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UNDERSTANDING CATTLE-RUSTLING IN NORTHERN RIFT VALLEY
REGION OF KENYA: POLITICAL ECONOMY OF CATTLE RUSTLING IN
KENYA 1997 - 2007 *1*

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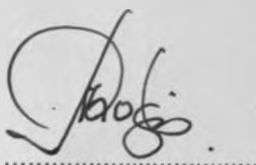
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DECLARATION

This dissertation is my original work and has not been presented for a degree to any other University

Number of words is 47,354 and Number of pages. 138.

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Signature

21 November 2010

Date

This dissertation has been submitted to the University with my approval as a University Supervisor

Musambayi Katumanga Ph.D.



Signature

21 Nov. 2010

Date

DEDICATION

This is to my late Father, Mzee Joshua Kirugi Nderi, Cecilia, and to my grand children, Kelly, Ryan, Mūyū, Kūi, Mwaūra, Timū and Mūmbi for missing me so much during the period of this study.

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Thanks to God the all Mighty God for granting me life, the opportunity, energy and the drive to undertake and complete this onerous task. Without God's acquiescence I would be nothing.

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ABSTRACT

This study examines the problem posed by cattle-rustling in Northern Rift Valley region of Kenya (NRV)¹. It responds to two critical questions; what political, economic and social factors predispose people in NRV to rustling; and why security institutions in NRV are apparently unable to contain rustling. The study is undergirded by two objectives that examine and analyse the political, economic and social factors undergirding cattle rustling in NRV, and the policy and institutional framework factors underlying the apparent inability to contain cattle rustling in NRV.

The study argues that the state and the citizens relate under an assumed social contract. When the state abrogates, anarchy prevails and the citizens individually or collectively seek to satisfy their security needs. Intractable conflict between the individual citizens, groups or sections of the society ensues. Unless the state engages the terms of the social contract in the NRV, cattle-rustling and the associated conflicts will thrive.

We recommend that the state respects the peoples' right to participate in decision making and demonstrates statehood to offer the citizens incentives that can neutralise cattle-rustling. The state can achieve that by first establishing a working security machine that guarantees political, economic and social reproduction. Core to this is the need to establish an indigenous National Guard in NRV as a means to facilitating state penetration in society.

¹ Northern Rift Valley region of Kenya, hereafter referred to as NRV comprises the Baringo, Marakwet, West Pokot, Turkana, Samburu, Laikipia districts and western part of Isiolo Districts (see figure 6.2) currently the setting of uncontrolled transhumance and bloody cattle-rustling based conflicts and proliferation of small arms. Its population includes the Pokot, Turkana, Tugen, Il Jamus, Samburu, Rendille, and Boran. In this region are also Kikuyu, Meru and Kalenjin cultivators in Laikipia, Isiolo and Meru districts. The area is about one fifth the size of Kenya, spanning an area of approximately 118042 sq km. The NRV region is therefore about two times the size of Rwanda and Burundi combined. By the 1999, the median year of our period of interest the population of the area was estimated to be 1,630,287 about 4.1% of the country's population at the time which stood at 39,802,000 people.

LIST OF ABBREVIATIONS AND ACRONYMS

AG	Attorney General
AP	Administration Police
ASTU	Anti Stock Theft Unit
C'I	Command Control Communications and Intelligence
CGS	Chief of the General Staff
DC	District Commissioner
DEFCONs	Defence Conditions
DO	District Officer
DSC	District Security Committee
DSIO	District Security Intelligence Officer
FOB	Forward Operations Bases
FY	Financial Year
GPMG	General Purpose Machine Gun
GSU	General Service Unit
HoS	Head of State
IS	Internal Security
JOC	Joint Operations Centre
KPR	Kenya Police Reserve

KWS	Kenya Wildlife Service
LMG	Light Machine Gun
LRA	Lord Resistance Army (Uganda)
MFA	Ministry of Foreign Affairs
NMOC	National Military Operations Centre
NOC	national Operations Centre
NRV	Northern Rift Valley region of Kenya
NSAC	National Security Advisory Committee
NSC	National Security Committee
NSCP	National Steering Committee on Peacebuilding
NSIS	National Security Intelligence Service
OLF	Oromo Liberation Front (Ethiopia)
OP	Office of the President/Observation Post
OPCEN	Operations Centre
OPCOM	Operational Command
OPCON	Operational Control
PA	Provincial Administration
PAPC	Provincial Administration Police Commander
PC	Provincial Commissioner

PPO	Provincial Police Officer
PS	Permanent Secretary
PSC	Provincial Security Committee
PSIO	Provincial Security Intelligence Officer
RDU	Rapid Deployment Unit
RFID	Radio Frequency Identification Device
RPG	Rocket Propelled Grenades
RVP	Rift Valley Province
SOP	Standing Operating Procedures
TACOM	Tactical Command
TACON	Tactical Control

GLOSSARY OF TERMS

Containment. In reference to small arms proliferation or cattle rustling, containment means the ability to just stem further escalation.

Nature. In this study, this will mean the type and design of force.

Mission. The primary objective and purpose of the task of a security force stated clearly and concisely².

Disposition. The strength, moral and materiel state of preparedness of a force

Command. As a military terminology, command means the execution of the legal military authority by a designated officer for the planning, direction, co-ordination and control of a military force.

Centre of gravity. This is an organisation's, group, society or state's source of freedom of action, physical strength or will. This is also, the aspect of an opponent's overall capacity, which if reduced or eliminated, will lead to inevitable incapacitation, defeat, or a wish to sue for concord through negotiations. The referent centre of gravity must be known and protected at all cost, from the opponent.

Sustainment. This encompasses all aspects of movement, supply and maintenance of personnel and equipment in war (logistics) and is achieved balancing of military administration and civilian support through other governmental departments (OGD) an agencies and civilian contractors. Sustainability is the aspect of sustenance that excludes personnel administration.

² This and the following terms are taken as defined in the KDOD, *Commanders Handbook: Manoeuvrist Approach to Operations and Mission Command*. (DHQ, Ulinzi House, 1999), pp. 1 – 1 to 1 – 4. See also, <http://www.allc.com/website/english/products/dispatch/5-1/5-12.htm>. of the Canadian Army Lessons Learnt Centre. and the British Defence Doctrine, Army Code No 71632.

Protection. It encompasses those measures of a force taken to remain viable and functional by protecting itself from the effects of any enemy weapons and natural occurrences.

Combat Power. The total means of destruction and or disruptive force which a military unit or formation can apply against the opponent at any one given time.

Commander's Intent. This is a concise explanation of the mission, why it is being conducted and the desired end state situation.

Status of Command. This is a command relationship, expressing the relationship between two or more units which are normally not organic, configured in a task force, or for a particular phase of an operation.

Joint Operation. This is an activity, organization etc., in which elements of more than one service of the same nation participate. Jointness demands the integration and unification of forces³.

Integration. This means combining the unique, specialized capabilities of the different services to enhance combat effectiveness⁴.

Unification. This is an approach in which some service capabilities are subordinated to a dominant capability and service components are blended in an attempt to further enable or boost the dominant capability⁵. For jointness therefore, unity of command is prerequisite.

³ Thomas Owens Mackubin. Conformity needs competition, *Armed Forces Journal*, July 2009. Web <http://www.armedforcesjournal.com>, last visited 01 September 2009.

⁴ Ibid.

⁵ Ibid.

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CHAPTER ONE

INTRODUCTION

1.0. Statement of the Problem

The Northern Rift Valley (NRV) region¹ of Kenya remained an insecurity concern in the period between 1997 and 2007. In this period, on average, 72 incidences of cattle-rustling were reported annually. In that period, 5 cross-border incidences were recorded and 608 lives lost². On average, 5,000 heads were stolen in each incidence³. In total, 300,000 head of cattle were stolen, the cost of which amounted to Ksh 4.8 bn⁴. Similarly, between 2007 and 2008, over Ksh. 828 m was lost to rustlers. Estimating the value of each dead person was worth Ksh 1.2 m in insurance, over Ksh 729,600,000 was lost; therefore, the total loss between 1997 and 2008 was over Ksh 6 bn, or Ksh. 1 bn per year. In addition, 127,165 people were internally displaced⁵.

In comparison, the national budget for food security in 2006/2007 was 2.6 bn; in 2007/2008 it was Ksh 5.3 bn. The entire Ministry of Agriculture budget for 2006/2007 was 9.2 bn; in 2007/2008 it was 7.8 bn, and the budgetary provision for the strategic food reserve was 3 bn⁶. It follows that eradication of cattle-rustling in NRV can guarantee food security in NRV.

In response to outcry, six major disarmament operations took place. For example Operation Dumisha Amani 2 in early 2005 which collected 2433 fire arms and 5260 assorted

¹ See footnote, page v.

² Police crime reports 2005 to 2009. Our own data collected over the period June 2007 to April 2009 also was taken into account. Considering that each head of cattle is between Ksh 15000 and 20,000 as estimated by Kennedy Agade Mkutu. We take the average, 17,500 per head.

³ Kennedy Agade Mkutu in *Guns and Governance in the Rift Valley: Pastoralist Conflicts and Small Arms*, (African Issues, 2008) pp 102.

⁴ Musambayi Katumanga. Security Concerns and Lateral Pressures as a Basis for Enhanced Regional Integration: The Case Study of North Western Kenya: in Ahmed Mohhidin Ed *Deepening Regional Integration of the East African community*, (DPMF Book Series, 2005), pp. 101. This estimate put each head at Ksh 16,000.

⁵ Ruto Pkalya, Mohammed Adan, Isabella Masinde, *Conflict in Northern Kenya: A Focus on the Internally Displaced Conflict Victims in Northern Kenya*, (ITDG-EA, Published by Marti Karimi, 2003), pp. 11.

⁶ Jim Onyango, Spending on Police, Teachers, Pushes Budget to 760 bn, *Business Daily*, Nairobi, 11 June 2008.

rounds of ammunition⁷. In the same year, another operation collected some 2200 assorted small arms and 3700 rounds of diverse ammunition out of over 150,000 illicit small arms held in the region⁸. Considering that this stock of small arms is about twice the entire arsenal inventory of Kenya security forces, it is evident that the need to neutralise or remove them altogether is imperative⁹.

Normally, such a magnitude of insecurity would cause the government to concern itself to securitize the issue as a national priority. Interestingly it has posted only 1,500 policemen, scattered in small helpless patrol bases all over the region¹⁰. This is only 2% of the national police in an area of 118,042 square kilometres¹¹. It translates to the ratio of about one policeman to every 79 square kilometers in an area that is twice the combined area of Rwanda and Burundi but characterised by hostile climate and terrain. In spite of this circumstance, the capacity to contain cattle-rustling remains central to the broader question of national security.

It is the foregoing phenomenon that intrigues our study. We are interested in understanding how the political, economic and social factors predispose people in NRV to cattle rustling, how they explain the apparent paralysis of the operational efficacy of the security policy and institutional frameworks in NRV, and how they can be enabled to contain cattle rustling.

⁷ Augusta Muchai. Disarmament and Destruction of Firearms not a Panacea to Insecurity in Kenya, *ISS TODAY*: 22 Apr 2010. ISS Nairobi. at web www.iss.co.za/iss_today.php visited 13 July 2010.

⁸ Kennedy Agade Mkutu. *Guns and Governance in the Rift Valley: Pastoralist Conflict and Small Arms*, African Issues. 2005) pp. 51. The Kenya government estimate is 50,000 arms, going by a statement by Hon John Michuki, then Minister for Internal Security. See Welcome Speech by Hon J N Michuki, Minister for State for Provincial Administration and Internal Security at Ministerial Consultative Meeting on Disarmament in Northern Rift Districts of Kenya and North Eastern Uganda Held in Mombasa. Kenya on 27th August 2005. Sp20050827.pdf at web www.provincialadministration.go.ke/docs.

⁹ Our own comment.

¹⁰ Kenya Police Sources.

¹¹ The area of Kenya is approximately 582,646 sq. Km or 224,960 sq mi. NRV is therefore about one fifth of Kenya and about twice the combined size of Rwanda and Burundi, which is 54,338 sq. km.

1.1. Objectives of the Study

Broadly stated, the study examines the factors underlying the continued cattle-rustling predicament in the NRV. In specific terms, the study seeks to:

a. Examine and analyse the political, economic and social factors undergirding cattle rustling in NRV. To this end we examine and analyse the political, economic and social factors and how they converge to predispose the people of NRV to cattle-rustling. This is supported by the assumption that to the extent that the political, economic and social institutions remain weak or absent, cattle-rustling will continue to influence lifestyles in NRV; and to the extent that these factors are unable to defuse the political economy and availability of idle youths, cattle-rustling will remain the more attractive alternative. We interrogate the political positions, statements and actions of actors at the local and political levels to illustrate how they engender cattle-rustling in NRV. We also examine and analyse the policies of inclusion applied, to assess how they integrate the region into the wider national economic space, their impact on cattle-rustling and the social institutions. This will enable us to illustrate the nexus between policies and cattle-rustling containment, and between the combine effects of culture, ecology and power, and the peoples' apparent predisposition to cattle-rustling.

b. Examine and analyse the security policy and institutional factors underlying the apparent incapability of the security institutions to contain cattle rustling. The study examines state security policy and institutional frameworks to establish the link between them and cattle-rustling. The objective is underlain by the assumption that as long as the national security policies remain weak and not enforceable, security institutions lethargy will continue to create space for cattle-rustling. We seek to attain the objective by examining and analysing the national security policies, the security institution and how

they are structured to deal with cattle-rustling at the strategic, the operational and tactical levels.

c. Proffer research based recommendations for a workable and sustainable institutional framework for containment of cattle rustling in the NRV. We underlay this objective on the assumption that to the extent that the national security policy is existent, sensitive to the rustling crisis, enforceable and guides the national action at the strategic, operational and tactical levels, cattle-rustling can be contained. We take to achieve the objective by recommending policy reforms; strategic, operational and tactical levels reorganisation; and mechanisms for interoperability and cooperation of all the national institutions employed in developing the NRV.

1.2. Hypotheses

This study is anchored by two hypotheses:

- a. That sustained cattle rustling is a function of the resultant political, economic and social policy engagements that have constrained state penetration in NRV;
- b. The crisis of containment of cattle-rustling is a function of policy and institutional fragility endemic in NRV.

1.3. Justification of the Study

The secondary data and literature on the crisis of cattle-rustling in NRV leave gaps since they privilege either, the political, economic, social or insecurity factors as the main causes of cattle-rustling and the related conflicts there. Efforts in resolving the endemic rustling crisis have therefore centred on these domains. The fact that the crisis continues unabated is proof that they have not worked. We seek to fill this gap by examining and analysing the political,

economic, social and security policy and institutional framework factors with a view to establishing how they can be engaged collectively to resolve the crisis. Our argument will be undergirded by the ab initio postulation that in Kenya, crises related to cattle-rustling comprise primarily, threats to internal security and although it is difficult to alienate internal and external security, internal security is the primary duty of the police. Every time we resort to military action to quell incidences of cattle-rustling implies a failure in security policy.

This paper anticipates a strategy that provides a means to contain cattle-rustling and neutralise small arms in NRV. Our study looks at the political, economic, social and security policy and institutional framework factors that influence sustained cattle-rustling as a security problem, in order to proffer policy alternatives and strategy for containment of cattle-rustling and in the process providing the rationale for policy justification.

Alix Julia Boucher underscores the prerequisite of national security policy in governments' strategic planning process and in managing security concerns. Boucher considers national security policy to be overarching and pivotal in the implementation of national security strategies¹². Based on this contention, we are unable to explain the situation in Kenya where in certain regions insecurity abounds under the indifferent eye of the state.

Thomas N. Kibua and Lineth N. Oyugi broadly argue that in Kenya, though the Ministry of Planning and National Development is responsible for setting out the broad policy direction in Kenya, different ministries and government agencies formulate their own policies and push for their implementation through their budget allocation. Although national development plans are produced to guide sector policy processes for five years, production of the plans is not inclusive, and are produced under the cooperation of Ministry of planning and

¹² See Alix Julia Boucher *National Security Policies and Strategies: A Note on Current Practice Future of Peace Operations Program*, Henry L. Stimson Centre, 7 July 2009; pp 1

Kenya Institute of Public Policy Research and Analysis (KIPPRA)¹³. Kibua and Lineth analysis concern was the relationship of the state decision making system and policy research institutions. Their line of argument is uninformed of the crisis of cattle-rustling. However, if replicated, their analysis of the decision making process at the political strategic level helps explain how the absence of overarching policy and effort feeds rustling.

Wuyi Omitoogun and Eboe Huchful contend that there is no national security policy in Kenya¹⁴. Looked on the face value, the arguments are challenged by the apparent state sectors tranquillity which make it dicey to relate the rampancy of cattle-rustling and absence of a national security policy. However, the analysis of the national security policy issue in the view of the rustling crisis elucidates the effect of policy absence and escalation of the crisis. Our task is therefore to link this absence of an overarching policy with the general policy absence and failure of the policy institutions framework employed against rustling.

The paper also seeks to anticipate answers to academic questions on the prevalence of cattle-rustling in NRV. Our study therefore looks at the political, economic and social factors undergirding cattle-rustling, and the security factors influencing sustained cattle-rustling with a view to providing academic alternatives as a rationale for academic justification.

For academic justification of state commitment to the welfare and security of her people. Patrick Riley argues that political structures and the legitimacy of the state derive from an explicit or implicit agreement by individual human beings to surrender some or all of their private rights in order to secure the protection and stability of an effective social organization or

¹³ Thomas N Kiibua and Lineth Oyugi. Influencing development policies through research: the Kenyan experience in Elias T. Ayuk and Mohamed Ali Marouani. (Eds) *The Policy Paradox in Africa*. (IDRC CANADA. 2005). pp 181

¹⁴ Wuyi Omitoogun and Eboe Huchful. *Budgeting for the Military Sector in Africa*, (Oxford University Press. Stockholm) pp. 116. See Amazon Books.

government¹⁵. In this frame of reference, we also base academic justification on Zartman's proposition that places on the state the onus to: create and sustain the areas of social activity; confer identity to its citizens; demonstrate and sustain institutional capacity; and guarantee security to its citizens by establishing attestable capacity to manage and monopolise the instruments of force and violence¹⁶. But Zartman also asserts that any state in which these basic functions do not exist or in which they "are no longer performed" or where "the structures, authority, law and political order have fallen apart" is a failed state¹⁷.

Analysing the NRV situation, on the basis of Riley and Zartman's propositions, citizens in NRV can revoke their social contract with the state, and Kenya is a failed state. However on the ground, there is no evidence of insurrection in spite of the prevailing anarchy and any argument that Kenya is a failed state may not hold water. Riley and Zartman thesis does not anticipate a state which is disinclined to religiously and decisively apply the instruments of stateness in one third of its entire land mass. Could the disinclination be a function of state's ignorance to the national security threats that NRV situation portends? This is what we intend to grapple with. We seek to demonstrate that there exists an aspect of ignorant disinclination, irresponsibility or both as demonstrated by absence of the state. Our task here is to draw the nexus between state absence and the crisis.

¹⁵ Patrick Riley. *Will and Political Legitimacy: A Critical Exposition of Social Contract Theory in Hobbes, Locke, Rousseau, Kant, and Hegel* (iUniverse, 1999), pp 15.

¹⁶ William A. Zartman. *Collapsed States: The disintegration and Restoration of Legitimate authority*, (Lynne Rienner Publishers, 1995) pp 64. See also Minh Nguyen. *The Question of Failed States: Australia and the Notion of State Failure*. *View on Asia: briefing Series*, March 2005, (Uniya, Jesuits Social Justice Centre), pp 3.

¹⁷ William Zartman. "Introduction: Posing the Problem of State Collapse", in William Zartman (ed) *Collapsed States: The Disintegration and Restoration of Legitimate Authority*, (Colorado and Lynne Rienner Publishers, London, 1995).

George Kut¹⁸ attributes the multitude of Kenya's volatile conflicts either to a resource crisis or political machination. He stresses the importance of an integrated conflict management strategy which respects the inputs from all relevant national policy makers, stakeholders and the civil society. We however note differing degrees of resources inadequacy, political machinations, and the absence of an integrated national policy everywhere in Kenya; yet there isn't violence or volatility to the extent visible in NRV. Using Kut's findings we are unable to explain how the characteristic feature of NRV became cattle-rustling. Our task is to explain the communities' suspicion and disapproval of the state and establish the nexus between lack of firmness and consistency, failure of policies of inclusion, divergence of stake-holders goals, and prevalence of cattle-related conflict.

Katumanga associates the inability to exploit the benefits of regional integration to eradicate cross-border cattle-rustling to the wider nation state quandary in sorting out the predicaments of political, economic, social, and institutional penetration crises in pastoral regions contiguous to state borders¹⁹. The argument recommends a methodology in which the states in the EAC region can collectively exploit the deterrent presence and technological capacities of their security instruments to enhance presence, penetration and containment of cross-border cattle-rustling by spurring economic development, youths' engagement, neutralising the guns and enhancing revenue collection. Going by this functionalistic proposition, a regional authority would be inevitable and the member states would partially cede sovereignty to the regional authority, which has posed significant impedance to that level of regional integration. We explore how sober intrastate action on containment of cross-border pastoralism and cattle-rustling can create more collective goods for the people and the state, and

¹⁸ George Kut. Kenya: Towards National Policy on Peace and Conflict Management; a Contribution in *5 National Structures for Responding to Conflict*, (Joint Action for Prevention: Civil Society and Government Cooperation on Conflict Prevention and Peacebuilding) pp1.

¹⁹ Musambayi Katumanga. Op cit.

how this could offer a firmer basis for regional action. Our task then is to draw the nexus between the crisis and lack of intrastate determination to contain it.

In principal, the situation obtaining in NRV challenges the duality of state as implied by the apparently coexistence of violent pseudo-autonomous groups within the state, and the state. It challenges the eminence of the state's capacity to dominate instruments of violence. It can not be understood why Kenyans allow such situation to continue. Questions arising are what the role of the Kenya Police, the Provincial Administration and AP, and the Kenya Defence Forces are, and why they are unable to contain the vice. Our study is spurred by the desire to explain these issues and explain the gaps.

1.4. Literature review - Political, Economic and Social factors

Minh Nguyen asserts that failed state is a feature of a weak, fragile or decaying state. Nguyen argues that statehood can not be defined without the feature of monopoly of use of legitimate physical force within its territory "even when the right to use force is ascribed to another institution or to individuals only to the extent to which the state permits it"²⁰. Thus, the state monopolises the right of use of physical force and violence. The ability of communities to procure, stock and use arms freely without frantic state reaction to neutralise those arms and reinstate the status quo ante, poses a challenge to Nguyen and others like Niccolo Machiavelli, Max Weber, the principal proponents of the right and responsibility of the state to monopolise the means of violence. Therefore Nguyen's theory cannot explain the case of NRV where individuals arrogate themselves the right to bear and use instruments of violence without directly threatening the state. We intend to demonstrate that this is possible.

²⁰ Minh Nguyen. *The Question of Failed States; Australia and the Notion of Failed States, View on Asia: A briefing Series*. Uniya, Jesuit Social Justice Centre, March 2005, pp 3.

Saverio Krätli and Jeremy Swift contend that politicians and warlords are the principal promoters of conflict to gain votes during elections, consolidation of positions of power, popularity as the community saviours and for acquisition of wealth. They fault security operations which victimise communities that appear to support rustlers²¹. Going by this argument, there would be no rustling except when elections or threats to communities are in the offing. Cattle-rustling in NRV however is ongoing, we therefore contest that politics alone are not to blame for rustling, nor can it be contained without neutralising the rustlers' centre of gravity (CofG), which is the popular support. We seek to establish the correlation between neutralisation of CofG and containment of rustling.

Omiti and Irungu²² blame poor governance and institutional failure, biased articulation of development policies which are biased against pastoralists and engender among other things, political and social, marginalisation, economic stagnation, destitution and persistent social conflicts. They observe that the intervention actions taken are disjoint, sporadic and intermittent as responses to crises and they have not worked. To mitigate such frustrations, Omiti and Irungu propose the development of a more holistic approach targeting the constraints arising from agro-ecological, political and socio-economic environments to alleviate livestock industry as if livestock industry can flourish without the other elements of statehood. We argue that the assertion that livestock industry development is panacea to the rustling problems ignores the milliard other factors which if not addressed, impede institution of livestock industry. Our task here is to link grand strategy to containment of cattle-rustling in NRV.

²¹ Saverio Krätli and Jeremy Swift, *Understanding and Managing Pastoral Conflict in Kenya: A Literature Review* (Undertaken under DFID contract CNTR 98 6863; Institute of Development Studies University of Sussex, UK.), pp. 9, (Pdf)

²² John Omiti and Patrick Irungu, *Institutional and Policy Issues Relevant to Pastoral Development in Kenya, Discussion Paper No. 031/2002 February 2002*, Institute of Policy Analysis and Research pp. 3, and 50.

McPeak and Little²³ associate vulnerability, sedentarisation, and pastoralist conflicts. They aver that sedentarisation induces outright impoverishment and aggravation of land conflicts in the vicinity of settlements as new immigrant herders encroach farms and local groups' pastures. They argue that sedentarised communities put claim to ownership of surrounding pastures and deny them the immigrant herders. They recommend policies that recognize the rights of herder groups to customary water points and grazing areas and delimit the extent to which sedentary farming can expand into rangelands. McPeak and Little fail to explain the causes of conflict in areas where there is no sedentarisation, or to link the impacts of rustling to sedentarisation and the fact that security is better in sedentarised areas than in other areas. We attempt to explain the predicament of cattle-rustling through elucidating the attending factors such absence of state institutions to control migration, transhumance and sedentarisation in areas that are infested with small arms. We intend to establish a nexus between development of other means of livelihood and eradication of cattle-rustling in NRV.

Adama Dieng holds that impunity at social and political levels is causal to breakdown of peaceful co-existence between communities and is a major obstacle to the evolution of democracy and development²⁴. We observe that in the social fabric of NRV, influence of elites, their personal opinions and interests, politically, economically and socially determine community opinion and response to issues. In NRV, positions and interests of the elite at political, economic and social levels determine the national purpose there. To the outsiders, much of what these elites do (rightly intended or otherwise) is taken to be selfish. It transgresses the purview of the avant-garde and democratised society who viewed the state disinclination to take action as encouragement of impunity. Hence, Deng's proposition does not

²³ See John McPeak and Peter Little, *Pastoral Sedentarisation and Community Resilience in Response to Drought: Perspectives from Northern Kenya: Pastoral Risk Management Project. Research Brief 03-02-PARIMA* May 2003. Global Livestock Collaborative Research Support Program University of California - USA.

²⁴ Adama Dieng, *Clarification of Concepts: Justice, Reconciliation and Impunity*. United Nations, International Criminal Tribunal for Rwanda, 24 May 2002.

explain the import of this state of affairs and fails to see that continued state absence causes rigidification of communal identity and positions of local leaders become hostile or selfish to an extent they seem impunitive. We seek to explain the factors of state absence and how it engenders social and security dilemmas and the link between state absence and political impunity and between impunity and cattle-rustling.

Myerson argues that "the foundations of the state depend critically on political leaders' reputations for rewarding and judging government officials. This suggests that the chances for successful democracy are increased when there are more opportunities for different political leaders to develop reputations for responsible governance and effective use of patronage"²⁵. Myerson further argues that the state is established by its political leaders and their networks of trusting supporters seeking to enhance the individual reputations²⁶. Judging the reality on the ground through this proposition, the state would have no foundation in NRV; political leaders apparently are not concerned about officials there, and often oppose their presence. The state has been rendered ineffective, by political leaders who exploit state absence to advance the status quo. We seek to establish a nexus between state absence and impunity, unsustained security, and lack of sustainable development initiatives.

On the linkages between political, economic and social factors in rustling, Abdurahman Ame²⁷, Belbutowski²⁸, Louis Kriesberg²⁹, Betty Rabar and Martin Karimi³⁰, F K Muhereza³¹

²⁵ Roger B. Myerson, Foundations of the State in Theory and Practice: Reading Bremer and the Counterinsurgency, in Field Manual, November 2007, <http://home.uchicago.edu/~Rmyerson/Research/Fieldman.Pdf>, pp 1.

²⁶ Ibid, pp 28.

²⁷ See Abdurahman Ame. *Cross-border livestock Trade and Small Arms and Conflict in Pastoral Areas of the Horn of Africa: Case Study from Southern Ethiopia and Northern Kenya* A paper to IASCP's Eleventh Biennial Conference, DPMF 19 April 2006

²⁸ Paul M. Belbutowski, Strategic Implications of Cultures in Conflict, in *Parameters. US Army War College Quarterly* Vol. XXVI, NO. 1, Spring 1996, pp 33.

²⁹ L. Kriesberg, *Constructive Conflicts: From escalation to Resolution*, (Rowman & Littlefield Publishers, New York, 1998). Cited by Jeremy Lind and Katherine Sturman, *Scarcity and Surfeit: Ecology of Africa's Conflicts*, (ACTS, 2002) pp 20.

and David Goldstein³² privilege culture, political, social and economic marginalisation. The uniqueness of each violent conflict in the interlocking conflict system³³ and the ability of culture to promote aggression by limiting cooperation and amiability, as competition for resources intensifies³⁴ are highlighted. Going by these grounds we are unable to explain prevalence of commercial rustling, which extends beyond culture, political, economic and social marginalisation. We seek to establish that cattle-rustling and related conflicts are the result of combination of many endemic problems which include the state, policy and strategy absence.

David Goldstein blames age set system for promoting aggression and limiting intra-clan cooperation and inter-ethnic amiability, as competition for resources intensifies³⁵. Kriesberg posits that at every stage in social interaction, age set systems changes in capacities. Modes of interactions in one party induce sympathetic changes in others. As the system at one time induces cattle-rustling related conflicts as youth acquire cattle for right of passage, at another it promotes conflict resolution; but it also induces demand for small arms. Musambayi Katumanga argues that within the dynamic of societal regimentation, facilitated by the logic of moranism for instance, groups can train and enough age sets can go through cycles of initiation and acquire right of passage from one age set to another³⁶. Katumanga and Kriesberg concur, asserting that age set systems, in NRV promote mutual reciprocity where societies, in the maintenance of power balance deter each other and through peace treaties and age groups

³⁰ Betty Rabar and Martin Karimi, (eds) *Indigenous Democracy: Traditional Conflict Resolution Mechanisms of Pokot, Turkana, Samburu and Marakwet*, (ITDG-EA, January 2004), pp 76.

³¹ F. K. Muhereza. *Cross-Border Grazing and the Challenges for Development in the Dry lands of East Africa: The Case of Karamoja*. (Ethiopian Institute for Peace and Development. A paper presented on the economic Integration and Trans-boundary Resources, organised by the Ethiopian Institute for Peace and Development.

³² See Dr Paul Goldsmith. *Cattle, Kha and Guns: Trade, Conflict and Security on northern Kenya's Highland-lowland interface*. (APPEAL Kenya, 1997) pp. 2.

³³ L. Kriesberg, *ibid*.

³⁴ See Dr Paul Goldsmith, *ibid*.

³⁵ See Dr Paul Goldsmith, *ibid* pp. 2.

³⁶ Musambayi. Katumanga. *ibid*, 90.

mutual respect, conflict is contained. Also, they add that collective sacrifices and occasional ethno-religious ceremonies are effective tools for containment of conflict³⁷.

Age set system is not unique to NRV, yet outside NRV, it is not associated with conflict. Hence blaming age set system for cattle-rustling is beside the point. We contest that culture and ethno-militarisation of youths has been instrumentalised for commercial rustling. Our task here is to establish that age set system can be a useful way to synergise communal energy. Our mission is to prove that through synergistic orchestration, age set system can help attain collective development and security.

Jos van Beurden argues that under normal circumstances the kind of conflicts found in NRV ought to conflagrate civil war³⁸. Colin H. Karl attributes the failure of the northern rift valley conflicts to conflagrate to the presence in Kenyan urban areas of a class interest which cuts across ethnic lines which would rather see the status quo continues, to safeguard their urban interests³⁹. Collier and Hoeffler posit that rebels will conduct a civil war if the perceived benefits outweigh the cost⁴⁰. May be when the benefits eventually outweigh the costs, the NRV conflict will conflagrate into civil war. This argument however does not explain why in NRV there is no insurrection or civil war. Apparently, people there hardly notice the state, or the need to insurrect, as it were; they already exist and behave as autonomous nations⁴¹. We intend to establish the link between absence of a political motive in NRV conflicts and inability of the situation to conflagrate into insurrection.

³⁷ | William Zartman et al. *ibid.*, pp 1 to 11.

³⁸ Jos van Beurden. Kenya: Small scale conflicts could have major repercussions; *Searching for Peace in Africa*, 2000

³⁹ Colin H. Karl. Population Growth, Environmental Degradation, and State Sponsored Violence - The Case of Kenya. In: *International Security*, 23(2), 1998: *Conflicts in Africa - Analysis of Crisis and Prevention Measures*. Dossier. GRIP # 215/217; Brussels, 1997 (case-study on Kenya).

⁴⁰ See P. Collier and A. Hoeffler, On Economic causes of Civil Wars, The World Bank, *The Economics of Crime and Violence Project*, Washington DC, January 1998, web. www.worldbank.org/research/conflict/papers/cw-cause.htm.

Also published in *Oxford Economic Papers*, 50, 1998, pp 563 -74..

⁴¹ Nene Mburu. The Proliferation of Guns and Rustling in Karamoja and Turkana Districts: the Case for Appropriate Disarmament Strategies, NeneMburu@Aol.com, pp. 9

Collier and Hoeffler⁴² contend that the presence of large proportions of idle youth in a society has direct relationship with the higher propensity for conflict or rebellion in the society. They hold that diffused resources induce and sustain violence. They can provoke and sustain a shadow economy. We observe that in NRV, the occurrence of large proportions of youths on its own sake may not necessarily explain the rustling related conflicts. Youths are members of any society, even when the gerontocratic traditional governance was in force and was respected they were there. We intend to establish the nexus between the instrumentalisation of the large proportions of youths to commercial rustling.

Ame Abdurahman⁴³ posits that the integration of pastoralists into the market economy has transformed traditional rustling to commercial rustling⁴⁴. He argues that as a result of the commercial rustling, demand for weapons and supply of labour transformation of livestock capital into military strengths as a means of accumulation is a reality. For this, Ame blames strategy and policies for the predicament and recommends change in them. Going by Ame, it seems there are policy and strategies which in his view are unsuitable. But the problem is lack of them. Besides, existence of policy and strategies without state commitment to enforce them, state functions are futile. We intend to link religious policy and strategy operationalisation and enforcement to eradication of cattle-rustling in NRV.

Goldsmith links the process of economic liberalisation and democratisation in Kenya, and the escalation of violence and cattle rustling⁴⁵. He argues that the free market system imposed by donor community escalated conflict and complicated its management. He links commerce with both promotion of conflict and stability. As seen in NRV, availability of free

⁴² Joao Gormez. (Ed) *Scarcity or Surfeit*.

⁴³ Abdurahman Ame. Cross-border Livestock trade and Small Arms and Conflict in Pastoral Areas of the Horn of Africa: Case Study from Southern Ethiopia and Northern Kenya, A paper to IASCP's Eleventh Biennial Conference 2006 -04 – 06.,

⁴⁴ Ibid. pp. 4

⁴⁵ Goldsmith, *ibid*, pp. 2.

markets for livestock escalated commercial rustling. The ensuing conflict is therefore partially related to availability of this free market.

Going by this hypothesis we are unable to explain the apparent positive impact of availability of organised markets on the improved incomes and standards of living that are evident there. We attempt to demonstrate that it is the inability of state instruments to regulate markets and enforce statutes that creates and proliferates opportunity for black market, including easy disposal of rustled livestock. Our task here is to establish a nexus between lack of policy enforcement and escalation of commercial cattle-rustling.

Poverty has been linked to increased cattle-rustling, climatic change, and sedentarisation of population to create land for development or under community pressure for alienation as argued by Wasonga, Ngugi and Kitalyi⁴⁶. As if to prove it, Burnsilver and Mwangi associate sedentarisation with reduced per capita health in Samburu⁴⁷ as Desta agrees arguing that sedentarisation has reduced the ratio of heads of cattle and therefore milk production per capita; increased reliance on non-pastoral foods; and increased further annexation of pastoralists land for sedentary services and other development. The argument posed by Wasonga, Ngugi and Kitalyi has not explained the phenomenon that there is minimal sedentarisation in NRV except in urban areas and even where sedentarisation has taken place, keeping of livestock has continued through family adjustment and their livestock continue to graze wide as usual. We seek to explain how sedentarisation has in fact created a more diverse lifestyle that enables the communities withstand vagaries of nature much better than when they are nomadic or transhumance. Our task is to prove that sedentarisation per se is not a cause of cattle-rustling.

⁴⁶ Vivian O. Wasonga and Robinson K. Ngugi and Aichi Kitalyi, Traditional Range Condition and Trend Assessment: Lessons from Pokot and Il Chamus Pastoralists of Kenya . *Anthropologist*, 5 (2): 79-88 (Kamla-Raj 2003) pp. 80 (2 of 9).

⁴⁷ Shauna Burnsilver and Esther Mwangi. Beyond Group Ranch Subdivision: Collective Action for Livestock Mobility, Ecological Viability, and Livelihoods. (*Collective Action and Property Rights* CAPRI. Paper no 66, June 2007). pp. 6.

Abdi Umar associates the 1990s transhumance of pastoral communities under ecological and weather threats herds' depletion, poverty increase and reliance on food aid. As they expanded so did the resulting anarchy of cattle-rustling and banditry which rendered vast areas of the pastoral territory 'bandit areas'⁴⁸. The findings of these studies however fail to help us explain the failure of existing policies restricting grazing, and movement of livestock to control transhumance. Our task here is to establish a nexus between lack of policy enforcement and the conflict emanating from ethnic clashes due to uncontrolled transhumance including rustling.

Saverio Krätli and Jeremy Swift claim that Civil society organizations and other external agencies fuel conflicts by "providing easily manipulated aid: giving power and prestige to the warlords who are in a position to control aid; providing an additional source of income to the disputants; blindly altering or confirming the existing balance of power among the disputants; creating 'advantageous' conditions for refugees and conflict-destitute people in relation to local standards"⁴⁹. Their contributions or funding can also increase disputes and violence by overwhelming beneficiary communities with "easily manipulated resources" and thus slow down conflict management⁵⁰. Some western agencies prejudice against certain religious or political communities and other CSO on grounds of religious or political orientation even when cooperation is crucial to the welfare of the communities. CSO are however ideal in mediation between disputant communities.

Saverio Krätli and Jeremy Swift arguments fails to explain the phenomenon that whereas in NRV state presence is felt in urban areas mostly, life sustenance, including for the state agents, is facilitated on provisions given by CSO and FBOs, or the conflict and bad blood

⁴⁸ Abdi Umar. *ibid.*

⁴⁹ Saverio Krätli and Jeremy Swift, *ibid.*, 10.

⁵⁰ *Ibid.*

existing between the CSO and state agencies. We intend to establish the nexus between state and CSO cooperation and containment of poverty and cattle-rustling in NRV.

Pkalya et al link conflict with diminishing role of traditional governance systems due to small arms and idleness amongst the youth. They argue that dealing with these is difficult because they are rooted in the peoples' cultures⁵¹ and recommend among the traditional conflict mitigation measures, rehabilitation and resettlement of displaced communities, through cooperation of state, local and international stakeholders. The theory linking youth idleness and presence of small arms to breakdown of traditional governance systems does not explain escalation of conflict. Our task is to establish the link between the breakdown of the traditional governance system and availability of idle youths to commercial cattle-rustling in NRV.

1.4.1. National Security Strategy, Policy and Institutional frame-work Factors

Thomas Hobbes asserts that individuals subject themselves to the state to be defended from foreigners and one another and to live contentedly⁵². To John Locke, men subject themselves to the state to preserve their property⁵³. R. N. Berki describes this responsibility as "the most important distinguishing mark of our modern western civilisation"⁵⁴. Going by these theories, Kenya would be a failed state. They give no light to understand the state passivity to NRV and what the situation heralds for the entire state. The questions here are; what makes the state passive? What are the ramification for the state and the region? These questions are what the study is grappling with. We seek to demonstrate that there exists a lack of sobriety; there is ignorance of the situation and what it portends or both.

⁵¹ Ruto Pkalya, Mohhamed Adan, Isabella Masinde in Martin Karimi (ed), *Conflict in Northern Kenya: A Focus on the Internally Displaced Conflict Victims in Northern Kenya*. (ITDG-EA 2003), pp 10.

⁵² Thomas Hobbes. *Leviathan*, reprinted in Carl Cohen (ed.), *Communism, Fascism and Democracy: The theoretical foundations* (New York: Random House, 1972, 2nd edn), p. 275.

⁵³ See John Locke. *Second Treaties of Government*, reprinted in Cohen, *ibid.*, pp. 406-7.

⁵⁴ R. N. Berki. *Security and Society; Reflections on law, order and politics*. (London: John M. Dent, 1986); pp. 238-40.

Admiral Eccles defines national strategy as .the comprehensive direction of elements of national power to achieve national objectives⁵⁵. Colin Gray argues it is the use of force and the threat of force for the ends of policy⁵⁶. J. Boone Bartholomees Jr, defines strategy as a problem solving process, a common and logical way to approach any problem; military, national security, personal, business, or any other category one might determine⁵⁷. H. Richard Yarger and George F. Barber, argue that national strategy is founded on the unequivocal understanding of national values. Clifford H. Bernath sees national security strategy as a rational way in which society mobilizes all of its assets and resources to protect its interests⁵⁸. National security is more than just military security, and the “shaping” process is directed at a range of issues and conditions that a society would want to influence, Luiz Carlos Bresser-Pereira posits that National strategy is a means to manage the national economy, to pursue alternatives capable of steering it competitively towards development. Bresser-Pereira also avers that when an economy is robust, it is a sign that politicians, business entrepreneurs, bureaucrats and workers are operating within the framework of a concerted strategy; when an economy slumps, or even stagnates, it is a sign that it lacks a national development strategy⁵⁹.

Going by these definitions and concepts, we gather that National security is not limited to military. Societal security interests span every critical area of life; physical security, food security, social security, legal security etc all of which challenge and merge into national security. Then we need wonder why Kenya is fumbling with the crisis in NRV, moving driving blindly from one porthole to another, riding each crisis at a time, without an action plan. They offer the means to explain the predicament of NRV or to understand the direction and size of

⁵⁵ Henry E. Eccles, *Military Power in a Free Society* (Newport, RI: Naval War College Press, 1979), p. 70.

⁵⁶ Collin S. Gray, *Modern Strategy* (New York: Oxford University Press, 1999), pp 17

⁵⁷ See J. Boone Bartholomees, Jr.(ed); *Guide to National Security Policy and Strategy*. (U.S. Army War College, July 2004) pp 85.

⁵⁸ See Press Release. *U.S. Government Shares Advice on Developing a National Security Strategy and Media and Security*. The U.S. Embassy and the Africa Centre for Strategic Studies; Friday, February 27, 2009 at the Windhoek Country Club Resort

⁵⁹ Luiz Carlos Bresser-Pereira. *National Development Strategy: The Key Economic Growth Institution*, V: 6.7.2006, pp 1

the implied incapacity to sort out the issue once and for all. The question still remains how the state drags on. The issue here is to demonstrate that the dynamics in NRV urgently call for grand strategic attention and this is what we are grappling with. Our task is to link policy, grand strategy and containment of cattle-rustling in NRV.

William Odom highlights the importance of doctrine and assigns it two aspects: social-political and military-technical⁶⁰. P. H. Liotta and Lloyd M. Richmond argue that doctrine defines the force character and posture⁶¹. General (Rtd) Jean-Marie Veyrat adds that in the present era of democratisation and freedom of the media and civil society, doctrine, standing operating procedure (SOPs) and rules of engagement (ROE) are the essential means for security forces and commanders at all levels derive freedom for professional action within policy intents. Without them, security forces are encumbered with social and political challenges that could easily impede free will and induce cold feet at all levels⁶². Thomas Owen argues that SOPs enable forces jointness⁶³.

If we go by these premises, then the operations conducted in NRV are unjustified, illegal. This is based on the fact that Kenyan security forces operate without a doctrine, SOP and tactical level ROE. The question is whether it is due to ignorance, lack of the mental capacity to see the need, or deliberate omission, that forces engage in internal security operations without these essential instruments for application and management of violence. Is it possible that security operations in Kenya have all along been illegal and unjustified? Our task

⁶⁰ Moscow: Voenizdat. 1965. in William Odom, 'Soviet Military Doctrine,' *Foreign Affairs (magazine)*, Winter 1988/89

⁶¹ P. H. Liotta and Richmond M. Lloyd. *From Here to there: the strategy and Force Planning Framework*, Naval War College Review, (Highbeam Research Inc., 2009), web <http://static.highbeam.com> last visited 01 September 2009.

⁶² General (Rtd) Jean-Marie Veyrat. *The Commanders Indispensable Freedom of Action*, Doctrine magazine, # 04, 7 September 2004.

⁶³ Thomas Owens Mackubin. Conformity needs competition. *Armed Forces Journal*, July 2009. <http://www.armedforcesjournal.com>, last visited 01 September 2009.

is to establish a nexus between lack of IS operations doctrine, SOP and tactical level ROE and persistence of forces incapacity to contain cattle-rustling and the associated conflicts.

Katumanga posits that in the absence of national security policy, in mobilising the military and other security forces to combat rustling, a problem arises in that at the level of perception on the one part and the forces of operationalising the secondary role of military with respect to the first, many of the atrocities perpetrated every year, are incursions which though apparently domestic, infringe national sovereignty and security, while the military lays back. This Katumanga asserts makes mockery of military argument of aggression contesting that Kenyan military apparently concentrates on defence against external aggression without recognising that events in IS could be a precursor to external aggression⁶⁴.

In his argument, Katumanga does not reckon the nature of the continuum of conflict and external aggression. Without discerning the stages, indicators and milestones in the continuum, his proposition does not appreciate first, the attendant economy of effort in the characteristic non-interventionist approach of the military in the internal security (IS) matters even when some of them bear the characteristics of external aggression; secondly, the fact that IS, is primarily a police role and military interventions point to general breakdown of order to the extent that police forces are no longer able to restore order. The question here is two-fold, why the military do not proactively intervene in containing cattle-rustling and associated conflicts, and how the military can proactively intervene in events of cattle-rustling and the associated conflicts? Our task is to establish a correlation between national security policy and containment of cattle-rustling.

⁶⁴ M Katumanga, op cit.

Mkutu⁶⁵ links the widespread insecurity in NRV to proliferation of small arms. He holds that though the state has monopoly to violence and the inherent duty to protect citizens, it has abrogated this duty a factor which has induced a security dilemma and driven the people to frantically acquire arms. Mkutu contends that disarmament in the absence of a meticulous Disarmament, Demobilisation and Resettlement (DDR) programme is futile. Pkalya et al⁶⁶ also highlight the need for DDR for rustlers and bandits NRV.

Mkutu and Pkalya et al do not examine factors on ground to justify DDR, or even suggest how the state could undertake such DDR. Yet they identify DDR as the sole means to eliminate rustling. Lessons learnt in the various DDR exercises in the horn region and worldwide however indicate that unilateral DDR or piecemeal disarmament is ineffectual⁶⁷. DDR works effectively in the resolution of armed conflict; where the belligerents consent to lay down arms and disarmament as a term for conflict resolution. It involves voluntary demobilisation of the belligerent armies and either resettlement of the demobs, or their integration into the new national army. Mkutu and Pkalya et al have not proposed how to undertake DDR for the pastoralist communities or for bandits and mercenaries engaged in commercial cattle-rustling as in NRV. The NRV presents challenges that create gaps and areas for further study on possibilities of DDR in resolutions of pastoral conflicts.

In NRV and the contingent region, disarmament has proven futile. The question is how these arms can be neutralised. Could registering all the illicit arms and organising village security and integrating it within the national internal security strategy work? All neighbouring states have similar programmes; the Ugandan LDU, Ethiopian militia, and Tanzanian Jeshi la Mgambo. How could such a set up neutralise NRV small arms threat? We seek to establish the

⁶⁵ Kennedy Agade Mkutu. *Guns & Governance in the Rift Valley: Pastoralist Conflict and Small Arms*, (African Issues, 2005) pp 155to 156.

⁶⁶ Ruto Pkalya. Mohamud Adan. Isabella Masinde. in Martin Karimi (Ed), *Conflict in Northern Kenya: A Focus on Internally Displaced Conflict Victims of Northern Kenya* (ITDG Series, 2003), Pp 67.

⁶⁷ DDR was successfully conducted in Sierra Leone. Chad, former Yugoslavia, East Timor etc.

necessity of an integrated security mechanism as a means for neutralising the guns and cattle-rustling in NRV.

James Bevan opines that conflict in Northern Turkana is escalated by the Kenya police who supply over fifty percent of the ammunition used there. He traces this ammunition to Kenya Ordnance Factories Corporation (KOFC)⁶⁸. He adds that the solution to the problem lies firstly in effective institutional controls and management of arms and ammunition by Kenyan security forces and secondly in providing security for communities that at present have to fend for themselves in a region that is awash with armaments. Bevan contests that unless Kenya radically revises the strategies of its security forces and the resources placed at their disposal, violence and insecurity will continue unabated⁶⁹. Bevan's theory apparently is that Kenya officially feeds the problem of insecurity in that region to defeat Toposa raids. If the situation is so dire, the theory does not explain why the state can not undertake an open full military action against Toposa. In any case it does not explain how only 547 cartridges out of his sample of 3382 bore KOFC brands and lot numbers. If it were factual that only 547 of ammunition supplied to the police in NRV is traceable, where does the balance go? Our task here is to answer this question. We seek to establish the need for serious government concern and involvement in protecting its people in NRV.

1.5. Theoretical Framework

Our study anchors on the assumption that problems in a state can be resolved only by the state and only if the state remains a state. Social contract theorists⁷⁰ hold that political structures and the legitimacy of the state derive from an explicit or implicit agreement by

⁶⁸ James Bevan, *Blowback: Kenya's Illicit Ammunition Problem in Turkana North District*, An Occasional paper on Small Arms Survey. (Small Arms Survey, Graduate Institute of International and Development Studies, Geneva 2008), pp.17 and 18.

⁶⁹ James Bevan, *Ibid.* pp. 79.

⁷⁰ Jean Jacques Rousseau, John Locke, Thomas Hobbes, Immanuel Kant, John Rawls etc.

individual human beings to surrender some or all of their private rights in order to secure the protection and stability of an effective social organization or government⁷¹. Accordingly, the state should honour its social contract responsibilities by demonstrating the ability to: create and sustain the areas of social activity; confer identity to its citizens; demonstrate and sustain institutional capacity; and guarantee security to its citizens by establishing attestable capacity to manage and monopolise the instruments of force and violence⁷². Needs theory reinforces this theory by arguing that "that most deep-rooted conflicts are caused by one or more person's or group's inability to obtain its fundamental human needs--for instance, identity, security, or recognition"⁷³.

Based on these theories, the state is duty-bound to quickly resolve all political, economic and social problems by means of effective governance and settling of internal conflicts by engaging mechanisms that emphasise the peace that embeds in justice, building of the right relations and creating effective social structures, respect for human rights and non-violence as a way of life⁷⁴. When these basic functions of the state are either wholly or partially prejudiced, in the entire state or part thereof, or when the structure, authority, law and political order have fallen apart stateness becomes questionable⁷⁵. When it affects a section or part of the state, it brings about disgruntlement and group identity⁷⁶. As a result, intractable conflicts between sections against each other or against the state may ensue⁷⁷.

⁷¹ Patrick Riley. *Will and Political Legitimacy: A Critical Exposition of Social Contract Theory in Hobbes, Locke, Rousseau, Kant, and Hegel* (iUniverse, 1999), pp 15.

⁷² William A. Zartman. *Collapsed States: The disintegration and Restoration of Legitimate authority*, (Lynne Rienner Publishers, 1995) pp 64. See also Minh Nguyen. *The Question of Failed States: Australia and the Notion of State Failure. View on Asia: briefing Series*, March 2005. (Uniya, Jesuits Social Justice Centre), pp 3.

⁷³ John Paul Lederach. Directors Circle. in *Conciliation Quarterly*.8:3 (Summer 1989, pp 12 - 14.

⁷⁴ Ibid.

⁷⁵ William Zartman. "Introduction: Posing the Problem of State Collapse", in William Zartman (ed) *Collapsed States: The Disintegration and Restoration of Legitimate Authority*, (Colorado and Lynne Rienner Publishers, London, 1995).

⁷⁶ That psychological sense of self as well as self as it relates to the world. Identity dynamic, the tendency for human beings, individually and groups, to establish, maintain, and protect a sense of self-meaning, predictability, and purpose ensues and this provokes changes toward escalation and rigidification of conflict. See Terrell A.

Intractable conflicts may require third parties or the state to apply subjective, non-partisan, participatory and supportive approaches. Such mechanisms must essentially focus on relationships among the actors in a systemic framework and consider the principal motivation to be the satisfactory fulfilment of basic social goals and to reach a legitimate conflict resolution⁷⁸. The outcomes must not be imposed to the parties; rather they ought to be developed through inclusive participation⁷⁹. It requires an efficient goal balancing act and a perfect decision-making process. Where some parties respond in an illegitimate manner, coercion may be resorted to the prohibitive long-term cost of coercion notwithstanding⁸⁰.

The basic weakness of these models is in their assumption that statehood will always exist and the contract was negotiated. On the one hand, social contract model assumes that all the constituents of the state are bound by it, forgetting that many African states are creations of colonial agreements, acceded without citizens' participation. The model therefore offers only a quick solution to deep rooted social political problems, masking the need for essential changes. It assumes that the state is the unquestioned authority, and the people must trust that it will bring about peace that is embedded on justice; is committed to build the right relations and social structures that radically respect human rights and nonviolence as a way of life; and that governance will be responsible, accountable and meet the fundamental human needs⁸¹.

The needs model on the other hand, considers conflict development as predictable, and occurs in certain stages each of which is best approached in a different way. It also assumes that

Northrup and Stuart J. Thorson, in Louis Kriesberg (Ed) *Intractable Conflicts and Their Transformation*. (Syracuse, New York: Syracuse University Press, 1989) Pp. 55-82.

⁷⁸ See Jim Wallis, "The Soul of Politics: A Practical and Prophetic Vision of Change" (London: Fount, 1994), pp 205.

⁷⁹ Ibid. pp 90.

⁸⁰ See A.J. R. Groom. Paradigms in Conflict: The Strategist, the Conflict Researcher and Peace Researcher; in J Burton and F Dukes (eds). *Conflict: Readings in Management and resolution* (London and Macmillan, 1990), pp 96.

⁸¹ See A J R Groom. Ibid. pp. 88.

⁸¹ Coate and Rosati, "Preface." In Roger A. Coate and Jerel A. Rosati (eds) "The Power of the Human Needs in World Society" (Boulder, CO: Lynne Rienner Publishers, 1998). Pp ix.

conflict will always be as a result of clashing interests, values and unfulfilled needs which if addressed, conflict can be resolved. It therefore does not fully contemplate political economy driven conflict now endemic in NRV. It however recognises the import of culture and customs in engendering conflict, which partially explains the NRV conflict.

These models enable us to understand and to alienate the intractable cattle-rustling conflict in NRV. Using the models, we are able to explain the state inability to contain rustling and the related conflicts and to recommend plausible mechanisms for the containment of the cattle-rustling problem in the short, medium and long term.

1.6. Methodology

The methodology adopted in this study is derived by its nature. In specific terms it is built on a combination of primary and secondary research method to take advantage of existing literature to this extent we made reference to academic books and journals such as Journal of Peace Research. It is however notable that time factor implies that the situation, given the changing dynamics in NRV implies that any literature must be augmented by reality on the ground. To respond to this gap we opted to supplement our research with primary data. Here we maximised on direct interview with security personnel in the police, provincial administration, NSIS and the military. Such interviews were conducted in Nairobi, at the OP and MOSD, Nakuru Rift Valley Provincial Headquarters, Gilgil and on the ground at Tot, Nginyang, Kapedo, Tangulbei, Maralal, Baragoi, Rumuruti and Isiolo. The interview questions were open ended and respondents were allowed to support their opinion by anecdotal evidence.

Restriction of access to government information and relevant personnel to interview was the most impacting limitation. Most of our applications for such access to the ministries and services went largely unanswered except in MOSD where a precondition that the final

document must be vetted by them was imposed. This limitation was overcome by review of secondary data.

We overcame every shortcoming in time by using email to some respondents, internet to search for information from government and from other organisations websites and the government archives were very useful. Mobile cell phones were very useful wherever networks and numbers were available. Telephone interview was very important since it enabled us overcome the problems posed by distance, but most useful were group discussions and interviews as were on one occasion facilitated by the Rift Valley Provincial headquarters.

Most informants were unavoidably biased to an extent, a problem which also featured in many written sources such as the press, civil society organisations, NGO's reports and other reports used to lobby or justify continued donor funding. Despite this misgiving, official, historical, anthropological and other authentic data sources and literature enables us to establish and infer long-term social dynamics. During interviews on the ground, language became a major limitation. We overcame it by using local interpreters and occasionally, our knowledge of the people and terrain became useful.

1.7. Definitions of concepts

1.7.1. **Operational Command (OPCOM).** As defined by U. S. Military dictionary⁸², OPCOM is a command status which grants authority to a Commander to assign missions and tasks to subordinate commanders, to deploy units, to reassign forces and to retain or delegate operational and/or tactical control as may be deemed necessary. For example, the Administration Police is under OPCOM Provincial Commissioner. Organs assigned Units OPCOM are fully responsible to determine their operations and to provide their administration,

⁸² U. S. Military Dictionary. The Oxford Essential Dictionary of the U.S. Military, By Oxford University Press, 2002. Or Military Dictionary. US Department of Defence Dictionary of Military and Associated Words, 2003.

sustenance and welfare⁸³. Such forces come under total command and control. Understanding this concept will shed light on the relationship between a force and its authoritative organ. In NRV it will enable us discern the actual availability and utility of all the forces present there in ensuring security.

1.7.2. Operational Control (OPCON). U. S. Military dictionary defines OPCON⁸⁴ as status of command, in which authority is granted the subordinate commander to direct forces assigned so that the commander may accomplish a specific mission or task which is usually limited by function, time or location; to deploy units concerned, and to retain or assign tactical control of those units. It does not include authority to assign separate employment or reconfiguration of components of the units concerned. For example, the Police Commander on the ground has under OPCON the Administration Police Units assigned for that particular task or mission for the specified duration of operation. Such AP units remain under OPCOM the Provincial Commissioner who continues to provide their administration, sustenance and welfare throughout the operation. Kenya Defence Forces units integrated in Peacekeeping missions remains under OPCON PKO Force Command, but under OPCOM Kenya. Understanding this concept will shed light on the relationship between a force and the attached to organ and the limitation implied by the status of command. It sheds light on some of the operational limitations that emerge from such assignment. Here we understand that the Police Commander on ground has no authority to reconfigure, or employ the units for any other function or operation than the current one.

1.7.3. Tactical Command (TACOM). The BMD defines TACOM as the authority delegated to a commander to assign tasks to forces under his command for the accomplishment of the mission assigned by a higher authority. It is applicable only for that mission or phase of a

⁸³ John W. Burton, *Ibid*, pp. 1 – 3.

⁸⁴ U. S. Military Dictionary, *ibid*.

mission, has no tactical control or sustenance responsibility. This is normally the case when military assets are availed to police or Provincial administration to support them in a phase of an operation for example in providing armed aerial surveillance or to move personnel from one point to another or augment their force in a given tactical operation on ground of the presence there. This explains the limitations facing provincial authorities or police commanders on the availability of military forces for assignment in prevention or control of crimes such as rustling.

1.7.4. Tactical Control (TACON). U. S. Military Dictionary defines TACON as a status of command applicable when forces which are deployed in such a manner that on ground of their proximity they are directly affected by the outcome or progress of the mission. For example Air Force or maritime elements can be deployed in ground force areas of responsibility. When that occurs, the elements are on TACON ground forces commander. Such commanders normally are delegated the power of detailed direction and control of movement or manoeuvre necessary to accomplish the higher authorities mission or tasks⁸⁵. This is normally is the case when it is necessary to use military units or assets within the proximity of provincial administration and it explains why such units are not automatically available for commitment during IS operations.

1.7.5. End-state. This is the desired outcome or state of affairs to be achieved at the end of the campaign, operation or mission which envisages that the conflict will be terminated or resolved on terms that are favourable. For military purpose, the end-state envisages that the campaign or operation mission will have been achieved under terms that are favourable to the force. It foresees a win-lose situation. Under conflict resolution/management we strive to achieve a win-win end-state⁸⁶.

⁸⁵ Kenya Army, Commanders Handbook, pp. 1- 3.

⁸⁶ Ibid.

1.7.6. **Operational Justification and Credibility.** As defined by the Universal Declaration of Human Rights (UDHR) and under the principles of just war, a security operation is conceptually justified if: “it is waged as a last resort, thus all non-violent options must be exhausted before the use of force can be justified; it is waged by a legitimate authority implying that even just causes cannot be served by actions taken by individuals or groups who do not constitute an authority sanctioned by whatever the society and outsiders to the society deem legitimate; it is fought to redress a wrong suffered, for example, self-defence against an armed attack ; it is fought with ‘right’ intentions to redress the injury; and if it is fought with a reasonable chance of success”⁸⁷. Force credibility is a function of adequacy and the mission capability.

1.8. Chapter Outline

Chapter one introduces the paper. It consists of statement of the problem, objectives, hypothesis, justification of the study, literature review, theoretical framework, methodology and chapter outline. Chapter two features the profile of the NRV people, and narrates the aspects of cattle rustling in NRV up to 1997. It provides the background information and the history of rustling to support factors examination and analysis carried out in chapter three. Chapter three covers the analysis and examination of the political, economic and social factors undergirding cattle rustling in NRV. It is organised in three parts. Part one covers the examination and analysis of the political factors undergirding rustling. Part two covers the examination and analysis of the economic factors undergirding cattle-rustling and part three which covers the examination and analysis of the social factor undergirding rustling. It also provides the link between the political, economic and social factors for the examination and analysis of the

⁸⁷ Principles of the Just War Available from <http://www.mtholyoke.edu/acad/intrel/pol116/justwar.htm>. Internet. Accessed 28 September 2009.

policy, and policy institutional frameworks in NRV to be covered in Chapter four and the relevant recommendations in Chapter five.

Chapter four contains the examination and analysis of the security policy and institutional framework on ground for containment of cattle-rustling. It has three parts. Part one gives the conceptual analysis of national security and strategic planning. Part two examines and analyses the Kenyan grand strategic and institutional strategic levels to understand how Kenya strategic planning grapples with rustling. Part three examines and analyses the conduct of the general IS operations and anti cattle-rustling at the operational level while part three examines and analyses the tactical level operations and forces disposition on ground in NRV and bounces their tactics against the rustlers and provides the linkage of chapters four, five and six. Chapter five recapitulates and concludes the study and chapter six proffers a research based recommendation of a workable anti-rustling strategy for NRV.

CHAPTER TWO

THE HISTORY OF RUSTLING IN NORTHERN RIFT VALLEY REGION OF KENYA

2.0. Introduction

The NRV region is characterised by scarcity of life sustaining elements. Since life revolves around cattle, pastures and water resources are primary needs here and their scarcity engenders a severe competition. Conflict over these resources and cattle is filliped by proliferation of small arms. Containment of the conflicts has been futile and due to transnational character of pastoralism in NRV, these conflicts have internationalised.

This chapter seeks to analyse and examine the history of cattle-rustling with a view to explain why people in NRV are apparently predisposed to cattle-rustling; and why the government has not endeavoured to contain the vice. The chapter is organised in two parts. Part one profiles the people of this forgotten region, and part two revisits their history from pre-colonial to 1997.

2.1. People of this forgotten World

The people of NRV share common heritage, structures, languages and ethnicity; and the fate of extreme ecological vagaries, long endured marginalisation and an intense devotion to group identity and independence⁸⁸ and rustling is away of life⁸⁹. They comprise three distinct ethnic clusters; the Karamoja cluster⁹⁰ also known as the Ateker⁹¹, the nilo-hamitic cluster

⁸⁸ Ibid.

⁸⁹ Kennedy Agade Mkutu, *Guns and Governance in the Rift Valley: Pastoralist Conflicts and Small Arms*. (African Issues, 2008). pp. 13.

⁹⁰ Darlington Akwabai and Priscillar E. Ateyo, *The Scramble for Cattle, Power and Guns in the Karamoja*, (Feinstein International Centre, Dec 2007), pp. 3

⁹¹ SUDAN: issues Brief; Human Security Baseline Assessment. Responses to Pastoral Wars: A review of violence reduction efforts in Sudan, Uganda, and Kenya. (Small Arms Survey, Number 8, September 2007), pp. 2. The term Ateker refers to primarily Itung'a speaking Nilotic people whose ancestry can be traced back to the area between the Blue and White Niles in present-day Sudan. The Ateker include the Buya, Didinga, Jie, Murule,

includes the Kalenjin cluster and the Maasai and the Cushitic cluster includes the Rendile and the Borans.

The Karamoja cluster straddles north eastern Uganda, north western Kenya, south eastern Sudan, and south western Ethiopia. Of the nine sub-groups comprising the Karamoja cluster, numbering about 1.4 million inhabitants⁹², only the Turkana are found in Kenya. The bulk of them are in Uganda and Sudan. The Karamoja cluster does not respect territorial boundaries. Turkana constitute the second largest pastoralist community in Kenya after the Masai⁹³. Turkana's biggest enemies are the Pokot, and Samburu in Kenya; the Karamojong in Uganda; the Toposa, Nyangatom, of Southern Sudan; and Dassanetch of Ethiopia⁹⁴.

The Kalenjin cluster comprises the Nandi, Terik, Tugen, Keiyo, Marakwet, Pokot (also called Suk), Sabaot, Datooga and the Kipsigis⁹⁵. They occupy the western escarpment of the Rift Valley escarpment except the Sabaot are found Uganda Mt Elgon region of Kenya; and the Datooga in Tanzania. Cattle and land are invaluable in the Kalenjin culture. Pokot are the most belligerent of the Kalenjin cluster. They comprise two groups, the Hill Pokot, and the plains

Nyangatom, Tenet, and Toposa of southern Sudan; the Dassanetch and Nyangatom of Ethiopia; the Turkana of Kenya; and the Karamojong of Uganda.

⁹² Darlington Akwabay and Priscillar E. Ateyo, *The Scramble for Cattle, Power and Guns in the Karamoja*. (Feinstein International Centre, Dec 2007), pp. 3

⁹³ [Kenyalnformationguide.com](http://kenyalnformationguide.com). 2008. Last visited 01 Nov 2008. See also Advameg Inc., *World Culture Encyclopaedia :: Africa / Middle East :: Turkana*, visited 01 Nov 2008; and Advameg Inc., *World Culture Encyclopaedia :: Africa / Middle East :: Turkana, Turkana History and Cultural Relations*, visited 01 Nov 2008.

⁹⁴ Gurtong peace Project – South Sudanese Communities. *The Nyangatom*, on <http://www.gurtong.org/people.esp>, updated Thursday 06 Nov 2008, and visited 06 Nov 2008. See also, Tornay Serge. The Omo Murule enigma in D.L. DONHAM et W. JAMES (eds), *The Southern Marches of Imperial Ethiopia*. (Cambridge. African Studies Centre, 1980) pp 123-146 See also. The growing power of the Nyangatom, a border people of the Lower Omo Valley, Ethiopia (1970-1992) in T. TVEDT (ed.) *Conflicts in the Horn of Africa. Human and Ecological Consequences of Warfare*, (Uppsala University, 1993: pp 143-163.

⁹⁵ Ogot. B. A. (ed.). *The Kalenjin, Kenya Before 1900: Eight Regional Studies*. (Nairobi Kenya: East African Publishing House, 1978). See also. Art and life in Africa online, *Pokot information*. Revised 3 November 2008; and SIL International figures. Matthias Schladt, *Kognitive Strukturen von Körperteilvokabularien in Kenianischen Sprachen* (Afrikanistische Monographien vol. 8). Köln: Institut für Afrikanistik / Universität zu Köln 1997. (esp. pp 40-42) cited in http://en.wikipedia.org/wiki/Pokot_people last visited 25 May 2008 gives the figure as 150,000 as Franz Rottland, *Die Südnilotischen Sprachen: Beschreibung, Vergleichung und Rekonstruktion* (Kölner Beiträge zur Afrikanistik vol. 7). Berlin: Dietrich Reimer. pp 26, 138-139 cited in http://en.wikipedia.org/wiki/Pokot_people_gives_it_as_115,000; and Kipkorir B. E. and F. B. Welbourne. *The Marakwet of Kenya: A Preliminary Study*. (Nairobi. Kenya: East African Literature Bureau, 1973)

Pokot. The Hill Pokot lives in the higher rainy highlands of Mt Elgon and Cherangani where they practise agro-pastoralism. The Plains Pokot people occupy the dry plains in the rift valley⁹⁶.

The Masai cluster comprises the Masai, Samburu, and Ilchamus. The Samburu, a semi-nomadic pastoralist people inhabit the Northern Kenya plains⁹⁷. They remain traditional and remote, culturally authentic, and cling to their ancient traditions defying modern trends. They neighbour the Turkana, Rendile and Boran. The Samburu and Rendille (a Cushitic group that has adopted Samburu culture) have an alliance which they have maintained since the 16th century⁹⁸. The Rendille have even adopted the Samburu language and customs⁹⁹.

2.2. The NRV from Pre-colonial to 1997

At the onset of the scramble for Africa, people in NRV already had guns bought from the gun markets in Maji, south western Ethiopia, and from Arab and Swahili slave traders from the East African coast¹⁰⁰. They were ethno-militarised and passionate about self-rule, and freedom to bear firearms. Ammunition was used as currency¹⁰¹. Turkana and Karamojong private armies were well structured and Turkana caused a large-scale social disruption especially against the Pokot. Turkana armies were organised in units of six hundred to one

⁹⁶ Franz Rottland. *Die Südnilotischen Sprachen: Beschreibung, Vergelichung und Rekonstruktion* (Kölner Beiträge zur Afrikanistik vol. 7). (Berlin: Dietrich Reimer 1982). pp. 26, 138-139 See also, Art and life in Africa online, *Pokot information*. Revised 03 Nov 2008.

⁹⁷ KenyaInformationGuide.com (2008). *The Samburu tribe*. Last visited 03 Nov 2008. See also, Orville Boyd Jenkins. *Profile of the Samburu People*, (The Virtual Research Centre, 1997, 2001 Last updated 09 August 2001). Website last visited, 04 Nov 2008. See also Orville Boyd Jenkins. *Profile of the Samburu People*, (The Virtual Research Centre, 1997, 2001 Last updated 09 August 2001). Website last visited, 04 Nov 2008.

⁹⁸ See Orville Boyd Jenkins. *Profile of the Samburu People*, (The Virtual Research Centre, 1997, 2001 Last updated 09 August 2001). Website last visited, 04 Nov 2008.

⁹⁹ See Orville Boyd Jenkins. *Profile of the Samburu People*, (The Virtual Research Centre, 1997, 2001 Last updated 09 August 2001). Website last visited, 04 Nov 2008. Also in KenyaInformationGuide.com (2008). *The Samburu tribe*. Last visited 03 Nov 2008.

¹⁰⁰ Nene Mburu. Proliferation of Guns and Rustling in the Karamoja and Turkana Districts; Case for Appropriate Disarmament Strategies. NeneMburu@aol.com. Darlington Akwambai and Priscillar E. Ateyo, *ibid*, pp. 12.

¹⁰¹ Nene Mburu. *ibid*.

thousand fighters which operated in the areas bordering Ethiopia and Sudan in large and small tactical units¹⁰². The Samburu also, had acquired a lot of arms¹⁰³.

It is on record that the British after recognising the militarism of Turkana and Karamojong employed pure Turkana and Karamojong units in the Abyssinia campaign Second World War where over 550 members of the Turkana communities were conscripted into the King's 25th (Eastern African) Brigade garrisoned at Lokitaung¹⁰⁴. In 1914, the Samburu L'merisho and Iterito age groups also joined the Kings African Rifles¹⁰⁵. By the 1940s, the Samburu, Turkana, Pokot and Karamojong had enough competent and hardened warriors armed through weapons bought locally and skills gained in the colonial wars to wage raids and predatory expansionism into Ateker and Laikipia plains.

The political boundaries defined by the British cut through ecological zones, local and long-distance traditional trade networks and disrupted transhumance draught mechanisms. Thus, the Pokot were moved into areas previously occupied by the Karamojong and lost grazing grounds to the Turkana. In 1910, the British alienated the southern Pokot grazing grounds for European farms a move which sowed seed for perennial conflict¹⁰⁶.

The creation of borders disoriented a people used to transhumance without borders and it significantly disrupted traditional survival systems and mechanism. The new colonial

¹⁰² Robert O Collins. (1961) .The Turkana Patrol. 1918. *The Uganda Journal*. Vol. 25 No. 1, p.16-33; Harold, Marcus. (1994) *A history of Ethiopia*. (University of California Press: California USA) cited by Nene Mburu, *ibid*.

¹⁰³ KNA/PC/NFD7/1/1:NFD handbook. 1917:93.

¹⁰⁴ Nene Mburu, Contemporary Banditry in the Horn of Africa: Causes, History and Political Implications, *Nordic Journal of African Studies*, Vol 8(2). 89 to 107(1999). pp. 97.

¹⁰⁵ Kennedy Agade Mketu, *Guns and Governance in the Rift Valley: Pastoralist Conflicts and Small Arms*. (African Issues, 2008), pp 58.

¹⁰⁶ See Advameg Inc., *World Culture Encyclopaedia :: Africa & Middle Eastgoing : Pokot*, visited 01 Nov 2008. This has remained a major bone of contention between the Pokot and Turkana going by the statement made by prominent Pokot leader reported by *The Nation* (Nairobi), Sunday 25 March 2001 "MP Warns Over Land in Pokot - Kapenguria MP Samuel Moroto yesterday said the Pokot community would use force to reclaim their land in Turkana and Trans Nzoia districts. Pokot land, he claimed, stretched 41 kilometres inside Turkana in the Kalim'ngorok area and asked their neighbours to prepare for "war" if they cannot surrender their land. The MP, who was elected after the fiery cabinet minister Francis Lotodo's death, said that since he had been sworn in as MP "if they (the non-Pokot) are not ready to surrender the land peacefully my kinsmen should not worry because I'm going to protect their interests."

legal definitions of land ownership and resource killed most of communal ownership of pastures and resources. It also restricted population movement and grazing rights. The Turkana refused to recognize the new laws and borders and resisted until 1918 when the British, in an operation named "Labour Patrol" destroyed the Turkana military valour. Military expeditions continued in NRV even after independence in 1963¹⁰⁷.

Throughout the colonial period, West Pokot and Turkana remained closed, to create a buffer between the northernmost reaches of the "White highlands," and the shifting frontiers of Turkana. Few Europeans ventured there save for a handful of colonial civil servants and missionaries. Around 1943, the British delineated prime grazing lands for wildlife conservation and water supply development projects. This and the severe draught of 1943 exacerbated competition for available grazing pastures and since then cattle-rustling became a major issue. Small arms proliferation started taking root in the 1960s when they acquired more modern automatic arms and bloody raiding resumed across northern Uganda and Kenya. The history of cattle rustling is a *mélée*. To date, across the border the Turkana and Pokot continually fall victim to the Karamojong, and vice versa. To the north, Turkana, Toposa and Nyangatom violently rustle each other.

The colonialist mounted several disarmament operations to quell the spates of rustling and at the same time conducted some benevolent projects such as drilling boreholes, constructed dams and pans and provided human and livestock treatment and drugs¹⁰⁸. To deter rustling, the colonialist enacted laws and conducted zestfully disarmed the people; for example

¹⁰⁷ See Advameg Inc., [World Culture Encyclopaedia::Africa / Middle East :: Turkana](#), visited 01 Nov 2008.

¹⁰⁸ See Kennedy Agade Mkuu, *ibid* pp. 116.

between 1928 and 1936 Samburu were completely disarmed. Over 1,800 spears were collected, 5000 people arrested and a ban imposed on carrying of spears¹⁰⁹.

By focusing on the pastoralist people's lifestyle which was their moral centre of gravity, the deterrence operations worked¹¹⁰. With this objective, and with recommendation by Sir Geoffrey Archer, they also incorporated traditional laws¹¹¹. While colonialist guaranteed the people fulltime security from rustlers by zealously enforcing the laws, the people in turn respected and obeyed the laws.

The said laws included special legislations like the "1930 Stock and Produce Theft Ordinance¹¹²" which imposed a fine or conviction for theft of stock or produce. It was augmented by the Collective Punishment Ordinance¹¹³ which imposed a communal punishment on the offender's community when he could not be apprehended. In this case, community representatives were cited as the offenders. The magistrates could impose fines of at least ten times the value of stocks or produce stolen¹¹⁴. Otherwise the pastoralists were largely left alone, as long as they obeyed the laws¹¹⁵.

The government posted District Officers, Chiefs and Headmen supported by Anti-Stock theft police units comprising local trackers who became very effective in tracking down stolen livestock and registered a very high success rate. Posts were built near Kraals and manned

¹⁰⁹ See Kennedy Agade Mkutu, *Guns and Governance in the Rift Valley: Pastoralist Conflicts and Small Arms*. (African Issues, 2008), pp. 117.

¹¹⁰ Kennedy Agade Mkutu, *Guns and Governance in the Rift Valley: Pastoralist Conflicts and Small Arms*. (African Issues, 2008), pp. 33 to 35

¹¹¹ Ibid pp. 34. Sir Geoffrey Archer, was the first district administrator of Samburu district after whom the Town of Archer's Post was named. On recognising the impotency of applying the colonial laws alone Sir Archer emphasised the application of pastoralists' traditional laws and customs alongside intensive disarming and security presence.

¹¹² Cap 79, Laws of Kenya, as cited by Kennedy Agade Mkutu, *ibid*.

¹¹³ Cap 77, *ibid*.

¹¹⁴ Kennedy Agade Mkutu, *ibid* pp 35, citing C. M Dobbs, (Provincial Commissioner, Nyanza) Memorandum on Stock Thieving, dated 22 January 1930; and KNA – PC/NZA/2/5/29, Stock Thefts, General Matters, 1929 – 31.

¹¹⁵ Kennedy Agade Mkutu, *op cit*.

adequately with enough means of transport; fuel and the wherewithal to overcome rustlers. Construction of good roads enabled them to reach practically all flash points.

Rustling was contained until 1969 when Turkana attacked Samburu. The nexus of events that followed since shows a growing wave of cattle rustling, spreading to other areas outside NRV. Beset with the shifta war, the new government had no time for NRV and considered, and still considers cattle rustling and banditry a nuisance and a way of life. The government therefore approached it casually, until the early 1990s when the anarchy was sensitised due to the increased presence of international community and media in that area¹¹⁶. In 1969, Turkana "Ngoroko" invaded Baragoi Division injuring one person and stealing several hundred heads of cattle. For example, in 1970 they raided Baragoi, Tuum, Lepatoiye and Simale in Samburu. In 1972 they again raided Tuum whereupon eighteen of them were killed. In 1980 they raided Lengees and Uaso Baragoi injuring many people.

In Uganda, cattle rustling escalated in 1979. It did so because after the collapse of Iddi Amin government, the Matheniko overrun a military garrison at Kitgum and stole its entire arms cache. In 1989, in a battle at Lorengwat between the Matheniko and Bokora, 300 people lost their lives and from then on the Matheniko who were hitherto considered to be a clan under the larger Karamojong declared their autonomy. Later, Ugandan authorities armed the Karamojong to assist NRA to fight LRA" and these arms later became a matter of very serious concern to both the Ugandan and Kenyan authorities¹¹⁷.

In 1984 the Pokot were estimated to have about 3,000 arms. Their raids reached as far as Trans-Nzoia and Sebei in Uganda and engendered a combine Kenya and Uganda forces

¹¹⁶ Many civil society organisations, international communities and other humanitarian actors established bases for supporting southern Sudan during the Sudan SPLA war, refugees from the Horn of Africa were accommodated at Kakuma, and SPLA used the area as its base area. This presence actually changed life in the Turkana area and such big towns as Lokichogio and Kakuma grew, and the humanitarian actors were perplexed by the life they witnessed in the northern rift, hence brought it into international light and caused the governments to start getting interested.

¹¹⁷ Kennedy Agade Mkuu. Op cit pp 29

operation named "Operation Nyundo". Although the operation confiscated over 8,000 heads of cattle from the Pokot, only 300 firearms were recovered¹¹⁸. Francis Lotodo, the chief Pokot politician was arrested and jailed. However, Turkana were not disarmed ostensibly to give them protection against Toposa. They terrorised the unarmed Pokot who also became prey to Samburu and Karamojong attacks causing their MPs to demand for government protection against the increased attacks and cattle rustling¹¹⁹.

The government rearmed the Pokot again presumably to protect them from the Karamojong. Rustling restarted in earnest. By 1986, Turkana and Pokot concerted their raids on the Samburu in a spate which became a matter of concern. Many Samburu herders migrated to Laikipia but the marauding Pokot and Turkana rustlers who followed them there. The government again armed Samburu home guards but they disappeared with the arms as the Samburu frantically acquired arms to protect themselves. By end of 1980s it was estimated that Samburu morans had over 16,478 pieces¹²⁰.

In mid 1990s, the Sudan government gave Toposa and Dindinga more than 50,000 guns to destabilise the SPLA¹²¹. They sold them to Turkana and Jie. In 1996 Turkana hit again with renewed and devastating fervour. Over 600 armed Turkana warriors took over 10,000 heads of cattle from the Samburu at one time. They killed more than fifty people to revenge an earlier raid in which Samburu warriors had killed fifty Turkana¹²². On 27th August 1996 at Suguta in Baragoi the Ngoroko again took over 5000 Samburu heads of cattle killing 19 people and shot down an army helicopter in which a provincial administration officer died.

¹¹⁸ Kennedy Agade Mkutu, *Guns and Governance in the Rift Valley: Pastoralist Conflicts and Small Arms*. (African Issues, 2008), pp. 120.

¹¹⁹ Daily nation, 24 April 2003.

¹²⁰ Kennedy Agade Mkutu, *Guns and Governance in the Rift Valley: Pastoralist Conflicts and Small Arms*. (African Issues, 2008), pp. 59.

¹²¹ Darlington Akwabai and Priscillar E. Ateyo, *ibid*, pp. 18.

¹²² Kennedy Agade Mkutu, *Guns and Governance in the Rift Valley: Pastoralist Conflicts and Small Arms*. (African Issues, 2008), pp. 30.

Thereafter, the Armed Forces supported the Provincial authorities in several disarmament exercises over Baringo, Marakwet, East and West Pokot, Turkana, Laisamis, Marsabit, Isiolo and Samburu in 1997. Concerned by the spate of rustling in the region, they established semi-permanent hot-spot training bases in Chemolingot, Sigor, Kainuk, Lokichogio, Kacheliba, Kauro Kom and Baragoi¹²³ as deterrence¹²⁴. In spite of this deployment, in the last week of March 1997, Ethiopian Shangilla raided and shot dead more than 100 Kenyan people including at least 19 Kenyan policemen. In the week-long skirmish, they prevented police reinforcement from reaching the wounded or recovering the dead and virtually cut off the road linking Sebarei and Dukana near the Kenyan-Ethiopia border. They used kidnapped police officers as human shield¹²⁵. After this action, a disarmament exercise in Samburu yielded 84 AK 47 rifles which the police again issued to Samburu Kenya Police Reservists¹²⁶. The local politicians continued to incite the locals complaining that the disarming exercise would again weaken them and make them prone to attacks and they accused the government of failing to provide them security.

In the succeeding years we have witnessed the bloodiest attacks and uncontrollable rustling and banditry which for a time rendered the NRV a no go zone under the nose of the state security. Commercial rustling changed form as powerful people exploited the pastoralist culture and customs, proliferation of small arms and availability of idle youths. They engaged the youths to raid livestock for profit or to eject their political adversaries' power bases from the region with impunity.

¹²³ KDOD sources.

¹²⁴ Mburu Nene. *Bandits at the border*. (The Red Sea Press Inc., 2005), pp. 49.

¹²⁵ See Mburu Nene *Contemporary Banditry in the Horn of Africa: Causes, History and Political Implications* *Nordic Journal of African Studies* 8(2): 89-107 (1999) (University of London, United Kingdom) pp 101.

¹²⁶ Kennedy Agade Mkuu. *Guns and Governance in the Rift Valley: Pastoralist Conflicts and Small Arms*. (African Issues, 2008), pp. 121.

Disarmament exercises have become like cat and mouse games; cattle-rustlers carry on, the security forces are scrambled with much political hype which soon ebbs away, they return to camp with a paltry collection of small arms, more fire arms are acquired and the cycle begins again. In chapter three we examine and analyse this trend to isolate the political, economic and social factors and determine how they have made cattle-rustling so difficult to contain.

CHAPTER THREE

THE POLITICAL, ECONOMIC, AND SOCIAL FACTORS IN CATTLE RUSTLING

3.0 Introduction

Many analyses of the cattle-rustling problems in NRV privilege cultural phenomena and the political, economic and social marginalisation as the core variables causing rustling conflict¹²⁷. Others privilege regional-centric dimensions and small arms¹²⁸. This chapter seeks to demonstrate that as a matter of fact, the crisis of cattle-rustling in NRV is better grasped when all these variables are converged. The chapter advances that the crisis is a function of political, economic, social and legal framework factors in a matrix which has continued to be animated by the underlying neo-liberal system.

Although leadership in pastoral societies is traditionally gerontocratic, it is noted that in the period of the 90s impacts of the neo liberal system apparently opened up the space to armed youths¹²⁹ denuding gerontocracy. The ready access to guns has transformed political, economic and social power relations in NRV bringing in the centrality of both the state and local actors. How they respond to these societal contestations informs the nature of cattle-rustling. This chapter analyses the phenomenon of cattle-rustling from the foregoing perspective. It grapples with the question: what factors predispose the people of NRV towards cattle-rustling? The chapter examines and analyses the political, economic and social factors that engender cattle-rustling in NRV. We assume three levels of analysis in this objective; the political, economic and social.

¹²⁷ See Abdurahman Ame. *Cross-border livestock Trade and Small Arms and Conflict in Pastoral Areas of the Horn of Africa: Case Study from Southern Ethiopia and Northern Kenya* A paper to IASCP's Eleventh Biennial Conference. DPMF 19 April 2006

¹²⁸ ICGLR Forces.

¹²⁹ Kennedy Agade Mkutu, op cit.

At the political level, we examine policy positions, statements and actions of political actors at systemic and societal levels with a view to illustrating how they shaped rustling in NRV. We note that positions taken or stated on papers or publicly by leaders with respect to either cattle-rustling or attempts that aim at bringing political, economic, social and legal transformation have a direct impact on the articulation, behaviour and actions of actors at the societal level. We note that statements and actions of leaders at the systemic and societal levels impinge on the efficacy of the security and legal machinery.

We also examine and analyse the legal frameworks in place in NRV, noting that legal frameworks legitimise policy at the political, operational and tactical levels; and efficacy of policy enforcement effort at these levels. The legal frameworks determine the ultimate extent to which rustling is contained and deterred. We also examine and analyse the political administrative structures, noting that the capacity and efficacy of the administration structures can help forge a common focus in advancing the political goals.

At economic level we examine the existing policies¹³⁰ of inclusion as applied and how they integrate NRV region into the wider national economic space and the extent of economic inclusion as measured by infrastructure, institutions and economic activities such as setting up of markets.

At the social level we analyse the institutions to draw the nexus between them and rustling. We note for instance that core to cattle-rustling is the supply of recruits, and emerging community defiance to state authority. These are, apparently, animated by the combination of ecology, culture, gender, insecurity and power. We shall therefore analyse the factors of ecology, culture, gender, insecurity and power with a view to determining the extent to which

¹³⁰ Such as the Sessional Paper No 10 of 1965 on African Socialism which emphasized the right of every Kenyan to reside and own property anywhere in the Republic: Kenya Vision 2030: Transforming National Development; and Kenya Constitutional document.

they predispose of the people to cattle-rustling. We seek to demonstrate that contrary to the widely accepted assumption that human being are wholly malleable, some fundamental needs such as individual and identity group needs are compulsive to the extent that they will be pursued regardless of cost¹³¹.

The chapter is therefore organised around four core parts. Part one examines the political factors; part two examines the economic factors that underlie sustained cattle-rustling; and part three examines the socio factors that engender the apparent predisposition to rustling.

3.1. Political Factors

Pastoral communities' behaviours are in one way or another impacted by the elites' statements and behaviour, this section examines and analyses policies, elite statements and behaviours, legal frameworks and administrative structures that have impacted on livestock, with a view to demonstrating how they animate cattle-rustling. There exist many laws and statutes to govern livestock management, disease control and general security some of which target NRV exclusively. However they are not enforced consistently. Although many of them are considered discriminatory many, for example the Livestock Management and Diseases Control statutes are of value to NRV. Their enforcement could improve livestock security and the standard of living there substantially. It is observed however, that law enforcement has been inconsistent at the tactical levels where the people openly defy them, the result of which poverty has increased and security has deteriorated many fold¹³².

Inconsistent law enforcement is exemplified by ad hoc directives issued by political agents whenever the security situation gets out of hand which are soon forgotten after normalcy returns. For instance, Rift Valley PC has on various occasions prohibited carrying of warlike

¹³¹ See Chapter one, theoretical framework.

¹³² Jonah Leff, "Pastoralists at War: Violence and Security in the Kenya-Sudan-Uganda Border Region, *International Journal of Conflict and Violence*, Vol. 3 (2) 2009, pp. 188 – 203, pp 196.

items in the open but people in NRV it is observed that people not only carry traditional lethal weapons openly, they actually carry guns openly even in the presence of the law enforcement agents¹³³. These ad hoc directives are issued at the discretion of the provincial administrators who have been delegated powers to enforce them as they deem fit. We note that the ad hoc state directives are among the key factors impacting on milieu of issues informing cattle-rustling in NRV. One which continues to impact on the security architecture in NRV disarmed one community and armed another without guaranteed security. It shifted the balance of power and perpetuates conflict as the disarmed community quickly rearmed and disparaged state support. For instance relentless disarmament in Samburu of 1997 to 2005 exposed Samburu to Turkana and Pokot attacks and enhanced their expansion into Samburu and Laikipia districts¹³⁴. It contributed to the observed reluctance to disarm whenever the state calls for it, since disarmament without assurance of security for the disarmed people is dangerous and short term in nature since the status quo ante resumes soonest¹³⁵.

Another policy provides for creation of KPR¹³⁶. Basing on this policy, community based KPR are appointed and armed by the state, ostensibly to defend the communities. Thus instead of monopolising the provision of security, the state ceded responsibility. Creation of KPR has very serious impacts; firstly, due to distance, command and control of the KPR is nonexistent. They are left to decide when, where and whom to protect using state provided fire arms as the state adopts a *laissez faire*. Secondly; the KPR abuse the facility and responsibility and accompanied their tribesmen on rustling missions or rented the guns and thus state arms were used to escalate rustling. Thirdly, the state lost local support, and community confidence¹³⁷.

¹³³ For example the "shoot to kill" order issued by the Ministry of State for IS and PA, concerning police action on cattle-rustlers and general criminals.

¹³⁴ Kennedy Agade Mkutu, *Guns and Governance in the rift Valley: Pastoralist Conflict and Small Arms*, (African Issues, 2008) pp 11, 117 to 122.

¹³⁵ *Ibid.* pp 7.

¹³⁶ The Kenya Police Act.

¹³⁷ Jonah Leff, *op cit.*

Caught in the web of wider national politics, NRV politicians regard the space to belong to their ethnic groups and non-indigenous people cannot exercise their citizenship there. Statements such as the right of locals to hold positions of leadership had a wide range of impacts. They paralysed administration, encouraged impunitively armed attacks on “foreigners or madoadoa” and legitimised vigilante violence¹³⁸. Local political elites also started making inciting statements and directly challenging the state¹³⁹.

Succeeding Pokot politicians have been especially consistent in inciting their tribesmen not to harbour members of other communities. As a result, the Pokot continue to maraud the districts of Trans-nzoia, Kwanza, Mt Elgon and Cherangani, killing and scaring away land owner with impunity. Recently, a Pokot Member of Parliament Hon Samuel Chumel Moroto threatened Turkana over what he called Pokot Land¹⁴⁰. A Samburu leader was also on record inciting Samburu not to disarm in the ongoing (April 2010) “Operation Dumisha Amani”¹⁴¹. Such political actors’ statements incite people against the state and make efforts to remove conflict fruitless. As argued by Adama Dieng, “impunity at social and political levels has prevented peaceful co-existence between communities, and is a major obstacle to the evolution of democracy and development”¹⁴².

Impunity of the Pokot was exemplified by the late Francis Polisi Lotodo during the earlier days of Moi government. It took a three month joint Kenya and Uganda governments’ crackdown in Operation Nyundo which for six year since 1984 had brought the Pokot under control¹⁴³. The operation culminated with the arrest and internment of Francis Lotodo in prison

¹³⁸ Statement by Francis Polisi Lotodo, February, 1991. *KNCHR Biennial Human Rights Report*, January – June 2006. Volume 8 No. 1. pp 52. In NRV non-indigenous people are considered to be foreigners and are referred to as madoadoa (stain spots). They are not welcome to contest in politics against the indigenous people.

¹³⁹ Katumanga, *ibid*, pp. 92.

¹⁴⁰ MP Warns Over Land in Pokot. *The Sunday Nation* (Nairobi), Sunday 25 March 2001.

¹⁴¹ Hon Letimalo, see Hassan Huka, 4000 sent to mop up Fire Arms, *Daily Nation*, April 27, 2010

¹⁴² Adama Dieng, *Clarification of Concepts: Justice, Reconciliation and Impunity*, United Nations. International Criminal Tribunal for Rwanda, 24 May 2002.

¹⁴³ David B. Kopel, Paul Gallant & Joanne D. Eisen, *ibid*.

for five years on charges of incitement. He was later released from jail, re-elected to parliament and apparently in an attempt to appease the Pokot community, awarded a powerful cabinet appointment by Moi.

At the height of the Samburu community's impunity in the early 1990s, the state used rustling to evict unarmed politically incorrect 'foreigners' from ranches in Laikipia and southern Samburu districts. In fact in 1999, Samburu politicians successfully barred a major military manoeuvre exercise that was to take place there¹⁴⁴. The exercise would have brought in over Ksh 200 million, in the form of boreholes, dams, roads, pans, veterinary care, human health services and service contracts for the Samburu people. The capacity to bar the country's military buoyed Samburu warriors and fed the aggression that followed.

In the next few years Samburu and Pokot impudently entered Laikipia and encroached into ranches and gazetted military training areas under the watch of the state. It is therefore notable that political elite, even the state, can conveniently encourage cultural identity based conflict for political discrimination and consolidation of power interests. Therefore, cultural identity being stronger and more enduring than most other collective identities is most likely to produce the basis for political mobilisation and conflict when it provides the basis for invidious distinction among people¹⁴⁵.

Pastoralists Parliamentary Group (PPG) links pastoral conflicts and electioneering, a trend which they argue, "should be recognised as a national rather than just a pastoralist

¹⁴⁴ KMOD Sources revealed that *Exercise Toa Kutu 2000*, a "March and Shoot" exercise that was to take place in the current Laikipia North and Samburu Districts involved Civil Military Cooperation (CIMIC) activity. The exercise greatly benefits local communities who in addition to participating in the planning so that their own priority projects are assisted, they also get free medical and veterinary attention for almost two months. The exercise used to be an annual event and in 1999 it had taken place in Laikipia. It is during this time that the demise of the Samburu people was noted and on consultation with elders it was agreed that it would take place in Samburu district the next year. During planning however, some prominent political elites who included a former Kenya Army Commander and a former Provincial Commissioner objected to the exercise and threatened to organize a demonstration in Maralal to oppose it. The military opted to relocate the exercise to a place where the people needed that help.

¹⁴⁵ Ted Gurr, Inequalities among cultural groups in status, economic well being and access to political power.

problem¹⁴⁶. The PPG sees “a pattern, where intercommunity cohesion and good relations are threatened when one group acquires power and other communities resort to violent conflict as a tool to check hegemonisation of ethnic interests¹⁴⁷. The cases in Trans-Nzoia, Pokot, Samburu and Laikipias are exemplary.

Judging from the high level ethnic-based clientilism IGAD views Kenya’s political system to be “highly personalized, neo-patrimonial and divided with a high level of corruption and a history of decision making that is based on political exigencies¹⁴⁸. IGAD posits that this kind of a political system impacts on policy making and tends to “exacerbate disregard for the pastoralist communities who remain under-developed, marginalised in the ethnic coalition-building that drives politics, and are progressively alienated from their land¹⁴⁹. The under-development has engendered higher levels of insecurity internally and across border¹⁵⁰.

Inferring from the foregoing, gerontocratic governance would enable the NRV communities forge ahead an independent agenda, but as argued earlier, gerontocracy has not only been decimated by proliferation of small arms; the “prominent trees parliaments” democracy, a feature which rooted in gerontocratic control has been seized by warlords and elitists; influence and prominence are now gauged in terms of relative power expressed by ownership of cattle and guns¹⁵¹. The “Prominent Trees Parliaments” became very important

¹⁴⁶ Report on the PPG open Forum to Discuss Conflict in Northern Kenya and Connected Purposes, (Centre for Minority rights and Development. Intermediate Group and Kenya Livestock Marketing council, 21st April 2005, JACARANDA Hotel, Nairobi), web: www.ccmiride.info last visited 05 January 2009.

¹⁴⁷ Ibid.

¹⁴⁸ See IGAD. *Livestock Policy Initiative: Politically Feasible Livestock Policy Reform in Kenya*. (Policy Brief). Based on: *The Political Economy of Pro-Poor Livestock Policy Reform in Kenya*, Brendan McSherry and Jennifer N. Brass. Date of Publication: 2007

¹⁴⁹ Ibid.

¹⁵⁰ This IGAD brief rates it among the highest in the world.

¹⁵¹ The “Kokwo” in East Pokot and Marakwet, or “Tree of Men” in Turkana. Women do not take part in “Kowko” or “Tree of Men”. If they attend, they are not allowed to speak especially if their in laws are present there. Contrary to the definition given by Edmund Barrows, is not essentially the tree but the council of Pokot elders which sits under a prominent special shade tree, to discuss and plan activities grazing and grazing patterns. See Edmund Barrows, *Trees and Pastoralists: The Case of Pokot and Turkana*. (ODI, Social Forestry Network,

during the era of political consolidation, when in order to preserve itself, the political regime enlisted the support of ethnic communities and gave them the impunity to maraud opponents.

Under the normal circumstances the kind of conflicts found in NRV ought to conflagrate civil war¹⁵². The failure to do so in NRV is attributed to the presence in Kenyan urban areas of a class interest which cuts across NRV ethnic lines which includes large scale land owners, and urban professionals, businessmen, physicians, high ranking politicians and civil servants, and high level officials in multinational corporations who would rather the status quo continues in order to safeguard their urban interests¹⁵³. The political dealings of NRV can therefore be associated with the instigation and escalation of cattle-rustling. It is noted however that if the situation could mend, if directed properly, political dealings have the propensity to rid the region of rustling and jumpstart development of the area considerably. At the moment it is a critical cause of cattle-rustling which if not addressed may escalate rustling to an uncontrollable level.

3.1.0. Legal Frameworks

In this section we analyse and examine laws and procedures that have continued to impact on cattle-rustling in NRV. We assume that laws are made out of a people's aspirations, norms, values, culture and traditions and to the extent that laws threaten these primordial aspects of community cultures, the laws are considered predatory, they are resisted and defied.

1988). pp.3. For the explanation, see Betty Rabar and Martin Karimi. (eds) *Indigenous Democracy: Traditional Conflict Resolution Mechanisms of Pokot, Turkana, Samburu and Marakwet*, (ITDG-EA, January 2004), pp 76.

¹⁵² Jos van Beurden. Kenya: Small scale conflicts could have major repercussions *Searching for Peace in Africa*, 2000

¹⁵³ Colin H. Kahl, *Population Growth, Environmental Degradation, and State Sponsored Violence - The Case of Kenya*. In: *International Security*, 23(2), 1998; *Conflicts in Africa - Analysis of Crisis and Prevention Measures*. Dossier GRIP # 215/217. Brussels, 1997 (case-study on Kenya).

We observe that the laws governing in NRV discriminate the region. Among them are special powers delegated to the Provincial administrators by "Chiefs Authority Act"¹⁵⁴. They can restrict movement of people from one district to another and control direct sale of livestock¹⁵⁵. This embeds official physical and structural violence in state policies. The laws also include the "Special Districts Administration Act"¹⁵⁶ and "Outlying Districts Act"¹⁵⁷, which delegate political and economic control to District Commissioners and gave them excessive powers to restrict peoples' movement and confine them to their areas if need be¹⁵⁸. Acts such as the "Agricultural Act" and the "Agricultural Produce Marketing Act" continue to restrict markets¹⁵⁹.

The most contentious is the "Stock and Produce Theft Act" which imposes a fine or conviction for theft of stock or produce¹⁶⁰. It legalised collective punishment when offenders escape and cites community representatives as the offender. Magistrates can impose fines of at least ten times the value of stolen stocks or produce, often too hefty for the culprit to afford, so the punishment is extended to his closest family, clan or his community¹⁶¹.

¹⁵⁴ Cap 128. Laws of Kenya. An Act of Parliament to make provision in regard to the powers and duties of chiefs and to provide for matters incidental thereto.

¹⁵⁵ Wachira Maina, *ibid*. See also Musambayi Katumanga. Security Concerns and Lateral Pressure as a Basis for Enhanced Regional Integration: The Case of North Western Kenya, in Ahmed Mohiddin (Ed) *Deepening Regional Integration of the East African Community*. (DPMF Book Series, 2005) pp. 90.

¹⁵⁶ Cap 105. Laws of Kenya. An Act of Parliament to provide for the maintenance of order in areas to which the Act is applied.

¹⁵⁷ Cap 104. Laws of Kenya. This is an act of Parliament to make provision for the closing of districts and parts of districts to travellers.

¹⁵⁸ Ahmed Issack Hassan. The Legal Impediments to Development in Northern Kenya, a paper presented at the consultative meeting for Members of Parliament at Naivasha, Kenya 22nd - 23rd august, 2008.

¹⁵⁹ Now the "Agriculture Produce Marketing Act", Cap 320. Laws of Kenya. An Act of Parliament to control and regulate the marketing of agricultural produce. to enable Marketing Boards to be established for marketing such produce and to provide for the powers and functions of the Boards, and for matters connected therewith and incidental thereto.

¹⁶⁰ Cap 355. (Repealed) Laws of Kenya. An Act of Parliament to provide for the recovery of fines imposed for the theft of stock or produce and to make persons liable to account for the possession of stock or produce in certain cases.

¹⁶¹ C. M Dobbs. (Provincial Commissioner, Nyanza) Memorandum on Stock Thieving, dated 22 January 1930; See also KNA – PC/NZA/2/5/29, Stock Thefts. General Matters, 1929 – 31, cited by Kennedy Agade Mkutu, *Guns and Governance in the Rift Valley: Pastoralist Conflicts and Small Arms*. (African Issues. 2008), pp. 35

These laws are widely applied by provincial authority to fight cattle-rustling. For instance, in Operation Nyundo, Pokot livestock was confiscated en mass to coerce the communities to hand in weapons. The instrument has also been applied in many other disarmament operations in Turkana, Samburu and Isiolo. In the April to July 2009 Isiolo clashes Samburu livestock was confiscated en mass. Many of the confiscated animals get lost or die. Beside such animals are pilfered by senior officers and provincial administration¹⁶². Communities not only consider communal punishment an abuse to their customs, they also consider these Acts as direct licence to rob and impoverish them to enrich political and administrative elites. They have occasionally resisted communal punishment in bloody clashes as exemplified by the Isiolo debacle of the year 2009 where several policemen lost their lives in clashes against Samburu and Pokot herders in Samburu East.

Interestingly the patron client nature of politics continues to encourage selective application of these laws reversing the gains got from enforcement thereby escalating impunity. The policing, justice and correction services are paralysed by interference whenever politically correct culprits are arrested. Pursuits of stolen livestock are often called off on orders from higher authorities, as state instruments are used to perpetuate rustling¹⁶³. Disarmament is also discriminative for instance the government armed Pokot communities ostensibly to protect them from Karamojong attacks just while concurrently disarming Turkanas¹⁶⁴. There is evidence that due to the lack of confidence in the formal legal process as adduced from the foregoing, an informal legal system runs in parallel and in competition with the formal one¹⁶⁵. It

¹⁶² Kennedy Agade Mkutu, *Guns and Governance in the Rift Valley: Pastoralist Conflicts and Small Arms*. (African Issues, 2008), pp. 34.

¹⁶³ Interview of ASTU officer; such incidences are also recorded in interviews with military personnel who had stints in areas of Baragoi, Chesogon and Nginyang. In this interview it was intimated that in 1995, a military sub-unit whose base camp had been located strategically to intercept a known route for loot rustled from the Marakwet by Pokot was ordered to move away and when they resisted the provincial administration actually sanctioned the order through minutes of a District Security Committee and thus the unit had to shift to another area to enable stolen cattle to be moved freely.

¹⁶⁴ Nene Mburu.

¹⁶⁵ *Ibid.*

is apparent that communities hardly report crimes; they deal with perpetrators traditionally and as a result, many of the few Magistrates there learn about these crimes on news paper or electronic media. Chopra argues that it "impedes maintenance of law and order as not many crimes are filed in court; not even murders committed during rustling or conflict over pastures or water"¹⁶⁶.

If the police and the official system interfere, the elders request that the cases be withdrawn. Many magistrates find themselves at a loss without official guidance on such matters and have devised their own judgment technique of distinguishing cases to refer back to community elders and cases to take through the formal trial system¹⁶⁷. The Samburu and Turkana for example do not understand the significance of the law courts and may decide whether or not to attend summons depending on how they perceive the crime. The social reality here is more powerful than the forces of state and the people are able to impose their will on state institutions¹⁶⁸. No sooner the culprit honours the compensations determined by the elders they withdraw the cases¹⁶⁹. Of course, in this perception, traditional cattle-rustling is not a crime and this factor is exploited by youths, and other beneficiaries of cattle-rustling to their advantage and they largely go with impunity. One hardly hears of cases on cattle-rustling in formal courts, even where murder was committed.

While Public Order Act forbids carrying of offensive weapons in public, and possession of illicit arms, it is ineffective in NRV where lethal fire arms are openly carried¹⁷⁰. In deed people here can mobilise thousands of troops within the rubric of provincial administration and police and intelligence. For example, between the years 1997 and 2009, 720 raids were

¹⁶⁶ Tanja Chopra, *Peace versus Justice in Northern Kenya* (Report for World Justice Forum, Vienna, July 2-5, 2008), pp. 6.

¹⁶⁷ *Ibid.* pp. 8.

¹⁶⁸ Chopra. *Ibid.* pp. 8.

¹⁶⁹ *Ibid.* pp. 9.

¹⁷⁰ Public Order Act – Cap 56; An Act of Parliament to make provisions for the maintenance of public order and for purposes concerned therewith. Especially touching on possession of offensive weapons in public places.

organised. It implies that sufficiency of guns not only motivates people but also socialises children into the behaviour of rustling¹⁷¹. The general sense of neglect is reflected in the reluctance of government to engage neighbouring states with a view to instituting the traditional frameworks of cross border movement controls to mediate the different national groups in northern region of Kenya, north east Uganda, southern Sudan and south eastern Ethiopia.

To the indigenous and tribal peoples most of whom are pastoralist, land is life since it is tied to livestock and thus is dependent on availability pasture. In recognition of the fact that indigenous and tribal peoples are likely to be discriminated against in many areas, ILO adopted the convention 169 on indigenous and tribal people and the first general, fundamental principle of Convention No. 169 is non-discrimination. ILO sought to get every member state to sign this convention and thereby commit to redraft land laws that touch on land tenure and land appropriation and dispossession in the domestic laws and assent to similar laws internationally¹⁷².

ILO Convention 169 commits signatory states to the improvement of pastoralist's socio-economic welfare¹⁷³. Unfortunately, Kenya has not assented to ILO convention 169. Thus land laws in Kenya continue to disregard the rights of pastoralist communities. In addition as Kenya reformed policies and laws on privatisation, the country continued to disregard the right of the people in NRV to services and land. For instance, while in the process of privatising veterinary

¹⁷¹ MOSD Sources cite a case where a GOC, in Operation Nyundo was challenged by "Gen" Maua the self proclaimed Pokot General in 1984 "Are you ready to protect us, then we can not disarm" depicting a serious aspect of security dilemma, motivating the Pokot to bear arms because of other communities doing the same.

¹⁷² CGD Report on Pastoralism, Policy Legislation and Governance; Web www.cgd.or.ke/documents/pastoralism%20report.pdf. Site visited Wednesday, 17 February 2010.

¹⁷³ Article 1 of the Convention defines pastoralists as "tribal people in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs and traditions or by special laws or regulations". Article 3 states that indigenous peoples have the right to enjoy the full measure of human rights and fundamental freedoms without hindrance or discrimination. In Article 4, the Convention also guarantees enjoyment of the general rights of citizenship without discrimination. In response to the vulnerable situation of indigenous and tribal peoples, Article 4 calls for member countries to adopt special measures to safeguard the persons, institutions, property, labour, cultures and environment of these peoples. In addition, these special measures should not go against the free wishes of indigenous peoples. See CGD Report *ibid*.

services to make veterinary services legal framework conducive to private sector participation, services such as dipping and veterinary clinical services were withdrawn leaving pastoral communities to the mercy of nature¹⁷⁴. It can then be inferred that the legal framework in place is discriminative and instead of deterring rustling, it escalates it as it is not enforced, and is widely disobeyed.

3.1.1. Administrative Structures

Penetration at political level is enabled by institutions of representation, participation and communication infrastructure. In order for political leadership objectives to forge a political community, they must address factors such as the crisis of participation in order to empower the population in a given area of the state to articulate and mobilise their interests¹⁷⁵. The state must avoid the tendency to rival the community in order to remove the crises of identity, conflict management and resolution and resource allocation. All these can be responded to consequent to the presence of requisite institutions penetration into the society.

Examination of NRV reveals the deficiency of the foregoing. This region like any other in the country is controlled by the provincial administration. The aspect of terrain, expanse and poor infrastructure are challenges that distance the provincial administration structures and the people. The implication is that government and people are distant and the intangible level of governance is diminished. If and when administrators engage people here, basically it is short, infrequent and dirigist¹⁷⁶. When the administrators appear in *barazas*, they address the people but don't seek their opinion, an aspect that renders *barazas* unpopular. Their utterances hardly reflect an appreciation of factors undergirding rustling. They consider cattle-rustling to be

¹⁷⁴ Ibid.

¹⁷⁵ Musambayi Katumanga, Security Concerns and Lateral Pressures as a basis for Enhanced Regional Integration: The Case of North-Western Kenya, In Ahmed Mohiddin (ed) *Deepening Regional Integration of the East African Community* (DPMF Book Series, 2005) pp. 49.

¹⁷⁶ Full and direct government control of a country's economy and social institutions.

purely. a security problem whose solution they reckon is in beefing the security forces which further complicates issues locally and nationally.

Due to lack of a strategy, whenever the state responds to pastoral violence, the actions are short term, coercive and focus only on disarmament. Lessons learnt however, attest to the inability of weapon collection to reduce violence over the long term. Ironically it has been observed to have the propensity to bring about new vulnerabilities for some populations as well as of stimulating violent resistance in others¹⁷⁷. Recent experiences in East Pokot, Turkana, Samburu and southern Sudan demonstrate that even when disarmament is benign, the promised security often fails to materialize, and the disarmed communities soon suffer violent attacks¹⁷⁸. This creates security dilemma and the communities quickly acquire new arms and the status quo resumes igniting a vicious cycle.

Structural causes of pastoral conflict have been traced to underdevelopment, poor land use, lack of education infrastructure and state monopolisation of security¹⁷⁹. Roads infrastructure is non-existent. Where roads existed they have become impassable especially during rains due to lack of maintenance. Livestock management infrastructure including bore holes, crutches, livestock loading and holding grounds are in ruins. Other administrative infrastructures are also nonexistent and many administrators posted to NRV consider it a punishment and there is no drive to work. There is no morale.

¹⁷⁷ "Human Security Baseline Assessment. Responses to Pastoral Wars: A review of violence reduction efforts Sudan, Uganda, and Kenya". *SUDAN: issues Brief: Small Arms Survey* Number 8, September 2007 pp 2 (Pdf).

¹⁷⁸ Ibid

¹⁷⁹ Hon. Gen Joseph Nkaissery, MP for Kajiado Central, while contributing in the PPG forum. Gen Nkaissery is a retired Kenya Army GOC, who for quite a long time was responsible for military action in NRV and would have first hand knowledge on the trends and causes of pastoral conflict in NRV. Today, his views clearly depict that he has retained a clear vision of the issue. This position is also collaborated by Kennedy Agade Mkutu. *Guns and Governance in the Rift Valley*, (James Currey, 2008).

3.2. The Political Economy of Cattle-Rustling

We deduce from the analysis of cattle-rustling in NRV, that the economic drivers of cattle rustling are joblessness, markets and economic liberalisation. Core to cattle-rustling is the supply side of the recruits and experts generated by joblessness. Collier and Hoeffler argue that the presence of large proportions of idle youth has direct relationship with propensity for conflict or rebellion¹⁸⁰. Somehow, most of the cattle find their way to markets as far as Dagoreti corner in Nairobi and outside the country. The implication is that the dealers are able to negotiate their way through hundreds of police roadblocks and other security checks including ports security and customs systems without arrest, which is an indicator of involvement of very well connected people in commercial rustling. Animals are diffused resources and such resources have the propensity to induce and sustain violence¹⁸¹. Availability of markets and the ease at which they transform into fused resources generates a self sustaining and controlling mechanism that make demand for cattle very high.

Market opportunities have been increased by the process of economic liberalisation and democratisation in Kenya. Goldsmith has linked these forces to escalation of violence and cattle rustling by linking the imposition of free market by donor communities', with general escalation of conflict¹⁸². Goldsmith connects commerce with both promotion of conflict and stability by demonstrating that economic liberalisation dramatically fuelled violence in northern Kenya, to an extent that as production of markets increased, so did violence and acquisition by force due to the intensified competition for meagre resources. As liberalisation increased,

¹⁸⁰ Joao Gormez, (Ed) *Scarcity or Surfeit*, *ibid.*

¹⁸¹ *Op cit.*

¹⁸² Goldsmith. *ibid.* pp. 2.

competition for markets increased and the dividing line between genuine ethnic competition and criminality blurred¹⁸³.

It is also necessary to understand the linkage between the economy of this area with the economies in the neighbourhoods in Uganda, Sudan and Ethiopia. For example improved livestock prices in Uganda can surge rustling in Pokot and Turkana as perpetrators exploit the chance of better profits in selling the livestock there. Likewise, improvement of prices in Kenya or existence of faster means of disposal of livestock here is likely to surge rustling activities in the neighbouring countries¹⁸⁴.

There are two distinct aspects of economy in NRV, the traditional pastoralist economy and the emergent political economy which we refer to as the bandit economy. We therefore address both aspects of the NRV economy which engender inter-ethnic conflict and predispose the communities to cattle-rustling.

In pastoral society, livestock functions not only as a milk and meat producer, but also as a form of currency. It is used for settlement of bride-price and dowries and for exchange. Virtually all the wealth is tied up in goats, cows, camels, donkeys, and sheep. Livestock survival and by inference the pastoralist communities survival directly relates to existence of abundant pasture.

In spite of the dictates of the ILO Convention 169, Kenya is under pressure to alienate pastoral land especially in the more habitable locations of the NRV. Alienation reduces pastures and cattle wealth, creates poverty, increases peoples' dependence on food aid and deteriorates

¹⁸³ Goldsmith, *ibid.* pp.4.

¹⁸⁴ See Jeremy Lind, *Changing Customary Land Use in Turkana*, <http://www.worldlakes.org/jermylind.htm> last visited 07 Nov 2008 (Pdf).

of peoples' per capita health¹⁸⁵. As pastoralist economy declines due to alienation of land, ecological and climatic vagaries have also seriously reduced available pastures further worsening the situation. Thus, poverty has driven pastoralists to rustle each other in a bid to recreate wealth by accumulation of cattle. It has also forced them to migrate to wherever pastures can be found thereby spreading cattle-rustling and its associated conflict¹⁸⁶.

For instance, as Pokots, Turkana and Samburu herders migrate, they threaten large scale ranches bringing about conflict between the herders themselves, the herders and ranchers and the cultivators and the herders and the state as the state tries to intervene in the ensuing clashes. With state absence, there is a growing security dilemma among cultivators in NRV and areas contiguous to it, who are now demanding small arms to defend themselves. In the anarchy, organized tribal armies have rendered vast areas of the NRV 'bandit areas'¹⁸⁷. This is exemplified by the events witnessed in the Laikipia, Isiolo and Meru districts, and it is spreading into Nakuru and Nyandarua. As the pastoral communities spread out livestock herds are depleted, poverty increases. They become more reliant on food aid and susceptible as conflict ensues due to environmental degradation¹⁸⁸.

3.2.0. The Bandit Economy

Commercial cattle-rustling is a multi-billion shilling industry. For example, between 1995 and 2000, over 300,000 heads of cattle were stolen costing over Ksh 4.2 bn¹⁸⁹. Since then, over 1.2 bn is lost in matters associated with cattle-rustling annually. Going by police records Rift Valley province had the highest number of crime cases in general after Nairobi. In spite of

¹⁸⁵ Shauna Burnsilver and Esther Mwangi. "Beyond Group Ranch Subdivision: Collective Action for Livestock Mobility, Ecological Viability, and Livelihoods". *Collective Action and Property Rights CAPRI*, Paper no 66, June 2007 (Pdf), pp. 6.

¹⁸⁶ Samburu County Council, *About the Samburu people*, web, <http://www.samburucouncil.com>.

¹⁸⁷ Abdi Umar, *ibid*.

¹⁸⁸ Abdi Umar. *op cit*.

¹⁸⁹ Dr Katumanga. *op cit*.

this, the Kenya Police do not value statistics on recovery of stolen stocks, and they do not maintain such data. Police Observation Books (OBs) in the NRV police posts and stations, however, reveal that no livestock stock stolen in NRV is recovered¹⁹⁰. Statistics on livestock lost by Samburu to Turkana raiders indicate that out of the 53,612 animals stolen between 1996 and 2002 only 857 heads comprising 1.6% were recovered. From 1993 to 1995 a total of 61 animals were stolen in the entire period and none recovered¹⁹¹. In 1996 therefore there was an exponential increase. Considering the cost per cow to be Ksh 23,000, shoat at 4455, camel at 26,000 and donkey at 18,000, the average cost per animal is Ksh 18,000. The total loss therefore was Ksh 949,590,000.

The numbers of livestock lost by Turkana to Samburu raiders between 1991 and 1996, were 539 out of which, 213 were recovered, marking a 39.5% recovery rate. From 1997 to 2000 however, 8911 heads were stolen, out of which only 145 heads were recovered, a paltry 1.6% recovery rate. No recovery was made in 1997, 1998, and 2000¹⁹². These statistics attest that the disarmament of the Samburu made them victims of the Turkana. From these data we infer that while it is relatively easier to pursue and catch up with rustler in Samburu, it is difficult to do so against Turkana rustlers due to terrain and probably due to their lethality and so police do not pursue them. It is apparent that the amount of money lost could have transformed Samburu, a fact which should trigger state interest.

In West Pokot, from 1997 to 2000, 52,248 heads cattle were stolen out of which none were recovered¹⁹³. Pricing each at an average market value of Ksh 23,000, Ksh 1,201,704,000

¹⁹⁰ Kennedy Agade Mkuu. *Guns and Governance in the rift Valley: Pastoralist Conflict and Small Arms*. (African Issues, 2008). pp.94 to 105.

¹⁹¹ *Ibid.* pp. 95 to 103.

¹⁹² *Ibid.*

¹⁹³ *Ibid.*

was lost. From 1997 to 2000, the annual loss is then Ksh 1.2 bn an amount that could transform the region and develop a thriving livestock economy¹⁹⁴.

A number of questions arise out of these statistics; where do these animals go? What is being gained? How does the gain spawn more raids? And; who are the beneficiaries? With respect to the first question, it is apparent that such rustling is not traditional. It must be driven by commercial motives which explain how such huge number of cattle can be rustled. With respect to the second question, the motive is the huge amount of money involved; which answers the third question – the huge profits made generate momentous secondary demand for cattle and small arms which spawns more raids. Beneficiaries of such economy can not be normal pastoralists; they can only be people who can influence police, political and administrative actors. This justifies the inference that the beneficiaries of rustling are probably, high ranking security, administration, commercial and political powerhouses at the local and national levels. These factors explain to an extent the state lethargy to contain cattle-rustling

While examining proliferation of commercial cattle-rustling, one notices the escalation of economic wars and deterioration of traditional mechanisms for conflict transformation. The quick and irregular disposal of stolen cattle (diffused resources) from the hands of the raiders is also noticeable. The raiders quickly barter the animals for goods, cash, or weapons (fused resources)¹⁹⁵. Cattle-rustling and gun running are thus interconnected whereby raiders operating in small highly mobile parties of less than ten youths each have to dispose the loot quickly before the owners or government forces catch up. The loots are sold quickly and as cheaply as possible, which has seriously depressed livestock prices increasing the profits margin when they reach the external markets; and demand for such cattle by outsiders, who now organize the

¹⁹⁴ "Civilians in North Rift to be Disarmed Soon" National News, *Daily Nation*, 19 August 2008, pp 9.

¹⁹⁵ Akwabai and Ateyo, *ibid.* pp. 27.

raids, provide transport and whisk away the cattle¹⁹⁶. In the Karamoja cluster new term "namorat" has emerged which refers to stolen cattle sold cheaply and in hurry by eager youths¹⁹⁷. The bandit economy is by inference probably the biggest cause of cattle-rustling and therefore the actual rustlers are not in NRV, they are in high offices in Nairobi and other urban areas.

3.3. Socialising the Cattle-Rustler

In resolving low intensity conflict environments, understanding culture may help to answer important questions such as the willingness of the populace to support insurgents and warlords¹⁹⁸. Cattle-rustling in NRV is to large extent instrumentalised by warlords and opinion shapers. Understanding the mixture of cultures in NRV therefore could help understanding of the features and trends in cattle-rustling and the extent to which the warlords and elites influence can be neutralised. To contextualise this argument, we re-examine the predominant modes and forms of existence among the communities of NRV that apparently predispose the people to rustling.

On the outset, these modes and forms of existence continue to be shaped by harsh conditions obtaining in the region¹⁹⁹. To survive and sustain social reproduction, communities here evolved a pastoralist mode of existence ensured by movements in search of pasture and water²⁰⁰. Where harsh weather decimates large numbers of livestock, the communities appropriate the same from other communities²⁰¹. This is the process that the modern state calls

¹⁹⁶ Ibid.

¹⁹⁷ Op cit. Pp 29.

¹⁹⁸ Paul M. Belbutowski. Strategic Implications of Cultures in Conflict, in *Parameters*, US Army War College Quarterly Vol. XXVI. NO. 1. Spring 1996. pp 33.

¹⁹⁹ See chapter two.

²⁰⁰ See John Omiti and Patrick Irungu, "Institutional and Policy Issues Relevant to Pastoral Development in Kenya". *Discussion paper* No. 031/2002, Institute of Policy Analysis and Research, February 2002, pp.8 (Pdf), in <http://www.ipar.or.ke>, visited 1700hr, 16th July 2008. See also chapter one. for definitions of the concepts.

²⁰¹ See John Omiti and Patrick Irungu. *ibid*.

cattle-rustling. Apparently this dynamic has over the years come to be regarded as a form of culture.

At every stage, where conflicting parties interact socially; each party affects the ways the other acts not only as a response but also each anticipates the others responses and even the ends sought are constructed in interaction with adversaries²⁰². Social conflicts are ubiquitous and manifest themselves at every level of social spectrum, from interpersonal disputes to inter-community religious or social ideological conflicts. Nevertheless, not every conflict is expressed in hostile or violent way but every violent conflict is unique in a sense and is the result of many interlocking conflicts in the system²⁰³.

In relation to NRV, analysis of conflict patterns reveals no ideological conflict. In a bid to respond to the cattle-rustling dynamic, the entire social organisation of the groups has been structured to respond only to community survival interest. Every single member of the clan is socialised from birth to appreciate that his survival is dependent on the whole and the whole is dependent on the individual. Apart from the individual, core to survival among the communities is the animals, which provide food, in addition the entire social life from marriage to prestige revolve around the animals. For purpose of survival, coping mechanisms are inculcated into every child from birth socialising him to meet these challenges²⁰⁴.

Warrior zeal is essential for survival. To imbue it, hero-worship is entrenched²⁰⁵. Among the Turkana for instance, heroes (ekuarang) are specially recognised as community protectors. Men can only be recognised as heroes after killing enemy warriors; they are tattooed to show bravery and each tattoo denotes a man killed. The more the tattoos a man displays, the

²⁰² See L. Kriesberg, *Constructive Conflicts; From escalation to Resolution*, (Rowman & Littlefield Publishers, New York, 1998). Cited by Jeremy Lind and Katherine Sturman, *Scarcity and Surfeit: Ecology of Africa's Conflicts*, (ACTS, 2002) pp 20.

²⁰³ Ibid.

²⁰⁴ Kennedy Agade Mkutu, *ibid*.

²⁰⁵ Betty Rabar and Martin Karimi, (eds) *Indigenous Democracy: Traditional Conflict Resolution Mechanisms of Pokot, Turkana, Samburu and Marakwet*, (ITDG-EA, January 2004), pp 76.

higher the status. Young children practise stick fighting to inculcate warrior zeal and stick fighting is also used by youths of the same age groups to assist a members acquire a bride when there is competition²⁰⁶. Children are born into age sets, trained and hardened in preparation of fending off enemies or to acquire cattle²⁰⁷. The society is regimentalised and all the pastoral communities hold the belief that cattle are owned by divine right²⁰⁸.

As a result of poor range management, demand for pastures has animated the impulse to consolidate control over the available pastures and water points. The collapse of regional state systems at the same time increased flow of sophisticated weapons and extended killing power, a fact which continues to disturb the balance of power among the communities. It is notable also that people flock into military to acquire military knowledge and skills. Soon as they acquire the skills they exit the military formations and in response to the need to ensure the survival of the collectivity, they pass the skills and knowledge to their kinsmen²⁰⁹.

This dynamic has been facilitated by the logic of moranism for instance and state absence, where groups can train and enough age sets can go through cycles of initiation and acquiring right of passage from one age set to another²¹⁰. In deed these nationalities have taken the form of protostates at every given point and military formations exist with entry and exit phenomena²¹¹. It is these phenomena that are maximised upon by market forces facilitating cattle-rustling. The state has been unable to break the regimentalisation and so it continues to influence the way of life in NRV.

²⁰⁶ F. K. Muhereza. *Cross-Border Grazing and the Challenges for Development in the Dry lands of East Africa: The Case of Karamoja*. (Ethiopian Institute for Peace and Development. A paper presented on the economic Integration and Trans-boundary Resources, organised by the Ethiopian Institute for Peace and Development.

²⁰⁷ Cite David Goldstein.

²⁰⁸ See <http://en.wikipedia.org/wiki/Karamojong> last visited on "26 May 2008

²⁰⁹ Interview with a senior AP Commander responsible for AP in Southern Turkana, collaborated by an interview with a Senior Military Commander in the Kenya Army, Headquarter Western Command.

²¹⁰ Musambayi. Katumanga. op cit..

²¹¹ Ibid.

Without state social systems, youths are gobbled by the social regiments and the transforming age sets. Possession of military skills is a major advantage and the system reinvests in a phenomenon that is overlooked by the state which continues to focus heavily on external security ignoring this explosive internal situation. Aspects of culture do not of themselves necessarily instigate conflict²¹². The causes of escalating cattle-rustling should be sought in its instrumentalisation.

Women contribute both as instigators of rustling and as mediators in conflict resolution. They goad and cajole men to raid or undertake revenge missions. They sing songs of praise to successful warriors, and celebrate by sleeping with the successful warriors. At the same time, women are very important in informal contexts especially in inter-clan and intercommunity linkages and can provide crucial channels for communication between rival communities and clans in conflict.

Among the Ateker, land is held in communal tenure, a common resource regulated by councils of elders, but each ethnic community has attachment to what it considers its own land. With transhumance, conflict is inevitable; its endurance is related to land use and the resolutions largely shaped by ever changing alliances between different communities²¹³.

From this discourse, it is clear that the cultural practises in the region are conducive to and promote rustling and arming. The cultural factors that particularly promote arming and engender resistance to disarming include the need to replace lost or decimated stocks of cattle, the need to satisfy social and peer pressure to fulfil requirements for cultural rights of passage. The use of cattle as bride price and the divinity of cattle encourage the people to revere

²¹² P. Collier. Doing Well out of War. Paper prepared for Conference on Economic Agendas in Civil wars, London 26-27 April 1999. The World Bank. *The Economics of Crime and Violence Project*, Washington DC, 10 April, 1999, pp 1. www.worldbank.org/research/conflict/papers/econagenda.htm.

²¹³ John Omiti and Patrick Irungu. "Institutional and Policy Issues Relevant to Pastoral Development in Kenya", *Discussion Paper* No. 031/2002, Institute of Policy Analysis and Research, February 2002, pp. 8 (Pdf), in <http://www.ipar.or.ke> visited 1700 hrs, July 16th, 2008. See also Chapter one, definition of concepts.

livestock and cattle-rustling as the means of acquiring stocks. Guns make rustling more efficient.

As noted, the phenomenon of enhanced training and acquisition of arms is animated by the social and demographic variable. In effect the demand and supply side of guns and social capital merged animating cattle-rustling²¹⁴. Where social policies are right and work, training of youths would be diverted as youths engage in constructive social activity which would remove many youths from the communities in search of more attractive lifestyles elsewhere. Unavailability of youths for destructive social engagements implies a diminished demand for fire arms. In the absence of appropriate social policies, the population of uncommitted and uneducated youths becomes overwhelming, social structures break as many of them engage in the destructive social engagements, and demands for fire arms surge cattle-rustling.

To understand the supply side of the human capital we need to look at the social policies and how they affected the north rift valley region. The region is huge in expanse but social infrastructure remains nonexistent or limited. Population explosion and poverty all combined create a huge population of idle youths. Instead of taking measures to ensure that the school going population of children access schools and that the educated youths find means of employment locally or outside the region, the state is passive²¹⁵. Until 1997, NRV operated under a restrictive legal framework. Maximising on military knowledge and regimentalisation of social structure youths are able to increase their levels of accumulation²¹⁶. In deed, a nexus

²¹⁴ Kennedy Mkutu. Ibid, pp59 – 114.

²¹⁵ This could be achieved by either undertaking projects that hold children from nomadic communities or by providing them education on the move to enable children from pastoralist communities enjoy free education as well.

²¹⁶ Gained from participating in wars and armed conflicts in Uganda, Sudan and some as far as the great lakes region, and from training by those who acquired skills in military or police training.

emerges linking recruitment into the military, police and AP and other armed security sectors and cattle rustling²¹⁷.

Many such youths are now prominent members of these societies an aspect which is feeding into the social military in two ways²¹⁸. Firstly is the direct discharge of military expertise into the society due to the normal attrition in the military; secondly it is through the unusually high rate of desertion by youths from these communities from military and police to the society²¹⁹. The state does not understand the social aspect of this phenomenon or largely ignores it. As a result, almost every family has a gun and the expertise, and they are able to garner about battalion size units of raiders²²⁰.

Whereas existence of social infrastructure such as education could have transformed the culture, infrastructure is inadequate. For instance analysis of figure 3.1., School Data Returns and Annual Schools Census 1999 to 2006, reveals that in districts such as Turkana, expansion of available institutions decreased. In Samburu districts it stagnated. Secondary school education in the entire region apparently grew from 124 in 1999 to 167 in 2006, a growth of 35% in a circumstance where national secondary school education grew from 3,369 in '99 to 4,186 in 2006 a growth of 24%. This was due to a phenomenal growth of private secondary schools in the highlands Pokot. The schools are unavailable to pastoralists.

Primary schools are of critical importance since the sub-sector is an indicator of the availability of youths and morans. Most of the schools are in urban areas and 70% of children

²¹⁷ Also in 1997. Interview with a senior military Officer refers.

²¹⁸ Kennedy Mkutu

²¹⁹ Interview with a Senior Military Officer.

²²⁰ Interviewed military sources.

outside the urban areas can not access formal schools²²¹. By inference, 70% of the youths in every age group do not access formal education and become morans.

EDUCATION FACILITIES IN NRV 2006

	Teachers		Schools	
	<u>Primary</u>	<u>Secondary</u>	<u>Primary</u>	<u>Secondary</u>
Turkana	80		7	9
Pokot	216		23	27
Samburu	102		7	10
Marakwet	257		25	30
Baringo	468		30	40
Laikipia	511		39	51
GRAND TOTAL	1634		131	167

Source: PDE Rift Valley Province, Nakuru.

Figure 3.1 School data Returns and annual schools census 1999 to 2006.

In chapter four, we interrogate the policies, policy institutions and frameworks employed in NRV to understand how they root, and support cattle-rustling. We examine and analyse national security conceptually, then we examine how it is applied at the grand strategic level in Kenya, activated at the operational levels and interpreted at the tactical level.

²²¹ Mobile schools programme for nomadic pastoralists. See <http://www.aridland.go.ke>.

CHAPTER FOUR

POLICIES AND INSTITUTIONS IN ANTI CATTLE RUSTLING ACTION

4.0. Introduction

In the last fifteen years, cattle-rustling has continued to evolve into a veritable security problem. For instance, between 2005 and 2007, over 5,996 cattle-rustling incidences were recorded. In those incidences, 165 people lost their lives²²². In 2008 about 2006 cases were reported, an increase of 542 cases in one year or of 37% of the incidences reported in 2007²²³. These were the reported cases only. Many other cases were not reported. If the rustling activities were actually confined to NRV, then by 2009 waves of Pokot, Samburu and Turkana rustlers had reached Tigania in Meru. Samburu rustlers also, were striking deep into the heartland of Isiolo district²²⁴.

It is apparent that raiders had the initiative to strike at the time and place of their choice, this notwithstanding heavy presence of security forces in Isiolo. Between 2009 and 2010 the problem escalated to an extent that the security forces were surged to around 4000 troops and after the provincial administration ordered an amnesty period of one month for all illegally held arms to be surrendered to the massive security apparatus after which a disarmament exercise would be undertaken. Only a paltry 400 arms were freely surrendered. After the expiry of the amnesty period, a disarmament campaign ensued, covering the entire NRV, by mid 2010, they had collected only 3,000 firearms²²⁵.

²²² See Moses Mwathi, *Violence spills over to other districts*. Daily Nation, Tuesday Nov 26, 2008. Pp 36 and Kennedy Agade Mkutu op cit.

²²³ Kenya Police Annual Crime Report for the Year 2008, page 11. See Kenya Police website. Last visited 22:52hrs, 21 Jul 2009.

²²⁴ Moses Mwathi, *ibid*.

²²⁵ This data is deduced from the information given in Kenya Police website (Rift Valley), AP website, the standard Police and AP deployment patterns and the military presence as seen on ground and an ongoing *Operation Dumisha Amani*.

It was clear that by the third month into the campaign, the security forces had become fatigued, and the operation was facing criticism all round, from the politicians, the communities and from the CSO. Accusations of rape, extortion, inhuman treatment of the locals started to emerge. Grumbling of several sections of the forces, particularly from the AP started in which they were accusing the government of discriminating between them and the regular police on issues of field allowances²²⁶.

As if the operation had died off to give a measure of the apathy prevailing in it, in August 2010, Pokot raiders carried out a bloody attack in Southern Turkana, in which several AP were killed and scores airlifted for treatment in Nairobi as several hundred heads of cattle were stolen²²⁷. In another incidence, Turkana raided Samburu twice, stealing several hundred heads of cattle and engendering demonstrations at Suguta Marmar and Maralal over the increased insecurity seeking the government to protect the people who had been disarmed²²⁸.

In addition to these state-centric raids, scores of external cross-border raids emerged. They featured Ugandan Karamojong; Toposa, Dongiro and Merille of Sudan and Ethiopia respectively, and were waged against Pokot, Turkana and Rendille. They were so serious that the Kenya-Ethiopia cross boarder security committee had to sit to discuss how to bring down the crime whose intensity and dynamics, logistics and sophistication raise questions on Kenya's stateness²²⁹.

This chapter grapples with this apparent failure of the state to contain insecurity in NRV. We examine policies and institutions involved in containing cattle-rustling and protection of human security, to establish a nexus between the observed defiance and failures at strategic, operational and tactical levels. We also examine the issues of policy and policy institutions; and

²²⁶ Daily Nation.

²²⁷ The Daily Nation

²²⁸ See the Daily Nation.

²²⁹ William A. Zartman et al,

policies implementation and enforcement, from the grand strategic to the tactical level, with a view to explaining how policy factors undergird the inability to contain rustling.

The chapter is organised around three parts. Part one examines national security conceptually. We attempt to understand the import and development of policy. Part two attempts to establish the relevance of policy and the strategy process in Kenya; how they impinge on national security; and their conceptualisation at the grand strategic, institutional strategic and operational levels. Part three cross-examines the operational level national security institutions employed in the containment of cattle-rustling in NRV²³⁰. We seek to establish the nexus between policy institutional incapacity and the failure to contain cattle-rustling. Part Four interrogates the tactical level security forces action in NRV. We examine and analyse institutional architecture against the variables of missions, concepts of operation, tactics and sustainability at tactical level. We co-vary them with the cattle-rustler.

4.1. National Security: Juggling the ends, ways, and means

National security policy is the art and science of using all the elements of national power to secure national interests²³¹. In practical terms, national security is about the need to maintain the survival of the nation-state through strategic interplay of diplomacy, economic, military and political elements of national power to secure national interests²³². The political process under which the nations interplay the elements of power is expressed in the national security policy. Policy consists of the general overarching goal, acceptable procedures and the course of action selected from among alternatives in a bid to respond to a given condition²³³. In

²³⁰ In this we acknowledge that national security includes sweeping diverse issues like a nation's diplomatic, economic, food, military, and internal security among others. See A. Rahman, *National Security Mechanism* (ARSIPSO and IIC, 2005) pp 1, and Raghu, *Security without Policy: A Critical Appraisal of the Report on Reforming the Security System, The Marxist vol 17, No 02, April-June, 2001*.

²³¹ H. Richard Yarger and George F. Barber, *Ibid*.

²³² Fred Cohen *World War 3: Information Warfare Basics*, (Fred Cohen & Associates 2006), pp 316.

²³³ See Thomas Owens Mackubin *Strategy and the Strategic Way of Thinking*; in *Naval War College Review* # 124), pp 2.

making national security policy, the process involves developing broad government statements through the identification and analysis of all the available security policy options, and choices²³⁴.

National interests are the things that the entire nation rallies around. They are the focal point of the elements of power, which undergird national foreign and security policies. National interests emerge from, and reflect national goals. As defined by Nuechterlein, there are four basic national goals, which are defined by answering the question what happens if they are not secured. They include national defence, economic well-being, favourable world order, and promotion of national values²³⁵. The order of priority is dynamic and depends on the national security environment. For example, if there is threat to national peace, defence takes the priority; in peace, national economic wellbeing takes priority.

Interests are prioritised according to levels of intensity of the basic national goals. They cluster into survival, vital, important and peripheral national interests: if unsecured, survival interests engender an immediate threat to national survival. For example when an attack is imminent; if unfulfilled, vital interests have immediate consequence on national security, for example dangerous threats to economy, or political instability; major interests eventually have long term effects on national security; likewise, important interests result in damage that will eventually affect critical national interests; and peripheral interests incur damage that is unlikely to affect national interests²³⁶. This realistic approach focuses on national security as the hub of

²³⁴ Thomas N. Kibua and Lineth Oyugi, *Influencing Development Policies through Research*, in Mohamed Ali Marouani (Eds) *The Policy Paradox in Africa*, (IDRC Canada, 2009), pp 175.

²³⁵ D E Nuechterlein, *National Interests as Basis for National Decision-making*, Lecture Given by Donald Nuechterlein at the University of Virginia's NAVAIR Executive Seminar, June 5, 2007.

²³⁶ _____, 'The concept of "national interest": a time for new approaches. *Orbis*, 23, 1979 Spring.

all national interest, the core of which is often stressed in documents such as the constitution and in Presidential proclamations and decrees in response to changing interests and threats²³⁷.

The wherewithal that drive the elements of power are the instruments of power and the "purposeful employment of all instruments of power available to a security community" is grand strategy²³⁸. It influences the expression of the elements' ends, ways, and the means down through their strategic, operational and tactical levels and in turn, is also affected by them²³⁹. Strategy is a problem solving process and a logical way to approach any problem; military, national security, personal, business or any other category²⁴⁰. Strategy is the spirit that spawns movement towards interests' realisation by anticipating courses of actions leading to the goals within the constraints set by material factors and geography²⁴¹. The strategic process helps planners to avoid policy crises²⁴².

Rarely are the instruments of power derived from just one element²⁴³. Each instrument is developed in the evolution of a respective strategy. For instance the military instrument of power is a function not only of the military strategy and the accompanying element of operation and tactical strategy levels but also the complementary support it gets from the other two elements of power. The implications here are that "while the external aspect of military

²³⁷ See H. Richard Yarger and George F. Barber, (eds) *The U.S. Army War College Methodology for Determining Interests and Levels of Intensity*, U.S. Army War College, Carlisle Barracks, Carlisle, PA, 1997. Adapted from Department of National Security and Strategy, Directive Course 2: "*War, National Policy & Strategy*" (Carlisle, PA: U.S. Army War College, 1997) 118-125.

²³⁸ Colin Gray, *War, Peace and International Relations - An Introduction to Strategic History*, (Oxon: Routledge 2007). pp. 283. See also, John Lewis Gaddis, *What is Grand Strategy*, Yale University 2010, See web www.duke.edu/web/agsp/grandstrategy/paper.pdf. Last visited 21 July 2010.

²³⁹ The instruments of power are the theoretical infinite number of policy options or tools that are derived from the elements of power. David Jablonsky, *Why is Strategy Difficult?* In J. Boone Bartholomees, Jr.(ed); *Guide to National Security Policy and Strategy*, (U.S. Army War College, July 2004) pp 79.

²⁴⁰ J. Boone Bartholomees, Jr.(ed); *Guide to National Security Policy and Strategy*, (U.S. Army War College, July 2004) pp 85.

²⁴¹ See Thomas Owens Mackubins, *ibid*.

²⁴² *Ibid*.

²⁴³ H. Richard Yarger and George F. Barber, *Ibid*. To explain this fact, for example, economic sanction is a policy instrument (an instrument of power) that is derived from, at the very least, the economic and military elements of power. In the conduct of specific foreign policy, a nation may employ any or all of its elements of power, alone or in combination with the others.

instrument needs to operationalise itself under the defence policy, it has a constant mirror image of itself in what is referred to as internal security policy”²⁴⁴.

Internal security straddles multiple sectors and addresses the major threats which directly impact on “the lives, safety, and well-being of citizens, including natural and man-made disasters such as forest fires, earthquakes, floods and storms”²⁴⁵. It engages the concert of all the national instruments of power to combat the threats in order to maintain a “free and democratic society based on the rule of law and generation of prosperity amongst citizens”²⁴⁶. Internal security policy (ISP) informs the internal security strategies by laying down how the ends, ways and means are to interplay in the protection of people and the values of freedom and democracy, so that everyone can enjoy their daily lives without fear.

The National Security Council (NSC) is the oversight body for the development and superintendence of national security policies²⁴⁷. The NSC role therefore is to help maintain the integrity of the entire security sector policymaking and to manage policy implementation²⁴⁸. The parliament generally provides oversight for national security policy and for financial matters related to the use of security institutions in application of national security policies. Security policies are articulated by doctrines, which explain how security matters shall be conducted and the relation between the security strategic levels, the political level and the

²⁴⁴ Musambayi Katumanga; quoted during our discussions on this particular subject.

²⁴⁵ See Council of the European Union, 5842/2/10 REV 2, JAI 90, Brussels, 23 February, 2010, pp 2. See web <http://register.consilium.europa.eu/pdf/en/10/st05/st05842-re02.en10.pdf> visited 21 July 2010.

²⁴⁶ Ibid, pp 3.

²⁴⁷ Susanna Bearne, et al. “Case Study 6: United States.” In *National Security Decision-Making Structures and Security Sector Reform*, 16-20. Santa Monica: RAND, 2005. Web <http://www.rand.org>

²⁴⁸ Katrin Kinzelbach and Eden Cole, (eds). *Democratising Security in Transition States*. 2006. Geneva and Bratislava: Geneva Centre for Democratic Control of Armed Forces and United Nations Development Programme pp 66.

instruments²⁴⁹. In the national security sector, doctrines telescope down to Standing Operating Procedures (SOP), tactics and Rules of Engagement (ROE).

An SOP is a set of instructions with the force of a directive, covering features of operations that lend themselves to a definite or standardized procedure without loss of effectiveness²⁵⁰. It describes a procedure, or set of procedures, to perform a given operation or evolution in reaction to a given event and the unique procedure of operating a unit within the larger element²⁵¹. SOPs remains in effect until amended or dissolved. In the military, they lay out procedures for planning, coordinating operations, task organising, standard formats for operational orders and instructions, command, control, communications and intelligence (C³I) systems procedures and instructions, and the sustainability strategies. ROE give forces the dos and donts in action where their own security and of the parties they seek to protect may be threatened, and use of force, including lethal force is necessary, by spelling out the time-to-time permissions and restrictions²⁵².

The IS policy unifies the foreign, defence, and domestic policies at strategic, operational and tactical levels and reflects the judgments of security professionals and civilian leaders, about what are and are not security wise possible and necessary²⁵³. IS forces, just like other

²⁴⁹ IS doctrine provides a conceptual framework for IS laying out what IS it is all about, its mission, IS procedures, its operationalisation, how IS operations have been carried out in the past and how it relates to other national security operations. It unifies the foreign, defence, domestic and IS policies at strategic, operational and tactical levels and reflects the judgments of security professionals and to a lesser but important extent civilian leaders, about what are and are not security wise possible and necessary

²⁵⁰ Guide to Writing Policies and Procedures. Work.com. Site last visited 1230 hrs 01 September 2009.

²⁵¹ Ibid.

²⁵² Thomas Owens Mackubin, op cit.

²⁵³ P. H. Liotta and Richmond M. Lloyd, *From Here to there: the strategy and Force Planning Framework*, Naval War College Review, (Highbeam Research Inc., 2009) Web <http://static.highbeam.com> last visited 01 September 2009.

national security forces, are developed and organized to fit with the purposes of security policies while enabling integration, interoperability and jointness²³⁴.

In the next part we examine and analyse how national security and policy issues are addressed at the grand strategic and institutional strategic levels of analysis in Kenya. We seek to demonstrate that in Kenya, security policies and strategic process are non-existent, a factor which we argue impacts negatively on efforts like anti-cattle-rustling and general maintenance of order.

4.2. Kenyan: The Grand Strategic level: The art of Hear no Evil; See no Evil

The effectiveness of policy depends on how its instruments interpret the strategy. Where no policy exists, the instruments are wont to interpret directives their own way. The instruments' modus operandi vary as the directives and situations. In this part we attempt to establish the nexus between the strategic process, national security and their conceptualisation in Kenya from the grand strategic to tactical levels. We analyse and examine their articulation and transformation of grand strategic level policies and strategies with a view to explaining how they impact on the operational level.

All security operations start at the confirmation of a threat at grand strategic level. Threats to survival and vital interests normally engender activation of either the military or police instruments or both. Whereas external threats are primary responsibility of the military, internal threats is the primary role of the police. In Kenya the strategic institutions that read and

²³⁴ National security has three levels. At the basic level is the general maintenance of order, adequately addressed by the regular police crime detection and prevention action. The second level engage threats to order and hard core crimes like insurgency, extensive public disorder, drug trafficking, human trafficking, terrorism etc. which threaten law and order to an extent where regular police forces can no longer effectively maintain them. It engages more specialised forces such the National Guards, Gendarmerie or Carabinieri where they exist. The third level takes on internal and external threats to national security, sovereignty, peace and stability beyond the capability of the regular police and the second tier forces, and demands the employment of military or combined military and the specialised police forces.

determine threats are the Military Intelligence (MIC), the National Security Intelligence Service (NSIS) for survival and vital interests, Institute of Policy Analysis and Research (IPAR)²⁵⁵ and Kenya Institute of Public Policy Research and Analysis (KIPPRA), for major and peripheral threats²⁵⁶.

It is notable that threats posed to the economic, health or agricultural sector may become survival interests and may entail use of the military instruments. Principally, customary networking of the operations of these four institutions and NSC (see fig 4.1) is critical. What is observed on ground is that while IPAR and KIPRA probably network with each other and with NSIS, if there any network between IPAR, KIPRA and the MIC it is not evident²⁵⁷. Ideally, research institutions are supposed to generate intellectual capital, a critical input in the policy-making process. In Kenya, the issue of what constitutes intellectual capital and its usage in the policy formulation process remains basically unresolved. The practice is, in an effort to define their position in the policy process, research institutions have evolved into five almost distinct categories; the basic research, policy research, clearing house, advocacy and briefcase²⁵⁸.

²⁵⁵ "The role of IPAR is to strengthen the national capacity to develop and to implement and evaluate public policy by undertaking independent, objective research and policy analysis, and by sharing the results with the Kenyan government and its development partners. It also serves as an institutional and resource centre by offering technical, research and information support for national development". See Kibua and Oyugi, op cit pp 182, 176 and 179.

²⁵⁶ KIPPRA is the Kenya Government think tank for preparation of forecast models, development plans and budget in cooperation with the Ministries for Finance, Planning and National development.

²⁵⁷ Our interviews with active MIC personnel became difficult. This statement is attributed to our interview with recently retired personnel in informal situations. IPAR and KIPPRA however are clearly oblivious of the operations of MIC.

²⁵⁸ Basic research institutions provide intellectual capital that has policy implications, e.g. university type research; policy research institutions provide intellectual capital providing Policy scenarios analysis, internal research agenda, internal human resources capital, balancing between supply-driven and demand-driven activities; clearing house institutions intellectual capital include generally contracted work and outsourced researchers; advocacy research institutions provide capital that involves pooling research findings and championing a course of action; and brief case intellectual capital which is non-institutionalized and personality-centred. See Kibua and Oyugi, op cit, pp 181.

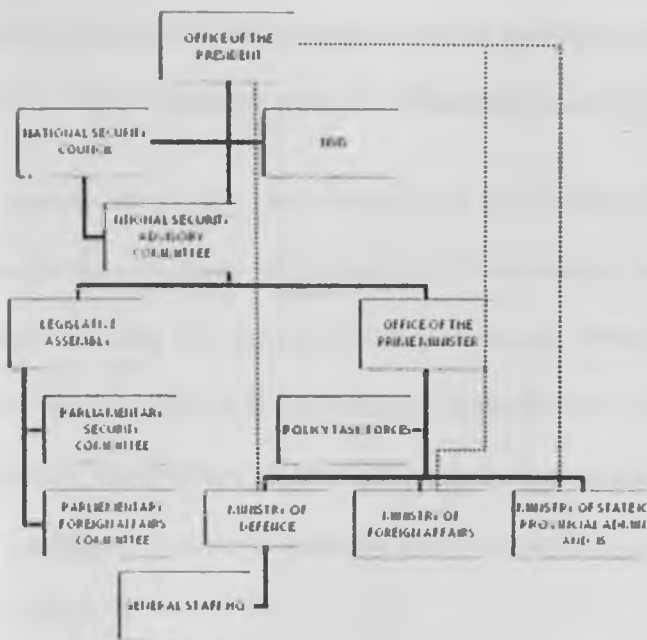


Figure 4.1: National Security Council

KEY

Formal Line Authority —————

Personal Contacts ·········

It is notable that some move to link the national security institutions has been realised at the military level, where a National Military Operations Command Centre (NMOCC) has been established, which networks with Armed Forces, the Kenya Police and NISIS operations centres at the strategic levels. The National Defence College (NDC) now offers a forum where an all sectors policy makers are sensitised on national defence and security policy making. Their influence on security matters is not evident yet.

The procedure is that when a threat to national security is imminent, the grand strategic level (NSC) is activated. A grand strategic level executive directive is issued to the relevant sectoral levels. The sectoral strategic levels undertake an estimate process to discern threat nature, capability and levels, and their own capacity, potentials, time and space in respect to it.

The national capacity to remove the threat is then estimated, including the tenability of the most likely course of action. Then the apposite elements of national power is identified and tasked.

If survival interests are at stake, and activation of the military instrument is necessary, the Kenya Defence Forces are tasked and a cascade of activities is initiated. The NMOCC becomes the operational centre for National Military Authority (NMA)²⁵⁹. Other supportive sectors; for instance internal security and provincial administration, health, communications, industries, transportation, home affairs, finance etc, are tasked to support to the military effort, including war²⁶⁰. Campaign planning is initiated and becomes the tool for conducting the operation to its conclusion²⁶¹.

In operations other than war (OOTW), when the apposite military service is nominated, it task organises. Other services' and sectors strategic levels attach their requisite components as necessary. The campaign plan is subsequently informed and controlled by the policy, doctrine and SOPs²⁶². It is procedural that the task force undertakes a through mission analysis to discerns its tasks and sustainment requirements, the strategic level must ascertain the flow of material sustainment throughout the operation. At this point the task force issues operational orders (OO) at the operational and tactical levels. Thereafter operations must be remain justified and credible in order to draw local and international sympathy lack of which could jeopardise national reputation and hinder operational success²⁶³.

²⁵⁹ The NMA includes the Minister for Defence, CGS, the Services Commanders and the strategic level authorities of the supporting sectors. NMOCC becomes the war office, base from where the C-in-C directs the war operation. See KMD.

²⁶⁰ Kenya Military Doctrine; collaborated by the British Military Doctrine also

²⁶¹ *Campaign Planning Handbook AY 08* Final Working Draft, (Department of Military Strategy, Planning, and Operations U.S. Army War College, 2008) pp 12. Makumi Mwangi also illustrates that campaign planning is not peculiar to the military, and that it exists in civil institutions also. In his paper, he argues that campaign planning should address crisis, that it addresses developments that threaten national security strategy (grand strategy), and that it should be limited in terms of its time-frame. See Makumi Mwangi, *Campaign Planning for National Security: A Pre-Theoretical Framework for Analysis*, *Journal of the National Defence College*, Vol 6, 2006.

²⁶² Kenya Military Doctrine, Ibid.

²⁶³ Such as anti-rustling, anti-bandit and anti-terrorism operations.

Security operations in Kenya however, encounter several significant structural and moral impedances. Firstly, Kenya's national interests are unclear and there is no national security overarching policy either²⁶⁴. The ramification is that without a national security policy, there is no security doctrine; therefore the security forces interpret issues of national security their own way. It is only the military who have a doctrine²⁶⁵. The police forces have no doctrine. There are no IS SOPs or tactical level ROE either²⁶⁶. The forces are controlled by their constituting Acts of Parliament which do not converge at any point.

Whenever combined operations are called, the police and AP are put under the military commands²⁶⁷. Due to lack of interoperability, police commanders at ranks higher than Inspector of Police are often detached and their troops put under military officers. When this happens, problems of discipline emanate since the military have no jurisdiction over police or AP personnel. Inter-forces rivalry is imminent as the more senior police officers do not like it. Without their commanders, policemen present discipline challenges to the military officers²⁶⁸. Military officers cannot mete-out disciplinary action to policemen or AP and it is inexpediently cumbersome to try to do so²⁶⁹.

²⁶⁴ Wuyi Omitoogun and Eboe Huchful, *Budgeting for the Military Sector in Africa*, (Oxford University Press, Stockholm) pp 116. See also, OP, PA & IS Strategic Plan 2005/6 to 2009/10, pp, 31. Pdf at web www.provincialadministration.go.ke/docs/StrategicPlanPAIS20070530.pdf visited 21 July 2010. In this document, lack of over-arching internal security policy is sighted as a major constrain in the attainment of strategic objectives.

²⁶⁵ The ensuing dilemma is seen in the Kenya Military Doctrine document which, it is interesting to note, does not refer to a national security policy document and as if to delineate itself further from the political institutions of power, the document bears no signature of the rational actor. It is only available in the Military institutions although being the military interpretation of National Security Policy, Foreign and Defence Policies, it should be in the public domain, and released under the authority and signature of the Minister.

²⁶⁶ Interviews at Forces' HQs.

²⁶⁷ By tradition and forces seniority, the Military always take command when these forces are combined for any task.

²⁶⁸ The Police and AP are not subject to martial law, and military officers have no jurisdiction over policemen and AP. See the Armed Forces Act on forces subject to the act and court martial jurisprudence.

²⁶⁹ In the military, offenses committed during operations attract court martial law, timely and practical field action. See AFA cap 199 Laws of Kenya. A Military Commander for example has no power over a police officer. During operations a police officer can chose to obey or not to obey commands emanating from a Military Officer. Similarly, a Military Officer or soldier can not be placed under Command or Control of a police officer, so when the two forces are put under combine operations, many senior police officers have to stand down and have no role to play because they feel insulted to operate under an apparently junior Military Officer.

To avoid the challenges, the forces opt to undertake separate tasks, each taking different AOR or speciality. In IS operations, the military mainly secure the area and the police forces undertake the IS tasks. For example when villages have to be searched, the police conduct the search as the military provide the cordons. Hence the police remain responsible, even when the military are committed²⁷⁰. However, the law also demands that should the military undertake any IS on its own; police elements must be attached to represent political legality.

The NSC notwithstanding, at the grand Strategic level there is no policy framework for operationalising the military's secondary role to support internal security organs. The nearest attempt is Cap 57, the Preservation of Public Security Act, which empowers the Minister for PA and IS to "call upon" the military but it only stipulates how at operational level, the military can enter²⁷¹. Otherwise, mobilisation of the military into the secondary role outside the mandate of Cap 57 only comes as a response to public outcry. More often, internal security operations are initiated, coordinated and concluded at the PSC level, utilising the police and AP operational and tactical levels²⁷².

Secondly, police and AP operational sustainability is intricate. For example for feeding, each man carries his own ration on the body or on the troop carrying vehicle (TCV). The

²⁷⁰ This was gathered during interviews with military and police officers. The military Special Operations - IS operations handbook documents the same, for cordon and Search operations, Road blocks, or Crowd Dispersal, or any other operations where the military have to deal directly with civilian citizens, except during insurgencies when the insurgents already have a declared zone of operation, an insignia, organisation, wear uniforms, carry arms openly and carry out their affairs as combatants defined under the International Law of War.

²⁷¹ *Calling upon*, entails the declaration of emergency in the area. On advice of the National Security Committee, the President who is also Commander-in-Chief of the Armed Forces of the Republic of Kenya invokes the Preservation of Public Security Act Cap 57. The Minister, on the authority of the President invites the military through an order issued under Subsidiary Regulations, Public Security (Armed Forces) Order, section 2(1) and confer them full powers, protection and privileges of police officers in the designated area of operation. Upon invitation, the military is responsible to employ appropriate means, until they bring the situation back to a condition where Kenya police can once again operate effectively. The invitation is made official through gazettelement after or prior to the employment. The Minister then seeks parliamentary blessing which must be obtained within twenty days of the Parliament receiving the request. This discourages undue misuse of the Armed Forces for political advantage and ensures that they remain at all times apolitical and reserved for protection of national sovereignty and external aggression.

²⁷² Interview of operational staff at the forces HQs.

military get meals from organic mobile field kitchens, except when on special operations demanding concealment and stealth²⁷³. The police and AP have no central feeding arrangement or mobile field kitchens²⁷⁴. When attached to the military, their men have to be taken on military units feeding strength in order to retain the operational impetus, even though there are no budgetary provisions for it.

Thirdly, although the President is the NSC Chairman, the body meets on need basis²⁷⁵. It has no secretariat, or Operations Centres (OPCENS)²⁷⁶. The National Security Advisory Committee (NSAC), a body which is subordinate to the NSC although rarely heard of meets more regularly to discuss national disasters and security and briefs the NSC²⁷⁷. Currently NSC faces several challenges; firstly, it is not anchored in law, which undermines its abilities in the face of legal challenges. Secondly, as witnessed in the run-up to the 2007 elections and the subsequent violence, its operationalisation is undermined since its members become actors in political conflicts²⁷⁸. Thirdly, because of lack of a policy, operational secretariat and OPCEN, operations have to be authorised and controlled through the bureaucratic parallel chains of command.

²⁷³ Breakfast and dinner. Lunch is man packed.

²⁷⁴ As witnessed during a field visit at Suguta Marmar base camp during a disarmament exercise.

²⁷⁵ The other members include the Vice-President, Prime-Minister (only in the current coalition government), Minister of State for Defence, Minister of State in the Office of the President in charge of PA and IS, Minister for Foreign Affairs and Minister for Finance, Chief of the General Staff, the Commissioner of Police and Director General, National Security Intelligence Service (NSIS). The National Security Intelligence Services (NSIS) was established by Act No. 11 of 1998.

²⁷⁶ Under Moi, there existed a cell at the State House under a Major General, which provided the Executive near-real-time information independent of NSIS, or the Chief Secretary. The cell helped inform the NSC and greatly influenced decision making but has since been disbanded, ostensibly to avoid duplicating security advisory offices. The USA NSC for example, is the nerve centre that gives the President access to near-real-time flow of information. Please see Michèle A. Flournoy and Shawn W. Brimley Strategic Planning for National Security; a New Project Solarium, *JFQ Issue 41, 2nd Quarter*, 2006 at web.ndupress.ndu.edu visited 01 October 2009.

²⁷⁷ NSAC comprises eleven members: the chairman is Head of Civil Service and Secretary to the Cabinet; the members include Permanent Secretary (PS) Provincial Administration and Internal Security (PA and IS), PS Ministry of Foreign Affairs (MFA), PS Ministry of Finance, PS Immigration and Registration of Persons, Attorney General (AG), Chief of the General Staff (CGS), Police Commissioner and Director General NSIS.

²⁷⁸ Kaumanga, during interview.

Campaign planning is a rare thing except when the military is invited. One such campaign is the ongoing "Operation Dumisha Amani". Although cap 57 was not invoked, it is the only operation where all sectors were incorporated in campaign planning. However, after predeployment phase the problems associated with lack of forces interoperability set in. Other critical sectors such as the Ministry of Livestock, Ministry of Health and Ministry of Public Works and Housing and Ministry of Roads fell of due to budgetary constrains. The various phases are still ongoing, though the original objectives became elusive. Although other NGO stakeholders were invited during campaign planning, thereafter, incongruence of interests at tactical and operational levels made their continued participation difficult²⁷⁹. The media reported what they considered newsworthy while the state considered the news prejudicial to operational success. "Operation Dumisha Amani" has since suffered news black out.

Sun Tzu, advices that "when victory can be obtained in other ways, battles should be avoided" and "never start a war you cannot win"²⁸⁰. This is the key principal in deciding whether to resort to war. One committed, henceforth, the military should be given the leverage and wherewithal to fight and win under terms favourable to the nation, in a quick, effective operation to avoid extended logistic costs, impose a huge national financial burden and hazards, factors which increase every day during war²⁸¹.

In anti-rustling operations, firstly, committing the military to deal with cattle-rustling implies that political administration and police actions have failed. But the political level is wont to display the military as a show of force ostensibly to coerce rustlers and bandits, but they restrain decisive action. By beginning with the unsatisfied entry and without an exit

²⁷⁹ See SUDAN: issues Brief; Human Security Baseline Assessment. Responses to Pastoral Wars: A review of violence reduction efforts in Sudan, Uganda, and Kenya. (Small Arms Survey, Number 8, September 2007), pp. 32. See also, Riam Riam. 2007. 'Disarming the Turkana: the Riam Riam experience.' Paper presented at the IGAD Regional Workshop on Disarmament of Pastoral Communities in the Horn of Africa. Entebbe, Uganda, 28-30 May.

²⁸⁰ J. H. Huang, *Sun Tzu: The Art of War*, the New Translation, (Quill William Morrow, New York, 1993), pp 48

²⁸¹ Sun Tzu, *ibid*, 44.

strategy, politically restrain renders them impotent engendering an operational mission creep. They become morally frustrated and people lose faith on them. This was exemplified when a military company was deployment at Chesogon, after hue and cry due to intensive Pokot attacks on the Marakwet. The company effectively severed Pokot rustlers escape route into the Cherangani forest, but was soon removed after local politicians complained and the usual accusations of locals' intimidation and raping of their women. This displacement highly filled Pokot rustlers into Baringo and Marakwet²⁸².

Provincial administration and police forces operations are often spasmodic, and poorly informed. Planning is hasty, inadequate and unsustainable and end soonest the media and public outcry die off and the men withdraw to urban areas. This is exemplified by a Samburu raid on a Somali manyattas at Shaba Dogo in early 2010, where several hundred heads of cattle were stolen. A hasty pursuit of Dos, the AP and police was assembled at Isiolo District headquarters, but withdrew back to Isiolo gave up the pursuit when they encountering a Turkana raid party which threatened to hit them if they continued with the pursuit²⁸³.

Security forces do not thoroughly appreciate the situation prior to operations. This is proven by their continued inability to isolate the rustlers "centre of gravity" (C of G)²⁸⁴. Poor appreciation results in the wrong choice of objectives, lack of economy of effort, delays, and wrong operational procedures. In order to justify the operation, speedy action is a prerequisite²⁸⁵. The C of G should be identified and attacked at the earliest, which can only be enabled by concentration of a preponderant, credible and superior force at the decisive point²⁸⁶.

²⁸² Interview with the Commander of the Army Company involved, now retired.

²⁸³ Oscar Kingori, Police Abandon Search for Cattle: Hunt for Stolen Animals Called off Following a Hasty Ceasefire. Daily Nation, Wednesday October 22, 2008. Pp 35.

²⁸⁴ The moral CoG of rustlers is the community support and physical CoG is the terrain and weather.

²⁸⁵ Referred as Schwerpunkt. See Christopher Bassford, *Clausewitz in English: The Reception of Clausewitz in Britain and America, 1815-1945* (New York: Oxford University Press, 1994). Web www.clausewitz.com. visited 27 Sep 2009.

²⁸⁶ See *On War*, Book One, Chapter 2, "Purpose and Means in War" and Book Three, Chapter 1. See Christopher Bassford, *Clausewitz in English: The Reception of Clausewitz in Britain and America, 1815-1945* (New York:

Clausewitz implied that when he said "In tactics, as in strategy, superiority of numbers is the most common element in victory"²⁸⁷. General Antoine Jomini also recommended; "place superior power at the decisive point"²⁸⁸.

Increased media and CSO focus on security operations has seriously impacted on security operations in NRV. The constant accusations of violations of human rights and threats of ICC action have induced cold feet on the commanders and troops²⁸⁹. Forces must guard against the effects of extensive media and CSO attention since in armed operations, unavoidably civilians may suffer and collateral damages occur. To maintain operational aim and impetus, forces must guard against the psychological crush and cold feet spawned by negative media and CSO reporting. They easily entrap them into what Clausewitz called "a mere game for social reasons"²⁹⁰. Professionalism, credibility and operational justification mitigate and neutralise the negative effect of media and CSO. If supported by OOs, SOPs and ROE there is adequate defence in any ICC court; however unnecessary civilian casualties can never be justified²⁹¹. It is noteworthy that police forces in Kenya have neither SOP nor ROE²⁹².

Oxford University Press, 1994). Web www.clausewitz.com/readings/Bassford. Visited 27 Sep 2009, 23.30 hrs. Clausewitz was concerned about war and in his writings referred to war. The use of operation is our own, to make the matter relevant to all operation, whether in conventional war or in asymmetric operations.

²⁸⁷ *On War*; Book Three, Chapter 8 (1908 Graham/Maude version). See Christopher Bassford, *Clausewitz in English: The Reception of Clausewitz in Britain and America, 1815-1945* (New York: Oxford University Press, 1994). Clausewitz did not mean that victory is necessarily given to the side with numerical superiority, but saw no purpose in going to combat with less than a critical mass of power. See *On War*; Book Three, Chapter 8 (1908 Graham/Maude version), *Clausewitz in English: The Reception of Clausewitz in Britain and America, 1815-1945* (New York: Oxford University Press, 1994).

²⁸⁸ See Christopher Bassford, *Clausewitz in English: The Reception of Clausewitz in Britain and America, 1815-1945* (New York: Oxford University Press, 1994). Web www.clausewitz.com. visited 27 Sep 2009.

²⁸⁹ This was revealed during interviews with military and police commanders and men. Locally and internationally, commanders at all levels are becoming increasingly inhibited in action and avoid risk-taking in fear of the possible consequences of action in the light of media coverage and focused CSO observation. Many are developing cold feet as freedom of action is becoming increasingly limited. It is also featuring in all operations today, especially in peace support operations. General (Rtd) Jean-Marie Veyrat argues that in this era of democratisation and excessive freedom of the media and CSO, to avoid cold feet, doctrine, SOPs and ROE are the essential means through which security forces commanders at all levels are granted freedom of action to act within policy intents. See General (Rtd) Jean-Marie Veyrat, *The Commanders Indispensable Freedom of Action*, Doctrine magazine, # 04, 7 September 2004.

²⁹⁰ General (Rtd) Veyrat, *Ibid*.

²⁹¹ *Op cit*.

4.3. The Operational Level - National Security Institutions in NRV

In this part we examine and analyse the conduct and employment of national security forces in NRV²⁹³. We assume that a national security policy and strategy can enable the operationalisation of state instruments of power and orchestrates their action. The absence of national security strategy leaves a gap which engenders serious state absence, forces ineptitude on the ground, and may engender the occupation by external forces.

For instance, in March 1997, Ethiopian Shangilla shot dead more than 100 Kenyans which including at least 19 Kenyan policemen. In the week-long skirmish, they prevented reinforcements to reach the wounded having cut off the road linking Sebarei and Dukana at the Kenyan-Ethiopia border, north east of Lake Turkana. In 2001, twenty people died during a clash as 200 Toposa attacked Turkana herders at Nanam, 80 kilometres northwest of Lokichogio. The twenty dead people included two Turkana herdsman. In the previous week eight Turkana herdsman were killed at Kamutia, 160 kilometers north of Lokichogio. In January 2003 Kenyan Pokot raiders killed dozens of people in eastern Uganda²⁹⁴. In 2004, violent pastoral conflict in the Karamoja left more than 600 human deaths and the loss of over 40,000 heads of livestock (primarily cattle and goats) in just 12 months²⁹⁵. As a result of this war, in July that year 61 Turkana lost their lives through Pokot attacks²⁹⁶. In another incident

²⁹² Interviews during security operations in Isiolo in June 2009.

²⁹³ In this we acknowledge that national security includes sweeping diverse issues like a nation's diplomatic, economic, food, military, and internal security among others. See A. Rahman, *National Security Mechanism* (ARSIPSO and IIC, 2005) pp 1, and Raghu, *Security without Policy: A Critical Appraisal of the Report on Reforming the Security System, The Marxist vol. 17, No 02, April-June, 2001.*

²⁹⁴ <http://news.bbc.uk/2/hi/africa/2940577.stm>. Visited 1930hrs July 2008.

²⁹⁵ See Patrick Meier and Doug Bond, *Environmental Influences on Pastoral Conflict in the Horn of Africa* (Tufts University and Harvard University Human Security and Climate Change An International Workshop Holmen Fjord Hotel, Asker, near Oslo, 21-23 June 2005), pp. 2

²⁹⁶ <http://news.bbc.co.uk/2/hi/africa/4679205.stm>. Visited 1930hrs July 2008.

Kenya police killed 18 Ugandan Karamojong raiders²⁹⁷. In February 2005, two prominent Turkana warriors were killed and 215 goats and sheep were taken by Toposa raiders.

In January 2010, Toposa vigilantes occupied Nadapal near the Kenya – Sudan border and openly blocked Kenyan convoys, an act which culminated in the blocking of a convoy of members of Cabinet convoy inside Kenya territory. This incidence highlights the highest level of negligence, and again provoked another spasmodic scrambling of a combine police, AP and military force to Nadapal²⁹⁸. In February 2010, a combined Toposa and Dongiro force massacred Turkana herdsmen and killed fifteen AP and GSU in Kibish area; again it sparked another flurry of reactive patrols, one of which was ambushed, two military soldiers killed and several injured.

Such violence constitutes external aggression and ought to invoke national security policy and attract sober state action. Under the normal circumstances, the state would also be subjected to a range of lateral pressures to adopt an activist foreign policy; first seeking to pacify the concerned region as a prelude to state building²⁹⁹. But with crises of social penetration, distribution and allocation of resources, civil participation and serious conflict management and resolution such events continue unabated.

To illustrate the issue further, between 2003 and 2007, an average 165 cattle-rustling incidences were reported in NRV alone resulting in 139 deaths and loss of 300,000 heads of cattle. Over the period, a total of six foreign military engagements were recorded, more than four of which the UPDF soldiers (including tanks) directly engaged the Pokot and Turkana displacing over 5000 people³⁰⁰ without activation of Cap 57 or the defence policy.

²⁹⁷ <http://www.alertnet.org/thenews/newsdesk/I.21409810.htm>. Visited 1935, July 30 2008.

²⁹⁸ Two soldiers killed at Kenya-Sudan border, *Daily Nation News*, Sunday, 14 February 2010.

²⁹⁹ Ibid, 71.

³⁰⁰ Cite

Several factors explain this debacle. In an ideal situation, the operations should be informed by active NSIS and Military Intelligence (MIC), planned and coordinated at the grand strategic level. The level of security would have been clearly gauged and the appropriate force deployed and the borders secured long before the incidence. Given the frequency of raids in NRV, there ought to be a proactive strategic deterrent deployment with several stand-by force structures complete with C³IS.

We contend that when national security is under threat, security planning should be inclusive, integrative and participative hence the need for an overarching policy framework. Participation of local communities should be valued and networked into the national security strategy. In fact Katumanga holds that it could be an effective option in the neutralisation of the illicit arms in NRV³⁰¹. This point is expounded by the PPG as they argue that exclusion of citizen participation in security arrangement motivates them to undermine security initiatives³⁰². They contend that inadequacy or gross unavailability of state security has induced a grave security dilemma and arms race as people seek to develop their own security mechanisms, and catalyses violent rustling and warlordism³⁰³. We argue that the situation has given itself to instrumentalisation.

Lack of force preponderance and poor appreciation in operational commitments has led to mission creep as now apparent in the continuing police disarmament in Samburu district³⁰⁴.

³⁰¹ Katumanga, during discussions on the issue. See also, M Katumanga, op cit.

³⁰² Hon. Godana Bonaya late MP for North Horr, and Maj gen Joseph Nkaissey, MP for Kajiado South, during PPG meeting held in Naivasha. See also, Robert Romborah Simiyu, *Militianisation of Resource Conflict: The Case of Land-based conflict in the Mount Elgon Region of Western Kenya*, (ISS Monograph 152 of October 2008), pp 59.

³⁰³ Hon. Godana Bonaya, late MP for North Horr.

³⁰⁴ The operation, which started in February 2009 has not reached conclusion yet due to failed planning and appreciation. It has caused forces morale decay, emerged inter forces rivalry, and fatigue. Bandits and rustlers have become used to it, and they have started attacking as usual.

Many Anti-cattle-rustling operations do not achieve their objectives, instead they elicit much criticism from victim communities, CSO, media houses³⁰⁵.

In the next section we examine and analyse anti-rustling action at the tactical level. We also endeavour to bounce the tactics against rustlers. The undergirding assumption in our analysis is that if forces are deployed in adequate manpower strength provided the materiel sustainability and capability to neutralise the terrain, cattle-rustling can be contained.

4.4. The Tactical Level: Skirmishing Bad Boys and Bandits

In the part three we examined the operational level issues that impinge of anti-rustling operations in NRV. In this part we examine and analyses the security forces disposition at the tactical level, their architecture, the variables of their missions and concepts of operation, tactics and sustainability in order to co-vary them with the effects of the terrain, distance and space, climate and weather and the cattle-rustlers.

The inability of security forces at the tactical level is undermined by a wide range of crises at this level. For a start is lack of guiding doctrine, SOP and ROE, which impinge on tactics, and operational sustenance and critically impedes combined actions. The second problem emanates from the forces failure to build on experience and lessons of prior operations. For instance, it is known that rustling follows certain routes and patterns. If those routes are blocked, rustling in those areas is severed. Thirdly police and AP are part and parcel of the district administration. Therefore their commanders and the district commissioners are close buddies being the most influential members of the district security organisation. District administration machinery is actually widely accused of aiding commercial rustling by

³⁰⁵ Human Rights Watch, "Bring the Guns or You Die" Torture, rape, and other Serious Human Right Violations by Kenya Security Forces in Mandera Triangle, Human Rights Watch Issue I-56432-491-5, of June 2009, pdf. pp 10.

expropriating recovered livestock. This factor alone has heavily compromised the impartiality of the force and undermined their credibility in the face of victim communities³⁰⁶.

Case in mind is the removal of a military base at Chesogon at the pressure of an influential local politician 1999 on false accusations of rape of women and intimidation of the communities. The truth was that the base was so tactically effective it severed movement of rustled cattle from the lower region of Marakwet and Baringo, that commercial cattle rustling became untenable³⁰⁷. The political influence of the elite at strategic and operational level seriously inhibits operational success at the tactical level. Of interest is that a GSU subunit occupies a similar position at Tot but has not been able to deter rustlers on that route³⁰⁸.

One would expect that with a historic paramilitary orientation, Kenya provincial administration, the AP and police should be able to quickly eliminate IS threats. Their incapacity is traced to their moral and physical disposition. With respect to the moral disposition, historically the people of NRV loath the military from colonial times³⁰⁹. The dirigist attitude and military like attire of the Provincial Administration officers; and the paramilitary character of the police and the AP; are reminiscent of the communities suffering under the colonial military. With their incapacity for servitude, firmness, fairness, friendliness and sensitivity to people's needs they do not endear³¹⁰.

³⁰⁶ Information gathered by interviewing herders in Baringo, Pokot, Turkana and Samburu indicate that it all starts from the leverage District commissioners have to administer collective punishment. When one community raids another, the district administration confiscates their livestock en mass. Due to lack of capacity animal husbandry, many animals die. It is also difficult to account for the recovery of rustled livestock. Hence they are heavily expropriated. Also due to lack of food, the policemen consume many others. Such complains are many and are blamed for the widespread resistance to disarmament operation as witnessed in Samburu district in June 2010.

³⁰⁷ Collaborated by the army officer who was the commanded that unit, now retired..

³⁰⁸ This is as witnessed on ground in 2001.

³⁰⁹ Nene Mburu, op cit.

³¹⁰ A thorough analysis of the Kenya and most African Police Forces is given by Peter Lock, in his contribution, *Africa Military Downsizing and the Growth in Security industry*; in Jackie Cilliers and Peggy Mason (Eds), *Peace, Profit or Plunder? the privatization of security in War Torn African Societies*, (ISS,1999), and by A. H. Hills, *The Policing in Fragmented States, Low Intensity Conflict and Law Enforcement*, 5(3), Winter 1996, especially page 339.

With respect to the physical disposition, the police are the lead forces in anti-rustling operations. Other forces augment them. The Division Security Committees, District Security Committees and Provincial Security Committee (PSC)³¹¹ in that order are the operational authorities. Security issues are referred up and down the chain of command. GSU and ASTU are reserve forces at the disposal of PSC under Operational Command (OPCOM) the Provincial Police Officer (PPO)³¹². Likewise the AP RDU is under OPCOM the Provincial Administration Police Commander (PAPC). The entire RVP has over 22 Police Divisions, 91 police stations, 73 police posts and 104 patrol Bases, totalling 4277 officers³¹³. In addition, there are three GSU Companies³¹⁴, and several ASTU patrol bases. Of these, only 1500 troops (approximately) are in NRV.

Considering the vast expanse of the region, it is apparent that there aren't enough forces. Analysis of the force to space ratio (fig 4.2) elucidates the predicament of inadequacy and unsuitability. A force to space ratio of one man to 150 sq km leaves a huge space for rustlers to operate unhindered. In fact most rustling activities go unreported. It is then clear that the deployment has left a gap in security in NRV which cries for immediate attention.

³¹¹ Security committees are under the Chairmanship of the Provincial authority (PC, DC, DO or Chief) and comprises the NSIS representatives, the local military unit commanders (at the level of DSC and above), and the Police Commander is the secretary.

³¹² On the initiative of the white farmers in the rift valley, due to threats of cattle rustling, tracker units were formed from volunteer farmer and local policemen. They were placed under the command of trained White police officers and were able to track, combat, arrest rustlers, investigate and prosecute perpetrators. The units became the modern day anti-stock theft Unit (ASTU).

³¹³ At the operational and higher levels, the Kenya Police deploy along the Provincial administration lines. Formation headquarter are under the command of Provincial Police Officer (PPO), the Divisions, deployed along the District lines, are under command of the Officer Commanding Police Division (OCPD). Below the OCPD are the various Police Stations which also operate in cooperation with the District Officers but not necessarily under their control. See the Kenya Police Website.

³¹⁴ The GSU was formed in 1948, a company strong force of 50 men as the Kenya Police Reserve Emergency Company for support units of the Police Force in special missions. This Unit was equipped for mobility, firepower and protection using armoured cars and was deployed in trouble spots. In 1953, it was expanded and re-designated the General Service Unit to combat the Mau Mau uprising. The unit was again reorganized in 1957 to its present structure under a central command designated "Commandant". The role of the GSU is to provide the Police an additional punch against internal security breaches. In this paramilitary role, along with ASTU and at one time in competition with the Kenya Army and, ASTU was linked with the notorious "Ngoroko"; See Joseph Karimi, *The Kenyatta Succession*, (PB TransAfrica, 1980), or article on www.amazon.co.uk, last visited 03023009 at 1930 hrs.

The tactical organisation of the police and AP on the ground does not support pursuit of rustlers. They lack the necessary force multipliers such as all terrain vehicles, air assault and surveillance aircraft and helicopters, and airlift capabilities which enable rapid response. They have no service support capability for the sustenance of essential items like ammunition, medical ambulance, field kitchens, and other administrative facilities. Facts on the ground indicate that even for IS role, in their current organisation, these essential internal security organs capability is very limited and they need re-engineering.

Although it is the duty of NSIS to provide timely intelligence their agents are thin deployed and although the military are often requested to intervene, MIC is not deployed there. NSIS there depends on village informers, who themselves are potential culprits and non-local NSIS agents are denied information. Gathering of timely information is therefore daunting and dissemination is done on need to know basis. It goes up the chain of command from where it is disseminated down to the tactical level and eventually, intelligence is mostly received when it is no longer useful³¹⁵.

AP and KPR are always the first to make contact with rustlers³¹⁶. The provincial administration and police reinforcements arrive at the scene long after the KPR and the location AP have been defeated or have dealt with the rustlers on their own. When the situation is grave, due to public outcry, the provincial administration quickly scrambles whatever men are available and sets off on a hastily organised and unsustainable counter offensive. The incident around Baragoi where rustlers, in 1999, shot down a military helicopter on board which was a DC, and the more recent 2009 June debacle in Isiolo among others illustrate that when those counter-offensives encounter hostile resistance, there is a bloodletting and hysteric attempts to reinforce, and often, frantic demands for military involvement.

³¹⁵ Interviews on ground.

³¹⁶ Interview with a PAPC

The security forces in NRV appear to be chronically inadequate and consequently, their deployment is extremely thin³¹⁷. Many patrol bases have less than nine men while cattle-rustlers operate in larger numbers and wield the same or more powerful arms, most stations are easily overrun³¹⁸. Oropoi Police Station in Turkana West District for example, has only eight police officers. Gangs and bandits around that area move in gangs of between 50 and 200; the station is barely eight kilometres from the Kenya-Sudan border and 13km from the Kenya-Uganda border³¹⁹. Ethiopia, Uganda and Sudan, have established military barracks along the border. It is then evident that Kenya has therefore left the inadequate and ill equipped police and AP to face core military forces.

Police commanders are mandated to rent men to protect private property in urban area of NRV, a function that they enthusiastically play, leaving the cattle-rustling prone areas inadequately covered³²⁰. This has several implications: first, there is a considerable reduction of forces for maintenance of law and order in NRV; secondly, police services become unavailable to the warlords who could hire them to protect their private property including booty and escorting stolen livestock; thirdly, some men subject the sedentary urban communities to some form of extortion for security; and fourthly, the resulting insecurity feeds an endemic security dilemma, violence and disorder³²¹. It is our contention that this is a cause for proliferation of militia and rustling in the NRV.

³¹⁷ Robert Romborah Simiyu, Op cit pp 59.

³¹⁸ Force security conventions point that deployment of strength of less than a company (about 120 men in combat organisation complements) independently in an operational area is inappropriate.

³¹⁹ Isaiah Lucheli, Neglected borders that fuel insecurity, *The Standard online*, Wednesday, 21st April 2010.

³²⁰ The Police act Cap 84 section 45 authorises the rates as; Armed officers hired for a period not exceeding eight hours but not less than four hours; Inspector - 500.00, Senior Sergeant - 375.00, Corporal - 300.00, Constable - 225.00, per hour. Hiring for a period not exceeding four hours and part thereof; Inspector - 250.00, Senior Sergeant - 200.00, Corporal - 200.00, Constable - 100.00. To hire unarmed police officers, per hour rates are; Inspector - 250.00, Senior Sergeant - 200.00 Sergeant - 150.00 Corporal - 125.00 Constable - 100.00. The cost of hiring a police patrol car is Ksh. 4,500.00 per hour. Although the AP act Cap 83, has not authorised hiring, apparently, there are now, more AP officers on hire than the regular police.

³²¹ Peter Lock, Africa, Military, Downsizing and the Growth in Security industry; In Jackie Cilliers and Peggy Mason (Eds), *Peace, Profit or Plunder? the privatization of security in War Torn African Societies*, (ISS,1999), pp.20.

The state of police stations elicits pity. Mr Munyes the MP for Turkana North for example, sympathises as he points out that "Our people do not have adequate security at the border and we are asking the Government to bolster security before thinking of disarming the people. For every gun surrendered the Government should deploy an officer"³²². The neglected border points in Turkana include Todenyang, Oropoi, Lokirama and Koimathia. Although Koimathia Police Post, along the Kenya-Ethiopia border has been in existence since colonial times, it is still regarded as an observation point. The border point does not have a vehicle and the officers have to depend on donkeys, the only means to access the station and fetch water. The station has only three officers³²³. The comparatively better manned and equipped stations have only one truck, or a Toyota land cruiser which is more often grounded due to lack of fuel or minor breakdowns. When pushed to pursue rustlers, they cannot go far for fear of ambushes or being outnumbered³²⁴.

To survive, the men fend for themselves in all manner of ways including exchanging ammunition for food, and selling it exorbitantly to rustlers or traders when black market supply is short, extorting passersby, especially traders by establishing illegal road blocks across convoy and other routes, corruption by allowing passage of illicit arms and ammunition through the road blocks for a fee, lending their weapons to raiders and often, joining raiders on their missions³²⁵. During and after operations, they consume many of the recovered livestock as rations, a factor which is exploited by commercial rustlers and causes many pastoralist communities to protest whenever anti-rustling operations are called. This factor also contributes

³²² Isaiah Lucheli, Neglected borders that fuel insecurity, *The Standard online*, Wednesday, 21st April 2010.

³²³ Ibid.

³²⁴ A particular case was cited where ASTU policemen from Kinamba in Laikipia West in the company of the affected livestock owners pursued livestock to Lake Bogoria area, in herds protected by armed Pokot but could not dare show themselves or do anything but to retreat back to Kinamba without the livestock.

³²⁵ See Jos van Beurden, Kenya: Small scale conflicts could have major repercussions; *Searching for Peace in Africa*. 2000. Lucheli, Ibid, 75 to 79. The issue of sale of ammunition by the Kenya police, especially in Turkana District is collaborated by Bevan, see James Bevan, *Blowback: Kenya's Illicit Ammunition Problem in Turkana North District*. AN Occasional paper on Small Arms Survey, (Small Arms Survey, Graduate Institute of International and Development Studies, Geneva 2008), pp.17 and 18, and CEWARN, *Country Updates: May-August 2006*, From the Ethiopian side of the Karamojong Cluster, pp 6.

to the reduction in recovery rates of stolen livestock³²⁶. Their living conditions of these forces induce low morale, so much that many men posted in NRV take it as punishment and spend useful time seeking to bribe or influencing their seniors to be removed there³²⁷.

The criticality of these shortcomings is very evident in operations involving the military and police forces. They have to halt their operations at nightfall when the pursuit is hot. The military have on many occasions had to take them on feeding, ammunition resupply and medical strength to retain operational momentum. On ground, inter-forces rivalry is endemic. For instances, the law requires that arrests made by the AP or Military be investigated and prosecuted by regular police. Due to the rivalry, rarely are the cases investigated and most culprits often bribe their way from police cells or are released by the courts due to inadequate or shoddy investigations. Military involvement in anti-rustling operation breeds further rivalry because their presence signifies that the police have failed and this does not auger well with the police. Again, the military though better organised with effective logistic support enter when it is already too late³²⁸. These factors are exploited by cattle-rustlers to gain time, space and the strategic gap to practise.

In the Nadapal and Kibish incident and more lately during the April – May 2009 Isiolo incident; the AP left their own wounded colleagues under the mercy of weather and wild life because they had no stretcher bearers or first aid kit and there was no operational medical evacuation capability at the disposal of Isiolo District headquarters. Again, more recently (July 2010) the rustlers and AP RDU encounter at Lemelo, South Turkana district, where again due to lack of evacuation facilities, wounded AP men were left behind as other were airlifted to Armed Forces Memorial Hospital³²⁹. These incidents illustrate that when on encounters with

³²⁶ Mkutu, Ibid, pp

³²⁷ Interview.

³²⁸ Interview.

³²⁹ Daily Nation, 13 June 2009 and Saturday, 25 July 2010.

rustlers or bandits, police forces are likely to be overwhelmed and several of them can be killed and others seriously wounded. Also due to lack of organic medical facilities, unnecessary deaths occur as means for evacuation is available a day or two afterwards, when bureaucratic military resources are availed or the only police helicopter is scrambled from Nairobi.

These incidences indicate the incredibility non-effectiveness of the security forces actually feed banditry. A case of over one thousand armed men participating in one raid and stealing thousands of heads of cattle in operations that lasted two days is also on record³³⁰. In that raid, rustlers pinned down a police base for days as they drove away thousands of cattle before reinforcement arrived. Other episodes narrated by military officers who have operated in NRV give a case where armed Pokot youths who were admiring an army sub-unit training in a location north of Nginyang, expressed genuine surprise that they had the same guns as army soldiers. They youths, exuding self confidence commented “bunduki yenu ni kama yetu na sisi ni wengi kuliko nyinyi”³³¹.

In another yarn, as Pokot youth mesmerised by an artillery battery live firing training in Kapedo area was so impressed by the guns’ blasts and muzzle flashes that he wanted to know how many head of cattle it would cost to buy one³³². A few miles ahead, the battery encountered one of their oldest deserters herding cattle and sheep. He was brandishing a G3 rifle, his wife and two teenage sons AK 47s. He knew they were not armed and could not dare arrest him as required by the AFA, and the man seemed to acknowledge that because he recognised the unit, but he did not run away³³³. His Turkana colleagues in the battery openly

³³⁰ Police crime reports of 1996. These were supported by perusal of signal messages for requests of aerial support and casualty evacuation, received by the National Military Operations Centre at Ulinzi House sent there directly, by the affected police units and patrols pinned down by rustlers or bandits in the northern rift valley. The abuse of formal request procedures indicates the urgency of the situations and the lack of confidence in the police reinforcement and evacuation procedures by their own men.

³³¹ Translated means “your guns are like ours and we are more than you”.

³³² Interview of a Kenya Army gunner, and recall of reports of that incidence, when the author was the Commander Kenya Army artillery in 2002.

³³³ Military units do not carry live ammunition during training exercises.

envied him³³⁴. These incidents demonstrate the extent to which the forces have been demystified to an extent that people ridicule them.

There are no standard anti cattle-rustling tactics. Action is decided according to the rustlers' behaviour. By and large, the standard battle craft and small unit tactics are very useful. Experience acquired overtime in contacts and engagements give the forces an idea of the consistency in rustlers and bandits behaviour and it makes it possible to predict the rustlers' actions and reactions and this enables the forces to defeat them. However, it calls for high levels of mobility and physical fitness, good administration and service support, professional acumen and determination. Most of the time, the rustlers dominate the initiative and the security forces can only react due to great reduction of military space the since raiders have command of terrain, ecology and the support of local communities³³⁵.

As argued by Edward L. Katzebach and Gene Hanrahan, operational success is dependent upon the availability of military space. They hold that military space is a function of the square mileage plus obstacles minus a workable communication network³³⁶. Military space is a function of terrain and the available sanctuaries that support operations. Accordingly, "ten square miles of mountainous jungle might be equal to a hundred square miles of rolling plain and this in turn might be equal to a thousand square miles cut by roads and railroads"³³⁷. NRV is very rugged and presents huge space which can be reduced only by use of force multipliers and thorough training.

³³⁴ This is personal experience of the author, while serving in the military as the Artillery Commander, Kenya Army, in 2001, during an official visit to a battery conducting live firing exercise in Kapedo.

³³⁵ Interviews

³³⁶ Edward L. Katzenbach, Jr and Gene Z. Hanrahan, *Modern Guerrilla Warfare: Fighting Communist Guerrilla Movements. 1941 - 1965*, (The Free Press, New York, 1967). Pp 135.

³³⁷ Ibid.

The terrain renders conventional operation unfavourable. The plain areas are closed up by dense thorny bushes³³⁸ which impede movement of vehicles and men on foot, greatly reducing the rate of advance and navigation. There are no fixed axes and many other areas are dry, sandy or rocky and weather extremely hot; even with acclimatisation conventional forces are disabled unless served with very intricate logistic services support. They are compelled to move on foot thus extending their supply lines and reducing space and duration of sustained operations. Since rustlers and bandits have all the advantage. They take sanctuaries in difficult areas such as Suguta valley where they hold stolen cattle and hide until operations cease knowing very well it is improbable that security forces will follow them there³³⁹. Attempts to pursue rustlers there in 1979 resulted in the death of five military personnel, and in 1999 a military helicopter was shot down³⁴⁰.

Security forces need to restructure, conduct special endurance training and acclimatise to effectively operate in areas like Kapedo, Lokichar, Lemelo and southern area of Lake Turkana, Suguta Valley, most of Chepanda hills, Tugen, Turkana and Kara Suk hills. Rustlers have the support of the local communities from whom they hail and who consider government forces as predators. Meaningful operations there require serious planning, concentration of force and sustainable logistical supplies. If police forces and the military have to combine action, the forces jointness is critical.

³³⁸ Referred to as "*Ngoja Kidogo*" by the military forces.

³³⁹ This valley is the most hostile climatic region in Kenya, being the hottest desert, a rugged terrain characterised by hot dry gorges, interspersed with poisonous water wells, and the few sweet water wells are only known by the Turkana. Those who attempt to pursue the raiders into the valley suffer painful deaths especially when they drinking water from the poisonous wells, or under Turkana ambushes. The Turkana have mastered the routes in and out of the valley. Aerial pursuits endanger the aircraft to ground fire since the aircraft have to fly low into the gorges becoming easy targets. Cattle driven into the Suguta valley are usually not recovered unless the security forces undertake a daring and risky pursuit into the valley supported by armed spotter aircraft and an air landed interception from the direction of Lokori, Napeitom, Lemelo or Kapedo into the valley. When this is done the Turkana abandon the animals and the pursuing forces have to be quickly reinforced or be extricated from the valley, where upon failure to do so they die of dehydration due to the extreme heat.

³⁴⁰ Interviews.

Judging from foregoing, it is apparent that adverse ecological vagaries, the terrain and climatic challenges in the majority of NRV region, cause significant reduction of capability against rustlers. Security forces continued operation there in their current form is untenable and wasteful. We argue that among the challenges of concerting development and other efforts aimed at changing the lifestyle of the people in NRV, the state should consider the possibility of establishing special indigenous forces, of men and women from the region. Such a force could ensure security of their people by preventing their attacks on others and protecting them from others aggression. Properly organised, commanded, controlled and coordinated, we contend, that it could be the panacea in the eradication of rustling in NRV.

There is also a need to consider integrating national security. An integrated national security policy removes the impedances of forces jointness because then, defence policy would merge internal and external security³⁴¹. In integrated national security, public police enforce the law and prevent crime while maintenance of public order, hardcore and aggressive policing, prevention of transnational crimes and defence against external aggression are national defence roles. Countries that operate an integrated national security include the USA³⁴². Others are Pakistan, Bangladesh and Canada.

Chapter five will recap the study, conclude and summarise the recommendations of our study and chapter six will give in details, a research based recommendation on the possibility of constituting and effective integrated national security organisation, tailored to defeat and contain cattle-rustling and any other intractable conflict anywhere else.

³⁴¹ B. Rahma, *National Security Mechanism*, (ARSIPSO and IIC, January 15, 2005), paragraph 2 and 5, pp. 1. This is because; threats to internal security could very quickly develop into or could be influenced by external threats and internal security threats have potential or actual aspect of external threats.

³⁴² Please see Peter M. Aylward, Major, USARNG CG#4, *Operational Readiness in Army National Guard Contingency Force Pool Units*. Submitted in Partial fulfilment of the Requirements for the Degree of Master of Military Studies April 1995, CSC 95, University of Liverpool, Online Masters Programmes, www.GlobalSecurity.org, visited 03 October 2009.

CHAPTER FIVE

RECAPITULATION, CONCLUSION AND RECOMMENDATIONS

5.0. Introduction.

This chapter recapitulates our entire study. It has four objectives. Firstly it revisits our two core objectives with a view to demonstrating the extent to which their relevant tasks have been met. Secondly, it examines our hypotheses with a view to demonstrate the extent to which the stated tasks are validated. Thirdly, it anchors our conclusion and thesis. Fourthly, the chapter partly fulfils the task of our third objective, to provide research based recommendations. To this extent, the chapter is organised around four parts.

5.1. The Political, Economic and Social Factors undergirding Cattle-Rustling

This part responds to the task of our first objective, to analyse and examine the political, social and economic factors underlying cattle-rustling. Several assumptions undergird this objective. To analyse objective we assumed that cattle-rustling in northern rift valley region of Kenya is underpinned by several political social and economic factors; that at the political level there are certain core interests of local and national elites that converge to undermine the political will to contain cattle-rustling. This is sustained by the economic interests that drive it and the political economic interests animated by the cultural template such as regimented age set systems. To this extent several parameters facilitate our analysis.

We examined political factors such as policy statements and utterances of political actors with a view to analyse the impact this has with respect to impunity at the local and national levels and state absence. We also analysed and examined social cultural factors which allow the use of livestock for acts such as marriage, accumulation and prestige and the

parameter of small arms, to show that the existing social template has simply been re-invented and adjusted to suit modern times.

At the economic level we examined and analysed economic factors such as subsistence of cattle and cattle products, banditry, effects of democratisation by donor communities, external influence in the economic life in northern rift valley, alienation of land, influence of cross-border economics dynamics, the demand side of abundance of youths, availability of lucrative markets for livestock. The aim here was to show the nexus between these elements and the erosion of political will to act.

We contested that statements made by political leaders at the local and national levels animate cattle-rustling. We analysed and examined statements made by national and local leaders and observed that they influenced the behaviour of locals in a manner that they apparently defied the state, and rustling activities increased. We noted that government statements and those made by local leaders, with respect to cattle-rustling are mutually inversely reinforcing, and in the process reinforce cattle-rustling.

In the policies of inclusion, we observed that Kenyans can practise citizenship anywhere in the country. However, outsiders can not be tolerated in NRV. The local politicians regard the space to belong to their ethnic groups implying that other people cannot exercise their citizenship there³⁴³. The statements bear us out that contradictory proclamations by the state and the local elites animate cattle-rustling. Firstly they demonstrate a lack of commitment by the government to enforce policy and end impunity. We argued that this sense of impunity at the political level permeates down to societal and individual levels, thus feeding cattle-rustling. Säverio Krätli attests to these arguing that they promote conflict for personal political gains and

³⁴³ Chapter three.

interests³⁴⁴. As for their ethnic base, Joao Gomes Porto considers ethnicity used this way, as an “instrument; a contextual, fluid and negotiable aspect of identity”³⁴⁵. David A. Lake and Donald Rothchild observe that ethnic base is “used by individuals, groups, or elites to obtain some larger, typically material end”³⁴⁶. Walter O. Oyugi and Koigi wa Wamwere argue that ethnicity which is permeated with hatred and bias it becomes “negative ethnicity” and promotes conflict³⁴⁷.

We posited that state absence is a function of limited state presence. We observed that there is no fully operational government station in NRV. Infrastructure is run down. Livestock management infrastructure bore holes, crutches, livestock loading and holding grounds are in ruins. We argued that this hinders state reach as it increased with time and the state is no longer able to influence peoples’ behaviour. This we argued is what constitutes the crisis of stateness. According to Saverio Krätli, so does the ensuing administrative gap and the less the states reach the more the violence³⁴⁸. We observed three critical effects of state absence on northern rift valley region. Firstly, while from locals’ point of view the state is never innocuous or absent, its inaction is perceived as deliberate discrimination rather than objective weakness. Secondly, as state administration agents struggle to show some form of presence, they monopolize the role of arbiter and administrator of justice in the region, suppressing the available traditional mechanisms for peaceful management of conflict and the situation. Therefore by being passive

³⁴⁴ Saverio Krätli and Jeremy Swift, *Understanding And Managing Pastoral Conflict in Kenya: A Literature Review*, (Institute of Development Studies University of Sussex, UK, Report of a study undertaken under DFID Contract CNTR 98 6863, 1998) pp. 9.

³⁴⁵ Joao Gomes Porto, *Contemporary Conflict in Perspective*, in Jeremy Lind and Kathryn Sturman, *Scarcity and Surfeit: Ecology of Africa’s Conflicts*, (ISS, 2002), pp. 7.

³⁴⁶ David A. Lake and Donald Rothchild, *Ethnic fear and Global Engagement: The International Spread and Management of global Conflict*, cited in Joao Gomes Porto, *Contemporary Conflict in Perspective*, in Jeremy Lind and Kathryn Sturman, *Scarcity and Surfeit: Ecology of Africa’s Conflicts*, (ISS, 2002), pp. 7.

³⁴⁷ Walter Oyugi, *Politicised Ethnic Conflict in Kenya: A Periodic phenomenon*, (Addis Ababa, 2000), pp. 6. And Koigi Wa Wamwere, *Negative ethnicity: From Bias to Genocide* (Seven Stores Press, 2003), pp. 20.

³⁴⁸ Saverio Krätli and Jeremy Swift, *Understanding And Managing Pastoral Conflict in Kenya: A Literature Review*, (Institute of Development Studies University of Sussex, UK, Report of a study undertaken under DFID Contract CNTR 98 6863, 1998) pp. 9.

the state hinders development of local initiatives³⁴⁹. It spawns frustration, anarchy and spontaneous confrontation as the people attempt to fill the gap their own way engendering and promoting rustling. It is for this that Johan Galtung posits that "when human beings are influenced to an extent that their actual somatic and mental realisations are below their potential realisations, they are frustrated and structural violence is present"³⁵⁰. In line with Johan Galtung's hypothesis, this violence becomes institutionalised as cultural violence and transformed into direct, physical or behavioural violence in the form of ethnic clashes and rustling.

We argued that in NRV, due to absenteeism the state has failed to demonstrate the capacity to sustain both the areas of social activity, conferment of identity to its citizens and thus sustain the concept of sovereignty. Therefore absence puts to challenge state legitimacy, hence the credibility and justification of its operations there. Buzan, Hobbes, John Locke, Berki and Zartman et al argue about statehood, the individual and their responsibilities in statehood. We observed that state absence at the local and national levels of analysis generates space for rustling.

In analysing the economic factor we attempt to link cattle-rustling in northern rift valley with the prevailing economic factors. We have argued that core to cattle-rustling is the supply side of the recruits and experts which animate cattle-rustling. We have based our argument on the assumption that to the extent that a large supply of idle youths, ready market for cattle and proliferation of small arms thrive, the predatory side of cattle-rustling will continue. We observed that as pastures and water sources decrease, at the individual level, pastoralists claim ownership of erstwhile communal resources. At societal level, societies refuse to share and competition often results in bloody clashes and rustling as others try to expropriate. To I W

³⁴⁹ Chapter three.

³⁵⁰ Johan Galtung, "Violence, Peace and Peace Research", *Journal of Peace Research*, Vol. 3, 1969, pp. 184.

Zartman et al conflict within a system “occurs in the context of a social political structure, under an institution of authority and a community of values”³⁵¹. In the absence of an authority, conflict is engendered when competition over resources gets out of hand.

We observed the existence of a deadly aspect of livestock economy, apparently the mainstay of a select elitist community, which apparently exploits the abundance of arms and youths, cheap and easy to acquire livestock and ready markets. Karen Ballantine and Heiko Nitzschke, citing Collier and Hoeffler contend that “economic motivations and opportunities (loot seeking or greed) are more highly correlated with the onset of conflict than ethnic, socio-economic or political grievances (justice seeking)”³⁵². Paul Richards also argues that economic considerations greatly complicated conflicts³⁵³. We attempted to link the commercial aspect of rustling to commercial liberalisation and both the promotion and stabilisation of cattle-rustling and the related conflict. We observed that as production of markets increased, so did violence and acquisition by force caused by the intensified competition for the lucrative resource. We also observed a link between the market liberalisation and expansion and the imposition of economic liberalisation and democratisation in Kenya by donor communities. We therefore linked donor imposed commercial liberalisation and escalation of commercial rustling which according to Goldsmith, as liberalisation increased, competition for markets increased and the dividing line between genuine ethnic competition and criminality blurred³⁵⁴.

We contested that land alienation has fuelled cattle-rustling. We observed that though useful, alienation of land has fed sedentarisation. As sedentarised population grows, we observed, it demands land for cultivation economy and trees for fuel; it leads to overstocking on

³⁵¹ Chapter three

³⁵² Quoted in Karen Ballantine and Heiko Nitzschke, *Economic dimensions of Civil Wars: Beyond Greed and Grievance*, in Martina Fischer and Beatrix Schmelzle, (Eds) *Transforming War Economies: Dilemmas and Strategies*, Berghof Handbook, Dialogue Series, 2005 (Berghof Research Centre for Constructive Conflict Management, 2005), pp 11 to 15.

³⁵³ Paul Richards (Ed) *No War, No peace*, (Ohio university Press, 2005), pp 1 - 20

³⁵⁴ *Op cit*.

the smaller parcels of land and the range land becomes less able to support the economy. We observed that as result, conflict between the pastoralist and cultivator community increases peoples' self sufficiency and resilience is reduced³⁵⁵. Per capita health deteriorates and dependence on government and donors increases³⁵⁶. It causes mass migration to outside the region and poverty spreads³⁵⁷. John McPeak and Peter Little argue that this dependence induces a proliferation of food aid CSO and FBO agencies which further complicates life³⁵⁸.

We observed that there exists a cross-border impact of changes in prices of livestock escalating or decreasing rustling. The situation, we noted has international ramifications and as posited by Musambayi Katumanga if properly exploited, the state and the people there can reap plenty of Common Regional Public Goods (CRPG) from international cooperation and coordination and collective action on cross-border pastoralism³⁵⁹.

We observed that currently, over Ksh 300m is lost in rustling each year since the 1997³⁶⁰. This because livestock stolen are never recovered, an indicator, we posited that rustling is a very successful and attractive business³⁶¹. We argued that it reflects on the on the greed side of rustling, Joao Gomez citing Collier and Hoeffler contends that economic motivations and opportunities, otherwise referred to as greed (loot seeking), are more highly correlated with the onset of conflict than ethnic, socio-economic or political grievances (justice seeking)³⁶². David Keen, William Reno, and Mats Berdal and David M. Malone observe that economic

³⁵⁵ Samburu County Council, *About the Samburu people*, website, <http://www.samburucouncil.com>.

³⁵⁶ Shauna Burnsilver and Esther Mwangi, *Beyond Group Ranch Subdivision: Collective Action for Livestock Mobility, Ecological Viability, and Livelihoods*. (Collective Action and Property Rights CAPRI, Paper no 66, June 2007), pp. 6 and John McPeak and Peter Little, *Pastoral Sedentarisation and Community Resilience in response to draught: Perspectives from Northern Kenya*, (Research Brief 03 – 02, PARIMA, Global Livestock Co-operative Research Support Programme, University of California - Davis, May 2003)

³⁵⁷ Samburu County Council, op cit.

³⁵⁸ Op cit.

³⁵⁹ Musambayi Katumanga, Security Concerns and Lateral Pressures as a Basis for Enhanced Regional Integration: The Case of North Western-Kenya. In Ahmad Mohiddin (ed), *Deepening Regional Integration of the East African Community*. (DPMF Books, 2005), pp. 45.

³⁶⁰ Katumanga, op cit.

³⁶¹ Chapter three.

³⁶² Joao Gomez, op cit.

agendas not only prolong conflicts but at the same time cause untold destitution which in turn feeds into the economically motivated conflict³⁶³.

We therefore argued that cattle-rustling is both a greed and grievance problem that demands solutions at the individual, societal and systemic level. Unless the systemic level effectively discourages the rampage, the anarchy may engender insurrection as societies seek to resist the exploitation. In order to safeguard both effects, we call for state commitment which could be demonstrated by the serious reinstatement of state control of livestock marketing and development department infrastructure and strict enforcement of livestock management and development policy, to enable the livestock dependent communities enjoy benefits of the industry under a secure environment and the state also accrue the resultant benefits of a thriving industry.

In the analysis and examination of the social factors we attempted to demonstrate a nexus between cattle rustling and the independent variable of culture and socialisation. We based our study on the key assumption that to the extent that cattle-rustling remains the key means of social reproduction, the social, demographic and environmental forces induce the predatory sides of cattle-rustling which easily emerge whenever social exigencies call for it. We observed that understanding cultures in northern rift valley may help us understand the rustlers will to fight, their determination and perseverance against state operations and willingness to support rustlers, bandits and warlords³⁶⁴.

We observed that culture and social reproduction predispose the people of NRV to cattle-rustling and their livelihood is dependent upon cattle and rustling is its principal means of

³⁶³ David Keen, Incentives and Disincentives for Violence, in Mats Berdal and David M. Malone, *Greed and Grievance. Economic Agendas in Civil Wars*, (Lynne Rienner Publishers, 2000), pp. 2; William Reno, Shadow States, in Mats Berdal and David M. Malone, (Eds) *Greed and Grievance: Economic Agendas in Civil Wars*, (Lynne Rienner Publishers, 2000), pp.19 – 41; and Mats Berdal and David M. Malone, *Greed and Grievance: Economic Agendas in Civil Wars*, (Lynne Rienner Publishers, 2000) pp.1.

³⁶⁴ Chapter three.

accumulation. The Karamojong, the Kalenjin and Masai clusters have preserved this culture passionately³⁶⁵. We argued that rustling and cattle accumulation are primary cultural identities and group needs that are so compelling they are practised despite the cost. It reinforces the "Needs Theory" co-authored by Burton and Lederer et al³⁶⁶. We contended that traditional cattle-rustling is so primordial and critical to the survival of the people of northern rift valley region that no amount of state coercion and deterrence will stop it except a change in the way of life. We therefore stressed the need to devise ways and means that can benignly lure the people away from this tradition.

We observed that demographic and ecological changes have increased competition for diminishing resources. Proliferation of small arms has increased the capacity for violence in rustling and competition is now more serious. As a result armed youths have run away from traditional control engendering the emergence of a more predatory side of cattle-rustling. Commercial rustling is violent and uncontrollable.

We observed that such activities can only be sustainably perpetrated by the elites who own the arms and control the youths, and a new militarised social order is very evident where militianisation is used in the ensuing security dilemma as communities organise their own collective security³⁶⁷. We observed that where such a situation exists, potentially violent cultural identities emerge, which are according to Timothy Sisk exploited or de-emphasised at the behest of power seeking elites in the social arrangements³⁶⁸.

³⁶⁵ Chapter Two.

³⁶⁶ Ibid, pp. 121.

³⁶⁷ Chapter two.

³⁶⁸ T. D. Sisk, *Power Sharing and international Mediation in ethnic Conflicts*. (Carnegie Commission on Preventing Deadly Conflicts, United States Institute of Peace, Washington D.C., 1996), pp. 12.

We observed that lack of education as a socialising agent is very evident as 70% in every age group fall off to rustling, militia or banditry³⁶⁹. These parameters determine which community has the day in the equation for balance of power. We observed that many of the youths who flock into the military and the police soon desert to utilise the learnt skills and knowledge to ensure the survival of the collectivity in the regimented society or to accrue benefits from commercial rustling and banditry³⁷⁰. This is in line with Joao Gomez, citing Collier's assessment that a high proportion of young men and low education endowment increase the risk of conflict³⁷¹. Abdurahman Ame also found that the otherwise cultural phenomena and social marginalisation are the core variables causing cattle-rustling and conflict in northern Kenya³⁷². We argued that the abundance of uneducated youths and ready supply of small arms have greatly escalated cattle-rustling in the NRV.

5.2. The Policy, Policy Institutional framework and Rustling

The second objective of our study answers the question why policy and institutional frameworks employed to contain cattle rustling in northern rift valley are apparently unable to work. We firstly analysed and examined the concept of national security and its linkages to individual, societal security and attempted to draw a nexus and interfaces between individual and national security interests and the factors of legitimisation of state. Secondly, we examined and analysed the application of national security institutions in pursuit of security objectives³⁷³. Thirdly, we analysed and examined the institutional architecture of the national security institutions employed in northern rift valley region under the variables of missions, concepts of

³⁶⁹ Chapter three.

³⁷⁰ Chapter three.

³⁷¹ Ibid.

³⁷² See Abdurahman Ame, *Cross-border livestock Trade and Small Arms and Conflict in Pastoral Areas of the Horn of Africa: Case Study from Southern Ethiopia and Northern Kenya* A paper to IASCP's Eleventh Biennial Conference, DPMF 19 April 2006

³⁷³ In this we acknowledge that national security includes sweeping diverse issues like a nation's diplomatic, economic, food, military, and internal security among others. See A. Rahman, *National Security Mechanism* (ARSIPSO and IIC, 2005) pp 1, and Raghu, *Security without Policy: A Critical Appraisal of the Report on Reforming the Security System*. *The Marxist* vol 17, No 02, April-June, 2001.

operation, tactics and sustainability. In the examinations of these variables we co-varied them with cattle-rustler characteristics; lastly we attempted establishing a nexus between national security policy and the strategic process from the strategic to tactical levels of conceptualisation. We analysed and examined the operationalisation of the state security policies and strategies on rustling focusing on NRV.

We observed that a grand strategy is necessary since it helps planners and nations to focus the future rather than grope through the way. It helps us to find where we want to go, how to get there with what. Without strategy we would be walking blind. We also observed that focused states unequivocally identify their core values and interests upon which to base their nationhood. From these they lay out policies and strategies and balance the instruments of national powers as put by Noteboom, Nuechterlein and Blackwill³⁷⁴. We argued that developing the strategic culture develops consistently correct insight and appreciation of trends and the most enduring way of doing things. As argued by Liotta and Lloyd, "strategy is a long-term focusing instrument for shaping future environment"³⁷⁵.

We observed that out of national security policy we can interpret and secure all national values and interests and out of it we develop the Foreign and Domestic policies critical to the security of state. Having discerned foreign and domestic policies, we can develop national security strategies. We argued that these policies are operationalised by doctrines and referent SOP. William Odom and Beleyev posit that doctrines and SOPs are the means for states to orchestrate political, social, economic and military actions in any security operation, and

³⁷⁴ Colonel (Rtd) James D Noteboom, *Developing National Security Strategies in the African context. African Security Review 17.3* (Institute for Security Studies), pp. 3. Also, see Nuechterlein, D E. The concept of 'national interest': a time for new approaches. *Orbis*, 23, 1979 Spring.

³⁷⁵ P. H. Liotta and Lloyd M. Richmond, *From Here to there: The strategy and Force Planning Framework*, Naval War College Review, (Highbeam Research Inc., 2009) at <http://static.highbeam.com> last visited 01 September 2009.

provide the forces a means for creating structures, technically equipping, training, and definition of forms and means of conducting operations³⁷⁶.

We observed that Kenya has no identified core values and interests, they are absent in the constitution, which is our referent document. We observed that matters of security and general policy are apparently left to the behest of the rational actor not the constitution and policy. Apparently state policies are uncoordinated as each sector goes about articulating its policies without referring to others. Most policies are made in damage control as crises management. We argued that policy crises deal with more expedient execution of initiative and damage control; in the absence of strategy, the future direction remains foggy and the route rutted. As a result there is no coded national security policy, and security policy is predicated on the executive statements and decrees rather than national policy. Without those policies, neither doctrine nor SOPs exist.

William Odom and Beleyev advocate for doctrines and SOPs as means for states to orchestrate political, social, economic and military actions and provide the forces to base structures, technically equipping, training, and definition of forms and means of conducting operations³⁷⁷. Liotta and Lloyd confirm that force planning must be strategy driven and considering that force creation and sustenance is very expensive, there needs to be jointness and integration³⁷⁸. We argued that lack of national security and internal security policies is causal to unsuitability of internal security forces, the fallacy of their operational strategies and tactics, their incompatibility at operational and tactical levels and consequently to their apparent inability to defeat internal security threats. We argued that it is causal to the wasteful proliferation of security forces with duplicated missions and no jointness and credibility often

³⁷⁶ Chapter four

³⁷⁷ Op cit

³⁷⁸ Op cit.

created as a political dispensation rather than strategic force planning. Clausewitz and Jomini stress the significance of force preponderance at the decisive points³⁷⁹.

From the foregoing, we contested that lack of security policies puts the nation under the mercy of rational actors who make ad hoc pronouncements of state policies according to their political moods and advantages. In particular, it impedes success of anti-rustling operations and negatively impact on milieu of other issues informing cattle-rustling in NRV. We therefore recommended a formulation of grand strategy for resuscitation of national security, which we argued of necessity needs to be multi-sectoral, with security sector being the linchpin.

We argued that their inability of the security forces to contain cattle-rustling in northern rift valley is caused by several factors among which are both moral and structural; and force unsuitability, inadequacy, lack of jointness and sustainability. We observed that due to their colonial hangover and an apparent military set, both the police and AP are unresponsive and insensitive to the needs of the communities they serve.

We also observed that structural faults have a lot to do with their organisation and deployment patterns which reduces their operational capability, and hinder capacity for jointness. We observed that the forces are unsuitable considering the terrain and their weakness in comparison with rustlers. Most important we observed an apparent lack of logistic and materiel sustainability renders their operations short lived. We linked the incapacity of sustained operations, and expropriation and the associated low recovery levels of stolen livestock. We argued that these shortcomings can be associated with lack of internal security policy and strategy, doctrines and SOPs.

³⁷⁹ *On War*, Book Three, Chapter 8 (1908 Graham/Maude version). See Christopher Bassford, *Clausewitz in English: The Reception of Clausewitz in Britain and America, 1815-1945* (New York: Oxford University Press, 1994). In www.clausewitz.com. Vvisited 27 Sep 2009. Also, see Christopher Bassford, *Clausewitz in English. The Reception of Clausewitz in Britain and America, 1815-1945* (New York: Oxford University Press, 1994). In www.clausewitz.com visited 27 Sep 2009.

We observed that operations face criticism at CSO and public levels due to lack of justification and credibility. This was demonstrated by the various accusations of trampling of human rights whenever security operations are enjoined and threats to individual personnel of international court action which has apparently given them cold feet. We argued that given force credibility, and operational justification, doctrines, SOPs and ROE can save personnel from such threats and enable them escape the entrapment such threats pose to security operators. But these are not available and the forces are left vulnerable and apparently scared.

We observed the excessive discretionary powers in the hands of administrators and police, in NRV and presence of outdated and discriminative laws which they enforce at their discretion. The resulting inhumanity and impunity encourage, the forces to commit crimes against the people.

We argued that these factors estrange the state and people and give a cause for the people to rise against the state. This is a matter which in Buzan's opinion indicates incongruence between the state and individual interests³⁸⁰. We argued that the inconsistency and impunity ensuing encourages political elites to conduct commercial rustling and practise politics of consolidation, and rampage against unfavoured communities. It removes the impulse to enforce policies and causes paralysis in the forces.

General (Rtd) Jean-Marie Veyrat and William Odom and Beleyev consider Doctrines, SOPs and ROE the essential means through which security forces commanders at all levels are get freedom of action to act in the present era of democratisation and excessive freedom of the media and civil society³⁸¹. We argued that if the operations against rustling and banditry were morally credible and justified every action and reaction would be justified by the need. UDHR

³⁸⁰ Barry Buzan op cit.

³⁸¹ Op cit

argues for this. It is through force credibility and justification that the forces would guard against entrapment into what Clausewitz described as “a mere game for social reasons”.

Deployment of inadequate forces in an expanse of hostile terrain without local support or requisite operational infrastructure and sustainability; and at strengths that are inordinately prejudicial to force security and credibility make operational responses sporadic, rushed and unsustainable. Clausewitz emphasised “In tactics, as in strategy, superiority of numbers is the most common element in victory” and Jomini stressed “place superior power at the decisive point”, the adversary’s “centre of gravity”³⁸².

We observed that northern rift valley region ecology, terrain and weather challenges are unique. We also observed that the people are resilient and effectively reproduce socially there which we argued gives the rustlers an edge over the security forces. We concluded that there was a need to consider tailoring a security force that can survive and turn around the benefit enjoyed by the rustlers. Such a unit we argued would best comprise of men born and bred there, under unit of command and control of the universal officer corps. Considering that policing problems differ from region to region, we argue that local police forces should also be organised and specialised according to problems of this region.

5.3. Of limited State Penetration and Cattle-rustling - Revisiting the Hypotheses

In the study we endeavoured to qualify hypotheses that:

- a. Sustained cattle rustling is a function of the resultant political, economic and social engagements that constrain state penetration in NRV; and

³⁸² See *On War*, Book Three, Chapter 8 (1908 Graham/Maude version); or Christopher Bassford, *Clausewitz in English: The Reception of Clausewitz in Britain and America, 1815-1945* (New York: Oxford University Press, 1994).

- b. The crisis of containment of cattle-rustling is a function of policy and institutional fragility endemic in NRV.

5.3.0. Political Economic and Social Factors

We sought to answer the question, what political, economic and social factors predispose people in NRV to cattle rustling? Our objective was to examine and analyse the political, economic and social factors undergirding cattle rustling in NRV. To achieve these we need to validate our hypothesis that sustained cattle rustling is a function of the resultant political, economic and social engagements that constrain state penetration in NRV.

Our study owns that several factors predisposition of a region to cattle-rustling. The critical ones are the political, economic and social factors which continue to feed the political economy of cattle-rustling which thrives due to societal dependence on cattle. The continuity of this situation is the results of the political, economic and social factors which encourage cattle-rustling as a way of life. To transform the situation implies that for sustained containment of cattle-rustling, political, economic and social constrains need to be put in place, through increase state penetration and presence.

Our first hypothesis expressed mathematically is $R=f(\mu, \delta, \beta)$, where μ is the political engagements factor, δ the economic factor and β the social factor. We needed to correlate rustling (R) the dependent variable and the independent variables the political, economic and social engagement factors; and link our findings with theoretical framework.

We attempted to correlate inconsistencies in policy statements and utterances of political actors with cattle-rustling. Utterances of political actors encourage prejudices at the systemic societal and individual levels. Inconsistencies in policy statements engender political and legal impunity further feeding cattle-rustling which was evidently escalated by utterances

of political actors. We concluded that inconsistencies in policy statements and utterances of political actors causes and escalates rustling.

We also attempted to correlate marginalisation and state-people distance which was also evident. The correlation between that distance and cattle-rustling was also evident. We therefore concluded that as result of the evident state absence, northern rift valley region is marginalised and the ensuing distance between the people and state has engendered escalation of cattle rustling. Inductively, state absence is causal to escalation of cattle-rustling and conflict. Political Marginalisation is structurally violent. The presence of politically instigated structural violence and its correlation with escalation of rustling is consistent with our thesis that violence is present when human beings are frustrated³⁸³. This, Galtung argued brings about psychological and or physical violence.

It is evident that the variables of politics of power consolidation, impunity, and political profiteering generate space for greed related conflicts. At the same time rustling has been used at societal and systemic levels to advance communal and national causes. The two evidently coexist in NRV and they influenced each other since many leaders advance grievance to reap greed based advantages. These are consistent with our thesis that cattle-rustling is both greed and grievance originated as argued in scholarly contributions by, David Keen, Christian P. Scherrer and Barry Buzan; Zartman et al, Timothy Sisk, J. D. Singer, Hobbes and John Locke.

In order to eradicate rustling we recommended an end to politics of power consolidation. It calls for the improvement and sustainability of governance infrastructure to bring the state closer to the people; and improve state penetration by enabling sustainable administration machinery including employment of a public sector that is conscious of the unique character of the region and the people.

³⁸³ Johan Galtung, "Violence, Peace and Peace Research", *Journal of Peace Research*, Vol. 3, 1969, pp. 184.

On the economic factor, we observed an existence of a traditional economic culture among the pastoralists, and among the pastoralists and other people involving bartering of livestock for foodstuffs. It is also evident that there exists a shadow economy a factor which we attempted to link with the availability of cheap and easily disposable livestock, and high demand for livestock, abundance of unemployed youths, proliferation of small arms and passive security institutions.

We correlated these with escalation of rustling and by induction, rustling and the economic aspects of life in northern rift valley. We therefore argued that there is a strong direct correlation between rustling as a dependent variable and the economy as an independent variable. The economic factors revolve around greed and are congruent with our thesis founded on scholarly contributions by Paul Collier and Anke Hoeffler, Karen Ballantine and Heiko Nitzschke, Jackie Cilliers, H Eckstein, Joao Gormez Porto, David Keen, William Reno, Mats Berdal and David M. Malone.

Our recommendation is that in order to curb cattle rustling, there is need to engage the abundant unemployed youths in more useful and attractive means of livelihood, improve the economic infrastructure that can manage and control livestock industry especially marketing and enabling identification and policing of the industry through livestock marking. Livestock branding, range monitoring by active security and technical patrolling including the use of RFID to monitor movement of livestock and for tracking down stolen livestock and availability of cattle are technical aspects that if religiously practised can help eradicate rustling. The practise would make it easy to identify and track down livestock, advice the community centrally on market trends and help them exploit the global demand of livestock. This would enable the communities reap profits of industry, improve their standards of living, engage many of the youths and discourage the shadow market and the political economy of rustling.

On the social factor, we observed that the factors of communal social security structures, marriage and power, socialisation and means of social reproduction encourage the rustling culture. It is evident that these aspects of culture idolise cattle and rustling. By linking these aspects of social security to cattle rustling, by induction we apparently establish a correlation between rustling and the social factors. This we argued is congruent with our thesis founded on the social contract and needs theory, argued in scholarly works by Lederer, Paul Lederach, John Burton, Zartman et al, Musambayi Katumanga, Agade Mkutu, Nene Mburu.

Cattle-rustling is a way of life in NRV. In the short term we recommend institution of a credible security and social infrastructure to both coercively and benignly remove rustling. In the medium term, we recommend the institution of a concerted development of social infrastructure like education, provision of social amenities, opening up of the region to outside social forces, gender equality and consideration, exploitation of the age-set system and ethnomilitarisation to reinforce security and enhancement of the traditional mechanisms for control.

We therefore contend that the hypothesis that "sustained cattle rustling (R) is a function of the resultant political, social, and economic policy engagements that have constrained state penetration in northern rift valley region" is valid and, $R=f(\mu,\beta,\delta)$, where μ is the political engagements factor, β the social factor and δ , the economic factor.

5.3.1. The Policy and Security Institutional Framework

We sought to answer the question, what factors paralyse the operational efficacy of the security policy and institutional frameworks in NRV? Our objective was to examine and analyse the security policy and institutional factors underlying the apparent inability of the security institutions to contain cattle rustling. To achieve these we need to validate our

hypothesis that crisis of containment of cattle-rustling is a function of policy and institutional fragility endemic in NRV.

Our study owns that the factor of policy and institutional operational incapacity can predispose a people to cattle-rustling. These include lack of policy, policy inconsistency and failure, lack of policy enforcement, institutional unsustainability and neglect. These factors, we contend, are critical in the containment of cattle-rustling and general maintenance of general order in any region. The continuity of cattle-rustling is the results of lack of policy, policy inconsistency and failure, lack of policy enforcement, institutional unsustainability and neglect. To transform the situation implies that for sustained containment of cattle-rustling, there needs to be relevant policy and relentless enforcement by working and well sustained policy institutions tailored to incessantly combat rustling to its eradication. By these we increase penetration through increased level of institutional operating capacity through the centre of gravity.

In order to validate our hypothesis that crisis of containment of cattle-rustling is a function of policy and institutional fragility endemic in NRV, we contended that containment of cattle rustling is a function of institutional incapacity and policy inconsistencies that inhibit institutional freedom of action in NRV. To this end, we based our argument on the assumption that the institutional success (A) in anti-rustling is a function of capacity (μ), operational justification (η), policy consistency (ϵ) and freedom of action (δ). Thus $A=f(\mu, \eta, \epsilon, \delta)$. Where the variables of capacity, policy consistency and freedom of action are in attendance, institution ability will be achieved. The vice versa is the case. We attempted to correlate security institutions incapacity, policy inconsistency and lack forces freedom of action with escalation in cattle rustling.

We argued that institutional capacity (μ) is a function of moral and matériel support and forces credibility³⁸⁴. It is evident that the characteristics of moral and matériel empowerment emanate from the tasking policy level. It is also evident that credibility is a function of both local and international support and goodwill. We linked cattle-rustling in NRV with lack of operational justification; institutional moral and matériel inadequacy and operational unsustainability. By induction, we argued that it is evident there is an inverse relationship between cattle rustling and institutional capacity, therefore contend that cattle-rustling is a function of institutional incapacity.

We attempted to link escalation of cattle-rustling and operational justification (η). In the NRV, it is evident that whenever security forces operations are decisive, there is a spontaneous reaction by media, CSO, and international community. Where these challenges prevail, rustling and banditry are rampant. These we argued point out to lack of operational justification which would have otherwise solicited local and international support prior to enjoining the operation. The findings lead us to conclude that operational justification and escalation of cattle-rustling are inversely correlated. The argument is in line with the UDHR and with Clausewitz and Jomini as they caution forces against falling into the trap of "a mere game for social reasons". It is also in line with Bresser-Pereira, Boucher and Liotta and Lloyd arguments that force and process operational planning should be strategy doctrine driven³⁸⁵.

Policy consistency (ϵ) we argued, calls for relevance and resilient relentless commitment; rigor and freedom of action in application. The characteristics of relevance, rigor and commitment in application inspire compulsion in their enforcement, while freedom of action enables force to act responsibly and professionally steered by unambiguous strategies and policy directives guidance. Policy guidance telescopes to doctrines, SOPs and ROE, which

³⁸⁴ Matériel is the collectivity of supplies, weapons, and equipment associated with a military force.

³⁸⁵ See chapter four.

are influenced at the policy level. We argued that operationalisation and respect of these instruments test the eminence of strategy and leads to institutional success. They are evidently absent.

It is therefore evident that policies applied in NRV are irrelevant, inappropriate, and it is also evident that there is no commitment in enforcing them. It is also very evident that security forces have no freedom of action and no compulsion to enforce laws and policies. Policy guidance and strategy for eradication or rustling or ensuring security in NRV is evidently absent. We therefore argued that these are causal to the escalation of rustling and hence cattle-rustling is a function of policy inconsistency and policy institutional paralysis. This we argued is a pointer to absence of strategic culture; which is consistent with our thesis that the strategic culture and processes are *sin qua non* to the suitability of national policy objectives as supported by Clausewitz, Mahan, Sun Tzu, William Odom and Beleyev, Noteboom Nuechterlein and Blackwill, Alix Julia Boucher, and Luiz Carlos Bresser-Pereira; and their attainment demonstrates state credibility and policy consistence in the eyes of the citizenry and reduces conflict between the citizens, and between the citizens and the state as argued by Buzan and by Zartman et al.

In our endeavour to correlate institutional success and institutional freedom of action (δ), we observed the existence of political interferences during planning and execution of operations and direct interventions during arrests of politically correct culprits and during action against errant but politically correct communities. We argued that security institutions freedom of action is inhibited. It is consistent with our thesis that freedom of action is essential for the proper execution of the missions that security forces are entrusted with by the nation, or

within the framework or not of an international or regional organisation as espoused by Gen Jean-Marie Veyrat³⁸⁶.

We therefore posited that the hypothesis that the inability of the state institutions to contain cattle rustling (A) is a function of institutional capacity (μ), operational justification (η), policy consistency (ϵ) and freedom of action (δ); thus $A=f(\mu, \eta, \epsilon, \delta)$, as applied in NRV is valid. We therefore contest that the inability of state institutions to contain rustling is a function of institutional incapacity, operational justification, policy inconsistencies and inhibition of institutional freedom of action.

For successful security institutions operations, we posited in line with Katzebach and Hanrahan that given sustainability, security institutions need space (MS), which in military terms is the square of mileage (d^2) plus obstacles (o) minus a workable communications network (η). Hence, $MS=d^2 + o - \eta$. We therefore attempted to correlate the institutional failure to lack of military space, and in particular due to distance and space expanse, the terrain and weather factors and lack of working communication networks.

NRV expanse is huge, and security forces deployment is thin and unsustainable in locations that are excessively distant for stations mutual defence, reinforcement and logistic sustainability. The forces encounter the most rugged and hostile terrain obtainable in Kenya which effectively reduces force multiplier effects so that it becomes very difficult to beat the bandits and rustlers who hail from there. To work, forces require reorganising from the conventional setting and adopt unconventional tactics in order to cope. This removes tactical advantage to the bandits. In addition, we proved that communication networks are nonexistent. We therefore proved that the security forces operational success is militated against by the

³⁸⁶ See chapter four.

theatre expanse (d^2), obstacles (o) and lack of working communication networks (η); hence $MS = d^2 + o - \eta$ is true.

From the foregoing we recommend that to contain rustling in northern rift valley, institutions capacitating is critical. They need sustained provision of both moral and matériel sustainability to ensure credibility. There is also need for the security institutions to be augmented and supported by other government institutions there; to rethink the presence and sustainability of the entire government effort in NRV collectively to enable continued spontaneous operational sustainability that is smooth and devoid of institutional bureaucracy; and state budgetary process ought to give the area special consideration if cattle-rustling efforts are to be sustained and the vice eradicated.

To attain the above demands a shift in the national security paradigm. There is need to engage the strategic process from the grand strategic down to the tactical level, to juggle the ways and means balancing them to reach the suitable end state. Such a strategy should engage all the national instruments of power to attack the moral and physical centres of gravity of the rustlers simultaneously, by undertaking political, economic and social; and security reforms simultaneous to win the hearts and minds of the people and offer a more attractive alternative to rustling.

On the security aspect of the strategy, we recommend the creation of an integrated security apparatus that can be fully responsible for cattle-rustling and any other hardcore crime including transnational crimes and for controlling movement of pastoralists internally and across border. Such a force would garner more clout than the normal police, and be capable of undertaking border surveillance including limited military operations.

This would enhance cooperation and integration of the force and the military to enable their jointness, integration and availability of military resources to be on call without undue

bureaucracy. This can be enabled by reorganising the existing infrastructure, for instance in the police reforms, removing the GSU and ASTU from police command, and the AP from provincial Administration, and combining them under the new service as National Guard, formulating an integrated policy and repealing their legislations and enacting a legislation to create such a service. For NRV and other regions with special hardships such as ecological and geographical adversities we recommend that such forces be ethnic based at the servicemen level but with a universal officer corps to give it a national outlook.

5.4. Conclusion

Our study posed three fundamental questions: what political, economic and social factors predispose people in NRV to cattle rustling? What factors explain the apparent paralysis of the operational efficacy of the security policy and institutional frameworks in NRV? How can the security and policy frameworks be enabled to contain cattle rustling?

Our analysis and examination led to the conclusions that the hypothesis “sustained cattle rustling is a function of the resultant political, social, and economic policy engagements that have constrained state penetration in northern rift valley region” and that the “apparent inability of state institutions to contain rustling is a function of institutional incapacity, operational justification, policy inconsistencies and inhibition of institutional freedom of action” are valid.

To the extent to which elements of stateness aren't prioritised, consolidated and sustained by the state, the constancy of armed crises remains given. Here, stateness comprises the ability of a nation to demonstrate sovereignty by creating and sustaining the areas of social activity; the ability to confer identity to its citizens; the ability to sustain the input output roles by demonstrating institutional capacity; and guaranteeing security to its citizens.

Critical here is the ability of the state to demonstrate capacity to dominate the instruments of violence, the basis for its existence as contended by the social contract theorists³⁸⁷. In the case of NRV, the phenomenon of political economy and social factors of exclusion have continued to predispose the people towards cattle-rustling. To the extent that the state lacks cohesive security instruments and organisational strategy and frameworks it remains incapable of containing cattle-rustling and in the process it endangers national security. It is this context that anchors our thesis that: sustained cattle rustling is a function of the resultant social, economic and political policy engagements that have constrained state penetration in northern rift valley region; and the crisis of containment of cattle-rustling is a function of policy and institutional fragility endemic in NRV.

In order to reverse the situation, the state must recognise the need to involve the communities in NRV in the decision-making in all matters that concern them and demonstrate statehood by sustaining the means for production and providing the people incentives that can provide a more attractive alternative to cattle-rustling. This cannot be achieved without a grand strategy supported by a working security machinery to guarantee the space for political, economic and social reproduction.

5.5. Recommendations

Political impunity has registered as one of the most critical escalators of cattle-rustling and the related violence. We recommend an end to politics of power consolidation and enactment of laws that defeat patronisation and impunity, remove regional discrimination, enable religious enforcement of laws and policies. We in this regard also recommend that a participatory and inclusive governance apparatus be adopted where locals participate in leadership and all decision making and own up decisions.

³⁸⁷ Quote Roseau etc or simply search Social contract theory.

Since cattle-rustling is a way of life, in the short term we recommend the establishment of working economic infrastructure to develop, manage, market and strictly control the livestock industry in cooperation to policy enforcers in order to eradicate commercial cattle rustling. Along with this, there is need to restore the means of identifying livestock by branding, and use of RFDI to monitor and track movement of livestock including stolen livestock. Development of livestock industry will create more meaningful employment for youths and discourage stock theft by engaging the abundant unemployed youths in a more attractive means of livelihood.

In order to transform the negative aspects of life that encourage rustling, in the short and medium terms, we recommend the institution of a concerted development of social infrastructure like education and provision of social amenities. In the long term, we recommend the continual opening up of the region to outside social forces to transform traditional cultures that promote rustling, such as gender equality through civil education, opening up of educational infrastructure, tourism expansion and control through enhancement of controlling socialisation.

In order to end the proliferation of small arms, there is need to end the endemic insecurity dilemma by enabling community security participation. Since disarmament is not guaranteed to work, there is need to consider registering all small arms in the hands of the community and to organise into local security unit under state control akin to the Ugandan Local Defence Units (LDU) the Tanzanian Jeshi la Mgambo of the Ethiopian militia. This is the recommended means to benignly exploit the age-set system and ethnomilitarisation of the society.

In order to actuate joint forces action, we recommend an integrated security apparatus be instituted to be fully responsible for anti-rustling, hardcore crime including transnational

crimes and for controlling movement of pastoralists internally and across border. Such a force would garner more clout than the normal police, and be capable of undertaking border surveillance including limited military operations. The next chapter proposes a practicable anti-rustling strategy recommended for NRV, which could also be replicated to other regions with similarly intractable security problems. The chapter anchors the third objective, to proffer a research based recommendation for a workable and sustainable institutional framework for containment of cattle rustling and related conflicts in the NRV.

CHAPTER SIX

TOWARDS A WORKABLE ANTI-RUSTLING STRATEGY FOR NRV; A RECOMMENDATIONAL NOTE

6.0. Introduction

In chapter five we concluded that in order to contain the intractable rustling conflict, there is need for a strategy for elimination or control of political economy and the factors of exclusion which have continued to predispose the people towards cattle-rustling. This will take a cohesive security and development strategy supported by effective institutional frameworks to contain the milieu of issues that promote cattle-rustling.

Our thesis has developed around the state crisis which has engendered anarchy and insecurity dilemma in NRV manifest in rampant cattle-rustling. The state crisis manifest in the state inability to monopolise the instruments of stateness and to dominate the area thus causing gaps which have fed cattle-rustling. People belief in centrism and when such gaps exist, their confidence on the state is compromised and then with or without state they mobilise.

This chapter proposes a strategy for eliminating the security problem and for providing the other development strategies a guaranteed security and peace from rustlers. The chapter anchors our third objective, proposing a research based recommendation for a workable and sustainable institutional framework for containment of cattle rustling and related conflicts in the NRV.

Considering the low force to space ratio in NRV, it is consistent to argue that there is a gap emanating from the distance between the state and the community structure which is causal to endemic cattle-rustling and insecurity. The gap calls for an appropriate structure or mechanism able to educe community confidence and well-being and at the same time establish

a bridge or interface through which the state can reach the people. Given the uncontrollable proliferation of small arms, there is a need to rethink the disarmament strategy.

We have argued that disarmament hardly works. We have recommended that rather than carrying on with the futile exercises, an attempt be made at legalising and registering all small arms in the hands of members of community and enlisting them into the mechanism. We have also recommended that it followed by establishment village vigilantes under the control of the security mechanism to effectively neutralise the small arms, and provide a means for usefully committing the youths and enhancing peoples' confidence on the state.

In fact the ICGLR strategy has also looked at the political, economic and social phenomenon of using the regular state structures in tandem with societal structures and infrastructure to deal with human insecurity and absorb bandits and rustlers, hence neutralise the gun. This has been the task of the ICGLR Joint Common Border Security Management³⁸⁸.

The unique ecological, terrain, climate and weather vagaries characteristic of NRV compel the communities to adapt biologically and socio-culturally to ride the challenges. Having conquered them, the communities would rather be nowhere else. They consider the region, like any other, to have its moments of scarcity and of surfeit. Here, they where to get their primary needs there and how to adapt when scarcity prevails³⁸⁹. However, recent demographic trends, severe global climatic vagaries and effects of globalisation such as proliferation of small arms and expansion of political economy have impacted so heavily it has forced many communities to fan out to other areas. With them they have migrated the chronic rustling and related conflicts. We are now witnessing the spread of cattle rustling from the core NRV through the Laikipias and Samburu to Isiolo, Meru North, Igembe, Laikipia West and is

³⁸⁸ M. Katumanga, development of border zones and promotion of human security in the great lakes region, paper presented to ICGLR Conference, 3 September, 2005.

³⁸⁹ Jeremy Lind, op cit.

now encroaching Nyandarua north. Its fall-out is influencing armed crime in all rural and urban areas especially Nairobi. As resources dwindle, we expect it to worsen and so it calls for a strategic level redress.

State initiatives against illicit arms and rustling have apparently, failed³⁹⁰. “Operation Dumisha Amani 2”, launched on 1st October 2009 has extended to September and is certainly going to spill into October 2010 and beyond. It has brought together the security caucus including the Ministries of State in charge of Defence, and the Ministry of State for PA and IS, the Military, the RVP Provincial Administration, the Police and the NSIS. It was calculated to be the final solution to rustling, however today we are witnessing a *dé ja vu*.

Among the notable objectives of “operation Dumisha Amani 2” were the disarming of KPR and replacing them with AP, use of GIS and RFID to track down livestock movement³⁹¹. The European Union (EU) had pledged to sponsor the campaign. The costs and details on responsibilities distribution and technical networking for monitoring and response are unclear.

³⁹⁰ Chapter two.

³⁹¹ Livestock tracking using digital tracking and global positioning systems (GPS) could contain and maybe eventually eradicate rustling. It uses radio frequency identification (RFI) technology to capture data on the individual cattle and transmit it directly to a data base in a control centre. The transmitted data will enable the stocks position in real time to be identified and tracked, which would place in the hands of the state security and other institutions a handy tool to track and recover stolen or lost livestock. RFID consists of a bolus containing a transponder which is inserted with the aid of an applicator into each animal’s rumen. It carries a unique ID number and other data that can be read by fixed or portable readers and relayed to a database centre. The information could be name, village of the animal owner. The police force could be equipped with hand held readers which could also be mounted on patrol vehicles or aircraft. This way rustled cattle can be tracked route identified and interception or collection organised. It calls for establishment of operation centres, or database offices with transmitters, GPS, maps, computers and internet links and the data can be transmitted via GSM-supported Mobile phone networks like Safaricom and Zein networks in the case of Kenya. Although this initiative would require a considerable capital investment, when we consider the economic loss attributed to cattle rustling related conflicts, it makes it a worthwhile investment. The cost of computer chips (popularly referred to as cow chips), is slightly less than US \$ 2. For a normal homestead with a herd of 100 cattle, the cost of implementation would be US. \$ 200 or Ksh 13,000. This is the cost of one animal and considering the advantages, it is an affordable venture that the communities could embrace and sustain if properly introduced. It would be more economical if the government were to enter it in cooperation with the pastoralists to instill sweat equity to make it on the long term a cheaper and more efficient means of controlling livestock theft. The system is already in use in Botswana and South Africa, where it is helping to ensure the long-term security of its beef export market and offers an additional marketing edge, enabling the country to compete worldwide for new export orders. The same principles are now being used to assist sheep and ostrich farmers in South Africa.

This leaves a lacuna that could eventually paralyse "Operation Dumisha Amani 2". However we argue that if properly orchestrated, this mechanism probably offers the best option so far, since by using RFIDs it would be possible to identify livestock and their movement hence enable interception and recovery of stolen livestock. This time around, the Minister for State in OP in Charge of PA and IS and his PS have called for politicians' cooperation accusing them of fuelling most of the clashes "in contest for dominance and supremacy"³⁹². The facts that it is continuing one year after its launch and its end is unforeseen, and that in spite of the heavy troop presence, heavy rustling is still going on, like the previous operations, it is probably is also bound to fail.

In drawing the grand strategy we envisage the cooperation of all elements of national power to make NRV secure and productive. In that regard, our key recommendation is the formation of an indigenised security force, which we called the National Guard (NG) to establish a secure environment for kick starting the grand strategy. The NG mission should be preventive defence for NRV, to ensure peace and secure environment for development by preventing armed conflicts from endangering people's lives and property. This is concordant with the universal concept of "preventive defence", the noble mission of any national security forces³⁹³. The NG should essentially be able to organise local vigilante groups thus making the communities the first respondents in national security.

By continually assessing the security environment, the NG should be able to adjust its capability to remain capable to influence the communities C of Gs and to coordinate efforts of

³⁹² Fred Mukinda, "Arms Mop up Plans in Top Gear; Senior Security Officers meet to Discuss Ways of Wrestling Illegal Weapons from Herders", Daily nation, Security, Friday October 2, 2009, back page.

³⁹³ See *Quadrennial Defence Review, Vol 18, Ministry of National Defence, R.O.C., pp 12*; See also US QDR, 2009. Preventive defence may include offensive action taken to remove threat. In deed Santiago Ripol Carulla in *The Legitimate preventive defence* in the report by the High Level Panel, 10/02/2005 (*Fundación para las Relaciones Internacionales y el Diálogo Exterior* CI Goya 5-7, Pasaje 2, 28001 Madrid) defines legitimate preventive defence as "the armed force used by a State against another State if the former considers there will be an imminent attack by the latter. Force is used before the attack is launched and its objective is to prevent it from occurring". Santiago Ripol Carulla is Professor of International Public Law at the Pompeu Fabra University (Barcelona) and Lawyer at the Constitutional Tribunal.

other security forces there when needed. Along the strategy, the NYS programme should be extended to merge youths from different communities in national development grand strategy to achieve and consolidate national cohesion, thus converting the constant supply of humanity into use to reduce the demand side of cattle-rustling.

Such a force has precedent in the USA, for instance, where the guard is the reserve for military force and it comprises the state National Guard militia members or units under federally recognized active or inactive armed force service for the United States³⁹⁴. Other states with National Guards include Pakistan, Bangladesh and Canada. Franco-phone and Italian related countries have the Gendarmes and Carabinieri in respectively.

6.1. The Proposed National Guard Concept of Operation

Considering the magnitude and nature of the NRV crisis, we propose the creation of security zones, demarcated according to a strategic appraisal that to identify the threats, zones of operation, routes and terrain challenges. The security zones should be provided the necessary communication infrastructure for deployment and operation of the National Guard and other development projects. Security roads should enable quick reaction and preventive operations by the National Guard and Defence Forces. Investment in Livestock industry development should provide the people incentives, and eventually, alternative means of livelihood. Other social infrastructure development should take place to link the region to the rest of the country.

The time plan for the strategy and resources allocation for the sustainability of the strategy would be crucial. Encodement of the internal security policy would enable the

³⁹⁴ Please see Peter M. Aylward, Major, USARNG CG#4, *Operational Readiness in Army National Guard Contingency Force Pool Units*. Submitted in Partial fulfilment of the Requirements for the Degree of Master of Military Studies April 1995, CSC 95, University of Liverpool, Online Masters Programmes, www.GlobalSecurity.org, visited 03 October 2009.

articulation of an internal security operations doctrine and subsequently joint internal security operations SOP for inter-forces cooperation.

In anticipation of a clash of interest between the NG and the various other non-governmental and civil societies operating there, joint planning with all stake holders and actors in the region would be critical. In reality local and global level interventions in the last few years emphasise the need for military, political and humanitarian actors' partnership to work together far more closely³⁹⁵. These will justify security operations in the area.

For the creation of the force parliamentary sanction would be necessary, essentially creating the NG, a new Service. It would be an internal security force under unit command and independent. It is recommended that it be preceded by the repeal of Caps 83 to dissolve AP and 84 to remove the General Service Unit and Anti-Stock Theft Unit from police command; Kenya Wildlife Service (KWS) and Kenya Forests Service (KFS) from the Ministry of Tourism and Environment; and merging the GSU, ASTU, AP, KWS and KFS into the new service, the National Guard. It is also recommended that the Armed Forces Act (AFA) Cap 199 the Laws of Kenya, be amended to create five services, the Kenya Army, the Kenya Air Force, the Kenya Navy, the National Guard and the Armed Forces Constabulary in that order of seniority. This would necessitate an overhaul of the AFA to include the National Guard in all matters.

The new service should come under the command of a Commander National Guard, a two star General. Considering the special problem in NRV, the NG for NRV should be a brigade strong, under a one star General (One star for NRV). The members of the new service being members of the Kenya Armed Forces should enjoy all the basic terms and conditions of

³⁹⁵ Jane Barry and Anna Jefferys, *A Bridge Too Far: Aid Agencies and the Military in Humanitarian Response*, Humanitarian Practice Network (HPN) Paper, Overseas Development Institute, January 2002, pp 1.

service. For NRV, it is of paramount importance that they be recruited and based in NRV but in order to remove ethnic overhangs, the Warrant Officer and Officer corps should be universal³⁹⁶.

It is proposed that the role of the Armed Forces be external and internal security to enable a national security policy that enrolls the Kenya Army, Kenya Air Force, Kenya Navy and National Guard jointly in IS. Thus, IS and defence operations would be dovetailed under one authority to remove the inertia currently witnessed when the need to employ the Armed Forces arises. The National Guard organisation and operational doctrine would embrace aspects of special policing specialised by the AP, aspects of anti-rustling currently specialised by ASTU, wildlife and marine conservancy and protection as specialised by KWS, forests preservation as done by KFS and paramilitary roles as specialised by GSU and APRDU.

The NRV NG should specialise in deterring and combating rustling by tracking and recovering rustled livestock, surveillance and control of pastoral transhumance, control of cross-border pastoralism in collaboration with the appropriate authorities, protection of areas designated as quarantine and or draught period grazing zones, crowd control, and combating hardcore crime like terrorism, illegal migration and arms trafficking. The NG should also dovetail with the Ministry of Livestock Development for monitoring and coordinating and controlling the use of the GIS and RFIDs.

The added strategic advantage would be the creation of a standing force capable of delaying external aggression as the Army mobilises in case of surprise attacks. At the early stages of hostilities, they would provide the covering battle forces and during the coup de main,

³⁹⁶ The National Guard should of necessity be regional and specialise to the regional requirement. For example, coastal region guard should specialise in marine matters including fishing, smuggling and inshore surveillance, including movement of vessels in cooperation with the Navy MASURA. Other duties could include liaison and cooperation with local police command, crowds control and hardcore urban crime like drugs trafficking, Special Forces action against vigilante and other organised urban crime in collaboration with the Kenya Police, Air Ports and Railways protection. Nairobi Metropolitan Guard should specialise in crowd control, hardcore urban crime like drugs trafficking, VIP and Diplomats protection, Special Forces action against vigilante and other organised urban crime in collaboration with the Kenya Police, Air Ports and Railways Police.

counter-offensive and subsequent phases of war, provide depth forces and home guard. Such a dispensation would make response to internal security requirement smoother be it in Nairobi, Molo, Kacheliba, Lamu or Turkana.

NG should master the terrain and other ecological vagaries to the disadvantage of the offenders. In NRV they would conquer such terrains as Suguta valley, and contain rustling between Turkana and Samburu, since being indigenous, they would be able to gather real time intelligence to cut-off and to pre-empt raids. This should replicate the ABS force that transformed banditry in Garrisa and Wajir Districts in the eighties but unlike the ABS, the NG should be constitutional and protected against political miss-use.

The obvious question is how impartiality can endure in a monoethnic unit. Examples of monoethnic units are found in many countries³⁹⁷. They are assumed to be patriotic by training and orientation and regimentation, and committed to maintenance of national peace and security; secondly, such forces like other national security forces become legally bound by oath and protected against miss-use. Any misconduct by members of the Armed Forces who are sworn to be impartial and disloyal comprises court martial offences. Such forces can be useful to deal with insecurity in any other regions of the country hence the principle of interchangeability will become the binding cord of the NG.

Cattle-rustling is a threat that calls first, for immediate national action (IA) and secondly, a regional IA. Whereas Kenya has not taken any special action to eradicate commercial rustling and traditional rustling, the need for concern is ever dire. We are aware that there exists regional efforts initiated by IGAD and ICGLR, but these initiatives have not been dovetailed regionally due to sovereignty concerns. The purpose of this proposal is to

³⁹⁷ For example the Gurka in Britain.

present a national alternative that could help eradicate commercial rustling, and contain traditional rustling, as a precursor to regional organisation.

We have proposed constitutional amendment to the mission of the Ministry of State in the Office of the President in charge of PA and IS to enable it retain political control (POLCON) over IS operations and the NG while the National Guard remains under operational command (OPCOM) the Defence HQ; and creation of the instruments for coordination of the two ministries in internal security matters, so that the strategic peacetime garrisoning of the Guard becomes consonant with political administration and commanders are seconded to provincial administration as security advisors, just as NSIS or Police Commanders are. Where necessary, the Guard could decentralise bases without compromising force security, to the lowest level possible to support of the provincial administration.

6.2. The National Guard Organisation Structures.

We propose that the NG comprise a balanced force, capable of undertaking all sorts of combat operations including augmenting the Armed Forces in war, and providing the covering battle forces in their areas of operation, to allow mobilisation and containment battles to be enjoined. Upon battle hand-over, they would provide the depth forces and home guards.

In peacetime, the Guard would provide action against crimes that are beyond police control, support Kenya Immigration Department and Kenya Ports Authority, Ministry of Tourism, Ministry of Environment and Ministry of Livestock Development particularly in ASAL. Specifically NG will be responsible for fighting terrorism, drugs trafficking, human trafficking, cattle-rustling, banditry, marine surveillance and control, crowd control, escort and guarding of VIP, Presidential and Presidential premises guard, Guarding state buildings, property and premises. In order to provide such services, the force will need to be appropriately organised and equipped. Our point of interest is the National Guard for northern rift valley

region. We propose that it be organised in line with light infantry, with unit clusters covering the specific regions.

We propose the units to be designated according to areas of responsibility: Turkana National Guard for Turkana Districts, Pokot Guard for Pokot Districts, Samburu Guard to cover the Samburu districts, Laikipia Guard for Laikipia districts, and Marakwet Guard for Marakwet Districts. Turkana are normally vulnerable to Toposa all along the Kenya – Sudan border; to the Dongiro/Dassanetch to the North of Lake Turkana to the Kenya Ethiopia Border. Turkana have mustered and exploit hostile Suguta valley and the formidable eastern escarpment of the rift valley south of Lake Turkana and use this hostile terrain as their escape route. It is very difficult for security forces or Samburu pursuers to follow them there. We propose that the Turkana Guard comprise of four sub-units. One sub-unit each to cover the Sudan Ethiopia and Uganda borders at Lokichogio, Todenyang or Lokitaung, Kapedo and Katilu. These would reinforce the sparsely held police patrol bases along the borders and secure their AORs using security roads. The unit headquarter and the support unit to be based at Lodwar.

Pokot districts are prone to cross-border raids from Uganda Karamojong, and internally against Turkana and Marakwet. In order to take care of both cross-border and raids from and into Turkana, we propose that sub-units be deployed at Konyao and Alale, and Kainuk, the unit headquarters and support sub-unit to be stationed at Makutano. See figure 6.1.

We proposed that due to the protection provided by the Pokot Guard in the north, and considering that most raids originate from Pokot to Marakwet, the Marakwet Unit is recommended to be a company to be based at Chesogon. In order to take care and liaise with Turkana guard and to cover the large expanse of Samburu district, we recommend that Samburu Guard comprise three sub-units with bases at Baragoi or South Horr, Archers Post, and Suguta Marmar respectively, and Headquarter and support sub-unit at Maralal. See Figure 6.1.

Since the Laikipia community is multi-ethnic, and faces threats mainly from Samburu and East Pokot/Baringo, we propose that the Laikipia Guard be multiethnic, with three sub-units each based at Rumuruti, Doldol, and Debatards respectively. Considering the special security need of NRV, we envisage that the entire regional guard, that is the Marakwet, East Pokot, West Pokot, Turkana, Samburu and Laikipia Guards should be placed under a central command depending on the POLCON, such that the NRV Guard is under OPCON the NRV regional Commander, the headquarter of which should be centrally placed, Preferably at Lodwar. See figure 6.1. All the units should be linked by communications to enable contingent Guards liaise laterally and vertically.

Each NG unit should have the traditional infantry battalion support units of pioneers, reconnaissance, mortar and anti-tank, with cross-country and airlift capability either in the form of organic aviation sub-units for each national Guard, or from central facility, dedicated to NG operations and capable of lifting one fighting company at one go. Arrangement for additional fire support should be made under the Armed Forces control and discretion when situations demand such arrangement.

In order to cover both internal and external pastoralism and rustling threats, the deployment of the National Guard should cover both the internal and external ingress points, see map, figure 6.1. The regional NG HQs should coordinate operations near AORs borders and the NG HQ Main, combine force operations. Each Guard should maintain optimum capability and readiness by periodically undertaking collective training and operations in AORs. To support the NG, we propose the establishment of permanent presence of Military units at Lodwar, Baragoi and Kapenguria. IN order to boost capability for operations across Lake Turkana, we propose that aviation and Air Force units be based at Lodwar, and a Marine subunit in Lake Turkana with capability of landing company strength either way across the

lake, preferably based at Loiyangalani. To enhance this unit's capability and capacity to intervene quickly, we also propose that the Marine unit be collocated with an Air Force FOB. Considering the expanse of Samburu Guard AOR, it is suggested that the proposed Baragoi military unit puts a permanent patrol base, or company base at Ileret or Dukana, with aviation on call. See map, figure 6.1a.

The NG Service Headquarter would be in Nairobi close to the Defence Headquarter, preferably the Current GSU Headquarters Embakasi, with staff at Defence Headquarter and NMOC. The regional Guards would be under OPCON provincial administration and under OPCOM the Defence Headquarters. Guard/police liaison would be close and decentralised to regional commands for ease of cooperation. Guard commanders would be automatic members of local security committees.

It is recommended that the NG sustainability be under the collective Defence Forces combat service support and sustainment organisation and the members of the Guard rationed from exchequer, just as the regular forces. The present GSU, AP, KWS and KFS training schools combined would be most suitable collective training facility, with each regional guard specialising in regional schools. Existing military officers basic and advanced training colleges and schools would be expanded to accommodate IS and other matters special to NG organisation, roles and functions, operational command and control, and joint operations.

6.3. Assumptions

The Guard success would be premised on the assumptions that: the force would be free of political interference; members of the units are indoctrinated and committed to oath and live up to it; laws and statutes would be enacted and enforce to ensure that sterner action is taken against politicians who may invoke ethnic overtones; the national political atmosphere would remain benign; that the force is formed alongside other developments in social, economic and

governance sectors to ensure that the people are provided a more attractive means of livelihood; and the livestock marketing is strengthened to give the locals a competitive edge in livestock management and markets locally and internationally to remove vulnerability to brokers and commercial rustlers. Branding of animals and use of RFID to monitor and track livestock would be an effective and sustainable means of controlling movement and rustling of livestock including traditional rustling.

We also assumed that the state would take the opportunity to build and maintain security roads including roads that run parallel and close to international border and other lateral routes to link them with the interior, for quick response and other patrolling activity of the Guard and the military as show of force or response to call of insecurity. In line with that, we also assume that all these take place in cooperation with the neighbouring states so that inter-force cooperation also reaches across border and livestock management is multinational to enable the state reap the fruits of CRPG.

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TOPOGRAPHIC MAP OF KENYA



THE CURRENT POLICE DEPLOYMENT AND NRV COMMUNICATION CENTRES



Source: Google Kenya Maps.

Figure 6.1; Current Location of Police forces and the Proposed NG Deployment.

KEY

- P** Police Division Headquarters.
- P** Police Stations.
- p** Patrol Bases.
- Rustlers known routes
- Turkana Guard
- Pokot Guard
- Samburu Guard
- Laikipia Guard
- Marakwet Guard.
- Roads and tracks



Source: Google Kenya Maps.

Figure 6.1.a. Proposed Military Deployment for NRV

KEY



An Infantry Unit of at least Battalion strength.

An Infantry Unit of at least Company strength.

An Air Force Unit/base

A Marine unit



Source: Google Kenya Maps.

Figure 6.2. Political Districts comprising NRV.