *Standard on Sunday*, July 12, 2015, P27

¹¹⁵ Ibid

of anger and hatred and desire for revenge. Baringo County, according to Ilchamus interviewed at Marigat, is a “time-bomb that explodes whenever circumstances are right.”¹¹⁶

3.5.6 Loss of Human Lives

Other than the above effects, cattle rustling involving the Pokot, Ilchamus and Tugen have resulted in deaths of thousands of people. This includes women, school children and the elderly. The loss of life according to Ole Mpaka has stagnated development in the county as a majority of the dead are young able bodied youths who end up leaving the old and fragile behind. In June 2015, cattle rustlers shot dead a retired chief at Loruk village in Sibilo Location, sparking another round of fighting between the Pokot and the Tugen. More than 200 deaths have been recorded in Baringo since 2005. Most of them are traced to the Pokot.¹¹⁷

3.6 Conclusion

Prior to the year 2000, cattle raids were meant to steal livestock, by scaring away their owners. However, cattle rustling which intensified in late 20th and 21st centuries involve destruction of property and murder. Cattle rustling have become a commercial entity along the boundaries of pastoralist communities and stolen livestock are never recovered. The actors in cattle rustling involve politically linked and power wielding personalities, sometimes not pastoralists. The cattle rustling menace has left the communities in Baringo County to bear the brunt of destruction and murder. Unlike before where raiding was a reciprocal activity, the post 21st century cattle rustling is brutally conducted.

The result has been disruption of socio-economic aspects of life. During attacks, people are displaced, large amount of property destroyed and schools are often forced to close down due to fear of attacks. The prevalence of cattle rustling especially after the year 2000 has left Baringo County insecure affecting trade and tourism as well.

¹¹⁶ Ngare Kariuki. The Government has banded us, so we Resort to Self-defence. Daily Nation, Tuesday August 11, 2015. DN 2, P 2-3.

¹¹⁷ Ibid.

CHAPTER FOUR

GOVERNMENT'S EFFORTS IN RESOLVING CATTLE RUSTLING IN BARINGO COUNTY

4.1 Introduction

The prevalence of conflict in Kenya is in both the pastoral and agricultural areas and among both the rural and urban populations. However pastoral areas are some of the most underdeveloped in the country and suffer from a number of insecurities that negatively affect the livelihood of the pastoral communities, leading to a cycle of violence, revenge and perpetual insecurity.¹¹⁸ Violent conflicts involving pastoralists have become widespread and increasingly severe in Baringo County. The pastoralists in the region are largely nomadic living primarily in arid or semi-arid areas and depending on livestock for their livelihood. They rely on access to pasture and water for the survival of their livestock. Such resources are scarce and under increasing pressure due to population increase and unpredictable climatic conditions. Conflicts involving pastoralists, mainly associated with cattle rustling, are widespread. The government of Kenya has repeatedly made efforts to resolve the conflicts. A number of strategies and mechanisms have been employed to bring cattle rustling and banditry to an end.

4.2 State Response to Cattle Rustling Conflict in Baringo County

The government has always made efforts to resolve conflicts involving the three communities whenever they arose. Among these efforts are:

4.2.1 Judicial and Administrative Responses

Legislations with provisions to address conflicts have periodically been enacted in Kenya. The relevant sections of the Constitution of Kenya through the Bill of Rights and provisions relating to administration of justice address the conflicts. Sectoral laws such as the Agriculture Act, Forest Act, Water Act, Environmental Management and Coordination Act, Land laws, Labour Laws, Local Authorities Act, Chiefs Act, Preservation of Public Security Act also help in resource-based conflict resolution.¹¹⁹ Other dispute resolution mechanisms

¹¹⁸ National Steering Committee on Peace Building and Conflict Management Secretariat & Ministry of State for Provincial Administration & Internal Security National conflict mapping and analysis: Peace and conflict trends in Kenya (2010), p8.

¹¹⁹ Adan, M. et al, 2006. Conflict Management in Kenya: Towards Policy and Strategy Formulation p8.

established under sectoral laws include; Kenya Human Rights Commission, Kenya Anti-Corruption Authority, Electoral Commission of Kenya and National Environmental Management Agency.¹²⁰

The government has made use of these sectoral agencies to preach peace among the conflicting communities in the county. Through them, there has been sensitization on the effects of cattle rustling, something that often leads to adverse attention given to the issue. This leads to periodic decline in cattle rustling activities in the area.

Despite these efforts, access to judicial systems and administrative services in the county is hindered by a number of factors including poor infrastructure and long distances to these institutions. This has made access to justice through the judicial system difficult thereby making this system of government practically unable to address cattle rustling conflicts in the area. Cattle rustling is also seen as a communal affair in the three communities, especially when sanctioned by elders or when counter-raiding. This makes it hard for western-styled judicial system of the state courts which rely on individual liability. In these communities, revenging against a raid is seen as a communal affair and therefore, perpetrators cannot be singly punished.

4.2.2 Deployment of Security Personnel

The government has deployed the police, particularly the General Service Unit, and Anti-Stock Unit, as well as armed forces in areas affected by conflict. The police and other state security forces in the area are mandated to manage and address the problem. Since 2003, according to Chief (rtd) Alexander Moi, the government has made use of the Kenya Police Reservists as an intervention force against cattle rustling in Baringo. The majority of Kenya Police Reservists are youths selected from within the affected communities. They are armed by government in order to augment the existing police units within the area. To qualify as a police reservist, one has to have a good conduct record, is selected by the community and vetted by the police before being trained at the local police station posts. Commonly known as village boots due to their unrivalled knowledge of the harsh terrain of the semi-arid

¹²⁰ African studies quarterly 'Human rights abuse in Kenya under Daniel Arap Moi, 1978 – 2001' accessed 14 September 2015 http://asq.africa.ufl.edu/adar_munya_e_winter01/

banditry-prone County, the Kenya Police Reservists attempted to protect their communities for decades, though without pay.¹²¹

The government has also established police posts in most of the cattle rustling hotspots. According to Joshua Chepsergon, a village elder, police posts such as Bartabwa, Mukutani, Kakir, and Arabal are part of government efforts to resolve the problem. A majority of the new posts have been located within the Tugen and Ilchamus communities as the communities are seen as victims of the Pokot raiding escapades. The government through the police has made efforts to recover stolen animals which are returned to their owners upon recovery.¹²²

Despite these efforts though, the government has not been in a position to stomp its authority on cattle rustling in the county. The main reason is based on the expansive nature of the territory making the few number of law makers inadequate.

4.2.3 Organising Peace Meetings

Ever since cattle rustling menace started, the Kenya government intensified efforts to stop it. To achieve this, institutions of church leadership, communal elders and local leaders have all been put to use. Peace meetings by the government have been held in different parts of Baringo County every time raiding has taken place. The Kenya National Cohesion and Integration Commission, has traversed Baringo County for much of its existence, holding peace meetings in Mukutani, Arabal, Chemolingot and in many other parts of the County. These meetings are mainly aimed at having communities air their grievances and give likely solutions to the problem of cattle rustling. Despite this, the conflict in the region is ongoing and raiding within the communities continues unabated. The recent effort in trying to address insecurity was on the 10 May 2015 when leaders in Baringo and North Rift held a press conference and called on the national government to establish a Ministry that would be dedicated to addressing the ongoing cattle rustling and border conflicts.¹²³ The government has also encouraged political leaders from warring communities to hold peace meetings

¹²¹ Oral interview, Senior Chief (rtd) Alexander Alooi, Ng'orora Location, Baringo Baringo County, 28th August, 2017

¹²² Oral interview, Joshua Chepsergon, Kambi ya Samaki, Lake Baringo, Baringo County, 29th August, 2017

¹²³ Leaders want ministry of North Rift formed to handle insecurity Standard Digital accessed 9 September 2015 and is available at <http://www.standardmedia.co.ke/article/2000161751/leaders-want-ministry-of-north-rift-formed-to-handle-insecurity>

jointly. Political leaders are tasked to encourage their communities to surrender illegal arms.¹²⁴

4.2.4. Infrastructural Development

The government has also built schools in remote areas of the county. Schools have been constructed in areas of Arabal, Mukutani, Bartabwa and in the interior zones, thereby opening up some of the previously marginalised areas. The enlightenment associated with schooling has had a telling effect on Pokot, Ilchamus and Tugen youths. Many of them, having attained education shun raiding and pursue careers that help them acquire white collar jobs. The schools, therefore, do not just keep the boys busy and confined, but offer them alternative economic opportunities to cattle rustling. Since 2004, the government came up with infrastructural development programs for Baringo. Roads were constructed linking the interior parts of the county. Water pans were also constructed to preserve rain water to reduce water conflicts.

4.3 Hindrances to Government Efforts in Resolving Cattle Rustling in Baringo County

Despite the efforts and approaches taken by government in resolving cattle rustling in Baringo County, not much has been realised. The conflicts still occur and the sense of insecurity is still in existence. The study has identified some of the reasons for the failure as:

4.3.1 Bride Price Demands

According to Senior Chief (rtd) ole Kirati of Mukutani, cultural attachment to payment of bride price in form of livestock has played a role in making resolution of cattle rustling difficult. Culture among the Pokots, Ilchamus and Tugen dictates that a man has to have livestock to exchange for a woman he wants to marry. As such, anyone out to marry has to find a way of assembling the stock for paying the bride price. For those not having the required quantity of livestock for bride price, raiding is the only way out. This implies that for government to achieve full success in resolving the problem, it has to find an alternative solution to the inherent culture of paying bride price in form of livestock.

Also, cultural practices such as oathing in some communities increase suspicion by other communities; which often escalates to violence. Ethnic hatred among the three communities

¹²⁴ Poll Agency: Insecurity may disrupt voter registration Standard Digital 7 May 2015 accessed 15 September 2015 and is available at <http://www.the-star.co.ke/news/rift-valley-security-chiefs-complain-uhuru>

is also induced by strong attachment to an ethnic group, clan or tribal identity as opposed to a national identity. The three communities in Baringo are motivated by revenge, as lack of a counter-raid is taken as a sign of weakness. Thus, counter-revenge also ensues and ultimately leads to conflict. This practice is particularly backed up by avenging of one's kinsman as it is believed the dead kinsman's spirit cannot rest until he is avenged. Other cultural practices and influences that impact on the conflict and insecurity in the region are proving one's manhood, pressure from society on youths, and fights over water and land use. The government efforts of trying to solve the problem are frustrated in the face of such strong cultural attachment, thus limiting its ability to penetrate the communities' inherently held beliefs.

4.3.2 Top-down Approach to Conflict Resolution by Government

Many of the participants in government peace meetings, according to Amos ole Mpaka are detached from the perpetrators of the menace since many participants are government agents who are hastily assembled when need arises. Ole Mpaka argues that church elders, chiefs, and teachers are seen as educated and thus a valuable resource to the visiting peace makers. This group, whom the provincial administration relies on, is regarded as traitors by members of their communities and therefore, their efforts are not taken seriously by the young men who live in the interior areas far away from the rest of the communal settlement, especially for the nomadic Pokot.¹²⁵

According to Solomon Kapkoiyo, a majority of the local participants in government peace efforts are drawn from families of those known to the local administration especially chiefs and elders for purposes of allowances or any other benefits that comes with such meetings. The same applies to the Ilchamus community. The most affected of the community, therefore, are excluded from the deliberations. This problem is compounded by the formation of action groups comprising people who are least affected by the problem of cattle rustling.¹²⁶

The lack of seriousness by the Provincial Administration is another impediment to addressing cattle rustling as identified Rev. Peter Chemaswet. The distance between the county headquarters and action areas are somewhat a deterrent to prompt reaction to any raid. Most administrators are not from nomadic communities and they react to such raids half-heartedly. Given a choice, they would rather be elsewhere, free from such disturbing engagements.

¹²⁵ Oral interview, Amos Ole Mpaka, Marigat, Baringo South, Baringo County, 22th, August, 2017.

¹²⁶ Oral interview, Senior Chief (rtd) Tiaty, Slomon Kapkoiyo, East Baringo, 23th August, 2017

Their fear of the hazardous terrain and lethal encounter with deadly fighters in form of young rustlers keeps them away from the hotspots or slows down their reaction to distress calls from the affected populations.

Favouritism on the side of government has also been sighted as a factor that has made conflict resolution difficult. According Mzee Nakan Alube of Paka village in Baringo, government intervention, whenever a conflict arises, often appears to favour the Tugen and the Ilchamus, who are seen as victims and Pokot, as perpetrators. As such, the other communities have been allowed to retain police reservists, while the Pokot were barred from having them, over claims of engaging in raiding. He also argues that important positions in both national and county government are occupied by the Tugen and Ilchamus, who are supposedly well educated than the Pokot. The Pokot are stereotyped as raiders and warmongers. Further, he argues that, the Pokot have had all their economic opportunities closed, yet they are the ones who have to account for the rampant insecurity (cattle rustling) in the region, and to some extent, for their perceived backwardness. He even argued that it is the Ilchamus who opened the floodgates of war and the Pokot only retaliate in a bid to dehorn them before they grow wild. He adds that their neighbours steal from and kill them yet the government does not come to their aid. The moment the Pokot take matters into their own hands, he says, the government reacts fast. The Pokot have, according to him, concluded that government is not for them.¹²⁷

4.3.3 Inadequate Resources and Enforcement Policies

In addition, holding of peace meetings in some instances, require feeding and accommodation facilities. Provincial administration lacks the funds for such necessities thus, it relies on non-governmental organizations whose main aim is not to curb the problem but generate revenue for them. Their engagement is “under dosage” of the prescription. They like holding their meetings within comfort zones of urban areas, mainly in big hotels. This does not correspond to the conflict zones which in most cases are located far in the interior.

Reliance on donors for facilitation strains the connection between the government and participants. In most cases, it is the donors who select the participants. The selected individuals, alleged perpetrators, implementers of the resolution as well as the government observers, have no binding connections since they do not owe their presence to the

¹²⁷ Oral interview, Mzee Nakan Alube, Paka village in Baringo County, 24th August 2018

government. In the event of allowances, it is the donors who pay, and thus, they set the priorities. This disconnect does not provide a proper channel for solving the problem. Neither does it facilitate a means for follow up or evaluation of the implemented goals thereafter. This complicates the problem even further.¹²⁸

It has also been noted that lack of allowances and remunerations for those working in the banditry prone areas of Baringo, has affected government grip on cattle rustling problem. For decades, many Kenya Police Reservists for instance working in the area have lost their lives protecting their communities from external aggressors. Others have been maimed. Despite the effort and time they put in, many of them are expected to work voluntarily. The successive governments since the establishment of the unit, some 68 years ago, have continued to ignore them. The result of the neglect is more evident in Baringo County where a high number of destitute children roam around or have sought shelter with relatives. Most of their fathers, who served as police reservists, were killed while protecting their communities. A number of widows have opted to be second or third wives so that their children could have fathers. Due to the poor economic state of the reservist, many are said to have crossed the line and joined bandits into raiding as this is in most cases economically more beneficial than serving government voluntarily. Lack of allowances extends to the police who are entitled to night out allowances when in hardship areas to which Baringo is one of them. However, in Baringo it has been noted that many of the security personnel do not receive such allowances. This has demoralised the very individuals who are supposed to pursue/ arrest the rustlers.¹²⁹

According to Rev. Peter Chemaswet, the inability of the government to provide security to the population in Baringo has, therefore, created a necessity for self defence. The aim of cattle rustling has thus moved from a cultural practice to an economic one, with the aim of acquiring money for arms. Tribal conflicts are common and communities need arms to protect themselves when the governments fail to do so, and meat traders provide an easy source of money to buy arms, he added. Raiding is, therefore, used as a means to acquire funds to buy arms for communal defence.¹³⁰

¹²⁸ Kenya Human Rights Commission [KHRC].2001. Raiding Democracy: The Slaughter of the Marakwet in the Kerio Valley. Nairobi: KHRC, pp.2-11.

¹²⁹ Kenya Human Rights Commission [KHRC].2001. Raiding Democracy: The Slaughter of the Marakwet in the Kerio Valley. Nairobi: KHRC, pp.2-11

¹³⁰ Ibid

In education, the government together with the communities has established various schools within the affected communities to enlighten the populations and keep young people away from the influence of banditry. However, though the schools exist in most areas occupied by the communities, it was established that enforcement of education in the areas is inadequate. The NARC government's free education programme for instance, did not bear much fruits among the Pokot and Ilchamus due to lack of enforcement. For Tugen, the response was positive due to political sensitization and efforts made by village chiefs. Because of lack of the enforcement, a majority of schools in the region are empty. This coupled by lack of transformative agencies like religious institutions has hindered the exposure of the Pokot to the outside world. Churches and mosques are far and sparsely spread among the Pokot. Also, the available schools lack teachers and learning facilities. The Pokot, due to neglect of education, have very few teachers of their own. They, therefore, have to rely on neighbouring communities to supply them with teachers. However, due to the fragility of security in the area, many teachers posted there end up seeking transfers or not taking up their appointments. People in the region are suffering; they have infrastructure for schools but no human and material resources. Same applies to clinics which have no doctors or medicine. This militated against affected any meaningful change in attitude through schooling.¹³¹

4.3.4 'Urbanisation'

Small towns' growth in the dry lands has also influenced changes in the livestock marketing dynamics. Small butchers and micro-dairying operations have proliferated in many towns in Kenya and other regional countries to meet the demand for meat and milk. In these towns, sedentary herders as well as migrants have come from other areas. This has resulted in the emergence of commercialized cattle-rustling where wealthy businessmen, politicians, traders or local people pursuing economic objectives finance raids among the pastoral communities. This has negatively affected government's effort of abetting cattle rustling as increased demand for meat products as well as the commercialization has often intensified the rustling. A 2010 study commissioned by the Kenya Human Rights Commission also echoed this view, claiming that the meat-loving urbanite Kenyans are the unsuspecting accomplices of these unscrupulous businessmen. Livestock markets like Dagoreti, Njiru and Waithaka in Nairobi

¹³¹ Oral interview, Musa Terter, teacher, Tiaty, Baringo County, 8th September, 2017

are thriving. Transporters from Samburu, Isiolo and Moyale, a border town near Ethiopia, come to Nairobi to offload and slaughter cattle, sheep and goats for urban consumption.¹³²

“We will travel back to Garissa tomorrow by bus to bring more goats. The demand here in Nairobi is very big. We are making good money from this business,” argued Abdi Farah, a livestock trader and transporter. Farah earns 100 Kenya shillings for every animal he brings to the city but, he says, transporters like him never find out the source of the animals that he delivers. “We know some of the livestock are stolen but we just buy because we want the best price. Stolen cattle are sold much cheaper,” Farah said.¹³³ The high demand for beef locally and internationally has created a ready market for rustled animals. The commercialization of cattle rustling has taken a notch higher demanding more pro-active and holistic approaches of resolution, something that government has not managed to do.

According to the National Conflict Mapping and Analysis Report, the pastoral communities of Baringo suffer both physical and psychological insecurity associated with cattle rustling. Physical insecurity manifest in death, injury, or when raiders burn and destroy property, families are displaced. The remaining family members having witnessed the atrocities, suffer psychological stress, are traumatised and unable to lead normal lives. The report indicates the need for closer working relationship between government operatives in the county and locals in a bid to address the deep-lying causes as well as the effects of the insecurity associated with raiding. This however has not been forthcoming due to the top-down approach of government which hardly considers the locals in its peace programs.¹³⁴

Failure to resettle or return those affected by raids has compounded the government’s efforts to address cattle rustling. Conflict in the county has further marginalized already vulnerable women. In the course of the conflict, men are killed leaving burdened women with the task of raising the children alone. Many of the women engage in the selling of illicit brew and charcoal to make ends meet. Also prominent in the region is conflict induced displacement which adversely affects the standard of living of women, the aged and children. Susan Masiah, like many other women, knows what it means to move from one home to another

¹³² Kenya Human Rights Commission [KHRC].2001. Raiding Democracy: The Slaughter of the Marakwet in the Kerio Valley. Nairobi: KHRC, pp.2-11.

¹³³ IRIN. 27 March, 2014. Cattle-rustling and the Politics of Business in Kenya, available at <http://www.irinnews.org/report/99846/cattle-rustling-and-politics-business-kenya>

¹³⁴ National Steering Committee on Peace Building and Conflict Management Secretariat & Ministry of State for Provincial Administration & Internal Security National Conflict Mapping and Analysis: Peace and Conflict Trends in Kenya (2010), p8.

because of conflict. The mother of five from Kapindasim village moved to her eighth temporary home at Marigat junction. Like many other families, agony, fear and pain cloud the humble family that is struggling to put a single meal on the table. Due to the loss of cattle, goats and land, she lost her livelihood and source of maintenance. The education of her children is continuously affected as they always change schools whenever they change homes.¹³⁵ She argues that as long as people continue to live with adversities of raiding, it is difficult to attain peace due to the constant reminder of the past. Until such a past is erased from her memory by being resettled, the government's peace programmes is just but a pipe dream.

Inadequate policing and security provisions have been found to increase criminality and unruliness. It then results in lack of control of the porous borders. The security gaps provide criminals and armed groups with leeway to do as they please. Lack of adequate security increases cross border proliferation of illegal arms trade, cattle rustling and competition over pasture and fertile farming lands.¹³⁶ There is a presence of state security forces in conflict areas, but they are not able to manage the problem because the porous borders are not controlled adequately or sealed and this problem leads to the proliferation of small arms in Baringo, where there exists a ready market. This has combined with the aforementioned factors on the ground to render much of the pastoral Baringo into endless conflicts.

4.3.5 Ethnic Politics

According to ole Mpaka, local politics in Baringo have had an influence on the recurring conflict and the insecurity experienced by the communities. Political issues are playing out in the areas affected by conflict and insecurity. For instance, the behaviour of local chiefs has been found to be questionable regarding conflicts in their communities. Chiefs are alleged of having a hand in the violence as some are caught in the middle as chiefs of their communities and duty bearers as state officials. The chiefs may play dual roles in the conflict; they may be promoters of the armed raids so that they can receive part of the raided stock as well as distribute ammunitions to the bandits. Additionally, chiefs have been found not to disclose guns available in their communities as a form of loyalty towards their community members.

¹³⁵ Kenyan National Commission on Human Rights :Public Inquiry on Insecurity in the Baringo and the North Rift of Kenya, October 2015. Pp.2-21.

¹³⁶ Bagine, R., 'The Non-State Actors Facility - Pact - Kenya (ACT!) Midterm Evaluation Report' <http://www.sida.se/contentassets/>, Accessed October 5 October 2015

On the 3 of March 2015 the County Commissioner for Baringo, Peter Okwanyo, gave chiefs in Baringo notice over insecurity and cattle rustling.

Ethnicity has also been cited as a major hindrance to peace and unity in Baringo. Patrick Kipkiror of Akoroyan sub-location argues that a number of politicians within the three communities take advantage of the ethnic differences to consolidate political power. It has been argued that among the Pokot, there is deliberate arming of cattle rustlers in exchange for political backing. Thus electioneering period coincides with increased acquisition of ammunition by the raiding youths which, in turn, pay back by ensuring the loyalty of their families and friends remain with the arming politician. Even the county electoral positions attract such approaches, hence the division of seats in the county assembly are done on the basis of community/ethnicity. The Ilchamus and Pokot in Baringo have complained of the dominance of their neighbour, the Tugen, in the allocation of county administrative positions. The Pokot have even demanded to be given their own county or be enjoined with their tribesmen in West Pokot County. This rift has meant that an aspirant who is seen as championing the interests of his/her people and blames the other community receives most backing by the electorate. Since cattle rustling is a major issue in the county, those strengthening their people against their neighbours are seen as 'saviours'. This has ensured continuous flow of arms to the warring communities even after government's disarmament programmes have taken place. With arms, the marauding youths take it upon themselves to acquire wealth by raiding their neighbours. This result in counter raids creating a vicious cycle of raiding and violence that makes the periodic governmental interventions less fruitful.¹³⁷

Politics in Baringo have been marred by ethnicity since the dawn of independence. Politicisation of ethnicity has become the strongest single determinant in the domain of governance in the county. Increasingly, it has been argued that cattle-raiding is motivated by competition for political power and resources: political barons use organized attacks to drive out their political rivals and extend their business interests. The 2010 constitution heavily devolved power and resources to the grassroots and this has, in turn, increased competition for political power and resources in formerly marginalized areas. And, consequently, issues like cattle-rustling have transformed from being cultural to a tool to consolidate power using

¹³⁷ Oral interview, Patrick Kipkiror, Akoroyan Sublocation, Baringo North Constituency, Baringo County, 24th June, 2017

violently acquired wealth. The ethnicization of politics has rendered government's effort to address cattle rustling hapless as politicians often take sides in the fight against this practice. This has provided a strong impetus to rustlers who feel supported and protected by their political cronies.

4.3.6 Unequal Resource Distribution and Poverty

Also given the historical nature of inequality and uneven distribution of wealth within the region, the result of which has been low income and deeply entrenched economic disparities often with an ethnic dimension, can be rightly noted as the backbone of the conflict. In as much as poverty and low incomes can be resultants of conflict, they are also conflict drivers. These factors have limited the possibilities for a conclusive resolution of the conflict by state apparatus.

In a Poll Agency research conducted in Baringo, participants identified poverty, inequality and youth unemployment especially of young men, as contributing factors to the problem. Young men said that, in reality, the loss of the family means of subsistence had eroded their economic status. One of the participants in the focus groups highlighted that the inability of societal and political institutions to address issues of conflict will ultimately lead to underdevelopment, such as low economic growth, and may result in disillusionment that may result in individuals or groups arming themselves to raid so as to improve their status.¹³⁸

The Kenya country office of UNICEF report of January to March 2014 states that 'The food insecure population increased from 1.5 million in August 2014 to 1.6 million people in February 2015, due to poor rainfall performance in the last short rains season (October to December 2014).' The report additionally indicates that the food insecurity improved in the north of Baringo County, where concentration of food insecurity moved from crisis to stress. Long dry seasons, drought and poor rainfall are adversely affecting agriculture and livestock as the main food producers.¹³⁹ The Tugen Hills produces coffee on a small scale, food crops like cereals, fruit trees and horticultural crops are produced, and Kerio Valley has the

¹³⁸ Poll Agency: Insecurity may disrupt voter registration Standard Digital 7 May 2015 accessed 15 September 2015 and is available at <http://www.the-star.co.ke/news/rift-valley-security-chiefs-complain-uhuru>

¹³⁹ UNICEF Kenya Country Office Humanitarian Situation report January to March 2015, 1. http://www.unicef.org/appeals/files/KCO_Humanitarian_Situation_Report_Jan_Mar_2015.pdf (accessed 15 September 2015)

potential for cotton. In Marigat, Kollowa and Barwessa, livestock and beekeeping are the major sources of economic activity.¹⁴⁰

Poverty which is linked to inequality and uneven distribution of wealth was also established as a catalyst for violence and persistent conflict in Baringo. As highlighted by the KNCHR's report entitled, 'A country under siege: The state of Security in Kenya an Occasional Report (2010 - 2014)'. The conflict in the region has led to a significant drop in tourism, GDP and unemployment amongst the youth previously employed within the sector.¹⁴¹ For a marginalised and conflict affected region, the impact has been devastating. Also linked to unemployment, low income and inequality, is corruption. These factors have made the capacity of the government to resolve the conflict difficult since there is multiplicity of factors to be addressed.

Chronic poverty and low income give rise to deeply entrenched grievances especially along ethnic lines which is a major factor that triggers the recurrent nature of the conflict. Therefore, durable solutions addressing the root cause of poverty, low income and economic disparities within the region should strongly be considered by government if it is to solve cattle rustling in Baringo County.

4.3.6 Erosion of Traditional Culture

According to Kipturgo Amdany, a former Councillor, the erosion of traditional governance structures has led to a power vacuum that is increasingly filled by political leaders and other power brokers who grasp the opportunity to renegotiate boundaries and access to land. They have realized that on the national level, ethnic mobilization has played a major role in political struggles, and they carry these dynamics even into the remotest pastoralist areas, where the personal or clan struggle for land is progressively turned into ethnic conflict. In this context, livestock raiding emerges as a specific form of violent regulation: a well-adapted, dangerous, and powerful political weapon. Bearing in mind the penetration of politics into cattle raiding, it has become hard for the government to settle the conflict since in most cases, the local politicians are the same individuals used to organise the peace meetings.¹⁴²

¹⁴⁰ Baringo County Annual Development Plan (2015-2016) p.4.

¹⁴¹ Kenya National Commission on Human Rights 'A country under siege: The state of security in Kenya an occasional report (2010 - 2014)' (2014) p.50.

¹⁴² Oral interview, Kipturgo Amdany, Kalabata village, Baringo North, 24th March, 2017

4.3.7 Proliferation of Arms

According to the National Steering Committee on Peace Building and Conflict Management Secretariat and Ministry of State for Provincial Administration and Internal Security, the availability of arms in the county emanates from the conflict situation in the Horn of Africa. The recurring and devastating conflict in Sudan, Ethiopia, Uganda and Somalia since the 1950s is causing the proliferation of small arms into Kenya. Due to the history of underdevelopment and marginalisation of pastoral areas including land degradation and competition over natural resources, small arms have been taken up by bandits in these areas to rustle and terrorise communities. Armed pastoralist groups engage in cattle rustling to, among others, replenish herds after droughts, diseases, raids and social practices, such as bride price and heroism. Furthermore, there has been increasing commercialisation of cattle raiding where livestock is raided to meet the urban demand for animal products. The commerce is facilitated by middlemen who provide transport and markets for sale. Additionally, the animals are sold locally to buy weapons.¹⁴³ The emerging trend in the cattle rustling and its link to increased proliferation of arms has made government's efforts of addressing the problem futile. This is because government's approaches to reduction of arms among the pastoralists of Baringo bear little success as the disarmed persons arm themselves almost immediately due to readily available fire arms for purchase.

4.4 Conclusion

Cattle related conflicts have been very prevalent for ages among the Tugen, Ilchamus and Pokot communities of Baringo County. Several efforts at both the legislative as well as administrative levels have been made to address the conflicts. The government has established police posts in the conflict areas, constructed schools and health centres and improved infrastructural facilities in the area in order open up the area and reduce instances of raiding and conflict.

However, in 2010, The National Conflict Mapping and Analysis Report established that cattle raids were prevalent in the area despite the various approaches taken by government to bring security in the region. There are various factors that have been established to contribute to the persistence of cattle rustling and conflict among the three communities. They include divisive politics, unequal resource distribution as well as proliferation of small arms and light

¹⁴³ National Steering Committee on Peace Building and Conflict Management Secretariat & Ministry of State for Provincial Administration & Internal Security National conflict mapping and analysis: Peace and conflict trends in Kenya (2010), pp 5-11.

weapons in the region. These factors have made the county to remain embedded in a vicious cycle of cattle conflict despite the government's effort to address the problem.

CHAPTER FIVE

INDIGENOUS MECHANISMS OF CONFLICT RESOLUTION

Introduction

Conflict resolution is conceptualized as the methods and processes involved in facilitating the peaceful ending of conflict and retribution. Committed group members attempt to resolve group conflicts by actively communicating information about their conflicting motives or ideologies to the rest of the group (e.g., intentions; reasons for holding certain beliefs), and by engaging in collective negotiation.¹⁴⁴ Dimensions of resolution typically parallel the dimensions of conflict in the way the conflict is processed.¹⁴⁵ A wide range of methods and procedures for addressing conflict exist, including negotiation, mediation, mediation-arbitration, diplomacy, and creative peace-building.¹⁴⁶

The term *conflict resolution* may also be used interchangeably with dispute resolution, where arbitration and litigation processes are critically involved. Furthermore, the concept of conflict resolution can be thought to encompass the use of non-violent resistance measures by conflict parties in an attempt to promote effective resolution.¹⁴⁷

Colonialism impacted the social, cultural, political and economic aspects of Africans in the most fundamental and radical way. With colonialism, a western legal tradition premised upon an Anglo-American jurisprudential thought was imposed on Africans. African values, norms and beliefs, which provided the normative and undergirding framework for conflict resolution, were severely weakened, undermined and disregarded. However, the resilience of African justice systems across African states, illustrates that they still occupy a central place in the world of dispute resolution in Africa. This explains the move among African states towards recognizing them in laws and policies.¹⁴⁸

¹⁴⁴ Forsyth, D. R. 2009. *Group Dynamics* (5th ed.). Boston, MA: Wadsworth Cengage Learning, pp. 2-33. ISBN 978-0495599524

¹⁴⁵ Mayer, B., 2012. *The Dynamics of Conflict: A Guide to Engagement and Intervention*: San Francisco, CA: Jossey-Bass, pp. 4-29. ISBN 978-0470613535.

¹⁴⁶ Methods, Conflict Resolution (14 March 2016). "Conflict Resolution". www.wisegeek.com/what-are-the-different-types-of-conflict-resolution.ht, Retrieved 14 March 2016

¹⁴⁷ Roberts, Adam; Ash, Timothy Garton, eds. (3 September 2009). *Civil Resistance and Power Politics: The Experience of Non-violent Action from Gandhi to the Present*. Oxford, UK: Oxford University Press.

¹⁴⁸ Kariuki, F. *Conflict Resolution by Elders in Africa: Successes, Challenges and Opportunities*, P.1.

Amongst most Kenyan communities, there are frameworks that are in place for the resolution of conflicts and for preventing their escalation into violence, thus threatening the social fabric. The institution of elders is one of the crucial institutions for conflict resolution in most societies. Even in countries with no formal state recognition of the institution of elders, it has remained resilient and continues to exist outside the spheres of state influence. In dispute resolution, the institution of elders can be organized in two main ways: the council of elders or a single elder. The council of elders usually consists of more than one elder and thus acts as a form of third party collegiate dispute resolution system.¹⁴⁹ The second form of organization is where a single elder presides over the dispute resolution process. The most basic example of this organization is where a patriarch or the eldest individual in an extended family resolves the disputes relating to that family. In some communities, an elder has a position of authority such as chieftainship or kingship to resolve disputes among the members of the communities, clans, ethnic groups or tribes.¹⁵⁰

Among the Tugen, Ilchamus, and Pokot of Baringo County of Kenya, various methods are applied by the different resident communities in resolving conflicts. These communities apply different mechanism to different conflicts.

5.2 The Meaning of Peace among Communities in Baringo County

African traditional understanding of peace, according to Rev. Peter Chemaswet, varies slightly with the modern concept of peace. He observes that in traditional Baringo, peace is not seen as an absence of war. He points out that:

“In almost all the cultures of Baringo, peace was equated with ‘freshness’, health, well being, harmony, calm and tranquility. The absence of such qualities was seen as the sign of conflicts, which could be either latent or overt. It was that harmony and freshness which provided herders with healthy and productive livestock, farmers with good crops, Ilchamus fishermen with abundant catches and hunters with game. When there was enough food for everyone, peace would reign in homes and families, clans and tribes. As nobody had any reason to be envious of others, neighbouring communities could live in peace, visit one another during the off-seasons and attend marriage parties and funerals”.¹⁵¹

It is interesting to note that respondents from both the Pokot and Ilchamus (Mzee Atopongura and Ole Meiguran respectively), also confirmed the above notion. Rev Chemaswet adds:

¹⁴⁹ Fayemi A.K. 2009. Agba (Elder) as Arbitrator: A Yoruba Socio Political Model for Conflict resolution-A Review of Lawrence O. Bamikole” *Journal of Law and Conflict Resolution* Vol 1(3) pp 60-67.

¹⁵⁰ Ibid.

¹⁵¹ Oral interview, Reverent Peter Chemaswet, Kabarnet Town, Baringo County, 10th September, 2017.

“In order to strengthen peace, the customary law among the Tugen in Baringo for instance, encouraged people to uphold the principles of tolerance, respect, consideration for neighbours and inviolability, respect for human rights and equality, which constituted the basic pillars underpinning the culture of peace.”

In addition to the above values, is a traditional customary ethnic among the three communities which state that captives, the sick, women, children and the elderly should not be killed during conflict. Among the Tugen, according to James Kiptil, there is a saying, “whoever kills the above categories is considered a coward and is therefore, ostracized. Other than being a sign of cowardice, attacking such category of society breeds perpetual conflicts.” The culture of peace underlying the three communities’ customary law also covers non-combatants and civilians.

5.3 Indigenous Mechanisms for Resolution of Marital Conflicts

Many marital conflicts have been reported in different parts of Baringo. In the majority of Baringo societies, polygamy is and has traditionally been an accepted practice with the number of wives acquired by a man being determined by the number of cattle he can master for bride price. Throughout history, money and property have been exchanged as a substantial part of marriage settlements. For many societies these transactions represent more than token offerings, and are often a source of considerable financial stress for the giving family.¹⁵²

Among the Kipsigis of Kenya, the value of bride-wealth payments amounts to a third of an average man’s livestock holding.¹⁵³ Various models have been proposed for the interpretation of marriage transaction. From an evolutionary perspective, they can be viewed as forms of sex-biased parental investment. Parental investment theory posits that it is adaptive for parents to allocate resources among their offspring so as to maximise their own long-term inclusive fitness. As in most animal species, in humans the variance in reproductive success is greater for males than it is for females. Sons are, therefore, likely to benefit more than daughters from the investment of wealth. As expected the frequency of forms of male-biased parental investment, such as bride-wealth, was observed to increase with degree of

¹⁵² Gies, F, and J Gies, 1989. *Marriage and the family in the Middle Ages*. New York, NY: Harper & Row, p. 10.

¹⁵³ Borgerhoff Mulder, M 1988 Kipsigis bridewealth payments. In *Human reproductive behavior: a Darwinian perspective*. L. Betzig, et al, Cambridge: Cambridge University Press. Pp. 67.

polygamy.¹⁵⁴ Worldwide, bride-wealth is a common and widespread practice, whereas dowry is rare and geographically clustered. According to Hartung:

“Among the Tugen of Baringo family conflicts were common. They arose from issues like negligence, lack of conjugal rights, provision of essential goods and services needed to maintain and sustain family members and non-payment of bride price in case of elopement. For instance, in the event of elopement among the Tugen, the family of man eloping with the lady, as a sign of remorse, could stealthily bring a goat and tie on a tree outside the homestead of the girl’s parents and then leave. This was called *kiparaan*. This was a gesture of remorse and a sign of apology by the family of the boy. Within three days, the boy and his family would show up to officially identify themselves and request for the girl.”¹⁵⁵

Bride price payment was a communal concern where clan members contributed. The problems arising out of the resultant marriages were subsequently addressed communally. In the event a wife went back to her parents, family elders of the husband, his age sets mates (*Bakule*) and the elders of the wife could meet in the woman’s parents’ home to deliberate of the issue. *Bakule* was an individual with whom one shared a gourd after circumcision. The gourd contained a mixture of milk and blood. The two individuals became attached to each other for life and they were supposed to be the first to be informed whenever there was a problem.¹⁵⁶

The husband could also organise emissaries to lure her into a meeting with the husband. The emissaries comprised of the wife’s friends or the husband’s aunties. The failure of the emissaries and age-sets led to intervention of elders. In the event the mistake by the husband was grave, he was forced to present a goat for slaughter as a cleansing ritual. A spotless white or red she-goat was slaughtered by elders from the husband’s side. Crimes that warranted this sort of punishment included beating the wife to a point of miscarrying. When the dispute was resolved, the lady could be given foodstuffs, including milk to take to her husband. The final arbiter in family disputes among the Tugen and Pokot was *motiryoon*. Among the Ilchamus he was called *Enkiyiew* (translated into ‘chest’).¹⁵⁷ This style of marital conflict resolution was also applicable to the Pokot and Ilchamus where the decision of the elders was final.

5.4 Resource Conflict and Indigenous Resolution Mechanism

Most resource conflicts among pastoralists are predetermined by climatic conditions like drought which increase competition for resources like pasture and water for livestock. In

¹⁵⁴ Hartung, J. 1982 Polygyny and Inheritance of wealth. *Current Anthropology* 23(1), pp.1-12.

¹⁵⁵ Ibid

¹⁵⁶ Ibid

¹⁵⁷ Ibid

most cases in arid, it is possible to anticipate resource conflicts. In the past, elders could be sent to a neighbouring community's elders to inform them of his community's wish to cross over for grazing. According to senior chief (rtd) Jones ole Kirati, this pre-information was aimed at reducing conflicts by getting clear instructions on where to and not to graze. In most cases, the elder was given a list of things that the grazers were supposed to bring when coming to graze, as a token of appreciation. The token included things like tobacco, beer, and in most cases, a bull was slaughtered and shared by the two community elders. After this, the herdsmen from both sides also slaughtered and shared a bull. Rev. Chemaswet claimed:

“Land boundary conflicts among the three communities were resolved when they arose through consultation by community or clan elders. Land was mostly demarcated using natural land marks like rivers, mountain ridges or hills. Traditionally, there were no individual-owned farms.”

5.5 Role of Women in Indigenous Conflict Resolution

According to Mzee Atabarus of Tangelbei area:

“Among the three communities, women used to play a vital role in conflict resolution and peace-building. This is not to say that they were not perpetrators of the conflict. For instance, among the Pokot, women particularly mothers, used to psyche their sons to be ‘real men’/ (warrior). That was done through inciteful statements in songs during communal events. This in turn forced the young men to commit crimes or fan conflict. However, in case the young warriors disobeyed their mothers, the mothers could remove their waist belt and lay them on the foot path used by the warriors on their way out for raids. This was done by either their mothers or their mothers’ age mates. Lactating mothers could also intercede in the event that the young men committed a crime by squeezing out milk from their breasts in the presence of the offending youths as a sign of disapproval of the young men’s actions, thereby cursing them. However, the laying of the belts on the foot path used by the warriors was considered the ultimate curse. Whoever crossed that belt (which was rare) was destined to die wherever he was going to. The women therefore used this, to deter young people from engaging in unsanctioned activities like banditry.”¹⁵⁸

Joshua Chepserton argued that in addition to reprimanding the wrongdoers, women also played a critical role in educating the children on community values and virtues. He notes:

“The education of children was the preserve of women and that it was they who played the greater part in transmitting important traditional values to future generations”.

Thus an important conclusion to draw from the trend of results of the study in relation to the notion of values’ education and indigenous conflict resolution in traditional Pokot, Tugen and

¹⁵⁸ Oral interview, Mzee Atabarus, Mukutani Village, Baringo County, 5th May, 2017.

Ilchamus communities, is that women play a dominant role in the transmission, propagation and consolidation of the critical values that generate peace and harmony in their societies.

Little wonder then why respondents had complained that most of traditional values among the communities have either been ignored or been abandoned. They spoke of the ‘deterioration and breakdown of positive values. Chepserson stressed of the growing lack of restraint, intolerance and violence in Baringo communities being not different from those modern conflicts witnessed elsewhere, in which even previously safe categories of people like children and women are attacked whenever there is violence. That being the case, John Kisang of Kinyach in Bartabwa claimed:

“It has become a matter of urgency to rehabilitate the culture of communities living in Baringo especially that dealing with the conduct of conflict and restore its prestige, so that it contributes today, as it did in the past, the making of a balanced and cohesive society. In my view, the first step toward this should be to redefine the role of the family and the mother in our contemporary society. The family and the mother must return to being what they used to be in traditional society, namely; the framework for perpetuating the society’s cultural identity, positive values, and the custodian of that identity, and social behaviour.”¹⁵⁹

According to Musa Terter of Tangelbei, traditionally, wars in the area were mostly fought far from the reach of women and children. However, in the event that a woman found men from within Pokot community fighting, she could order them to stop. Failure to which, she could undress – if she was of the same age as the fighters’ mothers – and curse them. Women of younger age could shout inviting the attention of older ones who eventually brought the fight to an end. In the Pokot, as is the case with the Tugen and Ilchamus, a woman age-mate to one’s mother was treated very specially and whatever they said was in most cases followed to the letter.¹⁶⁰

In Baringo, the role of women in conflict resolution was cross-cutting among the three communities. The women adopted conflict preventive measures by preventing the youths from engaging in unsanctioned raids. To scare the youths from such activities, they as aforementioned, laid belts (these were traditional belts made from hides used by women who had delivered to restore their bellies to normal size) on the footpath to be used by the youths on their way to raids. Anyone who crossed the belt was not expected to return (none ever returned) from the expedition. The same ornaments were also used to resolve intra-family

¹⁵⁹ Oral interview, John Kisang, Kinyach Bartabwa Sub-location, Baringo County, 7th September, 2017

¹⁶⁰ Oral interview, Musa Terter, Tiaty Constituency, Baringo County, 8th September, 2017

conflicts. In the event that a son abused his mother or mistreated his wife bringing shame to the family, the mother to the son could hit him with the belt. This brought an instant curse that could follow his lineage. However, such extreme measures were a rarity and were only applied in the event that the actions done or to be done by the youths were meant to bring harm to the family, clan and community (however, this was considered a means of last resort).¹⁶¹

Women were however, not allowed into most peace meetings in traditional Tugen, Ilchamus or Pokot societies. These were majorly male-elder issues, save for cases of adultery where old women and age-mates of the offending woman were allowed. The elderly women acted like jurists in the case of adultery. They were to listen to the case from the offending woman first, and then make their findings that would be passed over to the male elders for execution. In the case of minor offences, they were at liberty to dispense it off, without bothering the elders (such cases included a woman abusing her mother in law, beating her stepchild or refusing to fetch firewood). There were some issues that could not be put to public such as exposing a man's sexual weakness in front of a gathering, hence the acceptance of women elders. Elderly women could hear the issue from the woman and then pass it to male elders who would then decide on how to punish her based on her reasons for the extra-marital affair. In this case, both men and women of a certain age (mostly those beyond the child bearing age) could congregate in conflict resolution. They affirmed the decision reached at, and disseminated the decision to other women who were not yet 'ready' to attend the meetings. The importance of their attendance (young women) was to create a pool of future educators who were to educate fellow women on implications of cases like adultery, rape and other issues related to women in the community.¹⁶²

In the event of a family dispute between couples leading to separation, elder women and age-mates of the woman were used as go-betweens in negotiating the reconciliation of the couples. According to Kobilo Kamuren of Koroto village, Bartum location:

“The old women could negotiate with their counterparts from the woman's clan in a bid to iron out differences and have the woman return. Her age-mates on the other hand were sent to meet her and find out if there were issues she wished to tell them privately, since it was believed that there were things she could not tell her elders directly but she could pass them on to her age mates. The friends could

¹⁶¹ ¹⁶¹ Oral interview, Reverent Peter Chemaswet, Kabarnet Town, Baringo County, 10th September, 2017.

¹⁶² Oral interview, Sokome Kiptoon Buruch, Lake Baringo, Baringo County, 11th March, 2017

pass this information to the elderly women who then deliberated it with elders.”¹⁶³.

These observations show that women in communities under study played a strategic role not only in peace building but also in conflict mediation processes. They served as a bridge in peace restoration and conflict prevention when conflicts erupt in families, clans or against other communities. Although, for so many years, the strategic role of women in conflict resolution in contemporary Tugen, Ilchamus and Pokot societies has continued to be ignored, these findings suggest that this attitude is ill-advised. This is because it has been shown that women’s positive contributions in such ventures had never been in doubt. Indeed, it was women who led the way in many instances of conflict resolution processes, among Baringo communities of yesteryears. Despite their apparent self-effacement, women played a major role in restoring peace in the traditional society.

5.6 Role of Elders in Dispute resolution by the Tugen, Ilchamus and Pokot Communities

The use of council of elders as a conflict resolution mechanism is therefore, widespread and far-reaching. This is a common mechanism that has been used in resolving conflicts in many areas in Kenya. It is also a common institution in almost all communities in the country. The institution of *Wazee* (old men) exists in almost all communities in Kenya. It is ordinarily the first point of call when any dispute arises in the community and since most Kenyans’ lives are closely linked to environmental resources, it is not surprising that most of the issues the elders deal with touch on the environment.¹⁶⁴

Traditionally, Kalenjin community had a council of elders known as *Kamasian*. Among the Tugen, the council is known as *Boisiekap Kok*. Among the Ilchamus, the council is known as *Latiatemelak*, while among the Pokot, the council is known as *Boi*. Though known by different names, the councils serve relatively similar roles among the communities. The council dealt with disputes ranging from land, matrimonial disputes to murder. There were rules and procedures that the elders applied in resolving disputes. Family disputes were resolved depending on whether it is a monogamous or polygamous family. Disputes arising from a polygamous family are resolved by elders who are in a polygamous union. A

¹⁶³ Oral interview Kobilo Kamuren, Koroto Village, Bartum Location, Baringo County, 8th March, 2017

¹⁶⁴ Kameri-Mbote, P. 2005 “Towards Greater Access to Justice in Environmental Conflicts in Kenya: Opportunities for Intervention,” *IELRC Working Paper 2005-1*, p. 3 available at <http://www.ielrc.org> (accessed on 30/08/2012), p. 8.

monogamous man or woman cannot preside over such a dispute. For example, if a man in a polygamous union has a dispute with one of his subsequent wives, the parents of that particular wife would be asked by the council of elders to correct their child. The rationale being that it is the subsequent wife who is troublesome and not the man, as the man has lived peacefully with his other wives.¹⁶⁵

Where a man committed adultery with another man's wife, the man was made to pay several animals or refund the woman's husband his pride wealth. This was done as a punishment for his acts. Prior to payment of the payment, the culprit was beaten up by his age-mates for shaming the age-group. As for the woman involved, much of the responsibilities of punishing her lied with her husband. In most cases, the community went with the decision of the husband which could include sending her away back to her parents. She was also beaten by her age-mates too. In other instances, the wife's parents would be asked to pay a penalty to the husband's family. The rationale being that the wife had caused shame to her husband by sleeping with another man.¹⁶⁶

In relation to family land, disputes are minimal because an old man normally makes a customary oral will before he dies. The old man normally calls all his children and states how he wishes the property to devolve. Each child's share depends on respect towards his parents and whether or not he took good care of his father. Once the property is shared, and if it is land a boundary has been set, the old man would ask the children if there is any objection. If there is no objection at that time, then customarily none of the children could raise an issue regarding the distribution of the property when the old man dies as it is said that he is still watching over the living. Consequences for violating a customary will range from curses or even being struck by lightning. If there is any property, in the form of bride price that is paid to a polygamous family, such would only go to the girl's mother and co-wives cannot have claims to it. Such rules, according to the elders, ensured that there were very few or no disputes at all over family property. However, whenever any conflict arose, it was the duty of council of elders to deliberate and give direction.¹⁶⁷

Divorce cases, could be lodged by either the wife or husband. The wife could file for divorce for beatings, if the husband is not caring for the family or does something that could haunt the family in future, for example if he's a thief. The divorce procedure was that the matter was

¹⁶⁵ Kariuki, F. 2009. Conflict Resolution by Elders in Africa: Successes, Challenges and Opportunities, pp. 9-10

¹⁶⁶ ¹⁶⁶ Oral interview, Reverent Peter Chemaswet, Kabarnet Town, Baringo County, 10th September, 2017.

¹⁶⁷ Kariuki, F., 2009, pp.9-10, Op cit.

handled by elders. Each party presented its case. After hearing each side, the elders gave room for reconciliation before making any determination. If the elders realized that reconciliation is not possible, the divorce procedure was initiated.¹⁶⁸ Divorce involved both parties standing outside the house of the man's parents and near a shrine. Each party applied fat derived from cow's milk on the hands. The man is then asked to apply the fat on the woman's face while reciting the surnames of the girl (that are demeaning to her) 3 times and while declaring divorce. The woman did the same thing and recited the man's surnames 4 times.¹⁶⁹

If one killed another, such disputes were resolved by elders. However, for elders to hear such disputes it depended on whether the killing was intentional or not. For unintended killing, the elders would sit with the offender and both families and forgiveness would be sought. This would relieve and minimize bitterness on the part of the deceased family. If there was no bitterness, parties would talk and forgiveness sought. The elders can (in modern day) also write to the prosecutor or court (if a matter is already before a court of law) to have the matter withdrawn and resolved by the elders, or to refer a matter to court if they find it is beyond their capacity. If one admits that he killed unintentionally a cleansing ritual is usually conducted by elders to deter recurrence.¹⁷⁰ The ritual involves the slaughtering of a spotless ram in a nearby river. Reconciliation is then done with the deceased family and compensation agreed upon. If it is a man who has been killed, 9 cows are paid to the bereaved family and 11 cows if the slain person was a woman. Elders indicated that they currently do not deal with intentional killing or murder and such is handled by formal courts. However, it was reported that traditionally and in the early years, murderers would face mob justice or banishment from community.¹⁷¹

The concept of elders includes both male and female decision-makers. In the three Baringo communities of Tugen, Ilchamus and Pokot, majority of conflict resolution activities were conducted by male elders, though women were also crucial according to the conflict and its societal magnitude. Conflict resolution by elders among the pastoralists of Baringo is based

¹⁶⁸ Divorce is a rare occurrence and is viewed as a curse because of the vows people take at marriage

¹⁶⁹ It is said that the surnames recited that mostly childhood names that were used to refer to boys and girls and that were demeaning to a man or woman.

¹⁷⁰ Those who participate in the cleansing ceremony must be men of good social standing. Moreover, not everyone is allowed to attend the ceremony. It was also reported that those involved in traffic offences such as killing by reckless driving, must also undergo the cleansing ritual. Similarly, warriors involved in cattle raiding must be cleansed after raids.

¹⁷¹ Op cit, Kariuki, F:11

on social/cultural values, norms, beliefs and processes that are understood and accepted by the communities. For that reason, people are able to abide and comply by their decisions. As a man grows old, his prestige increases according to his age. An elder's seniority makes him almost indispensable in the general life of the people. As such the presence or advice of elders is sought in all functions and matters including dispute resolution. Elders hold supreme authority and customs demand that they be accorded due respect and honours (not only when they are present, but even when absent).¹⁷²

Respect for elders, ancestors, parents, fellow people and the environment is cherished and firmly embedded in the customs, taboos and traditions amongst the people. The admonitions, commandments and prohibitions of ancestors and community elders are highly esteemed as they reflect experiences which have made communal life possible up to the present. Due to the respect accorded elders, people avoid being in conflicting situations. In the past boundary trees, lilies and demarcation marks were ceremoniously planted and highly respected by the people. If the boundary trees or lilies dried out, fell down or was uprooted by animals, the two neighbours would replace it. But if they could not agree as to the actual place where the mark was, they could call one or two elders who after conducting a ceremony would replant the tree or lily.¹⁷³

Traditional justice systems play a great role in managing conflicts and maintaining social order among the Pokot community. Elders play a great role in preventing and resolving disputes among the Pokot society. Elders determined the use of water and grazing areas as well as migration patterns. Elders also took part in arbitration, mediation, dialogue, negotiation and other dispute resolution process both within and with other ethnic groups. Elders can enter into peace pacts with other communities. Among the Samburu the Pokot, the peace pact is known as the *mumai* for peace and military alliance.¹⁷⁴

Belief in superstitions and charms formed a great part of dispute resolution and prevention mechanisms among the pastoralists of Baringo. Belief in these superstitions served to reduce conflicts. Among the Pokot community for instance, there are indigenous warning systems

¹⁷² Oral interview, Kanyaman Lemeiguran, Ng'ambo, Baringo South, 20th August, 2016

¹⁷³ Ibid.

¹⁷⁴ Pkalya, R. et al., *Indigenous Democracy: Traditional Conflict Reconciliation Mechanisms Among the Pokot, Turkana, Samburu and the Marakwet*. Intermediate Technology Development Group-Eastern Africa, 2004), pp. 89-95.

about conflicts by looking at goat intestines and studying stars in the sky.¹⁷⁵ Among the Pokot, there is trial by ordeal in cases of murder where the suspects are made to drink water after washing their clothes. Other traditional practices in resolving disputes among the Pokot are the *Mummat*. The ceremony entailed drinking blood from a black he-goat for suspected offenders who had refused to own up. Someone could die for refusing to admit a crime and then drinking the blood.

Among the Tugen community, the council of elders played and still play important role in management of conflicts. The roles played elders in the three communities are relatively similar based on the commonality of their socio-economic and political lifestyle. According to rtd Senior Chief Leda of Marigat:

“Elders played an important role in presiding over peace events among the three communities. Whenever there was a conflict, it was the elders who reprimanded the wrong doers or cast spells on them. Among the Ilchamus for instance, there was a ceremony known as *Mumai*. Like Pokot’s *Mummat*, the ceremony entailed drinking of blood from a black he-goat. It also involved usage of *Lomanira* or *Seki* trees. The trees were used in pairs; one dry and another on that wasn’t dry. A suspected wrong-doer would be asked to pick one of the two. Picking the dry piece of tree showed one claimed to be innocent but if he picked the green fresh tree branch it showed he admitted guilt. In the event that someone lied in his choice of the tree, elders could cast a spell through word of mouth. In the event that someone falsely picked the dry tree branch, he/she could die/dry-up just like the dry tree branch. This was a way of solving cases in which there was no witness to the crime. Most accused persons prefer telling the truth so as to avoid the consequences. People presiding over such justice were mostly old men considered to be of good moral standing in the community.”¹⁷⁶

According to Amos Ole Chesuswo, the above ceremony was applicable to the three communities. He argues that most of Pokot community’s ceremonies and activities were closely related to many other Kalenjin sub-groups. The reason he gives for this is that the Pokot is not a community per se, but an amalgamation of people from the other Kalenjin communities. He observes that:

“Pokot is a collection of several Kalenjin sub-clans with an additional splinter group from the Ilchamus and another from the Turkana. The Ilchamus sub-clan is known as *Masurunya* or *Tungo* and resides in *Wei Wei Minning* while the Turkana sub group is known as *Sote* and resides in *Lokori*. It is argued that an old man known as Kiptore arp Kipkoong, a Sengwer from Kipteber in Cherangani hills once decided to use his spiritual charms to make peace with the Ildocho Maasai who populated the area of Baringo then. This was after a long period of conflict with the Maasai over

¹⁷⁵ Ibid, p. 94

¹⁷⁶ Oral interview, Senior Chief Leda (rtd), Marigat Location, Baringo South, Baringo County, 10th September, 2017

pastures and water in the area. Having applied the charms, the Maasai migrated south and westward of Baringo leaving behind excellent pastures for the mixed group of herders that inhabited Baringo then. To consolidate their future claim over the land and for unity purposes, Kiptone invited the herders from all the sub-tribes (who erstwhile were afraid of the Maasai) to graze in the vacated areas. A majority of this group comprised of the Tugen, Marakwet, Keiyo, Sabaoti and a clan each from the Ilchamus and the Turkana. To avoid conflict in the years ahead, he performed unifying rituals hence the word *Pokoot* translated as “*belonging to the same house or household/home*”. It is this kind of composition that makes resolution of conflict amongst these communities sometime workable.”¹⁷⁷

The role of elders in conflict resolution has been widely accepted across the three communities in Baringo. A case in point is the recent ambush (July 2017) on an Anti Stock Theft Unit Police patrol in the area of *Olmoran* in Laikipia by Pokot warriors. The incident saw six of the officers killed and their weapons taken away. The police force mobilized its units ready for onslaught on the community, but the elders requested for a meeting with the Inspector General of Police. Their request was readily granted and eminent old men from the *Talai* Clan, most of them foreseers, were selected. Their main agenda was to apologize for that incident on behalf of the community and request the government to allow them seek and return the weapons. Accompanying the team was Reverend Chemaswet from Mt Elgon and Ole Chesuswo from Kapenguria. Their prayers granted, they headed to *Amaiya* area which is on the border of Baringo and Samburu Counties, to meet other group of elders to deliver to them the government’s message. It was in that meeting that they used their ‘power of might’ (foretelling/foreseeing powers) to threaten the young men suspected to have conducted the ambush to surrender the firearms or be ready to face “them and God”. The fact that the government had recognised the foreseers and given the community time to correct their mistakes was welcomed by everybody involved.¹⁷⁸

After issuing the threats, they fixed another meeting in *Lonyek*, which is on the border of Pokot, Samburu and Laikipia Counties. The meeting was to be held after two days with the purpose being to collect/receive the firearms. True to their word, all firearms (six rifles and a pistol) were handed over to the elders (*Orkoiik*/foreseers) and thereafter, the government. This confirms the relevance of the power of spiritual threats in some African communities, particularly among the peoples of Baringo County.¹⁷⁹

¹⁷⁷ Oral interview, Amos ole Chesuswo, Kapenguria, West Pokot County, 17th August, 2017.

¹⁷⁸ Oral interview, Reverent Peter Chemaswet, Kabarnet Town, Baringo County, 10th September, 2017.

¹⁷⁹ Ibid

Kasur/Kesuur as a case of conflict resolution mechanism was used by Tugen elders cursing a wrong doer. This was mostly used in cases where no one came forward to claim responsibility for a given crime. The elders after deliberating on the crime at hand for a while without anyone coming to own up to the commission, the elders/an elder would stand up naked, holding a totem and dry leaves. The leaders – mostly one or two would face in the west (where the sun sets) uttering curses repeated severally by the selected audience. After which they lie on the ground with their faces down. While still lying down, they throw the leaves/shrubs westwards, followed by the same curses. After that, and in most instances, the outcome was that the wrong-doer would own up or come up to reveal the commission.¹⁸⁰

Various punitive measures were taken against individual criminals once their crimes had been established. For instance, among the Tugen and Pokot communities, a livestock thief was obliged to pay four times the amount he had stolen in addition to another number similar to those stolen. For instance, an individual who stole five cattle paid twenty five cattle. The two communities call this system of punishment, *kelien*. Among the Ilchamus, this punitive measure is known as *nyamu*. However, unlike the Pokot and Tugen, the Ilchamus require the thief to pay three times the amount stolen plus a similar amount to the one stolen. For example, a thief stealing five cows paid twenty cows as fine. The processes of punishing the individuals were often presided over by communal elders. In the event that an individual wrong doer was not in a position to pay the fine, the family, clan or entire community was obliged to make a contribution. This, thus, served as deterrence as individuals restrained their kins from such activities that would put the entire family or clan into suffering.¹⁸¹

5.7 Inter-communal Indigenous Conflict Resolution among the Three Communities and Dilemma of Elders

In most cattle raiding expeditions or counter raids, elders are key players in conflict resolution. They play a critical role in foretelling the raiders of the situation ahead of their departure, on conduct of the raid and thereafter. Though most of their predictions may not necessarily come out 100% true, the communities and indeed the warriors believe in them. These elders use their shoes, their walking sticks, flywhisks, cowrie shells, beads, fresh milk and other paraphanelia (including ornaments) as their tools of trade. This process is taken as their preserve and indeed it is, for the sole purpose of safeguarding the community's interests.

¹⁸⁰ Oral interview, Reverent Peter Chemaswet, Kabarnet Town, Baringo County, 10th September, 2017.

¹⁸¹ Oral interview, Reverent Peter Chemaswet, Kabarnet Town, Baringo County, 10th September, 2017.

By sanctioning these raids, the community "thrives" and the status of the elders as the divine or the chosen family remains intact. On returning from a raid, the raiders are kept in seclusion for a given number of days, in most cases seven days, during which cleansing rituals- *ntasim* (cleansing) are conducted by the same elders, before sharing their loot and joining their families.

The interesting part in this circus of sanctioning/ stopping cattle raids or traditional conflicts, are the players themselves. Across the three communities, the elders involved in sanctioning cattle raids belong to the same clan and share the same totem. However, there are cases where a person of a different totem can perform such tasks, though the fellow must have close connection (even if in the past) with the "chosen clan" (mostly nephews). These elders do not perform or conduct their business for free. They charge something, however small it may be (though they are not known to be greedy or exploitative, lest they devalue their worth). In resolving cross community conflicts, the answer lies in persuading one of their own (Lion - totem), and in particular the oldest from one of those communities, to come to negotiating table to discuss the issue. It is always unlikely that the invited elders decline such kind approaches and they often make the decision to talk to his 'relatives' on the other side/community. It might take a while and gifts from the arbitrating team to get going, but resolution is often arrived at nonetheless. Pokot, Ilchamus and Tugen elders involved in conflict resolution believe that they originated from the Biblical Levite group. They believe that they are connected to the Levites discussed in the Books of Exodus and Leviticus. Their roles to society are therefore derived from there.¹⁸²

The research found out that most of the indigenous mechanisms applied by the three communities in conflict resolution have similar consequences among the three groups. However, the penalties vary in some instance from the Maa speaking Ilchamus to those of Kalenjin speakers (Tugen, and Pokot). A case in point is that of murder. During cattle rustling lives are most times lost and property destroyed. The aggrieved community normally pursue or purpose to get justice from the aggressing community through negotiations by the elders as the best approach to securing amicable solutions and getting reparations. In the case of murder for instance, the Tugen and Pokot apply similar penalties, in which fine is normally paid in form of livestock, specifically cattle. In a case where a man is the victim, the penalty

¹⁸² Oral interview, Amos ole Chesuswo, Kapenguria, West Pokot County, 17th August, 2017.

is paid in phases starting with a young black bull which is sneaked at night by the murder's family/clan into the compound of the offended family. It is tied to a tree outside the compound on the right hand side of the path approaching the compound of the family of the deceased. As they wake up in the morning to find the bull, and by inspecting/identifying the earmarks to establish its owner (livestock are traditionally identified through the markings on their ears), they will then know from which family/clan the murderer comes from. The spread of clans with similar totems across the communities and those relations are highly respected. On identifying the earmarks and knowing the offending family/clan, then the next events in conflict resolution rests on the responsibilities vested on the *kwei mett or lapai* (Tugen and Pokot respectively) groups.¹⁸³

The payment of the black young bull is a demonstration of remorse by the offending family to the offended one. After the acceptance of the young bull, 8 cows and an ox to be slaughtered by the arbitrators on conclusion of their intervention are then assembled by the offending family. The eight cows are the supposedly worth of the forgiveness expected from the offended family. No matter how rich one is, the animals/penalty is taken as a clan/community issue and contributions are made by all members to meet the penalty. In the event that a women/female is the victim, the process is the same except that the number of animals paid as fine is less. The number of livestock is five, plus the "silent Ox" (one sneaked in at night), to be slaughtered by the arbitrators. The reason why the penalty becomes a clan/community problem is to share the bitterness of being collectively punished for a member's wrong doing, a case not worth repeating. The limiting figure of eight or five cows could be attributed to the size of the herd held by these communities, which is not normally that large to the Tugen/Pokot compared to the Maa speaking Ilchamus.¹⁸⁴

As for the Ilchamus, the mechanism applied in resolution of crime is known as *nkeru*. It is similar to the Tugen and Pokot one only that this involves heavier fine. The penalty for this act is Forty nine cows, regardless of whether the offender is one of their own or from a different community. In the case of their own community member being involved in crime the punishment includes expulsion from the community. Throughout the negotiation process, the offender/s is/are not allowed within the vicinity; only his/their relatives or community are

¹⁸³ Oral interview, Amos ole Chesuswo, Kapenguria, West Pokot County, 17th August, 2017.

¹⁸⁴ Oral interview, Amos ole Chesuswo, Kapenguria, West Pokot County, 17th August, 2017.

involved in the negotiation. This is to reduce the tension/misery of the offended having to see the one/s who took away their possessions.

The greatest dilemma facing the role of elders in conflict resolution is that often they have to bear the brunt of having to resolve conflict in which their communities, members and families are at times victims or aggressor. As such, the elders are faced with the challenge of making peace with neighbours or granting justice. These elders are at several occasions involved in sanctioning raids or counter raids. At some point, they are also involved in meting punishment to cattle rustling offenders. This study established that in most cases, elders from the Tugen and Ilchamus communities sanction counter raids against the Pokot viewed in most cases (by their two neighbours) as the aggressors when it comes to cattle rustling. To the Tugen and Ilchamus, involvement in conflict resolution is therefore, easier as they believe they are in need of peace more than the Pokot who are seen to benefit more from the conflict than the Ilchamus and Tugen.¹⁸⁵

5.8 Conclusion

This chapter sought to assess indigenous conflict resolution mechanisms that have been used in resolving conflicts in Baringo County. The Tugen, Ilchamus and Pokot communities possessed and still possess various cultural and traditional systems that have been used in indigenous resolution of local and inter-communal conflicts. The use of *Kamasian* and *Lamal* (jury in a baraza) among the Tugen, *Mummat* and *Mumai* among the Pokot and Ilchamus respectively have highlighted the importance of indigenous practices in conflict prevention, resolution and peace building in the region. The case of *Lamal* - imminent people in a Tugen conflict resolution committee for instance, - are used to resolve cases involving cattle theft. This group comprises of elders. They determine case and pass the verdict. Their decision is final and the winner of the case is in most cases compelled to slaughter a bull that is shared by all involved in the case. A bull is slaughtered if the case was grave and a he-goat if the case was minor. Petty offences could even involve local liquor made of honey for elders only.

However most of these cultural/traditional practices of conflict prevention/resolution and peace building have not been adequately studied and disseminated to increase the possibility of replication across several communities to achieve long lasting peace.

¹⁸⁵ Oral interview, Reverent Peter Chemaswet, Kabarnet Town, Baringo County, 10th September, 2017.

CHAPTER SIX

CONCLUSION

Conflict is not a new phenomenon in arid Northwest Kenya. For centuries pastoralist communities have periodically used violence to access land, water and to steal livestock from neighbouring groups. Yet, in the recent decades the cultural practice of livestock theft has experienced significant changes which in combination with the availability of small arms and the effects of extended droughts made raiding more frequent, violent and destructive. In Baringo County, the pastoralist Tugen, Ilchamus and Pokot have been in conflict over cattle raids for far long periods, something that has impacted negatively to almost all the inhabitants' sphere of life. To address this, there have been various measures taken at national and recently, at county level to help arrest the increasingly devastating decision. However, these, mostly western-related methods of approach entailing searching and punishing perpetrators are yet to achieve any success as banditry, raids and cattle rustling continue unabated.

This chapter summarises the study on indigenous conflict resolution mechanisms and assesses how these strategies could be applied in resolving cattle rustling cases in Baringo County. The county is volatile just as is the case with many other counties of the Rift Valley. The county experiences numerous conflicts caused by a variety of issues among them, cattle rustling, banditry and land boundary cases. A majority of the peoples of Baringo County are either pastoralists or mixed farmers.

Conflicts involving pastoralists associated with resource competition, cattle rustling and wide availability of small arms are widespread and of increasing concern. The pastoralists in the two regions under study are largely nomadic. They live primarily in arid or semi-arid areas and depend on livestock (cattle, sheep, goats and camels) for their livelihood. They rely on access to pasture and water, for the survival of their livestock. Such resources are scarce and under increasing pressure. Violent conflicts involving pastoralists have thus become widespread and increasingly severe.

The patterns of conflict in Baringo County are complex. There are many factors contributing to the risk of violent conflict involving pastoralists, and these have tended to become mutually reinforcing. Some conflicts within and between pastoralist communities, such as raiding and cattle rustling, have a long history and have to some extent become an aspect of

traditional pastoralist culture. However, such traditional conflicts have become increasingly destructive and less manageable. The major causes of conflict among the pastoralist include, but are not limited, to intensified cattle rustling, proliferation of illicit arms, inadequate policing and state security arrangements, diminishing role of traditional governance systems, competition over control and access to natural resources such as pasture and water, land issues, political incitements, ethnocentrism, increasing levels of poverty and idleness amongst the youth.

Violent conflicts have had very negative and severe impacts on the communities that are involved in these conflicts. The study highlighted several consequences of violent conflicts, which are negatively impacting on the communities under focus. Among the impacts of increasing and severe inter-ethnic conflicts in Baringo County include loss of human life, property, displacements of large segments of the communities, disruption of socio-economic activities and livelihoods, increased hatred between communities, environmental degradation and threat to water catchments areas, increased economic hardships as a result of loss of livelihoods, high levels of starvation and malnutrition among the displaced groups and unprecedented dependency syndrome on relief food.

Although cattle raiding among the three communities under study were somewhat a tradition, the recent commercialization of this vice changed its conduct. Raids were practised as a means of reciprocity, for poor families to acquire livestock and restock particularly after droughts or epidemics. However, in 1990s this cultural practice transformed itself into cattle rustling with the main weapons used being guns, with far-reaching impacts both human and material destruction.

Cultural worldview has a great impact on how people live their lives and resolve disputes. This study has established that in pre-colonial Africa, the dominant cultural worldview was the traditions, customs and practices of specific ethnicities. Most African societies were communal, depending greatly on social capital to maintain social order and harmony. Dispute resolution was the reserve of elders, diviners, healers and other respected members of the society. Conflict resolution aimed at restoring social harmony, mending breached social ties, performance of rituals and offering apologies or compensation to ensure that the status quo before the dispute is restored. The process involved getting the parties and their families

together, and getting to the root of the dispute to ensure underlying causes of conflict were resolved and the parties reconciled.¹⁸⁶

Colonization brought a cultural conflict between the African and western cultures. The western culture was viewed as superior and dominant, thus subjugating African cultures. Cultural imperialism was extended to the world of dispute resolution. African cultures were allowed to guide courts so long as they are not repugnant to justice and morality, yet repugnancy was measured by western sense of justice and morals and not African.

However, time and experience has revealed westernized justice system as sub-optimal in the African context. Westernized justice system is retributive in nature by emphasizing a winner-loser paradigm in dispute resolution that does not resolve the underlying causes of the conflict. The adoption of the Westernized justice system in African societies has made many traditional societies to revert to their own traditional dispute resolution by elders. In Africa, dispute resolution by elders brings parties together to resolve their disputes. Formal justice systems are adversarial and dispute resolution is a form of destructive warfare between conflicting parties.

At independence, most African countries adopted the justice system left by colonialists and continued the work of subjugating their own cultures and traditional justice systems. Colonization was not only about the alienation of land and natural resources; it left an indelible cultural inferiority among Africans that few if any society at the time of independence had been able to escape.

The State is a major actor in peace building and conflict management in Kenya. By implication, the Government of Kenya is mandated by law to provide safety and security to its citizens and their property. It ought to ensure that the rule of law prevails and that the security of her citizens and their property are guaranteed. This is also reflected in various national strategies including the Vision 2030, where the political pillar underscores the importance of peace-building and conflict management initiatives. The Government has also established relevant Ministries, departments and institutions with a view to steer the peace agenda. This notwithstanding, the State works closely with other actors in steering the peace agenda. The establishment of the National Steering Committee on Peace-building and Conflict Management (NSC) in 2001 is a pointer to this. NSC developed a Peace Committee

¹⁸⁶ Kariuki, F. 2012. Conflict Resolution by Elders in Africa: Successes, Challenges and Opportunities, pp.13-14

Model and the documentation of peace processes. However, most of the NSC programmes on peace, just like in colonial times, appear centralised in their operations with little room for communal eldership and their sense of justice is in most instances, western-oriented. This has continued to displace cultural conflict resolution approaches from their prime places that they occupied several decades ago.

However, there is a marked resiliency of African justice systems in spite of the onslaught and subjugation by formal justice systems. Many reasons abound for this resilience. First, the western justice system is in principle very different from the African justice system. The western system is individualistic, retributive and emphasizes a winner-loser paradigm in resolution of disputes. Moreover, the African justice systems focus on the restoration of social harmony and social bonds between disputants, while the formal mechanisms are destructive and leave wounds unhealed while causing new ones.

Second, and in most cases, African justice systems include a spiritual component. Traditional healers, diviners and seers take part in the process to seek the truth at the core of the dispute. The spiritual nature of dispute resolution is because Africans are still beholden to their ancestors and the dead and they seek to make peace with them. In contrast, the Western-style justice systems are secular and do not countenance rituals. In fact, the Western justice system criminalizes certain acts such as witchcraft and sorcery which are accepted in certain African set ups.

Third, traditional justice systems are informal, cost-effective and expeditious. The parties often sit together and resolve their dispute within a sitting or two. Formal justice processes involve complex and technical procedures that consume a lot of time and resources. This way the poor and indigent clients are locked out of the justice systems as they cannot afford. Thus, in poor rural areas and informal settlements in urban areas, informal, non-state justice systems fill up the void.¹⁸⁷

Historically, Kenyan communities have had traditional mechanisms of solving intra-communal as well as inter-communal conflicts. Before the advent of colonialism, communities living in Kenya in particular, had their own conflict resolution mechanisms. Whenever a conflict arose, negotiations could be done by the disputants. In other instances the Council of elders or elderly men and women could act as third parties in the resolution of

¹⁸⁷ Ibid.

the conflict. Moreover, disputants could be amicably reconciled by the elders and close family relations and advised on the need to co-exist harmoniously. As such traditional conflict resolution mechanisms were geared towards fostering peaceful co-existence among Kenyans. The importance of traditional conflict resolution mechanisms in Kenya has been given recognition by Article 159 of the Constitution of Kenya, 2010. Article 159 (2) (c) of the Constitution provides that in exercising judicial authority, the courts and tribunals shall be guided by certain principles. One of these principles is that alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms shall be promoted. This promotion is welcome provided they do not contravene the Bill of Rights, they are not repugnant to justice and morality or result to outcomes that are repugnant to justice or morality and if they are not inconsistent with the constitution or any written law. In a way, therefore, the existence of traditional conflict resolution mechanisms such as negotiation, reconciliation, mediation and others in Kenya is enough evidence that these are practices that have been in application for a very long period.¹⁸⁸

In Baringo County, the relevance of indigenous conflict resolution mechanisms has immensely been recognised. Elderly men and women of high integrity and respectable social standing amongst the Tugen, Ilchamus and Pokot play crucial role in settling disputes within their communities and across the communal divide. This is done through invoking their cultural powers which are believed to cause harm to whoever goes against their judgements. Women for instance, are believed to have power to bring harm to the young people whenever they undress or squeeze milk from their breasts when angered by someone. The *mumai* tradition of suspected offenders selecting between a fresh-green tree branch and a dry branch to determine whether they committed a certain offence or not has been of great success in determining cases involving domestic theft or disputed cases amongst the Ilchamus in Baringo. Elders also play a role in forbidding reckless raids by the youth through the refusal to bless their anticipated raids or old women laying their belts on foot-paths used by the raiders. This has had effects on the level with which youths take action into their own hands whether it is a reaction to a raid by neighbouring community or intent to raid for purposes of acquiring livestock. The importance of indigenous conflict resolution mechanisms at local level of decision making and peace-making can't therefore be ignored.

¹⁸⁸ Upeace Africa Programme, Addis Ababa, Ethiopia, 2013. Peace Education in Africa from a Cultural Perspective: Cases Studies from Kenya, Djibouti, Ethiopia and Somalia. A Study Undertaken for UNESCO, pp. 4-5, 23-24

The selection of these examples of value systems and institutions of conflict resolution in Baringo County, are just a few practices from a wide range of other effective traditional methods of conflict resolution normally applied among pastoral communities in the region. They remain relevant and viable towards promoting peace and security in the conflict ridden areas of the counties. It is anticipated that these case study will underscore the message that Tugen, Ilchamus and Pokot communities of Baringo have always and continue to have institutions and mechanisms that are central to the successful resolution of their conflicts. Certainly, indigenous institutions will continue to shape the conflict resolution and transformation landscape of the region. Without manipulating or politicizing such entities, the modern post-colonial Kenyan state should continue to embrace these indigenous institutions. They merit being viewed as a key feature of the Kenyan peace and security architecture.

The erosion of traditional governance structures, however, has led to a power vacuum that is increasingly filled by political leaders and other power brokers who grasp the opportunity to renegotiate boundaries and access to resources. They have realized that on the national level ethnic mobilization has played a major role in political struggles, and they carry these dynamics even into the remotest pastoralist areas, where the struggle for resources is progressively ethnicized. In this context, cattle rustling emerge as a specific form of violent regulation: a well-adapted, dangerous, and powerful political weapon.

Efforts to prevent and mitigate violent conflicts involving cattle rustling amongst pastoralists of Baringo County need to address each of the factors contributing to the conflict as outlined above. The development of effective actions to tackle each cause of conflict is difficult because these problems are rooted in the peoples' cultures. However, serious attempts to address these problems can contribute immensely to conflict resolution if they are recognized as such by the communities involved.

The first step may involve taking measures directly aimed at conflict prevention such as developing mediation and conflict prevention capacities of the communities involved and establishing projects in support of these pastoralists' need to strategically invest in awareness raising (early warning, for early action), training and indigenous peace building processes. Displaced groups must be rehabilitated and re-oriented into mainstream society by aiding them with alternative livelihoods e.g. promotion of eco-tourism, small-scale business enterprise, basketry and provision of social amenities, such as schools, health facilities, road

network and water. Strengthening indigenous (particularly elders and foreseers) conflict resolution mechanisms and linking them with formal police, court and government agencies is a prerequisite for any hope of long term peace and stability in Baringo County. For this to be realised, there is need to develop a clear legal and policy framework for the application of traditional dispute resolution by elders. Emphasis should be placed on traditional dispute resolution as the first option in resolving disputes cattle rustling conflicts in affected areas due to the elders' knowledge of the vice and its conduct. There is need to develop an enforcement mechanism for traditional dispute resolution mechanisms by elders. This calls for close partnership between state operatives and the local leadership in Baringo County.

Among the indigenous mechanisms that could be relied on to bring peace are religio-cultural practices. In the indigenous African communities, there were well-defined religious methodologies of enhancing peaceful co-existence and settling disputes. African religio-cultural beliefs and practices played a catalytic role in averting conflicts. Religion has great influence on the people. However, these institutions have fallen prey to modern institutions of social control. The problem of conflict is not a recent phenomenon in either Baringo County or Africa at large. In the traditional set up, considerable eruptions took place among communities. However, there were well defined methodologies for settling such eruptions. The traditional concept of religion among the three communities studied can contribute something towards prevention of conflicts and to alleviate the suffering associated with it. Religion can use its many channels of enhancing peace - for example, through traditional values – where life is highly valued, abortion is an abomination, beliefs - the fear of God and spirits is the highest element of traditional African spirituality, the African name children after their dead ancestors for fear of misfortune coming from their dead relatives and pouring of libation to appease them, rituals - these were used for cleansing those who contravened the taboos, in the case of murder or incest, worldviews-African religious ideas are transmitted orally and whatever is held sacred is respected and upheld by all. Social relations - Religion plays a central role in the inner life and social behaviour of many people. Therefore, an appeal to religious leaders and institutions in conflict areas in Baringo is a necessary step to be adopted by those intending to address cattle rustling in the county.

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