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**Assessing East Africa Community Initiatives in Managing
Emerging Cross Border Criminal Trends**

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DECLARATION

This dissertation is my original work and has not been submitted to any other university or examination body.

Sign..... Date.....

JANEROSE WANZIRA MAROA

This dissertation has been presented for examination with my approval as
the
University Supervisor.

Sign..... Date.....

Dr. Ochieng Kamudhayi

DEDICATION

To my parents Mr. Nelson Maroa and Mrs. Rhoda Maroa

For always believing in me.

ACKNOWLEDGEMENT

I begin by thanking God for all the blessing he has bestowed upon me. The thesis has been completed by the guidance and support of Dr. Ochieng Kamudhayi. I thank my Supervisor for the energy he infused even when I thought the task ahead was impossible.

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ABSTRACT

This thesis attempts to present an authentic picture of initiatives used in managing emerging criminal trends in cross border region of the East Africa by identifying the constituent features and major trends. Terrorism, kidnappings and cybercrime are some of the new forms of insecurity threatening the five East African Community member States and the proposed Regional Integration. The instability at the EAC borders breeds negative spill effects on East African people and economic integration as they face a new set of menaces including money laundering, human trafficking, illicit drugs as well as firearms trafficking. The region therefore needs a solid and practical peace and security strategy to counter the various emerging security challenges. While examining the role of governments and EAC stakeholders in curbing cross border criminal trends, the fight against trans-border crime has always been the responsibility of governments, but the vast number of security issues and the never-ending appearance of new stakeholders pose the critical problem to parliament roles. The weak states characterized by a lack of resources, low level of economic opportunity and the lack of political will to address crimes makes East Africa region a breeding ground for corruption. For the political integration envisioned in the EAC Treaty to happen, partner states must cede power and put their national interests aside and allow the political federations agenda to take precedence. Giving up sovereignty in the EAC has been far from reality because most of the partners States fear to adopt a common foreign policy rather than foreign policy coordination, among other issues.

ABBREVIATIONS

CBO	Community Based Organization
CM	Common Markets
COMESA	Common Market for Eastern and Southern Africa
CSOs	Civil Society Organizations
CU	Custom's Union
EA	East Africa
EABC	East African Business Council
EAC	East African Community
EACJ	East African Court of Justice
EALA	East African Legislation Assembly
ECOWAS	Economic Community for Western African States
EPA	Economic Partnership Agreement
EU	European Union
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
HDI	Human Development Index
ICT	Information and Communication Technology
IGAD	Inter-Governmental Authority on Development
ILO	International Labour Organization
LVBC	Lake Victoria Basin Commission
RE(s)	Regional Economy (ies)
REC(s)	Regional Economic Communities
SALW	Small Arms and Light Weapons
UNIDO	United Nations Industrial Development Organization

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CHAPTER ONE

Background and Context of Crime Trends

1.1 Introduction

The East Africa region, is characterized by an extensive coastline, weak border controls, limited cross border and regional cooperation, under resourced police forces, corruption at all levels and in some cases lack of political will to address crime in a sustainable way, this has created an environment in which organized crime can flourish.¹ It is against this background that the Treaty for the Establishment of the East African Community² Under Article 124 of the Treaty, the EAC Partner States agreed that peace and security are pre-requisites for the success of the EAC Region Integration process. Since inception in 1999, the EAC has taken bold steps to create a framework and structures to address issues of Peace and Security.

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

¹ The UNODC Regional Programme "Promoting the Rule of Law and Human Security in Eastern Africa, 2009-2012"

² East African Community. *The Treaty for the Establishment of the East African Community*, EAC: 2002 xiv, EAC Publication, No 1, Arusha, Tanzania, 2002.

Others include addressing and combating cattle rustling, training programmes for security personnel, dispute settlement and regional and international co-operation in peace and security matters.³

The final draft of the EAC Protocol on Peace and Security in Arusha, Tanzania, at meeting of the EAC sectoral councils on Cooperation in Defence, Interstate Security and Foreign Policy Coordination on Monday 16 January to Thursday 19 January 2012, was adopted by the EAC Council of Ministers, with a conclusion of policy guidelines on counter terrorism, piracy as well as detention, custody and rehabilitation of offenders. The meeting re-affirming that Securing and stabilizing the region is high on the EAC agenda as all other integration efforts will not bear fruits without peace and stability. In deed Peace and Security are key in ensuring a stable environment in the envisaged Political Federation of EAC.⁴

In an attempt to develop own home grown solutions, the EAC developed the draft EAC Conflict Prevention, Management and Resolution (CPMR) framework as well as an Early Warning Mechanism for the region. The CPMR Framework includes initiatives on prevention of conflicts, making Early Warning an integral part. It provides for mechanisms of managing and resolving conflicts when they occur, and establishes a Panel of Eminent Persons who will serve as peace envoys or mediators.⁵ The National Steering Committee on Peace Building and Conflict Management (Office of the President) is one other Inter Agency Committee that works closely with the CPMR and coordinates peace building and conflict management within Kenya as

³ East Africa Community Secretariat (2006) *Treaty for the Establishment of the East African Community*, Arusha: EAC Secretariat.

⁴ Daily Nation 07/01/2012

⁵ East African Community Draft East Africa Community Early Warning Mechanism, East African Community Arusha- Tanzania 4th September 2009

part of such a mandate, it is of vital interest in the area of conflict prevention to domesticate the Early Warning mechanism in the country.

The EAC countries have joined the New Economic Partnership for Africa's Development and the Africa Peer Review Mechanism indicating that there is hope for building local and regional networks geared towards peace building and maintaining peace. On succeeding the Organization of African Unity, the African Union developed its perception of peace and security in the continent. The decision to create a Peace and Security Council (PSC – Protocol of July 9th, 2002) The AU aims to promote peace, security and stability in Africa, the prevention and anticipation of conflicts and the promotion of peace building and reconstruction after conflicts. The PSC leans mainly on regional economic communities, regional mechanisms and the African Standby Force to achieve its objectives, which include the EAC.⁶ However the Africa Union needs to strengthen its relationship with the Regional Economic Communities (RECs) and RMs. Despite the existence of the Protocol and the Memorandum of Understanding (MoU) between itself and these entities, the institutional relationship between them remains weak.

1.2 Statement of the Problem

Terrorism, kidnappings and cyber-crime are some of the new forms of insecurity threatening the five East African Community member states and the proposed regional integration. The instability at the EAC borders breeds negative spill effects on East African people and economic integration as they face a new set of menaces including money laundering, human trafficking, illicit drugs as well as fire-arms trafficking. The region therefore needs a solid and practical peace and security

⁶ Chapter 8 of the United Nations Charter.

strategy to counter the various emerging security challenges. Whereas the Peace and Security Strategy is an operational policy document that mandates EAC Partner States and the Secretariat to jointly plan and respond to issues of peace and security in the region while awaiting the finalization of the Peace and Security Protocol, which is now before the EAC Sectoral Council on Legal and Judicial Affairs for legal input and endorsement, it seems like an entirety amidst criminals taking advantage and are threatening the achievements made through the integration stages so far.

This EAC region has become a convenient transit route for drugs and drugs abuse seems to be on the rise. The youths are always an easy target because of unemployment and lack of income, the vulnerability of the youth exposes them to drug use that may encourage criminal activities. The Directors of Criminal Investigations and the Registrars of Motor Vehicles have a duty to harmonize their policies and programmes to make East Africa free from crimes and other illegal activities including illegal drugs, money laundering, counterfeiting and human trafficking.

1.3 Objectives of the Study

The General objective of this study is to provide a broad overview of illicit transnational activities and the involvement of organized crime in the Eastern African region, which needs to be subjected to a comprehensive study.

1.3.1 The specific objectives of the study aim to:

- i. Examine the role of governments and EAC as stakeholders in curbing cross border criminal trends
- ii. Assess the security situation along EAC cross borders

- iii. To analyze practice and challenges of armed organized crimes in East Africa

1.4 Justification of the Study

Despite the growing attention from within the policy community, there are significant gaps in our knowledge about how EAC initiatives are managed, the nature and extent of involvement of criminal actors and the strengths and weaknesses of governance arrangements and law enforcement responses. There is an urgent need to enhance and strengthen capacities to survey and measure armed violence. Enhancing knowledge and awareness of conflict and crime-related armed violence and its associated burden represents an urgent priority for African governments, non-governmental agencies, research institutes and international donors and it would be prudent to create more awareness through undertaking empirical and policy-oriented research and capacity building in key areas relating to deepening and widening the EAC integration in general and peace and security, good governance and common regional foreign policies in particular.

1.5 Literature Review

The report is comprised of four core themes of study. The first theme will basically focus on Cross Border Organized Crime Trends globally. The second thematic area will be the Operations, Characteristics and role of Transnational Crime. The third theme EAC Cross Border Activities will shed light on the importance of border security for regional development and sustainable management of the resources like air, water, energy, land, wildlife and climate Whereas the fourth theme is EAC Criminal Trends by looking at interactions both officially and unofficially.

1.5.1 Cross Border Organized Crime Trends

A cross-border is an inhabited space, which has cross-border functions, crossed by flows and relations, many driven by economic and social factors such as commuting; purchasing, education and leisure behaviour; cultural practices which may or may not be the result of cultural or linguistic proximity preceding the existence of the border; business; cooperation between public-sector actors. However, although the existence of at least a few of these practices is a necessary condition for the existence of a cross-border, they often vary greatly, and the presence of the border and its effects may be “suffered” or even repressed.⁷ A boundary is an abstract line separating the territories over which two states have sovereignty. Since the boundary is a legal entity, its precise location must be determined in a treaty between the two states.⁸ The existence of cross-border functions is therefore not sufficient to determine the existence of a cross-border territory, for this also depends on political construction and citizen acceptance. In this case the cross-border can be the subject of a political and institutional project, the scope of which will be determined when its project is defined.⁹ This study employs the understanding of cross border as given in the above definition.

In the United States the definition of organized crime is found in Federal Statutes set out by Public Law 90-351, the Omnibus Crime Control and Safe Streets Act of 1968: “Organized crime means the unlawful activities of members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labour racketeering, and other unlawful activities of members of such associations”. This

⁷ Longwy, Understanding Cross Border, http://www.espacesfrontaliers.org/en/themes/theme_territories.html retrieved on 27/7/2013.

⁸ Ibid

⁹ Ibid

statute defines organized crime less in terms of unlawful activities than in terms of those who commit the crimes. The lists of unlawful activities in the statute are not necessarily those that define organized crime.¹⁰

In Germany, organized crime defined as the planned commission of criminal offences, determined by the pursuit of profit and power, which individually or as a whole, are of considerable importance. This often involves collaboration with more than two individuals for a prolonged or indefinite period of time, with hidden agenda and can use commercial or business-like structures, may invoke violence or other means suitable for intimidation, or by exerting influence on politics, the media, public administration, judicial authorities or the economy.¹¹

According to Duyne, the main components of this definition are planned continuous criminal activities with some sort of organizational division of labour going about business, without regard to class, ethnicity or supposed formal structures of Cosa Nostra, Mafia, or other identified criminal groups.¹² However, the United Nations Convention against Transnational Organized Crime (UNTOC) defines an “organized crime group” as a structured group of three or more persons existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.¹³ This is a rather broad definition, which does not consider organized crime solely in terms of mafia-style

¹⁰ S. Adamoli et al, *Organised Crime Around the World.*, European Institute for Crime Prevention and Control Affiliated With the United Nations (HEUNI), Finland; Helsinki publication Series No. 31, 1998, p 4.

¹¹ Ibid

¹² P.C. Van Duyne, “Organised Crime, Corruption and Power”, in *Crime, Law & Social Change*, Kluwer Academic Publishers, 1997. P 53.

¹³ Article 2(a) of the UN Convention against Transnational Organized Crime

organizations with a strict hierarchical structure; but would also include street gangs or vigilante groups under the definition of organized crime.

The essential characteristic of the term “organized crime” is that it denotes a process or method of committing crimes, not a distinct type of crime itself, nor even a distinct type of criminal. This is the reason why a good definition of organized crime should grasp the essential aspects of the “process” whereby certain criminals carry out criminal activity, increasingly within a transnational arena. This “process” is what adds the additional level of danger and social threat. In the following, some definitions are outlined which correspond to different purposes (legislation, law enforcement, research) and therefore focus on different characteristics of organized crime.¹⁴ By definition, transnational organized crime entails criminal activity that is coordinated across national borders.¹⁵

Crime is used as an individual conduct punished by law, while criminal ‘activity’ denotes the illicit conduct as a whole or as a chain of individual crimes and comprises the means, knowledge and personnel of the criminal enterprise, as well as the expertise that it develops in order to pursue its main criminal purpose so that, for instance, the skills acquired in corrupting officials when trafficking in drugs can be used when trafficking in migrants or in arms.¹⁶

A crime trend is a significant change in the nature of selected crime types within a defined geographical area and time period. It is the measure of significant changes in an area’s crime pattern over time. A trend is a persistent, long-term rise or

¹⁴ M.E. Beare, *Criminal Conspiracies, Organised Crime in Canada*, Nelson Canada, 1996, p. 14

¹⁵ UN Convention Against Transnational Organized Crime, organized crime effects in another state. UN General Assembly Resolution 55/25 (November 15, 2000), UN Doc. A/RES/55/25, Annex I, art. 2.

¹⁶ S. Adamoli et al, *Organised Crime Around the World.*, European Institute for Crime Prevention and Control Affiliated With the United Nations (HEUNI), Finland; Helsinki publication Series No. 31, 1998, p 16.

fall in temporally-based data.¹⁷ As a directional indicator, crime trend information can be useful in alerting police to increases and decreases in levels of activity. However, since crime trend analysis does not examine shared similarities between specific crime incidents, a crime trend is not a crime pattern.¹⁸ In the economics of law the criminal trend is modeled as a rational individual, who makes a choice of whether or not to commit a crime based on the expected pay-offs from criminal activity. This is particularly relevant to crimes that are undertaken with deliberate intent and are carefully planned and executed.¹⁹

According to Hall the geography of transnational crime is a research question that has been addressed in the academic literature is the geography of transnational crime²⁰. This relates to the geographical distribution of conditions favorable to the emergence and continued existence of transnational criminal groups, and of conditions creating opportunities for transnational crime, as the product of various natural, social, economic and political factors. Some theoretical propositions have been advanced in this area without having been followed up so far by much empirical research. Passas, for example, has pointed out “criminogenic asymmetries” between countries in terms of “structural discrepancies, mismatches and inequalities in the realms of the economy, law, politics and culture” to explain incentives and opportunities for cross-border crime²¹. A number of authors have argued that the geography of transnational crime, specifically of smuggling, is largely a mirror image

¹⁷ Moore, D., & McCabe, G. (1999). Introduction to the practice of statistics. New York, NY: W.H. Freeman., p 22.

¹⁸ S. Gwinn, Crime Pattern, Definitions for Tactical Analysis Standards, Methods and Technology(SMT) Committee White paper 2011, pp 2-4

¹⁹ Cooter R. and Ulen T. (2008): “*Law and Economics*”, (5th edition) Pearson International.

²⁰ Hall, T. (2012), The geography of transnational organized crime: spaces, networks and flows, in: F. Allum, S. Gilmour (eds.), Routledge Handbook of Transnational Organized Crime, London: Routledge, pp. 173-185.

²¹ Passas, N. (1999), Globalization Criminogenic Asymmetries and Economic Crime, *European Journal of Law Reform*, vol. 1, no. 4, pp. 399–423.

of the geography of legal trade routes²² which is somewhat at odds with the notion that transnational criminal networks tend to be embedded in diaspora communities that according to Kleemans & Van de Bunt²³. There is also the notion by William and Ellis that transnational criminal groups are most likely to be found operating in countries or places where corrupt or weak law-enforcement provides a “low-risk environment”, and more generally where socio-political conditions are conducive to large-scale criminal activity²⁴. Overall, there is a tendency in the study of transnational organized crime to undermine conventional wisdom propagated by journalists and policy makers. The picture that emerges from empirical research is more complex, often more mundane, though not necessarily less serious, than popular imagery of global mafias.

Mbugua Njoroge argues that, the widespread proliferation of small arms contribute to alarming levels of armed crime, in both rural and urban areas, which exacerbates insecurity²⁵, leading to armed violence which disproportionately affects the poor population hence undermining development and poverty reduction efforts in Kenya. Mbugua is concerned with the urban and rural areas but this research focuses on cross border criminal trends and with proliferation of small arms as part of the crime and the insecurity.

Eck and Maguire note that the 1990s have seen crime levels decline, in view of criminal justice like incapacitation or deterrent function and that most of the studies of crime trends that emphasize the *quantity of policing* do so in a context that ignores

²² Andreas, P. (1999), *Smuggling Wars: Law Enforcement and Law Evasion in a Changing World*, in: T. Farer (ed.), *Transnational Crime in the Americas: An Inter-American Dialogue Book*, New York: Routledge, pp. 85–98.

²³ van Duyne, P.C. (1993), Organized crime markets in a turbulent Europe, *European Journal on Criminal Policy and Research*, vol. 1, no. 3, pp. 10–30.

²⁴ Ellis, S. (2009), West Africa's International Drug Trade, *African Affairs*, vol. 108, no. 431, pp. 171–196.

²⁵ Mbugua Njoroge Small Arms And Light Weapons In Kenya

the *quality of policing*.²⁶ On the other hand Yu and Liska, argues that changes in the nature of policing that occurred in the 1980s and 1990s, especially policing efforts that target particular types of behaviors thought to facilitate crime, such as levels of public disorder and the prevalence of weapon carrying, can have important implications for crime levels.²⁷ The argument of Eck and Maguire, Yu and Liska informs this study on crime as a result of public disorder and quality policing but it does not focus on cross border criminal trends which is the concern of the study.

The assessment of the role of police force size indicates a wider array of policing indicators, including shifts over time and places in “arrest certainty” and the types of activities to which police resources are allocated. As such, the existence of “order maintenance policing” Rosenfeld et al., shows how the security agents put in place to monitor criminal trends tend to be shifted from time to time when they show their skills on strategy used to manage criminal trends.²⁸ This informs this study as it will be of use in developing the arguments on initiative of EAC in managing the criminal trends.

According to cross-border organized crime assessment report of 2012, the organized crime gangs continue to take advantage of rising cigarette and hand rolling tobacco prices in the United Kingdom and Ireland by smuggling tobacco products in from countries with lower duty rates and by importing counterfeit brands and ‘illicit drugs.’²⁹ The EAC region is also characterized by smuggling rackets of drugs, cigarette, petroleum products and even alcoholic beverages and the counterfeits are

²⁶ Eck, John E. and Edward R. Maguire. 2006. “Have Changes in Policing Reduced Violent Crime? An Assessment of the Evidence.” In Alfred Blumstein and Joel Wallman, eds. *The Crime Drop in America*, revised edition. New York: Cambridge University Press. P 57

²⁷ Yu, Jiang and Allen E. Liska. 1993. “The Certainty of Punishment: A Reference Group Effect and its Functional Form.” *Criminology* 31:447-464.

²⁸ Rosenfeld, Richard, Robert Fornango, and Eric Baumer. 2005. “Did *Ceasefire*, *Compstat*, and *Exile* Reduce Homicide?” *Criminology and Public Policy* 4:419-450.

²⁹ An Garda Siochana, Report on Cross-Border Organised Crime Assessment 2012, p 22.

sneaked across the borders freely and at will. The report also notes that there exists organized vehicle theft which is a prominent source of income for criminal groups. A practice of ‘steal to order’ continues to be employed by these organized criminal gangs and the vehicles are subsequently shipped outside of the jurisdiction where they can be cloned and sold on to unsuspecting buyers. Vehicles are transported within the two jurisdictions as well, to Great Britain, Eastern Europe and also further afield to the Middle East and Africa. Stolen cars in Ireland are also being broken up before the parts are exported³⁰.

Cybercrime presents a lucrative opportunity for criminals and, like technology itself, is an area that is rapidly evolving. Cybercrime can manifest itself in many ways, depending on the skills and objectives of the perpetrator. Crimes can range from bank or e-commerce fraud, data theft or manipulation, identity theft, hacking, child pornography, planning of terrorist activities and copyright crimes. These activities often have an international dimension. The current ‘information society’ has resulted in substantial amounts of credit card data, business related transactions and personal information being passed over the internet. Cybercrime poses a threat to both society in general and also to international security.³¹ The study will find out whether cybercrime is common across the border of EAC and particularly Isebania border of Kenya and Tanzania.

“Security” is understood in different parts of the world to mean different things. For well resourced communities, security is often about the ability to protect against known risks, the application, for the purpose of this paper security will be used as a safety lens to working towards safe communities, understanding the mandates of the social sector, health, education, sports, arts and culture in terms of

³⁰ Ibid., P 23.

³¹ An Garda Siochana, Report on Cross-Border Organised Crime Assessment 2012, 7.

their potential contribution to safety and makes the link to training and capacity building, beyond the use of technology and manpower against criminal intent. In this instance, security will encompass “safety” and the prevention, reduction or removal of these risks for an environment in which ordinary citizens live and move free of fear.

The term Eastern Africa is used in the paper when referring to the following thirteen countries Kenya, Tanzania, Uganda, Burundi, Rwanda, Djibouti, Eritrea, Ethiopia and Somalia, as well as the Indian Ocean Islands off the Eastern African coast Seychelles, Comoros, Mauritius and Madagascar.

1.5.2 Characteristics, Operations and Role of Transnational Crime

Similar to the study of organized crime, the individual transnational offender is a severely under researched subject.³² This is in stark contrast to the field of criminology in general where many theoretical frameworks center on individual level offender characteristics. Studies focusing on individual transnational offenders done by Kleemans and de Poot³³ on criminal careers in organized crime³⁴ found out that organized criminals tend to be older than the general population of offenders. This finding corresponds to other studies of transnational crime which likewise show that transnational crime is often linked to specific opportunity structures that can best be exploited by individuals embedded in legitimate social and business networks and with easy access to logistically important sectors such as transportation and banking.³⁵

³² Aniskiewicz, R. (2012), ‘Portraits’ in the world of organized crime, in: E.W. Plywaczewski (ed.), *Current Problems of the Penal Law and Criminology*, Warsaw: Wolters Kluwer Polska, pp. 19-31.

³³ Kleemans, E.R. (2011), Expanding the domain of human trafficking research: introduction to the special issue on human trafficking, *Trends in Organized Crime*, vol. 14, no. 2-3, pp. 9599.

³⁴ Kleemans, E.R. & van de Bunt, H.G. (2008), Organised crime, occupations and opportunity, *Global Crime*, vol. 9, no. 3, pp. 185–197.

³⁵ Decker, S.H., Townsend Chapman, M. (2008), *Drug Smugglers on Drug Smuggling: Lessons from the Inside*, Philadelphia, PA: Temple University Press.

Some research has focused on gender aspects, mainly examining the role women play as perpetrators³⁶ and victims³⁷ of transnational crime, but more still needs to be done.

Although particular criminal activities are often at the center of attention of research into transnational organized crime, the focus is rarely on the logistics of transnational crime³⁸ Outside of the small but growing cluster of literature dealing with transnational organized crime within the framework of situational crime prevention.³⁹ Smuggling is a common crime pattern. Here, the smugglers are adept in choosing for example between smuggling contraband through official border crossing points or moving contraband across the ‘green border or panya route,’ or in choosing between embedding contraband in the cross-border movement of people versus embedding contraband in the cross-border movement of commercial goods.

Gamella argues that the smuggling strategy is dependent on the size of contraband shipment, size and diversity of offender networks linked to the practice. For him the larger the smuggling shipments, the larger and more diverse the smuggling groups, and the higher the likelihood that contraband is moved under the guise of legal goods, typically as part of the global average container traffic.⁴⁰

The question about how ‘organized’ organized is, keeps recurring as an academic theme in researches addressing issues of crime. Bruinsma & Bernasco

³⁶ Campbell, H. (2008), Female Drug Smugglers on the U.S.-Mexico Border: Gender, Crime, and Empowerment, *Anthropological Quarterly*, vol. 81, no. 1, pp. 233–267.

³⁷ Hughes, D.M., Chon, K.Y. & Ellerman, D.P. (2007), Modern-Day Comfort Women: The U.S. Military, Transnational Crime, and the Trafficking of Women, *Violence Against Women*, vol. 13, no. 9, pp. 901–922.

³⁸ Caulkins, J.P., Burnett, H. & Leslie, E. (2009), How illegal drugs enter an island country: insights from interviews with incarcerated smugglers, *Global Crime*, vol. 10, no. 1 & 2, pp. 66–93.

³⁹ Bullock, K., Clarke, R.V. & Tilley, N. (eds.) (2010), *Situational Prevention of Organised Crime*, Cullompton, UK: Willan.

⁴⁰ Gamella, J.F. & Jimenez Rodrigo, M.L. (2008), Multinational export–import ventures: Moroccan hashish into Europe through Spain, in: S. Rödner Sznitman, B. Olsson, R. Room (eds.), *A cannabis reader: global issues and local experiences: Perspectives on cannabis controversies, treatment and regulation in Europe*, Lisbon: EMCDDA, pp. 263–289.

argue that there seems to be a growing consensus among scholars that typically offender structures resemble ‘networks’ rather than ‘organizations’⁴¹ begging the question are transnational crimes committed by criminal organizations or by autonomously acting offenders that may or may not be cooperating with other offenders on a continuous basis? However, the emphasis is not so much on a close examination of these networks but on simply refuting the notion promoted by sensationalist media that criminal organizations in the true sense of the word are involved.

Research providing in-depth analyses of transnational offender structures offer a more differentiated picture, one which covers a broad spectrum ranging from individual offenders flexibly using and expanding networks of criminally exploitable ties to offenders integrated into more continuous, vertically and horizontally differentiated organizational entities. Moreover, the most typical forms of cooperation appear to be, on the one hand, partnerships and small enterprises with two or three core members and ephemeral employer–employee relations, and, on the other, market based transactions⁴². It is not clear from the available, contradictory evidence if there are trends going in one direction or the other, for example Colombian drug trafficking groups evolving from cohesive, complex organizations into smaller, more fluid structures⁴³, or whether this is a misconception rooted in media created myths about the nature of the infamous ‘drug cartels’ of the 1980s and 1990s⁴⁴.

⁴¹ Bruinsma, G. & Bernasco, W. (2004), Criminal groups and transnational illegal markets: A more detailed examination on the basis of Social Network Theory, *Crime, Law and Social Change*, vol. 41, no. 1, pp. 79–94.

⁴² Adler, P.A. (1985), *Wheeling and Dealing: An Ethnography of an Upper-Level Drug Dealing and Smuggling Community*, New York: Columbia University Press.

⁴³ Decker, S.H., Townsend Chapman, M. (2008), *Drug Smugglers on Drug Smuggling: Lessons from the Inside*, Philadelphia, PA: Temple University Press.

⁴⁴ Kenney, M. (2007), The Architecture of Drug Trafficking: Network Forms of Organisation in the Colombian Cocaine Trade, *Global Crime*, vol. 8, no. 3, pp. 233–259.

The question of cross-border mobility, respectively their ability as organizational entities to overcome international borders as well as cultural and language barriers. According to one view, transnational organized crime groups operate on an international scale, searching for the most lucrative opportunities for crime and evading prosecution⁴⁵. Another widely held view associates transnational organized crime with criminal organizations operating from bases in countries that serve as ‘safe havens’⁴⁶. Both of these two perspectives suggest that transnational organized crime is characterized by highly mobile, vertically integrated criminal enterprises with offenders systematically crossing borders in the execution of crimes. Similarly, there is the assumption that criminal organizations can expand fairly easily by establishing ‘branch offices’ in other countries along trafficking routes, typically embedded in diaspora communities⁴⁷. A third perspective links transnational organized crime more to locally based offenders that are connected on the basis of contractual relationships instead of the subordination under a centralized command structure⁴⁸. There is some research for example in the area of drug smuggling⁴⁹ and in the area of human trafficking and human smuggling⁵⁰ by İçduygu & Toktas which supports this latter view. A study of the cross-border mobility of three large-scale cigarette smuggling operations⁵¹ while von Lampe adds another facet to the overall picture of

⁴⁵ Mittelman, J.H. & Johnston, R. (1999), The globalization of organized crime the courtesan state and the corruption of civil society, *Global Governance*, vol. 5, no. 1, pp. 103–126.

⁴⁶ Wagley, J.R. (2006), *Transnational Organized Crime: Principal Threats and U.S. Responses*, Washington, DC: Congressional Research Service.

⁴⁷ Williams, P. & Godson, R. (2002), Anticipating organized and transnational crime, *Crime, Law & Social Change*, vol. 37, no. 4, pp. 311–355.

⁴⁸ Hobbs, D. & Dunnighan, C. (1998), Glocal Organised Crime: Context and Pretext, in: V. Ruggiero, N. South, I. Taylor (eds.), *The New European Criminology: Crime and Social Order in Europe*, London: Routledge, pp. 289–302.

⁴⁹ Zaitch, D. (2002), *Trafficking Cocaine: Colombian Drug Entrepreneurs in the Netherlands*, The Hague: Kluwer Law International.

⁵⁰ İçduygu, A. & Toktas, S. (2002), How do Smuggling and Trafficking Operate via Irregular Border Crossings in the Middle East? Evidence from Fieldwork in Turkey, *International Migration*, vol. 40, no. 6, pp. 25–54.

⁵¹ von Lampe, K. (2006), The cigarette black market in Germany and in the United Kingdom,

cross border networking of offenders. The three examined groups implemented decisions to establish new trafficking routes in countries they were not familiar with. The members of the three established smuggling groups had no direct knowledge of the respective countries, nor did they speak the language or had personal contacts there. Instead of acquiring the necessary knowledge and crossing borders themselves, all three smuggling groups chose to recruit individuals who in turn recruited other individuals and businesses with the necessary prerequisites.

Closely linked to the discussion of the organization of transnational criminals is the question of the role of established criminal groups in the commission of and control over transnational criminal activities. Often the discussion is flawed by the failure to analytically distinguish between illegal enterprises engaged in profit-making crimes on the one hand, and non-economic structures on the other, which are only indirectly connected to profit-making crime by providing criminal entrepreneurs with, for example, status, support, and mechanisms for non-violent conflict resolution⁵². When offenders involved in transnational crime are suspected of membership in a criminal association such as an Italian mafia-type organization, the Russian and Georgian *vory v zakone* or a Chinese triad it would be a mistake to jump to the conclusion that these associations as organizational entities that are conducting transnational criminal activities. Accordingly, research into the involvement of these non economic criminal organizations in transnational crime have found either a limited role, in terms of extorting transnational criminal enterprises, or having no role at all⁵³. Minimal research has been conducted in so far as to examine media

Journal of Financial Crime, vol. 13, no. 2, pp. 235–254.

⁵² Haller, M.H. (1992), Bureaucracy and the Mafia: An Alternative View, *Journal of Contemporary Criminal Justice*, vol. 8, no. 1, pp. 1–10.

⁵³ Huisman, S. (2008), Investigating Chinese Crime Entrepreneurs, *Policing*, vol. 2, no. 1, pp. 36–42.

allegations that criminal organizations extend their spheres of control across borders⁵⁴, or of criminal organizations rooted in different countries coming to agreements over exclusive spheres of influence⁵⁵. From what is known it does not seem that there is a trend towards a globalization of control of criminal activities exerted by established criminal organizations.

According to Bruinsma, crimes are associated with young people who for some reason, associate with criminal peers and have dropped out of school as advised by the criminal gangs giving them a valuable source of motivation on how to break the law successfully in terms of technology⁵⁶, brains or otherwise.

Henry and Lanier argue that what amounts as crime at one place and time, culture, or location may not be considered criminal at another time, in another culture, or even across the street.⁵⁷ This is of interest in that there activities considered crime in one part of East Africa and yet it is not a crime punishable in the other parts of EAC. Something like certain types of alcohol are treated differently by the EAC partners states.

Baumer posits that criminal trends should not be measured by different time periods of occurrence and outcome measures, but it should be particularly inconsistent by way of application of different statistical methods to estimate key parameters, units of analysis used; and the variables included as covariates.⁵⁸ This is also argued out

⁵⁴ Campana, P. (2011), Assessing the movement of criminal groups: some analytical remarks, *Global Crime*, vol. 12, no. 3, pp. 207-217.

⁵⁵ Williams, P. (2002), Cooperation Among Criminal Organizations, in: M. Berdal & M. Serrano (eds.), *Transnational Organized Crime and International Security: Business as Usual?*, Boulder, CO: Lynne Rienner, pp. 67–80.

⁵⁶ G.J.N. Bruinsma, 'Differential association theory reconsidered: An extension and its empirical test', *Journal of Quantitative Criminology*, vol. 8, no. 9, 1992, pp. 29-49.

⁵⁷ S.Henry and M. Lanier, *What is Crime? Controversies over the Nature of Crime and What to Do about it*. New York: Rowman nad Littlefield Publishers 2001), p7.

⁵⁸ Baumer, Eric P. 2008. "An Empirical Assessment of the Contemporary Crime Trends Puzzle: A Modest Step Toward a More Comprehensive Research Agenda." In Richard Rosenfeld, and Arthur

by Land et al as they advocate for a uniform set of empirical specifications and procedures across multiple units of analysis.⁵⁹

It is alleged that adverse economic conditions elevate crime rates through arguments such as stress, anxiety, cost-benefit assessments, and shifting routine activities among others.

For Bushway et al, Unemployment and falling wages may sometimes cause an increase or non increase in crime tendencies.⁶⁰ Nevertheless Raphael et al who disagrees with the above argument, posit that under certain conditions, there is possibility that adverse economic circumstances yield increases in crime and good times yield decreases in crime. Speculation has been rife in some quarters that an economic crisis may open up more opportunities for organized crime.⁶¹ It is important to understand how unemployment and falling wage can increase or reduce criminal trends along Isebania border of the two member states of EAC.

1.5.3 EAC Cross Border Activities

Informal cross border trade contributes to the economies of EAC countries in various ways. It enables small scale entrepreneurs to escape poverty and to meet the education, housing and other basic needs. Globalization implies increasing flows of people and goods across international borders. Thus, an increasing proportion of personal and freight transportation operations must cope with borders as impediments to movement. At a time when tariff barriers are falling and technologies for

Goldberger, eds. *Understanding Crime Trends: Workshop Report*. Washington, DC: National Academy Press.

⁵⁹ Land, Kenneth C., Patricia L. McCall, and Lawrence E. Cohen. 1990. "Structural Covariates of Homicide Rates: Are There Any Invariances Across Time and Social Space?" *American Journal of Sociology* 95:922–63.

⁶⁰ Bushway, Shawn, Philip J. Cook, and Matthew Phillips. 2010. "The Net Effect of the Business Cycle on Crime and Violence." Prepared for the Center for Disease Control.

⁶¹ Raphael, Steven and Rudolf Winter-Ebmer. 2001. "Identifying the Effect of Unemployment on Crime." *Journal of Law and Economics* XLIV:259-283.

identification and surveillance are proliferating, this might seem to be no great problem, as borders are more easily crossed than in the past. However, concerns with issues of international terrorism and illegal immigration have led some states to ever more scrutiny at their borders. Thus, crossing borders remains one of the greatest challenges in global transportation for both passengers and freight.

According to Ogalo, informal cross border trade is one of the activities that EAC are involved in. Traders employ people in their home countries and in the countries where they source their goods; and, it is also a supplementary source of family income to people who are underemployed and a source of employment to some people who were retrenched following economic restructuring that was occasioned with structural adjustment programmes. Judging from the monthly values of income that traders realize from informal cross border trade, it is apparent that the majority of the participants survive on more than US\$2 a day which some of them would never have achieved under formal employment, especially considering the shrinking economies of EAC⁶².

Gwinn posits that, East African States have become a market for counterfeit goods, meaning that the region is no longer mainly a departure or transit location for illicit goods. Counterfeit medicines, drugs, firearms and victims of human trafficking are widely available, and their availability will continue to spread if not proper and coherent action is taken to stem the flow of illegal activities and products.⁶³ These illegal cross border activities have affected development in the region.

According to Kivuva and Magara, the crucial role played by the cross border trade has been hampered by numerous challenges, the cross border monitors have

⁶² V. Ogalo, *Informal Cross-Border Trade in EAC Implications for Regional Integration and Development*, Nairobi: Cuts Africa Resource Center 2010, pp 2-4.

⁶³ S. Gwinn, *Crime Pattern, Definitions for Tactical Analysis Standards, Methods and Technology(SMT) Committee White paper 2011*, p 15.

been the most affected due to the long working hours they put in yet they are not well remunerated resulting in corruption at the border points, lack of office space for cross border trade, the under-staffed workers also lack adequate knowledge on trade across the border.⁶⁴

Addo argues that porous borders continue to encourage cross-border crime and instability in the sub-region, owing to lack of an appropriate mechanism for monitoring movement and illegal activities across these borders. He further argues that cross-border criminal activities have obviously undermined good governance and security, with negative impacts on the rule of law, economic activities and growth, human rights and general societal and cultural advancement within the sub-region. Some of these activities he talks about involved the illicit trafficking of small arms and light weapons/ammunition and human beings, especially women and children.⁶⁵ Addo's arguments though referred to West Africa are applicable to Initiatives of EAC in management of cross-border criminal trends.

1.5.4 EAC and Criminal Trends

A relatively new and threatening trend in East Africa is the attacks by pirates off the coast of Kenya. Young adults, who are generally in poverty and uneducated, are recruited by crime bosses in Somalia and Kenya in an attempt to extort money from commercial and private ships in the Indian Ocean. Unfortunately, due to the adolescence of the trend, most Kenyan law enforcement officials and prosecutors are untrained to deal with the severity of the issue. Frederic Ischebeck-Baum,⁶⁶ lead

⁶⁴ A.W. K. Kivuva and Z. Magara Agricultural Cross Border Trade Between Kenya, Uganda and Tanzania; Market development Division of Agribusiness, market development Directorate 2012, p 4.

⁶⁵ P. Addo, Cross-Border Criminal Activities In West Africa; Options For Effective Responses, KAIPTC paper No. 12, May 2006, p 3

⁶⁶ Ischebeck-Baum, F. (2010). Maritime Piracy in East Africa. Nairobi, Kenya.

prosecutor for the United Nations Anti-Piracy Program, makes it very clear that there will always be young impressionable candidates who are willing to do illegal work for small sums of money.

Criminal trends in EAC have been common phenomenon that has affected the economic development of some member states. Common criminal trends such as drug smuggling, vehicle theft, money laundering, kidnapping have led to questions on security situation across the EAC borders. The concern of the study is to assess the EAC efforts in managing the cross border criminal trends with particular reference to Isebania border of Kenya and Tanzania. A number of efforts have been undertaken in 2009 and were planned to continue in 2010 to bring East Africa economically closer together. In November 2009 the members of the East African Community took a step in signing the law for the establishment of the East African Community Common Market. The law will become active in July 2010 and results in the free movement of labor, goods and services across the EAC's five member countries: Kenya, Uganda, Tanzania, Rwanda and Burundi. The economic union, which is being fostered in Eastern Africa, is a very positive development and presents great opportunities for the EAC's members and their long-term growth and development.⁶⁷

1.5.5 Literature Gap

The EAC has enshrined political union in its founding treaty. It envisaged a common currency by 2012, but that has not happened. Whereas the common market protocol was introduced in 2011, inspired by other regional organizations like the European Union and Africa Union, the rhetoric of leading decision-makers often

⁶⁷ AML around the World; The East African Community (EAC), Community efforts is Required to Manage the risk of Crime 2010, p 36.

contrasts sharply with the sobering political reality. The East African Community is strong on paper, but weak in the implementation of its decisions. Decisions are taken by consensus, so that the head of state of a member country can block almost all the EAC's activities. There is a significant gulf between aspiration and reality.

1.6 Theoretical Framework

The theoretical framework I will use resonates from the hierarchy of needs theory by Abraham Maslow,⁶⁸ who says that there is a hierarchy of needs. He suggests that people are motivated to fulfill basic needs before moving on to other advanced needs. This hierarchy is most often displayed as a pyramid with the lowest level of are made up of the most basic needs while the most complex one are located at the top. Maslow says that there are certain minimum requirements that are essential for a decent standard of living that are known as physiological needs. They include food, air, health, shelter and clothing. These are primary needs and have to be catered for before other needs such as security needs for safety and security. Security needs include need for employment, health insurance, safe neighbourhood and shelter from the environment. Social needs include sense of belonging and affection, love esteem and self actualization are pursued.

Relationships such as friendships, romantic attachments and family help fulfill the need for acceptance, companionship as well as involvement in a social or community or religious group. The lack of basic survival needs due to income inequality, under- and unemployment and rapid urbanization can lead to violence displacing populations. The lack of food due to weather conditions, leading to competition for the few available resources leads to struggles or conflicts by the

⁶⁸ Maslow, A. H., *A Theory of human motivation. Psychological Review*, 50, 370-396.

population to use the scarce available resources enhancing a culture of inequality. This often makes people either fight to maintain their social status and may half the time lead to exploitation of the environment and the minority groups. With the scarce resources due to persistent draught and famine, there tends to be over use of the few available resources such as land among other natural resources like water leading to degradation of the ecosystem and piracy together with other social crimes like smuggling, piracy abduction, and rape, given that unemployment is on the rise. The context of cross border trade is brought about by geographical and historic factors with a linkage between the environment and conflict. Esteem needs are also important and they include the need for things that reflect on self esteem, personal worth, social recognition and accomplishment.

According to Marslow self actualization is top most in his hierarchy of needs pyramid. He says when people are self aware and are concerned with personal growth, they become less concerned with opinions of others and only interested in fulfilling their potential. Here the human society is viewed as a collection of competing interests groups or individuals each with their own motives and expectations, with an assumption that all members in society do not have the same values, interests or expectations. This is the same in the world markets where trade transactions are conducted. The various divisions brought about due to one's position, privileges, ability, class and wealth is likely to encourage unequal distribution of resources and opportunities leading to conflicts in society. Inadequate land tenure is still a major obstacle to ensuring sustainable agriculture and rural development.

The task of defining or describing "transborder crime" would not be an easy one, because many elements have been recognized as constituting it. However, "trans-border crime" represent a number of illegal and notorious activities carried out

by individuals and groups across national and international borders, either for financial or economic benefits and also sociopolitical cum religious considerations. It is a set of criminal acts whose perpetrators and repercussions go beyond territorial borders. These would include human trafficking, money laundering, drug trafficking, arms smuggling or trafficking of weapons, cross-border terrorism, illegal oil bunkering, illicit trafficking in diamonds, corruption, and business fraud, to mention but these notable few.

As alluded to above, the growth in large-scale, export-oriented production can exacerbate the marginalization of subsistence farmers, and encourage the further displacement of indigenous peoples. Increasing privatization of land and natural resources associated with this shift can also increase the process of urban migration. Much of food production is oriented to the export market of cereals and grains. The ownership of land and the food industry lies increasingly in the hands of a small number of intensive farmers/producers, with the consequent social and environmental impacts. The dominance of large-scale food producers and favoured global import/export markets is to the detriment of local and national sustainable food production and local food security.

Conflict is the cause of deepest hunger in most of the poorest countries of the world. War disrupts infrastructure, transport and distribution systems, creating wider economic instability. Population structure is affected as mostly young men are called up to fight, and women are left to produce food crops. Displacement of rural farming communities is common. Long-term food supply is affected by looting of grain stores, and land mines result in large tracts of agricultural land becoming disused. The loss of vital infrastructure disrupts food distribution. The environmental consequences of conflict also impact on health, land resources and biodiversity, reducing the

opportunities for recovery of food production after conflict. Emergency aid air-drops can result in population movement, distort food production and do not necessarily reach those in greatest need. Multilateral agreements are not implemented under conditions of poor governance. Instability associated with conflict drives corruption at all levels, from local landowners to undemocratic, unaccountable governments. Illegal cash crops e.g. opium, can be used to fund conflict and terrorism, since the high prices for drugs in developed world provides income to buy military equipment.

1.7 Hypothesis

- i. There is a direct relationship between unemployment and crime
- ii. EAC's role is not fully executed due to the lack of security institutional capacity and a political will by member states
- iii. The strategies of EAC interventions need strengthening in order to have unified decision making as far as integration is concerned.

1.7.1 Scope and Limitation

The study will cover the period between 2007 and 2013 as it looks at the cross border criminal trends and the EAC efforts to manage the trends. In 2007 the government of Kenya held a general election which was marred with violence and crimes committed along the borders of Kenya and other EAC member states. This resulted in displacement of some people who had to seek asylum in Tanzania or Uganda. The research is limited to the year 2013 as another year that Kenyan general elections were controversial and those in leadership have ordered the deportation of individual who are involved in crime related business out of Kenya.

1.8 Methodology

The study is prepared based on undertaking the study and preparing an analytical report on the basis of the study findings, conducting a desk study using relevant information sources as well as field interviews with the relevant government and non-governmental stakeholders as well as individual actors affected by the relevant policies. Analyzing and reviewing of existing relevant regional documents, such as the EAC Treaty and the EAC Common Market Protocol as well as national documents such as, the government policies, laws, rules and regulations. The work also involves consultations with some EAC officials in Nairobi or EAC and Drafting the study based on the information gathered.

1.8.1 Research Design

This working paper draws on primary data and extensive secondary data from academic, civil society, the EAC treaty, EAC reports, African Union (AU) and United Nations (UN) sources. A review of previous crime reports by Security Research and Information Centre (SRIC) as well as other existing documents related to the subject matter including police crime reports. The complex causes of the crime and conflict and how it affected the regional and international security means that the approach to be used has to be descriptive and analytical. On the other hand, there has been a necessity to consider the numerous peace efforts made by EAC the AU, and the UN to resolve the conflict. In this case, summits, negotiations, conferences, and actions of EAC, the AU, and the UN are briefly studied.

1.8.2 Data Collection and Analysis strategies

This research employs primary and secondary data collection methods. The primary data is collected via interviews and questionnaires as well as secondary sources of data from documents and academic literature that is, from books and scholarly articles from journals will be used in developing the research. Secondary sources will include books, journals, newspapers, magazines, articles, unpublished thesis, seminar papers, reports and periodicals. In addition, internet resource sites that deal with conflict were of benefit to this study.

To understand the cross border criminal trends in Kenya, Kenya/Tanzania border, the study is based on the perceptions of EAC initiatives managing the cross border criminal trends in the region in form of oral interviews and government publications in the districts.

The snowball sampling technique is used to help identify informants on cross border activities and EAC initiatives.

1.9 Chapter Summary

In terms of structure, this research is organized in the following manner; Chapter one provides the contextual background of the research, outlines its major objectives, introduces the problem statement, literature review, research questions, hypothesis and methodology.

Chapter two is about the EAC initiatives in managing emerging cross border criminal trends plus a history of Isebania as a border point.

Chapter three focuses on types of crime trends common along the Kenyan borders and the initiatives that the EAC is taking to manage the criminal trends along its borders.

Chapter four is a critical analysis of chapter two with data collected from chapter three and analyzing the objectives of the study. Chapter five is a conclusion with the study findings followed by annexes, maps and pictures if at all there are any. Lastly, a bibliography will follow.

CHAPTER TWO

Imperatives of EAC Treaty and Protocols

2.1 Introduction

“One people, one destiny” so runs the slogan of the East African Community (EAC), which was re-established in 2001. Considering the need to consolidate regional co-operation, the East African Heads of State, at their 2nd Summit in Arusha on 29 April 1997, directed the Permanent Tripartite Commission to start the process of upgrading the Agreement establishing the Permanent Tripartite Commission for East African Co-operation into a Treaty.⁶⁹

The Treaty-making process, which involved negotiations among the Member States as well as wide participation of the public, was successfully concluded within 3 years. The Treaty for the Establishment of the East African Community was signed in November 1999 and entered into force in July 2000. The newly founded EAC took its seat in Arusha, Tanzania. In June 2007, the Republics of Burundi and Rwanda signed Treaties of Accession to the EAC.

2.2 EAC Conflict Prevention Management and Resolution

The East African Community Conflict Prevention Management and Resolution (CPMR) is established in line with the Article 124 of the Treaty, the Protocol of Peace and Security and Goal 14 of the Strategy for Regional Peace and Security whose application mechanism will involve the Civil Society and the Media with a promise to ensure gender equity and fairness is enshrined towards all its

⁶⁹ EAC website <http://www.eac.com>

activities.⁷⁰ The CPMR in an attempt to deal with Conflict Prevention has a Conflict Early Warning and Response Mechanism and Preventive Diplomacy to ensure appropriate and timely intervention mechanisms to avoid escalation of conflict. In dealing with Conflict Management CPMR should facilitate Negotiation and Mediation, Peace Support Operations, Humanitarian Assistance, with a Conflict Resolution that includes Reconciliation, Disarmament, Demobilization, Rehabilitation, Reintegration and Resettlement (DDRRR) together with a Peace Building, Post Reconstruction and Development Modality inclusive of justice, law and order and with security sector reforms. CPMR has EAC Peace Facility for implementation. The objective of the East African Community Early Warning Mechanism is to facilitate the anticipation, preparedness and early responses to prevent, contain and manage situations that are likely to affect peace and security in the region.

The East African Community Early Warning Mechanism cover include the following areas among others Conflict Prevention, Management and Resolution, Prevention and Resolution of Genocide, Counter Terrorism, Peace Support Operations, Disaster Management and Crisis Response, Management of Refugees, Proliferation of Small Arms and Light Weapons, Trans National and Cross Border Crimes; Drug and Human Trafficking, Money Laundering; Cyber Crime and Motor Vehicle Theft, Cattle Rustling, Negative effects of globalization that impacts on Peace and Security, Counterfeiting and intellectual property piracy; and Any other areas which may be mutually agreed upon by Partner States. The components include a Regional Early Warning Centre and National Early Warning Centre.

⁷⁰ East African Community. *The Treaty for the Establishment of the East African Community*, EAC: 2002 xiv, EAC Publication, No 1, Arusha, Tanzania, 2002.

The Regional Early Warning Centre assist the Secretariat to administer the relevant documentation, Develop an early warning module based on clearly defined indicators, Establish networks of cooperation in early warning and response, Promote exchange of information and collaboration among Partner States on Early Warning and Response on the basis of the principles of timeliness, transparency, co-operation and free flow of information, Initiate through the Directorate of Peace and Security, cooperative arrangements with international, regional and sub-regional organisations, capacity building for National Early Warning Centres; Collecting, processing, verifying, analysing and disseminating information, Perform any other functions as may be assigned.

The Partner States also establish National Early Warning Centres with a Focal Point to provide linkage with the Regional Early Warning Centre and perform functions such as assist the Regional Early Warning Centre to administer the relevant documentation, Establish networks of cooperation in early warning and response within the Partner State, Promote exchange of information and collaboration and provide link among Stakeholders and the Regional Early Warning Centre on Early Warning and Response on the basis of the principles of timeliness, transparency, co-operation and free flow of information, Collect, process, verify, analyse and disseminate information, Perform any other functions as may be assigned. Each Partner State also determines the composition of the National Early Warning Centre and its way of operation.⁷¹

The components of Early Warning Mechanism will primarily gather information through open sourcing among other methods and verification, analysis, dissemination and sharing of information shall be processed as per standard

⁷¹ Ibid

procedures approved by Partner States. Partner States shall have the option to continue with bilateral and other arrangements for cooperation in addition to the regional and national structures for co-operation in early warning.

2.3 MoU on Peace and Security in Africa.

In its preamble the AU, the Regional Economic Communities and Coordinating Mechanisms on Regional Standby Brigades of Eastern Africa and Northern Africa, recognizes the need for closer collaboration of Africa Union and other Regional Mechanisms for conflict prevention, management and resolution in order to address effectively the problems posed by the illicit proliferation, circulation and trafficking of small arms and light weapons(SALW), scourge of landmines and the threat of terrorism and transnational organized crime, as well as the importance of promoting arms control and disarmament on the basis of relevant African and International Instruments.⁷²

The objectives of the memorandum include contributing to the full operationalization and effective functioning of the Peace and Security Architecture, Regulate exchange of information to promote and maintain peace in Africa, foster partnerships and enhance coordinated activities in the promotion and maintenance of peace, implement joint programs and activities of peace and security and contribute to ensure that any external initiative of peace and security in the continent takes place within the framework of the objectives of the Union. The principles recognize and respect the primary responsibility of the Union in the promotion of peace and stability in Africa in accordance with Article 16 of the PSC Protocol.

⁷² AU charter on Regional Peace

Article 10 is on arms control and disarmament, 11 on counter-terrorism, prevention and combating of trans-national organized crime and Article 12 on border management posits that parties shall work together on issues relating to border management on the basis of the declaration on the unions border programme and its implementation modalities, among others.

2.4 Protocol Establishing Lake Victoria Basin Commission

The Lake Victoria Basin Commission (LVBC) is established by a protocol for sustainable development of Lake Victoria basin under article 33 as a permanent apex institution of the community responsible for the lake basin. The objectives and broad functions of the secretariat of the commission is to promote, coordinate and facilitate development initiatives within the Lake Victoria basin. The signing of the protocol for sustainable development of the Lake Victoria Basin on the 29th November 2003 and its ratification in December 2004, in effect cleared the way for the establishment of the lake Victoria Basin Commission. The secretariat headquarters is based in Kisumu City, Kenya after being relocated Arusha in January 2007

The policy and decision making organ for the Commission is the Sectoral Council which is constituted by Ministers from the Partner States while the Committee comprises of all Permanent Secretaries from the three Partner States whose Ministries' mandates relate to the Lake Victoria Basin, particularly Water, Agriculture, Transport, Communication, Energy, Tourism and Wildlife, Fisheries, Environment and Economic development.⁷³

⁷³ EAC Protocol on Lake Victoria Basin Commission

2.5 Protocol on Peace and Security

The Treaty for the Establishment of the EAC recognizes Peace and Security as a pre-requisite for the success of its integration initiatives. To this end, a Regional Peace and Security Strategy was adopted by the EAC Council of Ministers in 2001. The Strategy identifies 14 goals, which are to: Enhance the exchange of criminal intelligence and other security information between partner states; Enhance joint operations and patrols; Install common communication facilities for border and interstate security; Adopt the U.N model law on mutual assistance on criminal matters; Implement protocol on combating illicit drug trafficking; Exchange visits by security authorities; Exchange training programs for security personnel; Establish common mechanisms for the management of refugees; Establish regional disaster management mechanisms; Formulate security measures to combat terrorism; Establish measures to combat cattle rustling; Establish measures to combat proliferation of illicit small arms and light weapons; Develop mechanisms to combat security challenges on Lake Victoria; and Develop a mechanism for conflict management and resolution.

The Peace and Security Strategy programs that are being implemented include the following. We are implementing a program in the area of Small Arms and Light Weapons (SALW) control, with the following activities: a) *Capacity Development* of National coordination offices to follow-through the program related activities at national level; b) *Procurement of specialized* arms marking equipment for the Partner states to facilitate implementation of the UN Tracing Instrument. c) Procurement of vehicles to facilitate mobile marking so as to meet the d) Ensuring uniformity in compliance with the Nairobi Protocol on SALW and through harmonization of Arms Management Legislation. The EAC SALW program has been supported by the GTZ

and the EU, who have been strategic partners providing the finances. Allow me to make special recognition of the two organizations. The EAC through its Inter-State Security Sectoral Council has embarked on programs to harmonize police standards and to cooperate in prisons/correctional services. To facilitate a harmonized approach, the Chiefs of Intelligence hold regular strategic meetings and strategies are being shared to address cyber crime, drug and human trafficking, money laundering and cross border motor vehicle thefts.

The EAC is in its final stages of concluding a Peace and Security Protocol, which will provide a legal domicile to all our Peace and Security interventions. Key in the Protocol is the establishment of a Conflict Prevention Management and Resolution (CPMR) ⁷⁴Framework, to provide a more structured regional approach to addressing conflicts not only by way of managing and resolving them when they have occurred but also in preventing them. A specific instrument, a Conflict Early Warning Mechanism (CEWM), has been developed in line with the African Union continental CEWM. It will comprise a regional early warning center at the EAC Head Quarters and National Early Warning Centers in each Partner State. Once operational, we should be able to collect process and disseminate information in a timely manner so as to prevent, mitigate and manage situations that are likely to affect peace and security in the region.

African Union ⁷⁵ and now with the United Nations in pursuant to the decision by the AU Assembly of Heads of State declaring *2010 the Year of Peace in Africa*, the EAC commemorated it with a major public even in Bujumbura, Burundi on 17th April 2010 with the destruction of 1000 assorted illicit arms. In May 2010 another

⁷⁴ African Union Report on Meeting the challenges of Conflict Prevention in Africa- Towards the Operationalisation of the Continental Early Warning System. Kempton Park, South Africa. 2006

⁷⁵ PSC protocol and constitutive act of AU

2560 assorted illicit arms recovered mainly from the refugee population on the Tanzania/Burundi border were also publicly destroyed. Similar activities had been undertaken in the other EAC Partner States and so far over 170,000 SALW and 300 tones of explosive remnants of war including ammunitions have been destroyed in the region. This is to be a continuous activity.

2.6 Some Kenya-Tanzania Border Points

2.6.1 Lunga Lunga Border Point

This is the border point to the South-West part of Kenya which is a border between Kenya and Tanzania. The border also serves as an entry point for commodities designated to the port of Mombasa for onward export and it is also an entry point for commodities from Malawi and Zambia. This border, considering the activities that goes through it cross border criminal trend have been present at the border transit most of agricultural products.⁷⁶

2.6.2 Taveta Border Point

Taveta Border point is one of the busiest borders between Kenya and Tanzania. Most of the commodities passing through this border point are agricultural commodities from the eastern and southern part of Tanzania. The border is commonly known as the entry point for commodities not only leaving for Mombasa Kongowea market but to even markets in the central and eastern Provinces of Kenya, this has seen more criminal trends take place across the border.⁷⁷

⁷⁶ A.W.K. Kivuva and Z. Magara, Market Development Division of Agribusiness Market Development Directorate, 2012, p 4.

⁷⁷ Ibid P 6.

2.6.3 Loitoktok Border Point

This is a border point between Kenya and Tanzania. It usually fluctuates in terms of volumes traded with some seasons been very low and others very high. The fluctuation in business that goes along the border has promoted cross border criminal trend along Oloitoktok border point.⁷⁸

2.6.4 Namanga Border Point

This is one of the busiest borders between Kenya and Tanzania. It serves as the entry point for commodities destined to the Nairobi market and transit goods to countries through the Jomo Kenyatta International Airport (JKIA). It is also the entry point for commodities destined to other parts of the country.⁷⁹ It has been known for letting in personalities who are involved in criminal related borders for instance the Artur brothers finding their way into Kenya.

2.7 History of Isebania Border Point

The Isebania border point is located in Kuria district of the Nyanza Province and it operates full time. It is commonly known as Nyamaharaga by the natives and the name Sirare (the Tanzanian side of the border) is used interchangeably when referring to this border point. It known is for imports from Tanzania that mainly include, cotton, seed cake, cereals like bran, rice, oranges, tomatoes, water melon, sweet potatoes, green grams, cotton lint, maize and beans. While exports are mainly irish potatoes and carrots. Trade has been mainly one way and this has been attributed to commodities being cheap in Tanzania and also the Kenya currency which

⁷⁸ A.W.K. Kivuva and Z. Magara, Market Development Division of Agribusiness Market Development Directorate, 2012, p. 7.

⁷⁹ Ibid p 7.

motivates traders and promote economic point of view.⁸⁰ Due to the cross border activities bribery, money laundering and counterfeit activities share common place and are visible at the Isebania border.

Nyamaharaga is a tourist transiting area with movement of tourists from Maasai Mara to Serengeti as well as north/south traffic between Mwanza and Kisumu. It is a Crimes prone area with smugglers all round waiting to smuggle goods amidst a thriving black market where money is exchanged cheaply and freely.

2.7.1 The Location and People of Isebania

Isebania border is located at southern border of Kenya that is 457 kilometres from the capital Nairobi, in South Nyanza region, Kuria is in Migori County, bordering it is Sirare located on the northern border of Tanzania 1626 Kilometre from Dar es Salaam in Mara region in Tarime district. It is an extremely poor border city.⁸¹

The majority of people in Isebania are from the Kuria tribe from both Kenya and Tanzania. As a rural setting, the people in Isebania are desperate just for the resources to survive. This has forced them to get involved in criminal activities across the border. The setting up of churches in that area has been viewed as a way for the survival of the borders. Though the border is cosmopolitan, the Kuria population in Kenya is believed to stand at 256,000, as from the latest national census. The Kuria are both pastoralists and agriculturalists, though due to changing times, they are now predominantly agriculturalist. The Kurian people have 16 clans with 4 in Kenya and the rest predominant in Tanzania. These people are characterized by their conservative nature in regard to culture and traditions, namely, Female Genital

⁸⁰ A.W.K. Kivuva and Z. Magara, Market Development Division of Agribusiness Market Development Directorate, 2012, p. 9.

⁸¹ Ibid

Mutilation (FGM), early childhood marriage, lack priority in education and lack of participation in political and economic development. This way of life for the Kuria people has contributed into increased crime related cases across the Isebania border point.⁸² For example there are cases where organized cattle raids with teams of raiders being composed of raiders from all the clans but disguised as coming from respective clans.

2.7.2 Agriculture, Trade and Transport

The Isebania border post is an important agricultural and commodities trade border located in the Kuria district between Kenya and Tanzania. As part of its effort to support the Eastern Africa Grain Council's (EAGC) overhaul of the Regional Agricultural Trade Information Network (RATIN) has helped to develop Isebania to expand its real-time functionality and deliver valuable products and services to the region's staple foods producers, traders and processors.

Small scale businesses have been the majority at Isebania border with small scale traders. Approximately 80 percent of importers are Kenyans. Small scale traders are mainly women. While for exporters 60 percent are Kenyans and the rest are foreigners. The County council collects charges as the commodity enters the local authority. However, demand for residential and commercial properties at the Isebania town has outstripped supply, fuelled by growing cross-border trade volumes. It is anticipated that the one-stop centre being put up at the Kenya-Tanzania border will spur an increase in transit of labour, goods and tourists between the two countries once it is completed. Demand for property is set to increase as Isebania becomes a

⁸² G. Chacha, The day the Lights Went off in Kuria
<http://ruralsecrets.wordpress.com/2012/10/16/lights-go-off-in-kuria/> retrieved on 25//72013

business hub and also owing to its proximity to two of the biggest national parks in the region, Maasai Mara in Kenya and Mara Serengeti in Tanzania.

Transport at Isebania is commonly road transport which links it to Nairobi and then Mombasa in Kenya and Mwanza in Tanzania. Buses that transport people and goods and services along the border are commonly involved in transporting illegal businesses associated with drug trafficking.

Motorbikes and bicycles locally called 'boda boda' is a means of transport at the Isebania Border with easy movement of goods and people transiting Kenya to Tanzania and vice versa. Currently, motorbike transport has been used in drug trafficking, counterfeit product getting through the border unnoticed.

2.7.3 Insecurity and 'Panya' routes

Cross border women traders at Isebania border of Kenya and Tanzania use the unofficial entry point commonly known as 'panya' routes which loosely translated into Kiswahili means, 'rat route.' The panya route comprises a short-cut, usually a small path, commonly used by ordinary civilians living in the area to cross into either side of the two countries in the course of their daily business. In most instances Panya routes are of no concern to the border security officials and hence remain un-manned. They exist with tacit official approval, to facilitate the movement of ordinary permanent inhabitants of the border post area, who in most cases also have cross-border linkages through marriage, ethnicity or business. Unburdened by security clearances when crossing the border, inhabitants of border posts exploit the 'freedom' that goes with panya routes, which constitute major conduit points for illicit trade not only in arms but also in Drugs, Foodstuffs, Human trafficking, Vehicle theft, Minerals and precious stones, Game trafficking and Money laundering. Kenya is vulnerable

because of its position as a conduit for aid to conflict zones in the region. The country has lost trading opportunities due to closed borders and conflict in the border areas- e.g. the Oromo insurgency affects the Ethiopia/Kenya border, and the Somali/Kenya border closure to prevent infiltration by combatants and conflict in neighbouring countries have not stemmed the heavy inflow of illegal SALW into Kenya.

Despite the integration of the East African countries and the coming into force of the Customs Union and Common market protocol.⁸³ Though there are erected police posts in most common areas where the traders use to sneak the goods from Kenya to Tanzania and vice versa, shops on the Kenyan side of the border stock an array of Tanzania branded products⁸⁴. It was established that several traders use bicycles and handcart vendors or just walk across with small packages of the smuggled goods hence counterfeiting thrives because of demand from Tanzania and Kenya's cash-strapped shoppers seeking for low-priced products.

The Nyamaharaga border has continued to provoke insecurity owing to the lack of appropriate mechanism for monitoring movements and illegal activities across these borders. Cross-border criminal trends activities obviously undermine good governance and security, with negative impacts on the rule of law, economic activities and growth, human rights and general societal and cultural advancement within the sub-region. Due to its poor nature, some criminal trends along the border have involved the illicit trafficking of small arms and light weapons/ammunitions and human beings, especially women and children, cattle rustling, drug trafficking, armed

⁸³ P. Jaramogi Cross border women traders still use "panya" routes
<http://www.newvision.co.ug/mobile/Detail.aspx?NewsID=636449&CatID=3> retrieved on 15/7/2013

⁸⁴ Standard Digital, Smugglers have field day at borders November 9th 2009,
https://www.standardmedia.co.ke/?articleID=1144028156&pageNo=3&story_title=Smugglers-have-field-day-at-borders Retrieved on 26/7/2013

robbery, and the smuggling of goods are some of the cross-border related crimes in along this EAC border.⁸⁵

2.8 Challenges at the Isebania Border Point

The Isebania border has been characterized by under-staffed and this has contributed to insecurity across the border, lack of capacity build for the staff currently monitoring the activities at the border is another problem that has created room for crimes to be committed at the border. Isebania border has remained unaccountable following lack of monthly reports compiled to indicate the cross border trade and develop. This accustomed by the lack of digitalized data bank at the border. At the same time the border has faced insecurity cases due to laxity among the cross border stakeholders (Kenya and Tanzania) Kenya Revenue Authority who at times have failed to coordinate the activities at the border.

Security on border of the countries is considered a key element to their development both economically and socially since it creates a conducive environment for investment. In a collective security environment such as envisaged under EAC, It is vital that the regional Militaries and other state security organs focus on common threats such intra-state conflicts that quickly become internationalized, proliferation of small arms and light weapons, Counter-terrorism, Counter-Piracy, drug and organ trafficking, money laundering just to mention a few.

⁸⁵ A.W.K. Kivuva and Z. Magara, Market Development Division of Agribusiness Market Development Directorate, 2012, p. 15.

2.9 EAC border Initiatives

The introduction of the East African passport, special immigration desks for East African citizens at international airports, re-introduction of interstate passes, withdrawal of visa charges for students and harmonization of vehicle transit procedures are some of the measures to ease the cross border movement of persons and goods. The free convertibility of the currencies of Kenya, Tanzania and Uganda was already introduced in 1997.⁸⁶ The improved East African infrastructure, for example in road improvement, telecommunication, civil aviation, postal services, energy and related areas and in meteorology.

The Customs Union launched in 2005 eliminates all internal tariffs and other similar charges on trade between the Partner States. It was agreed that the Customs Union would be gradually implemented over a period of five years. Partner States immediately agreed that goods to and from Uganda and Tanzania shall be duty free. From the start, imports of goods from Uganda and Tanzania into Kenya were free of duty, while goods from Kenya into Uganda and Tanzania were subject to two categories of import duty: category A goods were duty free, and category B goods from Kenya into Uganda and Tanzania have the present tariffs phased out over a five-year period. The Partner States also agreed that all non-tariff barriers should be removed and that no new non-tariff barriers should be imposed. Indeed, the EAC overall strategic security goal is to improve the capabilities of the EAC Partner States' Security Forces to respond swiftly and effectively to complex security challenges. The current trend seeks to harmonize the working relationships and military co-ordination between the Security Forces of EAC Region, foster co-operation among the Partner States as well as enhance collaboration between civil authorities in the EAC. Military

⁸⁶ EAC Protocol on Customs Union

cooperation also contributes to further strengthening the cause of East African unity, regional security, peace and development. This will be essential in EAC initiatives to manage the cross border criminal trends that have become common with the sub-region of Africa.

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Conclusion

The EAC development has been a historic thing and of importance following the benefit each member state gets from each other. The border activities that have been common along these borders have been of transit goods, small scale business and trading that has contributed to development of EAC countries. However, there is existence of a number of regional creative initiatives by the people of East Africa, which brought them together as one people, notably in the areas of trade as well as through cultural and educational ties. Interestingly, these initiatives survived even after the collapse of the old EAC, with many more initiatives emerging in recent years. East Africans have in recent times, established private initiatives and collaborate in the areas of education, trade, sports, the media, and the entertainment

sector such as beauty pageants and music festivals/performances as well as through different professional bodies not to mention the different faith related institutions.

Some of the criminal trends are very sophisticated due to globalized technologies and is characterized by various actors across the political, economic and social class whose structures and mode of operation are so complex that they have escaped the eye of law enforcement at the EAC border points and the strategies used by EAC to manage the trends with particular reference to the cross border activities at the border points Isebania were not effective enough. This is the concern of the next chapter.

CHAPTER THREE

Cross Border Criminal Trends

3.1 Introduction

The EAC cross border criminal trends have been a perilous problem to Kenya as they have affected the security situation. The cases of drug trafficking, money laundering, robbery associated with carjacking, cyber-crimes have seen a bigger number of youths in EAC involved in the crimes. This has been a blame for high rates of unemployment among the EAC member states. The cross border criminal trends in Kenya have affected not only the security situation but the economic and development situation. The border crimes have been associated with illegal business and the free movement at the border has also welcomed personalities that have been a threat to security in the country.

In busy borders of Kenya and Tanzania, Kenya and Uganda, criminals have taken advantage as some have made life difficult for the Kenyans while others have and have brought in illegal substances such as drugs that have impacted the lives of young Kenyans. However, it has been a joy for other individuals who have made criminal trade as their daily business at the border. Some foreigners have taken advantage of these borders to find their way into Kenya hence making it a security threat as well as a challenge to EAC objectives. One could ask which border the terrorist who attacked Kenya in 1998 bombing of the United States Of America (USA) Embassy found his way into the country from. This chapter is to look at the types of criminal trends in Kenya, Initiative used by EAC in managing cross border criminal trends in Kenya and then the challenges they have faced in their efforts to manage cross border criminal trends.

3.2 Types of criminal trends in Kenya

Despite industrialization, rapid development, characterized by population redistribution, dissipation of traditional forms of social control, social mobility and technological changes, and communication are some of the factors of development which tend to increase opportunities for deviant behaviour. Poor housing, disorientation of family life, unemployment, rapid population growth, and special labor needs of some enterprises also are conducive to crime and delinquency in Kenya.⁸⁷ Rampant corruption in the police, judiciary, and other state institutions has facilitated criminal networks' penetration of political institutions. There exist about six categories of transnational organized crime in Kenya: cattle rustling, drug trafficking, illicit trade in counterfeit goods, trafficking in wildlife products, the smuggling and trafficking of humans, trafficking in small arms, money laundering and piracy.

3.2.1 Cattle Rustling

Cattle raiding or rustling is an ancient practice that refers to the act of stealing livestock e.g. cattle, horses, sheep, goats, camels etc. The practice dates way back in history. The first recorded cattle raids were conducted over seven thousand years ago⁸⁸ Herodotos, the Greek historian who is regarded as the father of Western history□ reported on livestock raiding by Scythian horsemen 2,500 years ago⁸⁹ Traditionally, cattle rustling was carried out for socio-cultural reasons, for example, as

⁸⁷ This policy paper is based on a comprehensive research report on transnational organized crime in Kenya undertaken by the International Peace Institute, available at www.ipinst.org .

⁸⁸ Roger Osborne (2006); *Civilization: A New History of the Western World*, High Tide Publishers, London.

⁸⁹ Roger Blench, 2001; 'You can't go home again' Pastoralism in the new millennium, ODI, London

a rite of passage where young warriors were required to demonstrate bravery or for the purposes of acquiring livestock to pay dowry.

However, in the recent past this hitherto traditional mundane practice has transformed into a deadly and indiscriminate violent conflict among pastoralist communities. Among other reasons, this transformation has been largely attributed to two key developments thus, the introduction and employment of small arms and light weapons (SALW)⁹⁰ in the raids according to Bujra cattle rustling in the Horn of Africa, formerly a means of replenishing animals for subsistence is now widely practiced as a commercial activity.⁹¹

The cross border nature of the raids complicate redress mechanisms as collaboration with neighbouring countries have to be strengthened. Livestock pastoralists lack government support. The absence of a national policy for pastoralist economies marginalizes this group compelling them to turn to illegal activities for sustenance. Consequent redress mechanisms like forced disarmaments have proven elusive since governments have resulted in at times co-opting citizens to carry out disarmament policing and this has spiraled into un-checked 'government enabled militias' whose activities have also not been so objective. This has exacerbated violence, increases the number of weapons into the conflict epicenters and decelerated development in the areas. Clearly, purely militarized remedies have given a blind eye to the development alternatives where the answer sought should be based on understanding the cultural matrixes of these communities. As such, tapping into the

⁹⁰ Ekuam, D.E., *Conflicts, Conflict Resolution and Peace Building: The Role of Pastoralist Women*; UNESCO, 2006

⁹¹ Andrew B. S. (2005), *African Herders: Emergence of Pastoral Traditions*, Walnut Creek: Altamira Press.

social-cultural alternative modes of resolving such conflict should be part and parcel of peace-building national policies for cattle rustling areas.

3.2.2 Trafficking in Persons and Migrant Smuggling

Although significant efforts by governments, international agencies and Non Governmental Organizations (NGOs) to eliminate trafficking in persons and migrant smuggling, it is still a major concern in Africa. Due to the large migration flows resulting from formal economic unions and expansive, open borders, the trafficking and smuggling of people are not easily detected. The prospect of better living conditions elsewhere is most frequently the motivating factor for trafficking in persons and migrant smuggling, as many people desire to move closer to areas that present them with increased opportunities. An uneven regulatory framework, poor international cooperation, lack of awareness among both the police and the population has made trafficking difficult. As trafficking networks become more organized and ruthless, so does the problem becomes increasingly more prominent. The International Organization for Migration (IOM) estimates that up to 20,000 Somali and Ethiopian male migrants are smuggled from the Horn of Africa to South Africa every year.⁹² Corrupt staff members at the United Nations refugee camp at Dadaab in the northeast of Kenya, close to the Somali border, have also been victims of smuggling.

⁹² “Study: Smuggled Migrants from Horn and East Africa Abused,” Voice of America, June 23, 2009, available at www.voanews.com/english/news/a-13-2009-06-23-voa42-68826352.html .

3.2.3 Organ Trafficking

The transplantation of healthy organs into persons whose own organs have failed, improves and saves thousands of lives every year. But demand for organs has outstripped supply, creating an underground market for illicitly obtained organs. In Tanzania there is a common trade of using Albinos organs as a source of witchcraft therefore putting the Albino at a great risk. Desperate situations of both recipients and donors create an avenue ready for exploitation by international organ trafficking syndicates. Traffickers exploit the desperation of donors to improve the economic situation of themselves and their families, and they exploit the victims of trafficking in persons who fall prey to traffickers for the purpose of organ removal may be vulnerable by virtue of poverty, for instance. One factor that is distinct in this form of trafficking in persons is the profile of culprits; while some may live solely from criminal trafficking activities, others may be doctors, nurses, ambulance drivers and health care professionals who are involved in legitimate activities when they are not participating in trafficking in persons for the purpose of organ removal.

3.2.4 Firearms Trafficking

In recent years the Eastern Africa region has received increased international attention for the excessively high amounts of weapons in civilian hands, and in response, many governments have undertaken weapons amnesty and destruction programmes. No accurate data is available on the extent of illegal small arms and light weapons (SALW) available in the East Africa region. But violent conflicts within and at the borders of the region are seen as an ongoing source for the illicit trade in SALW and as a consequence, an increasing level of violence in local

communities.⁹³ Furthermore, evidence is coming to light that SALW trafficking is being connected to piracy and migrant smuggling, as the same groups expand their activities and thus their influence in the region. Corrupt staff members at the United Nations refugee camp at Dadaab in the northeast of Kenya, close to the Somali border, have also facilitated smuggling efforts, and so have staff at some foreign embassies.⁹⁴ Originally designed for 90,000 refugees from Somalia, Sudan, and Ethiopia, the Dadaab refugee camp now accommodates more than 350,000. Unscrupulous brokers pay bona fide refugees approximately \$10,000 to “buy” their slot on the UN list containing the names of those due to be sent to recipient countries as refugees. The broker in turn sells the slot on the UN application list to someone who wishes to migrate to South Africa, Europe, or the USA. However, a UN spokesperson on refugees in Nairobi has denied that this practice occurs.⁹⁵

And the trafficking goes beyond just women and children—babies are included too. A trafficker arrested in September 2010 was transporting ten children: five boys and five girls aged between ten months and ten years.⁹⁶

3.3.5 Piracy

Piracy operations nowadays are increasingly organized and have turned into a multi-million dollar industry, and the concentration of this activity has been off the coast of Eastern Africa. The frequency, scope and sophistication of recent piracy operations smell of a well orchestrated syndicate of seriously organized crime problem, which is having an enormous impact on local economies, and feeding

⁹³ The Tenth UN Crime Trends, Small Arms Survey (2008) Small Arms Survey: Risk and Resilience.

⁹⁴ Andrew Teyie and Abdilatif Maalim, “How Kenyans Are Smuggled to Europe,” *The Star*, November 4, 2009.

⁹⁵ Teyie and Maalim, “How Kenyans are smuggled to Europe.”

⁹⁶ Adow Jubat, “Suspect Held Trafficking Ten Children,” *The Standard*, September 23, 2010.

national organized crime networks. Piracy off the Horn of Africa has become an increasingly serious problem over the last years. The lack of rule of law in Somalia, which has been without an effective central government since 1991, has provoked a surge of hijackings and piracy in the region. Recent years have seen an increased number of attacks, with pirates becoming more organized and more aggressive as they arm themselves with a higher grade of weapons. The methods of pirates, with the use of 'mother ships' on which they can be based, allow them to hijack larger vessels over bigger distances, hundreds of kilometers off the coast. Piracy is increasingly linked to other forms of organized crime, given the sophisticated intelligence collection networks and systematic corruption of local officials. Meanwhile, piracy is a key source of income for many communities, who receive funds from ransoms that their own governments fail to provide. Beyond the immediate impact on victims of pirate attacks, there are a number of serious indirect consequences of this organized crime. Piracy is not only fuelled by lack of governance, but in turn perpetuates lack of security, economic disempowerment and undermines rule of law, not only in Somalia but now also regionally and globally.

Humanitarian aid deliveries to Somalia are disrupted and shipping insurance premiums increase to near-prohibitive levels, which, in turn, interfere with trade and damage economies, and increase the possibility of environmental disasters. The international community has recognized that what happens within the jurisdictions of failed States has repercussions far beyond its borders, highlighting both the transnationality of piracy and the need for States to cooperate to ensure stability, development and an effective criminal justice system in Somalia. In the meantime, assistance in the investigation and prosecution of suspected pirates is critical in order to avoid these crimes being treated with impunity.

3.2.6 Cyber Crime

Cybercrime is an emerging form of transnational crime. The complex nature of the crime as one that takes place in the borderless realm of cyberspace is compounded by the increasing involvement of organized crime groups. Perpetrators of cybercrime and their victims can be located different regions, and its effects can ripple through societies around the world. This is where criminals take advantage of the internet and telephone technologies including mobile phones and fax machines as a faster and cheaper means of communication targeting the unsuspecting victims to defraud them of financial assets.⁹⁷ This may involve the use to emails to threaten or even offer rewards for services done basically fake ones under instructions that lead one to be conned. This is well organized and is mostly used by terrorist gangs and organizations to harass and spread their agenda through propagandas and more often than not infringe on people's privacy.

Information and communications technologies (ICTs) have drastically increased the porosity between national borders⁹⁸ The increased porosity and anonymity⁹⁹ of the Internet superimpose in a complex interaction that enables criminal and violent groups, transnational terrorist organizations, and companies engaged in espionage to expand their operations globally. Mafia groups have now digital versions of bombings, murders, kidnappings and hijackings. They carefully plan attacks in terms of the target, the time and the amount of extortion. In most cases,

⁹⁷ Banks, K., Burge, R., (2004), *Mobile Phones: An Appropriate Tool for Conservation and Development?* Fauna & Flora International, Cambridge, UK.

⁹⁸ Rosenau, J.N., 1995. Security in a turbulent world. *Current History* 94 (592), 193– 200.

⁹⁹ Bridis, T., 2001. E-Espionage rekindles cold-war tensions—U.S. tries to identify hackers; millions of documents are stolen. *Wall Street Journal*, A.18 (Jun 27).

they demand much less than the costs to repair a broken site.¹⁰⁰ Many firms choose to comply with hackers' demand rather than taking the risk of attack and losing all customers and profits in one massive attack. The FBI found that in many cases extortions were paid off. For instance, online sports books, BETWWTS, reportedly paid Mafia extortionists thousands of dollars.

3.2.7 Money Laundering

Money laundering is a transnational illicit activity. It is closely connected to organized crime, terrorism and various trafficking crimes (i.e. drugs and firearms), and it can destabilize economies and financial markets, as well as corrupt governments and their institutions. It is subject to international treaties and regulations, but addressing the issue of money laundering is complicated as it requires cooperation between various parties such as law enforcement, financial, regulatory and intelligence bodies in countries around the world. Addressing and combating money laundering effectively is not child's play and it requires an excellent cooperation between a range of partners, both nationally and internationally. Resources are required to conduct investigations over a long period, as cases are often complex and far flung.

Criminals and criminal organizations have always had problems in separating the proceeds of crime from their illegal or criminal sources.¹⁰¹ Combating money-laundering and confiscating the assets produced by crime are, on the contrary, new

¹⁰⁰ Walker, C., 2004. Russian mafia extorts gambling websites June, http://www.americanmafia.com/cgi/clickcount.pl?url=www.americanmafia.com/Feature_Articles_270.html.

¹⁰¹ Organized Crime and its Threat to Security "Tackling a disturbing consequence of drug control" Report by the Executive Director of the United Nations Office on Drugs and Crime, 2009 p 8.

strategies which many countries believe are useful in fighting organized crime.¹⁰² In implementing these strategies, governments have realized that it is impossible to effectively control the money-laundering processes without the close international cooperation of governments, banks and other financial institutions, police and prosecutors.¹⁰³ This common conviction led, in the second half of the eighties, to the creation of many international instruments aimed specifically at dealing with money-laundering problems. One of the first instruments was the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and was followed by many others.¹⁰⁴

3.2.8 Drug Trafficking

While Eastern Africa is not particularly threatened as a destination for drug trafficking, most countries in the region are used as transit points to other destinations with Cannabis being the most cultivated, smuggled and consumed drug in the region, followed by heroin and to a much lesser extent cocaine. There is growing concern attached to the link between drug trafficking and the financing of terrorism. Low seizure figures reported by Governments are more likely to be an indicator of weak border controls and insufficient resources to drug control activities, rather than a sign that drug trafficking is not taking place. West Africa has recently received considerable attention as a drug route, and as mechanisms are strengthened there, the Eastern Africa region will come under threat as traffickers seek new routes across the continent. One informant said that;

¹⁰² Edgardo Buscaglia and Jan van Dijk, *Forum on Crime and Society*, vol. 3, Nos. 1-2 (2003).

¹⁰³ United Nations, Office on Drugs and Crime, *Global Report on Crime and Justice*, Graeme Newman, ed. (New York, Oxford University Press, 1999).

¹⁰⁴ Mark Shaw, "Crime, police and public in transitional societies", *Transformation*, No. 49, 2002.

Criminal competition for the drug markets within Kenyan towns has been fierce and this has resulted into threat to security leading in real wars on the borders of Kenya-Uganda and Kenya-Tanzania. This has been due to the fact that profits that are acquire in drugs have contributed into increased capacity for violence which has also resulted into corrupting public officials along the border.¹⁰⁵

Recent reports indicate that in militia groups have started to profit from drugs trafficked into Kenya as they freely move across the border.

3.2.9 Environmental Crimes

There is growing concern about the growing environmental crimes in illegal trade in flora and fauna, wildlife and pollution/dumping of toxic waste. While the amount of environmental crimes may not seem to rate high on the international scale, the impact of these crimes in the Eastern Africa region are enormous. Environmental crime reaches deep into communities, and resource-based conflicts are easily triggered. This is inclusive of pastoral communities that tend to invade their neighbours while getting pastures for their livestock, resulting in conflicts as a result of cattle theft. More importantly, turning the tide on environmental damage is a huge endeavor, and thus timely interventions of a preventative nature can be far more effective than investigating and prosecuting after the fact. In some parts of the world, large-scale poaching and illegal logging pose a major threat to wildlife and forests.

Given the diversity of locations where poaching, harvesting, transit, purchase, and consumption of wildlife occurs, illicit trafficking in endangered species is a transnational crime. Countries can be affected either at source, transit or destination points. Wildlife crime threatens national security and may endanger human and

¹⁰⁵ Police Officer Anonymous

domestic livestock health through the spread of virulent diseases. Trafficking in natural resources such as timber generates billions of dollars in criminal revenues annually and contributes to deforestation, loss of species and their habitats, and contributes to climate change and rural poverty.

3.2.10 Counterfeiting

Eastern Africa is emerging as a significant market for cheap counterfeit goods. The fact that counterfeit medicines, pesticides, food and drinks enter the region unchecked is a threat to the health and well-being of the populations. Kenya is the biggest market for counterfeit goods and contraband in East Africa. The counterfeit industry is sourced mainly from India and China and is worth about \$913.8 million, rivaling key foreign exchange earners tourism and tea and coffee.¹⁰⁶

Networks of cross-border smugglers target fast moving and highly profitable goods to import into Kenya illegally, including sugar, motor vehicles, electronics, pharmaceuticals, batteries, ballpoint pens, and cosmetics. Thousands of bags of sugar are smuggled into Kenya from Somalia every day, enriching Somali warlords.¹⁰⁷ Mombasa port, which handles an average of 1,700 containers a day, is a strategic asset for Kenya and its hinterland. It has become notorious for its abuse by organized crime networks for the smuggling of drugs, counterfeits, and other illicit commodities.

¹⁰⁶ Ken Opala, "Merchants of Fakes Reap Sh70bn and Put Lives and Jobs at Great Risk," Daily Nation, November 21, 2009, available at www.nation.co.ke/News/-/1056/801882/-/item/1/-/wkyff9/-/index.html .

¹⁰⁷ Ken Opala, "Dreaded Somali Terrorist Group Taps into Sugar Racket," Daily Nation, April 10, 2009, available at www.nation.co.ke/News/-/1056/559404/-/item/0/-/sa49rk/-/index.html .

3.3 EAC Crimes Management Strategies

The recent inclusion on Rwanda and Burundi in the East African Community is an avenue for opening up and enhancing regional security governance, and geared towards implementing a common foreign, and security policies as enshrined in the EAC Treaty. The East African Court of Justice is an example of a regional judicial body that is empowered to play its role as a guardian of justice, uphold the rule of law, protect human rights and promote good governance across the region as enshrined in Article 9 of the EAC Treaty.

EAC has provided institutions through which inter-state disputes can be settled amicably. Kenya. For instance,

The border crisis between Kenya and Uganda over Migingo Island and fishing in Lake Victoria is a major source of tension and instability following Kenya/Uganda border disputes, this has seen criminal activities take place at Migingo but as it stands, EAC is addressing the issue thus reduced tensions at the Island.¹⁰⁸

EAC has managed criminal cross border criminal trends in Kenya by stabilizing its security through cooperation and joint military exercises conducted since the commencement of EAC. For instance the “NATURAL FIRE 1998” was an exercise conducted in Kenya, in Turkana district in 1998 while in Arusha Tanzania it was known as “ONGOZA NJIA” in 2005. These efforts by EAC have helped in monitoring the security and criminal trends that have been common at the borders. One of the important thing to note is that EAC cooperation has also the established security bodies within the region such as the East African Standby Force (EASBRIG)

¹⁰⁸ Oral Interview with James Nganga, EAC Officer Kenya in Nairobi on 14/05/2013

and Kenya Rapid Deployment Capability Unit (KRDC) this have helped much in security and handling criminal cases within East Africa member states.

On the Global scale, EAC Peace and Security works closely with United Nations various bodies such as United Nations Office on Drugs and Crime (UNODC), INTERPOL and has continued to benefit from partnership with the European Union and GTZ to harness opportunities that further strengthen Peace and Security within the EAC Region for implementation of regional Peace and Security initiatives. Collaboration has also widened to include International Institutions involved in Peace Research.¹⁰⁹

East African communities have set up campaigns focused at the reduction of illegal small arms owned by pastoralist communities of who majority live closer to the borders.

Such campaigns have helped communities like Kuria and Maasai live harmoniously at the border following the disarmament process that was carried out along the Kenya/Tanzania border. A number of illegal weapons were collected from the cattle rustling communities who lived along the Ntimaru border.¹¹⁰

The brave initiative set up by EAC as the disarmament of the population along the Uganda, Tanzania and Kenya borders of illegal weapons has ominously reduced gun-related criminal trends in the country.¹¹¹ This has resulted into improved security in Kenya.

The East African Communities have also installed common communication facilities for border and interstate security. This has raised the level of security and

¹⁰⁹ United Nations Office on Drugs and Crime (UNODC) report 2010

¹¹⁰ Mwitwa Paul, Chief, Bwirege East, Kuria, Kenya on 10/06/2013

¹¹¹ EAC Treaty, cap 23, Article 125

reduced cross-border crime such as drug trafficking and money laundering. It has also promoted exchange programmes and trainings for their military hence reducing suspicions among member states where member countries saw their neighbours as potential enemies. This has reduced security threats across the border as well as reduced criminal trends following the improved collaborative system in tracking the criminals at the borders

Unemployment and under development in Kenya have also created fertile grounds for recourse to crime and other social ills, thereby posing a serious threat to national security.¹¹²

Environmental degradation, climatic change and competition for the scarce natural resources in Kenya are other emerging sources of concern for human security as many citizens are unemployed and poverty levels are rising. Economic integration has created opportunities for many educated but unemployed Kenyans to engage in gainful activities and improve their lot. Indeed many Kenyans are now venturing into all countries of the region in search of economic opportunities. This has helped reduce criminal trends across the borders of EAC.

It has also been through EAC initiative to manage cross border criminal trends that there have been several meetings attended by the Chiefs of Defence Forces of the region to share security and defence- related intelligence on issues affecting the region. This has helped the Kenyan military to acquire information and intelligence on mutual threats affecting the region such as terrorism piracy and proliferation of small arms. However, directors of military intelligence have also held similar information and intelligence sharing meetings that have enhanced Kenya's border security.

¹¹²Oral interview Nelson Maroa, Kuria resident, 10/06/2013

In addition EAC has enhanced the exchange of criminal intelligence and other security information between partner states through joint operations and patrols along the cross border. Indeed, it has installed common communication facilities for border and interstate security. This initiative has helped reduce the crime related cases along the borders Isebania border point included.¹¹³ However, EAC has also adopted the United Nations (UN) model law on mutual assistance on criminal matters. This is seen through the EAC implementation of the protocol on combating illicit drug trafficking. To ensure proper security across the borders, EAC has also introduced exchange visits by security authorities, exchange training programs for security personnel thus establishing a common management of the cross border crimes such as cattle rustling. This has also been focused at combating terrorism within the region

It was of significance that EAC also involved civil society organizations in formulating and implementing some of the policies that are supportive and beneficial to the Cross border traders This was a good initiative that helps to reduce criminal trend as civil society organizations can get involved to the extent that they have the ability to network, create awareness and encourage cross border traders to reform their activities so that they may benefit from policy reforms and benefits linked to formal business sector.

Another EAC initiative has been to combat proliferation of illicit small arms and light weapons which has been one of the criminal trend across its borders. EAC has done this through *capacity development* of national coordination offices to follow through the program related activities at national level. It has also procured specialized arms marking equipment for the Partner states to facilitate implementation

¹¹³ A.Muluvi et al, Kenya's Trade within the East African Community: Institutional and Regulatory Barriers, African Growth Initiative, 2012, p 20-27

of the UN tracing instrument. EAC has done this through procurement of vehicles to facilitate mobile marking so as to meet the deadline of completion of the exercise which was in December 2011.¹¹⁴

EAC has also set up a number of public Arms Collection and Destruction events, stockpile management and record keeping to enhance electronic record keeping practices hence better accounting for all state owned and licensed arms thus reduction in criminal cases across its borders.

Through EAC initiatives, it has ensures that there is uniformity in compliance with the Nairobi Protocol on SALW and through harmonization of Arms Management Legislation develop mechanisms to combat criminal challenges across the EAC borders such as Isebania.

The EAC through its Inter-State Security Sectoral Council has embarked on programs to harmonise police standards and to cooperate in prisons/correctional services. To facilitate a harmonized approach, the Chiefs of Intelligence hold regular strategic meetings and strategies are being shared to address cyber-crime, drug and human trafficking, money laundering and cross border motor vehicle thefts.¹¹⁵

The EAC is also committed to upholding the rule of law and to this end has an operational regional Court of Justice whose mandate is presently limited to the interpretation of the Treaty. It is under review, to expand the Court's jurisdiction to address other issues relating to the integration. This is more so in light of the operationalization of the recently launched EAC Common Market. Furthermore, a Forum of Chief Justices of the Partner States that brings together Chief Justices, Judges of the High, Constitutional and Supreme Courts has been operationalised. The

¹¹⁴ A.Muluvi et al, Kenya's Trade within the East African Community: Institutional and Regulatory Barriers, African Growth Initiative, 2012, p 20-27

¹¹⁵ Ibid

Forum has helped in dealing with crime trends along its borders thus promoting best practices for the region.¹¹⁶ This has helped to facilitate effective administration of Justice Systems in a manner that has promoted social justice, prevention of conflicts, peace and political stability in the region.

On combating corruption and enhancing ethics and integrity in the Community, the EAC acknowledges that corruption and improper management of national resources have a negative impact on trade and investments, the socio-economic welfare and therefore the poverty levels in the society. A Protocol on preventing and combating corruption has been developed to help reduce the cross border crimes. Broadly, it provides for preventive and enforcement measures including asset recovery and forfeiture, jurisdiction and guarantee of fair trial, transfer of criminal proceedings and sentenced persons as well as extradition.¹¹⁷

3.4 Challenges of Implementing EAC Initiatives

The EAC countries face the challenges of negative effects of external economic competition and are concerned over loss of employment opportunities through increased labour mobility and competition. The fear of loss and competition over land continues to be a sensitive issue and potential source of conflict due to limited alternative means of livelihood besides land. There is a threat imperative response to common external threats like terrorism, piracy, and other security challenges arising from porous borders, arms proliferation, trafficking of drugs and human, and natural resource based conflicts for example, over the Nile.

¹¹⁶ A.Muluvi et al, Kenya's Trade within the East African Community: Institutional and Regulatory Barriers, African Growth Initiative, 2012, p 20-27

¹¹⁷ Ibid

Some of the perennial conflicts in the East African region are not just a product of the power of the states but are also a result of the weakness of the states in managing the transition from the colonial to the independent state in the early sixties and the transition from pre historic, authoritarian/undemocratic regimes to democratic change in the early nineties. This fragile Statehood has led to penetration of state institutions by vices such as bribery and corruption and by subverting or undermining them from within yet the governments lack the capacity to counter such penetration.

The regional integration has made Kenya to be vulnerable to terrorism attacks. The Al Shabaab terrorist attack on Kampala bound bus in November 2010 might have been directed at Uganda's interest in Kenya. The terror group is aggrieved by Uganda's military deployment in Somalia¹¹⁸. However, the free movement within the region and some relaxed border controls has enabled the movement of terrorist and criminals to cross borders without proper security screening. This has also led to continuous flow of illegal small arms, which are later used to commit crimes. For example, Anthony Chinedu, a Nigerian businessman in Kenya it is alleged was dealing in unscrupulous drug business and had to be deported back to his hometown of Lagos Nigeria. But rumour has it that he made his way back to Kenya through the Kenya/Tanzania border at Namanga. Though Chinedu and other foreigners who were considered involved in criminal activities were deported it has not been well figured out how he made his way back to Kenya.¹¹⁹

The doctrine lies at the very heart of warfare according to Lemay¹²⁰. It represents the central nerve for waging war in order to achieve victory. Conflicts are not just about power and resources but are rooted in the denial of human needs such

¹¹⁸ Daily Nation Newspaper, dated 22 December, 2010.

¹¹⁹ Salome Muiruri, K24 reporter 13/05/2013

¹²⁰ Kurl, John. *British Defence: Joint Doctrine and Concepts*, (Alabama: Air University Press, 2001), p25.

as identity, security, respect and recognition. These are ultimately needs to do with the human spirit and social reality¹²¹

Women have been largely marginalized in formal conflict resolution processes and post conflict governance hence issues that affect them get scant attention. Violence against women be it domestic and the fact that many wars are fought on women's bodies means that their voices are crucial and critical for reforming the security sector.

The horn of Africa is plagued by intra-state conflicts that end up sucking in the entire region in one way or another. ¹²² The wars, the consequences, conflict resolution and mediation, all spill over to other countries and this complicates the pre-conditions for peace. (Somalia and Sudan are good examples of national conflicts with regional consequences).

The greatest challenge to human security has its roots in the way countries in the region pursue state security at the expense of people's rights. According to another respondent

If good government is about the protection of life and property, the enforcement of law and order, the administration and dispensation of justice, the settlement of disputes and the defense of the polity against external aggression, then there is hope for EAC handling cross border criminal activities effectively.¹²³

¹²¹ Ndayizigiye Jean Berchmans 2005. Humiliation and Violent Conflicts in Burundi, paper for Roundtable 1 - Workshop on Humiliation and Violent Conflict, Columbia University, New York, Dec 15-16

¹²² Ndayizigiye Jean Berchmans 2005. Humiliation and Violent Conflicts in Burundi, paper for Roundtable 1 - Workshop on Humiliation and Violent Conflict, Columbia University, New York, Dec 15-16

¹²³ Peter Opondo, Mediamax Group General Manager

This therefore would mean that all EAC countries have joined the New Economic Partnership for Africa's Development and the Africa Peer Review Mechanism indicating that there is hope for building local and regional networks that work towards peace building and maintaining peace.

The region, just like much of Africa, naturally adopted a militarized concept of security which is challenged by the holistic concept of human security. Whilst securing the territory is paramount for post- colonial conflict states, equally demanding issues such as hunger, healthcare, crime prevention, political and civic freedoms, war prevention and democratic participation, all compete for government attention amongst other issues.

The current times are characterized by the progressive globalization of economic activity and thus have resulted in the increased interdependence among economies in various parts of the world. This therefore presupposes the need for regional integration. This is only possible in a peaceful and secure environment, with a dedicated political class, macroeconomic stability, and commitment to the rule of law, democracy and good governance devoid of crime and criminal activities across the territorial borders.

The aspect of economic integration can be regarded as the commercial policy of discriminatively reducing or eliminating trade barriers only between the states joining together.¹²⁴ Regional economic groups aim to eliminate or reduce trade tariffs and other trade barriers among the Partner States while maintaining tariffs or barriers for the rest of the world the non-member countries.

¹²⁴ Salvatore, Dominic. *International Economics*, 8Ed, Willey International Edition, USA, 2006

As cross border trade grows among the East African Community (EAC) economies, a significant proportion of it is conducted through informal channels and is therefore lost without capturing in the official national statistics.

The players, a majority of whom are survivalist enterprises, benefit from this kind of trade and contribute to the economies indirectly. However, some, mostly big formal ones who choose to engage in ICBT, do hurt the EAC economies real big; unlike their survivalist counterparts, they mostly trade in third party goods which bear huge tariff tags and other regulations but choose to evade such regulations and custom duties either fully or partially through such illegal practices as under-invoicing, misclassification, mis -declaration of country of origin, and/or bribery. These traders have, in most cases, valid reasons why they chose to do business in that manner.

But they end up hurting economies and offer undue competition to their counterparts who have otherwise paid often punitive taxes and duties. Instead of targeting symptoms of these activities, it is important to target their real causes. There are critical measures that the EAC Partner States need to enforce so as to reduce the negative implications of Informal Cross-Border Trade (ICBT) and support regional trade and investment integration.

Positions got from various reports from workshops and public dialogues incorporating a wider representation of the civil society, business community, private sector, government officials, media, policy makers, researchers on the informal cross border trade in EAC and its implications for regional integration and development, under a project known as "Building an Inclusive East Africa Community (BIEAC). These consultations have yielded the following positions:

EAC governments must take deliberate efforts to develop a common definition of what constitutes an informal sector in such a way that it can be targeted with

appropriate policies. Each of the governments must also make deliberate efforts to construct an inventory of the number of informal traders including the trends of growth of the sector and its contribution to the economies. Then, together they must set a common threshold for determining and classifying the informal sector in order that it is targeted with supportive policies including taxation policies. It is in this view that we maintain the difference between the formal and informal sector should be clarified and that informality should not necessarily be equated to illegal trade.

Informal cross border trade (ICBT) in EAC represents a significant proportion of regional trade. It is prudent that in order to address any challenges with ICBT, EAC governments should seek to determine and deal with the factors that drive its growth and not fighting the traders who are merely eking a living out of the business and satisfying basic rights that government ought to fully provide such as health and education.

It will be fruitless for EAC to seek to eradicate the practice of ICBT because it is a part and parcel of socio-economic lifestyle and practice of EAC citizens, especially as a source of employment and income generation, especially for traders who cannot maintain formal trading. In this regard, it would be proper for the sector to be formally recognized and measures be undertaken to provide it with an appropriate operating environment while making sure its adverse effects to the economies of EAC are fully understood and addressed.

Creating a friendlier operating environment with fair cross-border trade rules and regulations taking account of the characteristics of ICBT players will not only benefit the ICBT players but all EAC economies as well. To the EAC countries, it could be the start of a successful process of formalizing the activities of informal traders and consequently enable the countries to collect better information in order to

improve the planning and decision making. Similarly, to the ICBT players, creating a favorable environment for trade may lead to a better understanding of their rights as they trade across the region, hence cases of paying bribes to border officials and smuggling of goods across the borders will be reduced. The EAC governments should therefore undertake an aggressive publicity and dissemination of the EAC treaty, the Customs Union Protocol, the Common Market, the Community's policies and other applicable laws and principles. And further more the EAC governments should apply practical approaches towards ensuring the benefits of the EAC regional integration process reach the citizens by increasing information dissemination and capacity building for small scale border traders on how they can benefit from EAC integration.

In order to achieve the information sharing element, the civil society pledge to create programmes and develop policies that deal with justice, equality and accountability in the informal trading system. And guarantee production of user friendly documents outlining the EAC integration processes, benefits and organize educative forums to address issues in order to have tangible results to the beneficiaries especially the informal traders at border points.

Stigmatization and the damage that has been met on the human psyche of the players in the sector, means the EAC governments are urged to begin to embrace, encourage and promote trade exhibitions involving informal traders across EAC border points. EAC governments must also consult with the ICBT traders more regularly, as well as introduce market development programs to promote formalization.

The importance of involving civil society organizations in formulating and implementing such policies that are supportive and beneficial to the ICBT traders and that CSOs should be involved to the extent that they have the ability to network,

create awareness and encourage ICBT traders to reform their activities so that they may benefit from policy reforms and benefits linked to formal business sector. This should go along with the demystification of the term “formalization” to remove any unwarranted fears that are currently labeled or associated with it.

In a nutshell, getting accurate overview of the extent of informal cross-border trade might be difficult, but such trade still represents significant proportions of cross-border trade in East Africa. Specifically, ICBT can in the short-to medium-term encourage entrepreneurial activity and regional trade, contribute to greater food security and enhance income earnings and employment opportunities for the EAC vast population.

3.5 Conclusion

This chapter has clearly defined the most common cross border crimes influenced by the growth of illicit and legal trade activities. The EAC has made inroads at managing security along the Kenya-Uganda or Kenya Tanzania Border but also along the other borders of EAC member states. Nevertheless, it was also important for the chapter to discuss some of the challenges that EAC has faced in managing cross border crimes in Kenya. With views from the respondent, that were used in developing this chapter, it is therefore important to draw an analysis of the cross border criminal trends, the EAC efforts and challenges and this is the concern of the next chapter.

CHAPTER FOUR

Criminal Trends at the Border

4.1 Introduction

This chapter is the analysis and interpretation of the data found from the field on initiative of EAC on managing criminal trends with reference to Isebania border. The analysis and interpretation will be driven from the research findings. The historical presentation of Isebania and other EAC borders will help in the interpretation of the study. The analysis will involve the pie charts, tables, and graphs to present the data in figures. The analysis and interpretation for this chapter rest on data collected from 50 responded from Isebania border of Kenya and Tanzania and 5 responded from the EAC office in Nairobi and 5 foreign respondents from Nairobi. Some of the respondent who were interviewed gave relevant information about the criminal trends at the cross border. This relevant information will be used in the analysis of this chapter. The analysis looks at the respondent views as received from the field. It works the percentage of the respondent views as they recounted from the field. The analysis is a supple of the respondent as noted above which has helped in its completion.

4.2 Isebania Border Point and EAC

Isebania is a border that is known to very few people hence being branded untold border point. This does not leave it out as one of the EAC border points. Some of the responded recognized it while others had no idea. It was first important for the respondents to have the knowledge of EAC and its member states and how it is controlling and managing criminal trends along the border points.

4.2.1 Knowledge of EAC

The chart below shows the distribution in percentage on Knowledge of EAC from the respondents

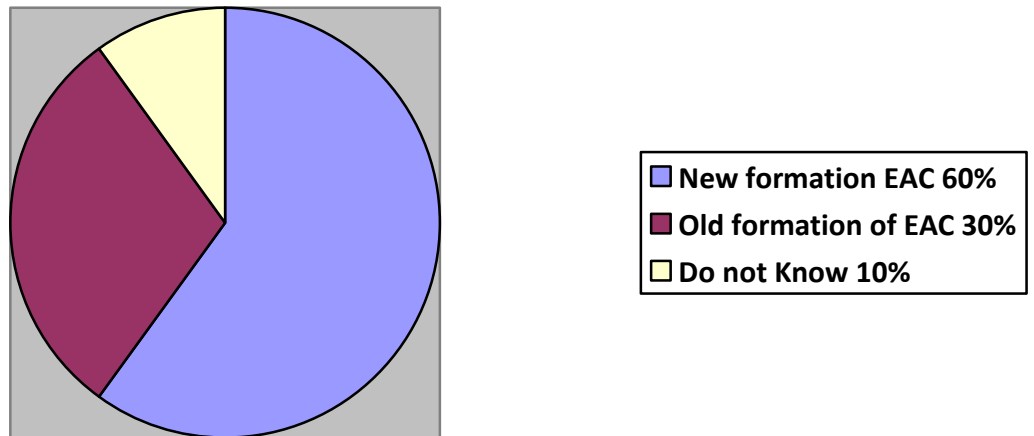


Figure 4.1 Knowledge of EAC

The data from the diagram shows most of the respondents in Isebania are aware of the existence of EAC. When asked whether the respondents knew EAC, it was realized that 60% were aware of EAC as it appears now by saying YES while 30% said YES but were only aware of the founding members of EAC that is Kenya, Uganda and Tanzania, the 10% of the responded were not aware of EAC. From the data collected it was clear that the respondent who knew EAC as it stands now were basically the elites in the region while those who are of middle class of education new that EAC comprised of three countries lack of available information on EAC to such people. It was also realized that those who did not know EAC were those who have not gone to school at all and they needed someone to educate them on the importance of EAC and its member states. Following this information collected from the respondent it was clear then that people who reside at the Isebania majority of them have knowledge of EAC while a smaller number has no knowledge about EAC.

4.2.2. The Kuria at Isebania border of Kenya and Tanzania

Chart Presenting Kenyan and Tanzania Kuria population in percentages.

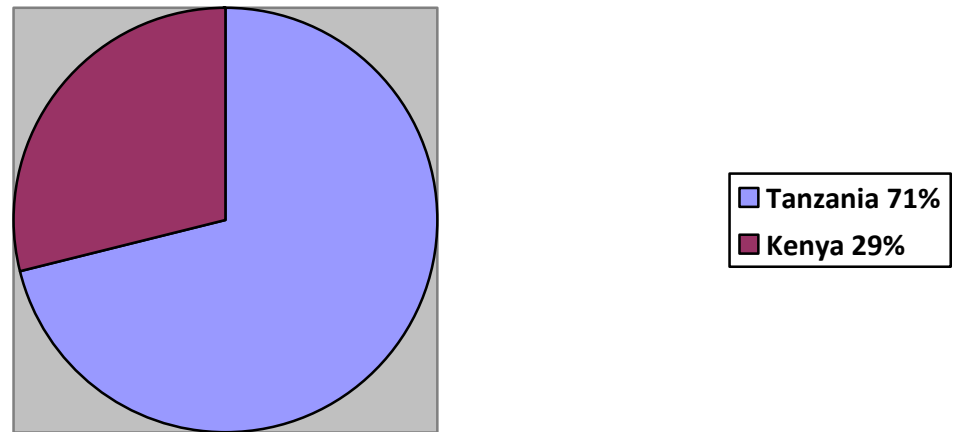


Figure 4.2 Kenyan and Tanzania Kuria population in percentages.

According to the data collected from the field the inhabitant of Isebania are Kuria who are both in Kenya and Tanzania. It was said that 29% of the Kuria population is in Kenya while the remaining 71% are in Tanzania. According to the population census 2006 there were 435,000 Kuria people living in Tanzania and 174,000 in Kenya. The chart below illustrates the distribution in percentage. However, the population of the Kuria in Kenya and Tanzania is growing as it is estimated to total one million with around seven hundred and twenty four thousand (724,000) in Tanzania and an estimated two hundred and seventy six thousand (276,000) in Kenya. Form the observation and interview from the respondent, it was noted that the Kuria are closely related to the Kisii people of Kenya both in language and physique. They are said to have been one people until a vicious attack by the Maasai in the early 19th century which scattered both populations in different directions. This apartness has led to the formation of distinct dialects which are clearly understood by both peoples. The Kuria people are divided into about 16

"subtribes" or clans, namely: Nyabasi, Bakira, Bairege, Bagumbe who reside in both Kenyan and Tanzanian districts, Batimbaru, Banyamongo, Bakenye, Baikoma, Bamerani, as well as several others. All this sub-tribes or clans are present in the Kisii tribe of Kenya.¹²⁵ this relationship has been alleged to be the cause of more Kuria moving to Tanzania as a few remained in Kenya.

With the Kenyan Kuria being involved in Agriculture while the Tanzanian more of pastoralist, this has made the two nations transact their business with the view of promoting the development in the area as well as the security situation.

4.3 Relationship between Kenya and Tanzania

The Chart below presents the respondent view on relationship between Kenya and Tanzania

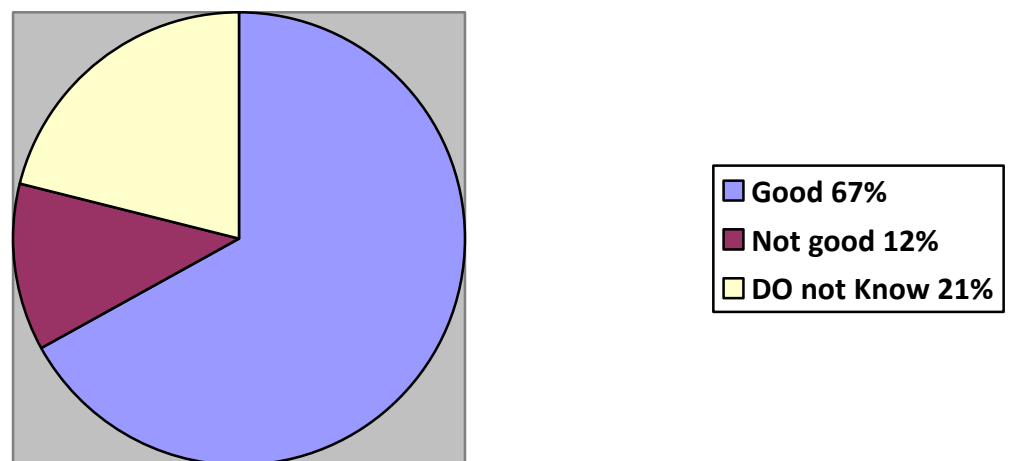


Figure 4.3 View on relationship between Kenya and Tanzania

In connection to that 67% of the responded said that the relationship between Kenya and Tanzania is good, 12% said the relationship is not good because of the Kenyan political influence at the border while 21% did not know how the relationship

¹²⁵ Ethnic group both in Kenya and Tanzania

was as per the time of interview. This is very evident with the activities that go on at the border as the population freely intermingles in exchange for their goods and services. On the same note, it was also noted by the 67% of the responded that the EAC is concerned on improving on its scope as sub-regional organization particularly on cross-border activities. Indeed the border point of Isebania though untold, it has built the relationship between Kenya and Tanzania in terms of trade as well as a border point to facilitate immigrants who move across the border for different purposes. The relationship experienced at the border has helped to move the untold border point of Isebania to another level. The border has also not experience conflict related acts that could have disintegrated the relationship of the two member states of EAC. It was the relationship of Kenya and Tanzania at the border has also been reflected in other EAC nations beginning to use the border hence empowering the mandate of EAC

Similarly, the 12% of the respondent who felt that the relationship between the two countries is not good based their argument on increased criminal activities across the Isebania border. They noted that drug trafficking has been the most common criminal activity at the border and the drugs that get into Kenya has seriously affected the lives of many youths who use them. They in fact said that the drugs that get into the two countries illegally have promoted criminal activities such as robbery with violence, pick pocketing which is common at the border with the tourist being the most vulnerable group. In addition to that they felt that the border has promoted immoral activities such as prostitution which has made it more insecure with those involved using it to rob those who end up in their hands.

It was also noted from the data collected from the field that 21% of the respondent did not know how the relationship between Kenya and Tanzania was

fairing on at the border. This is was because some of them were still new at the border point trying to build up their relationship while others were just less concerned with the relationship as they said they are interested in their business and not the relationship. This was attracted the research as it was not wrong to allege that such were the people who were involved in criminal activities across the border point of Isebania. Some of the responded who were interviewed in Nairobi were even not aware of the Isebania border point thus making it a true untold border.

The chart below shows the distribution in percentage for how busy the four borders are.

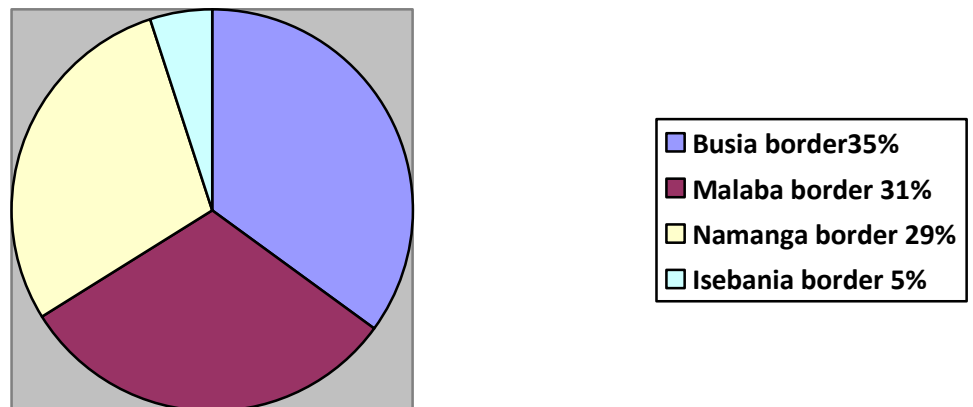


Figure 4.4 Distribution in percentage for how busy the four borders are.

From the data collected, it shows that the Isebania border is not as popular compared to Busia border, Malaba border or Namanga border in terms of response from Nairobi but known to those at the Migori County. The respondents at Isebania border said that the border has been made invisible because it is located within a region occupied by a tribe that is counted among the minority in the country, and known for cattle rustling mostly. Similarly EAC has not also paid little attention at the border thus making it remain a center for smaller business and some criminal offences

committed along it which have remained unnoticed in some cases. As such 35% of the responded referred to Busia border point which is busy when compared to Isebania, the other 31% referred to Malaba border point and 29% referred to Namanga border. This was the percentage of the respondent who saw Isebania as untold and not a busy border point as it was rated at 5%.

The graph below presents the respondents view on how security has been at the border of Isebania

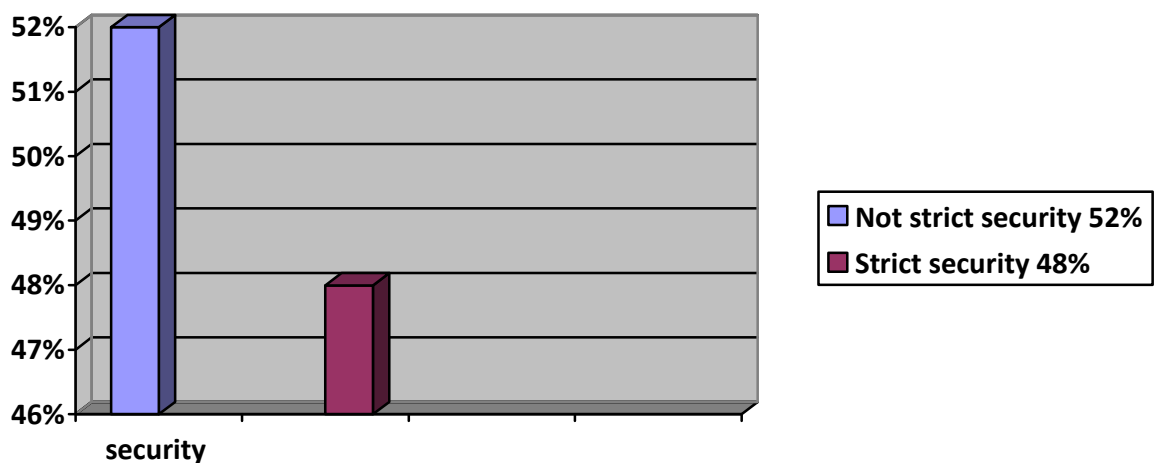


Figure4. 5 View on how security has been at the border of Isebania

52% of the responded said that the security at the border has not been that strict as it has promoted illegal business between the two EAC member states, while the remaining 48% of the respondent said the security was well coordinated at the border of Isebania. The respondent argued that the Isebania border point will also gain popularity just as other borders have. This they supported by the fact that business at the border was improving with the only fear of some few criminal trends that seem to threaten the development of the border. It was believe that transit goods will also begin passing through the border and this was the way the border would expand and move from untold border point to popular border point in

4.4 The criminal trends in Isebania

Pie Chart 1

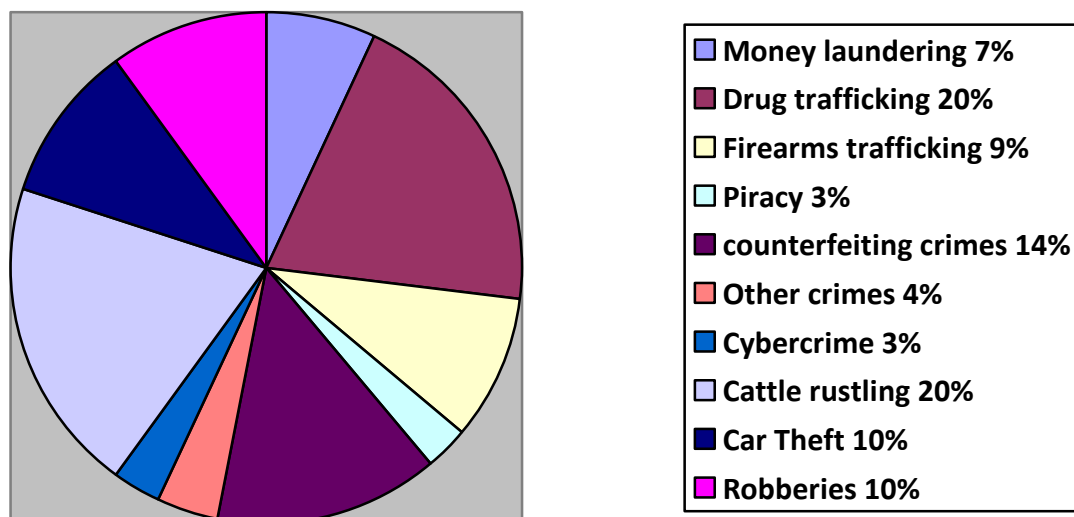


Figure 4. 6 The criminal trends in Isebania

Criminal trends in Isebania border of Kenya and Tanzania were present and EAC efforts to manage the trends have also been experienced at the border. According to the respondent form Isebania border 7% of the crimes committed at the border are associated with money laundering, 20% drug trafficking, 9% firearms trafficking, 3% piracy, 3% cybercrimes, 14% counterfeit crimes, 20% cattle rustling, 10% car theft, 10% robberies and 4% other crimes.

Money laundering was noted at the border due to increased complain on fake currency of from both Kenya and Tanzania along the border. This has affected the smooth running of some businesses. Drug trafficking has been the most common crime at the border and it has passed unnoticed by the security personnel at the border. Drug dealers have found their way into Kenya or to Tanzania and on being arrested they have affirmed the fact that they used the Isebania border. The pie chart below

illustrates shows some of the common criminal trends along the Isebania border of Kenya and Tanzania.

Scholars like Boynum and Kleiman have educated people on effect of drugs a substance which when introduced into the body will alter the normal biological and psychological functioning of the body especially the central nervous system since it increases the aggression.¹²⁶ This follows the demand that drug dealers get from the clients they get without realizing the impact it has to them. Some of the impacts have been criminal cases such as rape /sexual assault, robbery with violence which makes the environment along the borders considered insecure.

Trafficking of firearms has not been that common along the Isebania border as the informants noted that it has been a rare case to hear of SALWs being transported to Kenya from Tanzania. The respondent said that Tanzania is the only EAC country that has not had an experience of the formation of militia group that have threatened its government security.

Mbugua Njoroge in his book on Small Arms and Light weapons argues that, the widespread proliferation of small arms contribute to alarming levels of armed crime, in both rural and urban areas, which exacerbates insecurity. This has not been so common at the Tanzanian-Kenya border of Isebania which has experience a drug related criminal activities more often as compared to SALW which are very minimal. The Proliferation of small arms and light weapons at the Isebania border have been noticed during the cattle rustling that arises between the Maasai and the Kuria. The Maasai community also exists across the border hence some are in Tanzania while others in Kenya. The common weapons that have crossed the border when there are

¹²⁶ D. Boynum, & Kleiman, M.A.R., 'Alcohol and Other Drugs', in *Crime*, eds J.Q. Wilson & J. Petersilia, ICS Press, San Francisco 1995, pp. 295-326.

cattle rustling in the region are the bows and arrows which are believed to be poisonous. A cattle rustling has been the most common crime related activity across the Isebania Border. It has been said by the respondent that a month could not pass without hearing of cattle rustling at the region. The *panya routes* have promoted the crime and it has been difficult for the governments of Kenya and Tanzania to bring the crime to an end at the border.

Car theft is also a crime that was noted at the Isebania border as cars stolen from Tanzania are brought to Kenya and those stolen from Kenya are taken to Tanzania. This has created a insecurity at the border especially for those who have vehicles. At 10% it was a sign that the crime is becoming common at the border. Robbery has also been another common crime as businesses that are being established at the border were most affected. This portrayed absence of proper security at the border as shops and residential houses are often robbed.

Piracy is another crime that was noted at the Isebania border and 3% of the respondent mentioned it as a criminal trend while 97% did have anything to say on piracy as a crime along the Isebania border. Those who mentioned it said the frequency, scope and sophistication of piracy operations that was taking place at the border was a well-orchestrated collective of seriously organized crime problem, which had enormous impact on local economies as they contributed much to national organized crime networks. In Isebania pirates began becoming more organized and more aggressive as they armed themselves with a higher grade of weapons.

Cybercrime was minimal at the border point as only 3% of the respondent mentioned it as a criminal trend. However it was not mentioned by the remaining 97% a sign that it has not been a common criminal trend at Isebania border.

Counterfeit was another crime that was common at Isebania border where 14% of the respondent complained that the Isebania border was emerging as a significant market for cheap counterfeit goods. The has been common with other EAC border points with the fact that counterfeit medicines, pesticides, food and drinks enter the region unchecked hence a threat to the health and well-being of the populations. Since Kenya is considered the biggest market for counterfeit goods and contraband in East Africa, Isebania border has been involved in counterfeit products that get into Kenya. Counterfeit products have been known to emanate from industries sourced mainly from India and China, rivaling key foreign exchange earners tourism and tea and coffee.¹²⁷

At Isebania border, the respondent said that due to the presence of counterfeit products, each business person is getting networks with cross-border smugglers to get them fast moving and highly profitable goods to import into Kenya illegally, including sugar, motor vehicles, electronics, pharmaceuticals, batteries, ballpoint pens, and cosmetics. This has been abused by organized crime networks that have ended up engaging in the smuggling of drugs, counterfeits, and other illicit commodities.

¹²⁷ *Op.cit* Ken Opala

4.5 Crime Data at Isebania Border Point

The graph below illustrates the views of respondent on where they report the crimes committed at Isebania border point

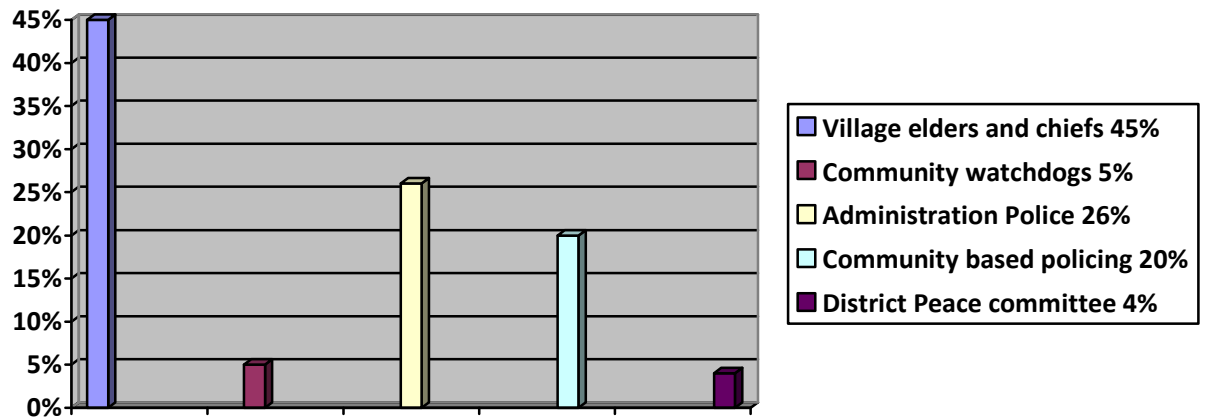


Figure 4. 7 Crimes committed at Isebania border point

According to the data from the field, reporting of crimes across the Isebania border has been done to administration police with 26% of the respondent supporting it, while 5% of the respondent said that the matters of crime have been report to community watchdog but this they say it applied to crimes such as drug trafficking. 45% of respondent said that there are crimes that have been reported to the village elders and chiefs. These were criminal offences that crossed the border unnoticed only to be found and reported in the village. Drug trafficking has been the commonest to be realized in the villages in Isebanian and some find their way to the city of Kisumu and Nairobi in Kenya or to Dar es Salaam. 20% of the responded said that criminal offences were sometimes reported to community based policing while 4% of the respondent said that district peace committee has aslo received and handled some of the criminal cases that were aimed at creating violence at the border thus cultivating peace through seminar, workshops and setting up of billboards that encouraged the communities to live in peace.

4.6 EAC Initiatives in Cross Border Criminal Trends

The graph below illustrates the respondents view on Initiative set by EAC to manage cross border criminal trends.

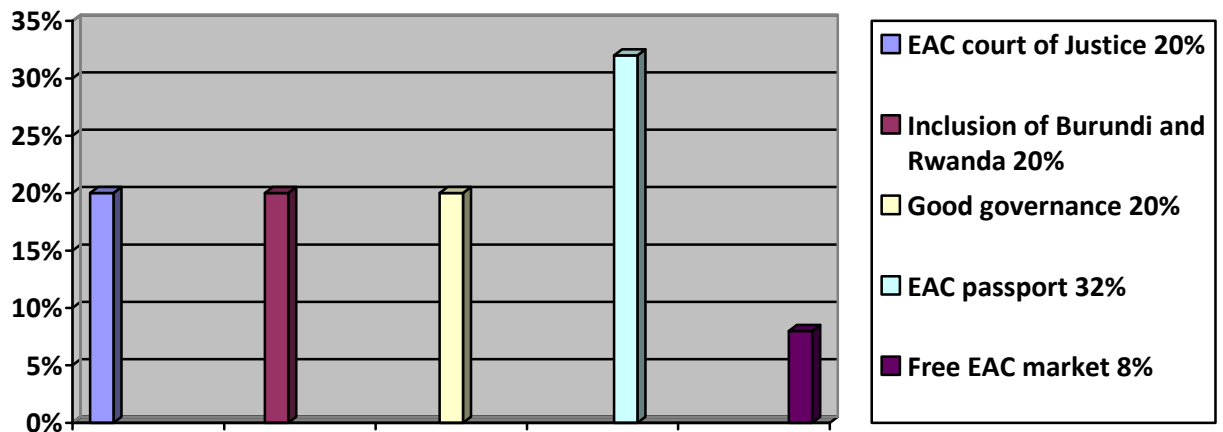


Figure 4. 8 Respondents view on set by EAC initiatives

According to the responded, EAC has tried much in eliminating border crime through use of different initiatives. 20% of the respondent noted that the recent inclusion of Rwanda and Burundi in the East African Community has contributed in enhancing regional security governance which has helped in reducing cross border criminal trends in the region. 20% of the respondent said that formation of the East African Court of Justice (EACJ) as a regional judicial body helped boosting the security situation across the border as the rule of law regarding the cross border issue was to be upheld. 20% of the respondent affirmed the idea of good governance in EAC that has helped in managing the cross border criminal trends.

Introduction of EAC passport was also another thing that the 32% of the respondent said it was a good initiative for the EAC to introduce as it has helped in managing the cross border criminal trends. The free movement and open market for all members of EAC was only affirmed by 8% of the respondent who still feel that it

was an initiative that has not really worked to manage the menace of criminology across the Isebania border well.

However, the criminal trends at Isebania Border of Kenya and Uganda were also managed through frequent meetings held by EAC on security matters. This has contributed much to improvement of the security at the border as the respondent noted in the questionnaire administered to them. Following the respondents from the interview it was also noted that some of the business person involved across the Isebania Border are facing stigmatization which has had the damage on the human psyche of the business persons in the sector and these means the EAC governments are have to embrace, encourage and promote trade exhibitions involving informal traders across EAC border points. They have to consult with the traders more regularly as well as introduce market development programs to promote formalization.

It was also important to find out how the security situation was fairing on at the Isebania border. It was noted that the security situation at the border point was not well managed thus increased crime related problems associated with robbery, drug trafficking, money laundering and even cattle rustling between the Kuria and Masaai communities. However, EAC is also focused ensuring that there is proper security at its border point and thus promoting EAC integration. The respondent said that it was promising as some days have passed without hearing of criminal trends.

Conclusion

In conclusion despite trade liberalization, new technologies for communication and surveillance, and improved border procedures, crossing borders remains one of the principal challenges in global transportation. Increased concern

about clandestine transnational actors dealing in drugs, illegal immigration, and terrorism has led to a new regime of enhanced scrutiny that has offset many of the institutional and technological changes that once promised to make borders irrelevant. While the threat of international terrorism is very real, the intensification of scrutiny is reinforced by public opinion that is more aware of the benefits of security than of the benefits of trade. From the data analyzed at Isebania it is notable that there exists some level of a working relationship between Kenya and Tanzania in as far as trading across the border is concerned with people walking in and out, crossing the borders without hindrances. It was also noted that not all the respondents had knowledge of EAC's existence.

From the analysis of data collected it was came to fore the realization that security at the Isebania border was not that strict thus allowing a number of criminal activities in the form of smuggled properties in small portions across both ends of the borders into the neighbouring districts of Tarime - Mara Tanzania and Migori, Kisii all the way to Nairobi. This was supported by the fact that drug trafficking has been common along the road transport, Transport technology was initially a means to control and conquer oceans, territories and resources at the border and the railroad was also a means to achieve territorial conquest.

The most prevalent criminal border trend is drug trafficking is the most common crime at the Isebania border followed by counterfeit products, money, laundering, piracy and other crimes were considered minimal of did not exist at the border. This was seen to affect the economies of EAC member states as the genuine products within EAC lose money to counterfeits and that are cheap and have market as the counterfeit product flooded the market attracting vulnerable customers. The EAC through its Inter-State Security Sectoral Council has embarked on programs to

harmonize police standards and to cooperate in prisons correctional services. To facilitate a harmonized approach, the Chiefs of Intelligence hold regular strategic meetings and strategies are being shared to address cyber crime, drug and human trafficking, money laundering and cross –border motor vehicle thefts.

Drug trafficking was to affect the development of EAC as those who use them end up being involved in criminal activities associated with robbery and rape cases. However, the responded were also able to say how money laundering affects the currency of the nation and particularly at Isebania border where they said that the value of Tanzania shilling had gone down following the cases of money laundering

Fire arm trafficking was only noted by 9% of the respondent who felt that cattle rustling in the region between the Kuria and the Maasai had forced them to get involved in the crime of getting SALW from the Kuria from Tanzania.

Carjacking, cattle rustling and robbery were common crimes that were also analyzed in this chapter cattle rustling has been the most common as the respondent noted that a month cannot pass by without experiencing the crime. Similarly, robbery cases were also common just as carjacking which is proving to become a common crime at the Isebania border.

The data analysis has also shown that the EAC has had initiatives in managing cross border criminal trends to all the borders. This has helped in controlling some of the criminal trends across the Isebania border point of Kenya and Tanzania. With some of the criminal trends being a threat to security, 20% of the responded concluded that the setting up of East Africa Court of Justice was of great importance as it has been use to in resolving and passing Judgment on cross border criminal cases which are deemed to affect the integration process.

The inclusion of Rwanda and Burundi to EAC was also seen as wider effort made by EAC in managing the cross border criminal trends. It is good governance advocated by EAC that has also helped to manage the cross border criminal trends as those involved in the crimes are arrested within their own country or the country where they transact the business.

It is also clearly illustrated that EAC passport was an initiative that has helped reduce illegal transaction of business across the border as one is required to present his passport for him to be allowed in transacting genuine business. This has created a limit for some individuals who were involved in illegal business to terminate them as they are not allowed to cross the border without the EAC passport. The security as established by EAC across the border of Eswatini a search is conducted to detect the illegal businesses that could take place across the border. The introduction of electrical detector machine has been a good step made by the EAC in managing the cross border criminal trends.

Though the free EAC market has been seen as an initiative to avoid crime related cross border activities, it has also been said to have limitations as some businesses especially counterfeit products have found its way to the free EAC market.

The chapter is also important as the initiative of EAC involving civil society organizations in formulating and implementing some of the policies that are supportive and beneficial to the Cross border traders helps to reduce criminal trend as civil society organizations can get involved to the extent that they have the ability to network, create awareness and encourage cross border traders to reform their activities so that they may benefit from policy reforms and benefits linked to formal business sector.

The chapter has also illustrated in percentage the bodies which are approached for reporting the Criminal trends in Isebania border of Kenya and Tanzania. Indeed all the bodies have received reports of crime related cases in across the border and particularly in Kenya. It was also noted by the respondent that the district peace committee was essential for cases that were associated with violent crimes that would cause insecurity and lack of peace across the border. Such cases were handled by the District peace committee thus reason for peaceful co-existing between Kenyans and Tanzanians who ply trade across the Isebania border.

CHAPTER FIVE

Summary, Conclusion and Recommendations

5.1 Introduction

This report attempts to present an authentic picture of EAC initiatives in managing emerging criminal trends in cross border region of the East Africa region by identifying its constituent features and major trends. Chapter one introduced the study by developing research questions and a statement of the problem with literature on what researchers have found out. Chapter two is an overview of some of the EAC initiatives. Chapter three looks at the types of crimes at the Isebania border. Amidst the foregoing, trans-border crime being a serious violation to human security, a threat to peace, social harmony, political stability, good governance, development and sub regional integration. Appropriate security, legal, political, economic, social and cultural strategies, should be put in place by government and government agencies to ensure integration takes place. The sources of information drawn upon are primary and secondary data.

5.2 Summary

It was noted that the nature of trans-border crime is continually changing its nature, ways and means, and area of operation. Consequently, fighting against this form of crime requires permanent dialogue, appropriate joint actions, and sound cooperation on the part of defense and security forces, bilateral and especially multilateral cooperation. This does not require from EAC member states unique fights, but rather the same understanding of security issues, joint border management and an overall collective security strategy.

Organized crime players are often anonymous with a mixed grill from the grassroots level, current and former street dealers, petty pimps and car thieves. There are privileged clients who may be drug distributors, sex workers and car theft networks including bartenders, security guards, night club owners, DJs, lawyers, and car mechanic, or even 'Jua Kali' vendors and artisans and even hawkers who seem very vulnerable.

The regional governments of EAC should adopt and implement the United Nations Conventions against Transnational Organized Crime and Corruption (and its Protocols). These international instruments create a broad framework for mutual legal assistance, extradition and law enforcement cooperation and the Convention against Corruption contains an innovative chapter that promotes international cooperation for asset recovery cases.

Although law enforcement and judiciary institutions have had a certain amount of information on organized crime its analysis has not been carried out systematically due to insufficient capacity and lack of sustainable efforts. Public attention has been confined to short-lived media coverage, while the partisan approach has prevented consensus on effective policies

In the last decade, the establishment of public-private partnerships as an effective model has been a positive step towards tackling organized crime. The nongovernmental sector has provided a platform for a debate free of partisanship and inert-institutional strife. Additionally, institutions of the state have the chance to open to the community and gradually strengthen democratic transparency. Much of the road forward to a new culture of open and accountable administration and governance, however, remains a mirage. The relatively new experience of public-private partnership has survived the initial skepticism and revealed the availability

and potential of sound expertise, particularly in the monitoring and assessment of organized crime markets and trends. Partnership thus needs to go further and contribute to the acceleration of institutional developments, as well as advanced policy-making and practice, in an aspiration to emulate the best European models.

There is need for countries of the East African sub-region and indeed the world to employ coordinated and comprehensive strategies to fight these cross border crimes wherever they manifest themselves.

The free movement of people across the border as a result of the EAC through the East African Passports which are issued in all member countries, is good because it encourages more people to trade through facilitating their movement in the region, EAC member countries have agreed to remove visa requirements for their citizens. In the long term free movement of people is very important because it eases cross border trade and it also creates a sense of unity and community through increased interaction of the citizens of the member states. But in the short term it can be an avenue for terrorists to come in and terrorize citizens without much ado. East African citizens can easily move from one country to another and do their business activities there. This is a good step towards the deeper integration including the East African Common Market of which negotiations have already been launched by the member states.

EAC member states have agreed to a harmonized classification for issuance of entry/work permits aiming at addressing problems of unemployment and poverty in the region. There have been some achievements in social indicator especially in education. However, there are still development disparities and income inequality in three EAC member states which need to be addressed. Through the EAC, member countries have worked together to improve transport and communication infrastructure within and across the borders of member states. Several projects have

been initiated with the view to modernize transportation and communication aiming at facilitating trade in the region. An example is the Railway line and mobile telephony. Regional cooperation on public goods such as water basins (Lake Victoria), infrastructure (roads, railways), the environment, hydroelectric and other sources of energy and fisheries have generated benefits to member states.

The EAC has not yet put into practice an early warning system, but has developed a draft Protocol on Early Warning and Response Mechanism. The Protocol seeks to address issues that cut across inter-state security, inter-state defense and intra state conflicts that emanate from cattle rustling, smuggling and illegal trade; poverty and economic inequalities; human rights violations in partner states; sharing of cross border and intra state natural resources and land, among others. The Draft Protocol establishes an institutional mechanism, through which the protocol shall be implemented, including policy arm, administrative arm, the technical arm, the Regional Centre for Early Warning, the Early Warning Units situated within the Partner States. It is envisaged that the Early Warning Centre will be situated at the EAC headquarters fully equipped with a situation Room and human capacity and linked with the national Early Warning Units.

5.3 Findings from the Hypothesis

Is there a relationship between unemployment and Crime? There is a link between unemployment and crime. This is because when the youth lack jobs, they become vulnerable start odd jobs like drug trafficking to make ends meet and at time end up abusing the said drugs. Drug trafficking and money laundering, has economic effect of increasing demands on the public health services and the society at large because the numbers of users of cocaine is distinctly higher. It is also noted that a

number of youths are involved in Drug trafficking and the implication is that these youths stay out of school.

EAC's role is not fully executed due to the lack of security, institutional capacity and will by member states. For the political integration envisioned in the EAC Treaty to happen, partner states must cede power and put their national interests aside and allow the political federations agenda to take precedence. Giving up sovereignty to the EAC has been far from reality because of most of the partners States fear of adopting a common foreign policy rather than foreign policy coordination.

The weak states are characterized by a lack of resources, low level of economic opportunity and lack of political will to address crimes making the Eastern Africa region a breeding ground for corruption. The police and justice systems in all countries are inadequate with low police inhabitant ratio, the state of the police force, the available training, the back log in the judiciary and the state of the prisons are all a contributing factor to ongoing crime and violence, which, when coupled with the lack of standardized and comprehensive legislation for the region, ensure that it is possible to get away with most illegal activity somewhere in the region. Most cross border regions are not isolated, but are deeply interconnected. For example, poaching of wildlife and trading in animal parts are connected to money laundering, corruption, organized crime networks, tax evasion and transnational trafficking. As one issue becomes more prevalent, so the entire cycle increases in dynamism and damage.

5.3.1 Findings from the Objectives

While examining the role of governments and EAC as stakeholders in curbing cross border criminal trends, admittedly, the fight against trans-border crime has

always been the responsibility of governments, but the vast number of security issues and the never-ending appearance of new stakeholders pose the critical problem of parliaments' roles. Besides, in a case where security is only through the people and for the people, parliaments who proceed from popular votes should be capable of committing themselves further towards the fight against trans-border crime and become fully involved in security sector reform in the sub-region.

A "borderless world" is far from being a reality even as globalization implies increasing flows of people and goods across international borders. At one time, the most important border function was defense. Since territory increasingly defined the state, defending territory was critical to preserving sovereignty. To some extent, the territorial integrity norm has reduced the importance of border defense. But changes in the technology of warfare that undermine the importance and even the possibility of defending lines on the ground have also reduced the defensive function of borders. After defense, the main functions of borders are customs and immigration control. With the reduction of tariffs and the application of information and communications technology to both customs and immigration, one might expect that borders as impediments to the movement of goods and people would be matter of declining importance. At a time when tariff barriers are falling and technologies for identification and surveillance are proliferating, this might seem to be no great problem, as borders are more easily crossed than in the past. However, concerns with issues of international terrorism and illegal immigration have led some states to ever more scrutiny at their borders. Thus, crossing borders remains one of the greatest challenges in global transportation for both passengers and freight.

5.3.2 Findings from the Theory

In the organized crime world, just like Abraham Maslow theory of hierarchy of needs, the organized crime takes pretty much the same concept. Drugs cartels have the big bosses, brokers, middlemen and peddlers all ranked according to importance to the chain of command. With the elimination of the extortionist protection money payment makes it difficult to maintain crimes and drug flow. This therefore creates opportunities to heroin dealing structures enable organized criminal networks. The hierarchical principle is one such classical model here the most vulnerable are the people at are the bottom of the pyramid because they are dependent on the drug cartels and will do anything to get their hands on the dealings either as users or merchants. It is important to note that criminal leaders holding the control over the respective markets change from time to time, territories and hierarchical levels change, too.

5.4 Discussion of the Findings

In spite of the existence EAC and other African blocs that have secretariats and regular technical and ministerial level meetings and summits of heads of state and government, African integration efforts have had limited impact so far. This maybe because, the reality on the ground does not match ideals in treaties, protocols and MoUs the degree of integration remains highly superficial. Thus results have been below expectations. This has been due to a number of constraints, including: Membership issues. From a continental as well as from within the sub-regions. Most African countries have multiple memberships that often compete, leading to conflict and overlapping ideals amongst themselves that isn't useful. This adds to the burden

of harmonization and coordination, and is wasteful duplication in view of constrained resources.

Slow ratification of protocols and reluctant implementation of agreed plans. Due to low political commitment and/or perceived or real losses and sacrifices involved, a number of countries have been reluctant to fully implement integration programmes on a timely basis. This has been partly caused by the lack of prior cost-benefit analysis and broad internal consultations on the part of the member countries concerned. In some cases, changes in the socio-economic and political dynamics within the member states involved have also militated against implementation of regionally agreed programmes, especially where socio-economic sacrifices are concerned.

Limited national and regional capacities is another impediment with the lack of mechanisms and resources for effective planning, coordination, implementation, monitoring and pragmatic adjustment of programmes on the ground have been another constraint to regional integration. In the area of trade and mobility of factors of production, African integration has been relatively more outward-looking at the expense of intra-regional trade. Xenophobia has partly hampered labour movement among members, while capital mobility has been constrained by largely undeveloped financial markets. Domestic, regional and international financial and investment constraints have also hampered regional integration, which requires considerable resources to plan, coordinate, implement, and monitor progress in its implementation. There is low saving as a percentage of Gross Domestic Product (GDP), while foreign direct investment (FDI) remains elusive and eschew Africa.

5.5 Recommendations

This research has addressed several key issues in this topic. It has established that there many challenges arising out of the transborder activities. One main challenge related to the question of increasing crimes is due to the ease with which borders are crossed making issues of international terrorism and illegal immigration a concern.

Whereas the idea of forming the EAC is noble it has also brought with it problems. Noting that EAC has recognised it's problems, the study appreciates and discusses some of the measures that need to be put in place to address the problems. This study has examined some of these measures. There is need to conduct further in depth research on the same with empirical sources. This study was largely quantitative in nature. A quantitative study on the same would easily help corroborate some of the findings here.

There is a lack of density in existing research, because of time limitations and funds to carry out extensive empirically tested researches. It would be important to try to replicate previous studies instead of focusing exclusively on breaking new ground all the time. Often, generalizations are made from isolated research far beyond their historical and geographical scope. This leads to assumptions in some areas transnational crime where a relatively large number of studies exist, such as drug trafficking and human trafficking; there is still a need for additional research.

EAC member countries should ensure that political commitment is sustained by adhering to the provisions of the treaty and they should put in place adequate capacity, both financial and human, for timely implementation of the treaty, projects, programmes and policies, after ensuring the various organs of the community and institutions are well coordinated in executing their duties and responsibilities. It's

against the background of existing research and the problems the study of transnational organized crime has encountered, a few cautious comments can be made about the directions future research should take. There is need to say that more can be done in terms of in terms of research on transnational organized crime. While, for example, it may be difficult to interview transnational criminals, past research has demonstrated that it is possible under favorable circumstances and provided researchers have the necessary skills and social capital.

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