

UNIVERSITY OF NAIROBI
INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES
M.AINTERNATIONAL CONFLICT MANAGEMENT

**THE ILLICIT PROLIFERATION AND USE OF SMALL ARMS AND LIGHT
WEAPONS AND HUMAN SECURITY IN EAST AFRICA: A CASE STUDY OF KENYA**

JOSEPH KINYANJUI GIKONYO

R52/82453/2012

SUPERVISOR

DR. KIZITO SABALA

**A Project Thesis Submitted in Partial Fulfilment for the Requirements of Master of Arts in
International Conflict Management**

2015

DEDICATION

This thesis is dedicated to my beloved wife- Margaret Wakiuru Kinyanjui, my children, my brothers and sisters for their immense support, prayers and encouragement. Special dedication to my late father James Njuguna Gikonyo and my mother Margaret Wanjiru Gikonyo who found it necessary in their wisdom to send me to school.

ACKNOWLEDGEMENT

I am highly humbled by the steadfast love and grace of God Almighty for the inspiration, knowledge and wisdom He has bestowed unto me. I owe lots of gratitude to my supervisor for his guidance and direction that shaped the format and substance of this study, many thanks Dr.Kizito Sabala. I wish to further thank all those who have not been directly acknowledged in this piece, in my heart I keep you.

DECLARATION

This research thesis is my original work and has not been presented nor is it currently being presented for a degree in any other University. No part of this thesis may be reproduced without the prior written permission of the author and/or University of Nairobi.

.....

Signature

Date

Joseph Gikonyo

R52/82453/2012

This research thesis has been submitted for examination with my approval as University of Nairobi Supervisor.

.....

Signature

Date

Dr.Kizito Sabala

Lecturer, Institute of Diplomacy and International Studies (IDIS)

University of Nairobi,

LIST OF ABBREVIATIONS

DRC	Democratic Republic of Congo
DDR	Disarmament, Demobilization and Reintegration
EAC	East Africa Community
IDP	Internally Displaced Persons
ITI	International Tracing Instrument
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit
LRA	Lord's Resistance Army
MANPADS	Man-Portable Air Defense Systems
MLC	Movement for Liberation of Congo
NGO	Non-governmental Organization
NFP	National Focal Point
PRC	Piracy Recovery Center
PoA	Programme of Action
PSSM	Programmatic security management
RECSA	Regional Centre on Small Arms
RPGs	Rocket-Propelled Grenades
(RCD-N)	Rally for Congolese Democracy–National
SALW	Small Arms and Light Weapons
SPLA	Sudanese People's Liberation Army
UN	United Nations
UNPoA	United Nations Programme of Actions to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects
UNSC	United Nations Security Council
UPDF	Ugandan People's Defence Forces

ABSTRACT

This study is about the illicit proliferation of small arms and light weapons (SALW) as an immediate security challenge to individuals, societies, and states around the world and an enormous hurdle to sustainable security and development. Small arms fuel civil wars, organized criminal violence, and terrorist activities. They also undermine multimillion dollar development programs and other assistance to fragile states. Fragile and failing states should be of particular strategic interest to the United States because even small insurgencies, if unchecked, can erupt into larger civil wars and possibly destabilize entire regions.

The study examined the impact of small arms and light weapons on the human security in East Africa. Specifically, the study examined the international and regional normative and institutional frameworks to address the problem of illicit proliferation of SALW in Kenya. The study also analyzed the impact of the use of small arms and light weapons on human security in Kenya.

The study also set up two hypotheses namely: The continuous proliferation of small arms and light weapons into the hands of civilians is occasioned by weak institutional and normative framework within East Africa region; and the illicit proliferation of small arms and light weapons has had a negative impact on peace and security of civilians in Kenya especially those living in slum areas and areas of constant ethnic conflict such as the northern part of Kenya.

The study has given recommendations that in order to create such a safe and secure environment, it is necessary to identify, understand and subsequently address the entire range of factors that create, fuel and enable insecurity and conflict in Kenya. Another recommendation is that the government needs to review the legislation on small arms and light weapons and to enhance regional cooperation in combating the illicit proliferation of small arms and light weapons in the country.

TABLE OF CONTENTS

DEDICATION	ii
ACKNOWLEDGEMENT	iii
DECLARATION	iv
LIST OF ABBREVIATIONS	v
ABSTRACT.....	vi
TABLE OF CONTENTS.....	vii
CHAPTER ONE	1
Introduction and Background to the Study	1
1.1 Contextual Background	2
1.2 Statement of the Problem.....	5
1.4 Research Questions	6
1.5Research Hypotheses	6
1.6Justification of the Study	7
1.6.1 Academic Justification.....	7
1.6.2 Policy Justification.....	7
1.7ConceptualFramework.....	9
1.8Literature Review.....	11
1.9Research Methodology	14
1.9.1 Case Study	14
1.9.2 Data Collection	14
1.9.3 Data Analysis and Presentation.....	16
1.11 The Organization of the Study.....	16
CHAPTER TWO	18
An Appraisal of the Normative and Institutional Framework on SALW	18
2.1 Introduction.....	18

2.1 Normative Frameworks on SALW	18
2.2.1 The UN Firearms Protocol	19
2.2.2 International Tracing Instrument	20
2.2.3 The United Nations Programme of Action on illicit trade in SALW.....	21
2.2.4 Challenges of implementing the UN Provisions on SALW.....	22
2.2.4.1 Theft of SALW	22
2.2.4.2 Implementation	23
2.2.4.3 Compliance	23
2.3 African Regional Agreements on control of Illicit Trade in SALW	24
2.3.1 The Nairobi Declaration and Protocol	24
2.3.2 Regional Center on Small Arms: Key Provisions.....	26
2.3.3 Challenges of Implementation of the Nairobi Protocol	28
2.3.3.1 Lack of Sufficient Human and Financial Resources.....	28
2.3.3.2 Amending and Developing Legislation	29
2.3.3.3 Poor Coordination.....	29
2.3.3.4 Unending Conflicts	30
2.3.3 Main Challenges of Implementing the Legal Provisions of SALW	31
2.3.3.1 Limited Access to Weapons and Relevant Information.....	31
2.6 National Legislation on Control of SALW: Key Provisions, Strength and Weakness	33
Case Law: National Conservative Forum versus the AG and Others	37
2.5 Conclusion	38
CHAPTER THREE	39
3.0 The Impact of Small Arms and Light Weapons in East Africa	39
3.1 Introduction.....	39
3.2 The Impact of Small Arms and Light Weapons in East Africa	40
3.2.1 Increased Insecurity Levels.....	40

3.2.2 Enhanced Illegal Cross border Activities.....	42
3.2.3 Impact on Undermining Human Rights and International Humanitarian Law	43
3.2.4 Impact on Weak Governance Structure	44
3.2.5 Increased Crimes against Women and Children	45
3.2.6 Strengthened Criminals and Criminal Organizations	46
3.2.7 Escalation and Extension of Conflicts	47
3.2.8 Economic Impact	48
3.3 Complementary Initiatives and Processes on Combating SALW	49
3.4 Challenges to reduction of SALW in East Africa.....	51
3.4.1 Inadequate Provisions on Protocol on combating SALW.....	51
3.4.2 Weak and Unbinding UN Program of Action.....	51
3.4.3 Lack of or weak Compliance of International Agreements on SALW	52
3.5 Conclusion	54
CHAPTER FOUR.....	56
Research findings on Impact of Small Arms and Light Weapons in Kenya.....	56
4.2 Impact of Small arms in Kenya: Research Findings.....	57
4.2.1 Presence of Illicit SALW in Kenya.....	60
4.2.2 How SALW get into the country	62
4.3 Conclusion	73
CHAPTER FIVE	74
Summary, Conclusion and Recommendation.....	74
5.1 Summary	74
5.2 Conclusion	75
5.3 Recommendations.....	76
BIBLIOGRAPHY	80

CHAPTER ONE

Introduction and Background to the Study

1.0 General Introduction

This is the introductory chapter to the thesis. The chapter highlights the importance of preventing the spread and diversion of small arms and light weapons to unintended people and places. The study identifies the weaknesses of the traditional small arms and light weapons control efforts which have tended to focus on the symptoms of small arms and light weapons misuse rather than the fundamental issues which cause people to procure and misuse them. Control efforts have often taken place in post-war settings and have been based on a misleading assumption that enhancing state rather than community security is the most important factor in preventing a return to conflict.

The study describes small arms as 'weapons of mass destruction.' This is because, small arms proliferation is not merely a security issue; it is also an issue of human rights and of development. The proliferation of small arms sustains and exacerbates armed conflicts. It endangers peacekeepers and humanitarian workers. It undermines respect for international humanitarian law. It threatens legitimate but weak governments and it benefits terrorists as well as the perpetrators of organized crime."

The study explains that preventing illicit arms transfers requires the adoption of policies, procedures, and practices aimed at controlling their import, export, transit, retransfer, and end use. Effective disarmament, demobilization, and reintegration (DDR) programs are essential to limiting future proliferation and misuse of small arms and light weapons.

1.1 Contextual Background

The illicit proliferation and misuse of small arms and light weapons ranks among today's most pressing security threats. Tens of thousands of people are killed or wounded each year in conflicts that are fought primarily with these weapons and in crime-ridden areas outside of conflict zones.¹ They are also the weapons of choice for terrorist's attacks. Approximately half of the international terrorist incidents documented in the 2003 Department of State report on global terrorism were perpetrated with small arms and light weapons.²

Small arms are weapons intended for use by an individual. They include pistols, rifles, submachine guns, assault rifles and light machine guns (this is UNPoA definition and will be the definition used throughout this study). Light weapons are designed for use by two or more persons serving as a crew and include heavy machine guns, grenade launchers, mortars, anti-aircraft guns and anti-tank guns, all less than 100 mm in calibre.³

Small arms are attractive tools of violence for several reasons. They are widely available, low in cost, extremely lethal, simple to use, durable, highly portable, easily concealed, and possess legitimate military, police, and civilian uses (so are present in virtually every society). These weapons are also relatively light in weight, and so can be used by the child soldiers who have played such a significant role in recent conflicts. Small arms and light weapons are used both by government forces (military and police) and non-state actors (guerrillas, ethnic militias, warlords, brigands, and so on) engaged in low-intensity conflicts.

Most small arms and light weapons would not be lethal without their ammunition. Ammunition and explosives thus form an integral part of small arms and light weapons used in conflicts. They include cartridges (rounds) for small arms, shells and missiles for light weapons,

¹Small Arms Survey, *Small Arms Survey 2002: Counting the Human Cost*. A Project of the Institute of International Studies, Geneva, 2002 pp. 11-14

²Ibid.

³Ibid.

anti-personnel and anti-tank hand grenades, landmines, explosives, and mobile containers with missiles or shells for single-action anti-aircraft and anti-tank systems that are used by civilians during war.

Traditional small arms and light weapons control efforts have tended to focus on the symptoms of small arms and light weapons misuse rather than the fundamental issues which cause people to procure and misuse them.⁴ Control efforts have often taken place in post-war settings and have been based on a misleading assumption that enhancing state rather than community security is the most important factor in preventing a return to conflict.

In addition, the weight and size of small arms makes them easy for children to use and in turn encourages the use of children as combatants.⁵ In some areas of the world children as young as eight years old have been taught how to fire an assault rifle.⁶ Not surprisingly, "hundreds of thousands of children are currently serving as child soldiers in over twenty conflicts around the world." Even more startling than the amount of children that have access to small arms are the negative emotional and psychosocial impact that it has on both the individual child and their community.⁷

The widespread availability and access to small arms often results in massive population displacement, uprooting millions of children and their families from their homes and making children more susceptible to disease, violence, military recruitment, and sexual assault. Approximately 20 million children have been displaced due to armed conflicts or sustained

⁴Michael Renner. "Arms Control Orphans," *The Bulletin of the Atomic Scientists*, Vol. 55, No. 1 (January / February 1999), p. 24

⁵Myerscough, "Challenging Conventional Threats: FY06-FY07 Budgets Show Increase," April 3, 2006 (from the Center for Defense Information).

⁶John Hillen, Testimony Before the House International Relations Subcommittee for International Terrorism and Nonproliferation, March 30, 2006.

⁷Ibid.

human rights violations. An estimated two thirds of these children are displaced within their own countries.

The negative effects of leftover weapons are felt not only in the immediate conflict area, but in neighbouring countries and regions as well.⁸ Small arms can easily spread across porous borders, igniting violence in adjacent areas. In some societies, these surplus weapons may create a "culture of violence" that traps whole populations in an endless cycle of war. As a result, the United Nations, many regional organizations, certain states, and a wide range of non-governmental organizations (NGOs) have initiated efforts to curb the global spread of small arms and to remove such weapons from areas of conflict.

Small arms proliferation has been particularly devastating in Africa, where machine guns, rifles, grenades, pistols and other small arms have killed and displaced many civilians across the continent.⁹ These weapons have been used in deadly conflicts in Sudan, Uganda, Sierra Leone, Rwanda, Angola, the Democratic Republic of Congo, Somalia and other African countries.¹⁰ They are frequently recycled from country to country, and their ownership is transferred among fighters, security forces and war profiteers.

For these reasons, it is imperative for the international community to emphasize the importance that must be placed on implementing policies that reduce and eliminate illicit trafficking of weapons, while actualizing gun safety programs for children. Some governments and organizations have taken the initiative to carry out their own disarmament processes even though they have not always proven to be completely successful.

⁸"Small Arms and Light Weapons: Controlling the Real Instruments of War," by Jeffrey Boutwell and Michael Klare, from *Arms Control Today*, August/September 1998 (with Jeffrey Boutwell).

⁹Biting the Bullet, International Action on Small Arms 2005—*Examining Implementation of the Program of Action*, International Action Network on Small Arms, July 2005, p. 251.

¹⁰Ibid.

1.2 Statement of the Problem

This study is premised on the fact that the movement of small arms across East Africa region and Kenya in particular is increasingly difficult to trace and has long-lasting effects on human security. Small arms and light weapons have been responsible for the majority of the combat deaths in recent wars and figure in much of the crime and civil violence visited upon vulnerable societies around the world.¹¹

Since the end of the Cold War, increasing international attention has been focused on problems arising from the worldwide proliferation of small arms and light weapons.¹² This is so because these weapons have been the primary tool of violence in the many ethnic and internal conflicts that have erupted in recent years.¹³

The widespread availability of small arms and light weapons has long-term pernicious effects. Even when a conflict has officially been terminated, small arms remain in the conflict zone and make it easy for fighting to recommence. Even when further combat is avoided, small arms become tools of other forms of violence, such as criminal activity, ethnic and political rivalries, and interference with efforts to deliver food, medicine, and supplies to people in dire need of relief. Refugees are often afraid to return to their homes because of the large number of weapons that remain in the hands of ex-combatants who have not been demobilized or have become affiliated with local gangs, warlords, or militias.

1.3 Objectives of the Study

The overall objective of the study is to examine the impact of small arms and light weapons on the human security in East Africa. The study therefore looks at the following specific objectives:

¹¹Oxfam International, "Towards an Arms Trade Treaty: Next Steps for the UN Programme of Action," p. 21.

¹²World Bank, "Greater Great Lakes Regional Strategy for Demobilization and Reintegration," 2002, p. 42.

¹³Fund for Peace, "Model Convention on the Registration of Arms Brokers and the Suppression of Unlicensed Arms Brokering," July 2001.

1.3.1 To examine the relevant normative and institutional frameworks to address the problem of illicit proliferation of SALW in Kenya?

1.3.2 To analyze the impact of the use of small arms and light weapons on human security in Kenya.

1.3.3 To suggest the methods that can be deployed to challenge the illicit proliferation and use of small arms and light weapons within East Africa region.

1.4 Research Questions

The main question of this study is what is the impact of small arms and light weapons on the security of East Africa region? The research answers the following specific questions:

1.4.1What is the existing normative and institutional framework on proliferation of SALW internationally and regionally?

1.4.2 Why do communities acquire small arms?

1.4.3To what extent has the illicit proliferation of SALW impacted on human security in Kenya?

1.4.4What are some of the methods that can be deployed to challenge the proliferation of small arms and light weapons in Kenya?

1.5 Research Hypotheses

This study is premised on the following hypotheses:

1.5.1 The continuous proliferation of small arms and light weapons into the hands of civilians is occasioned by weak institutional and normative framework within East Africa region

1.5.2 The illicit proliferation of small arms and light weapons has had a negative impact on peace and security of civilians in Kenya

1.6 Justification of the Study

1.6.1 Academic Justification

The rationale or philosophical underpinning this research is that the illicit proliferation and use of small arms and light weapons (SALW) fuel and prolong armed violence and support illegal activities and the emergence of violent groups. Access to illicit SALW contributes to the development of terrorism, organized crime, human trafficking, gender violence and piracy; and the diversion of weapons is closely linked to corruption and poor management practices. Both can have destabilizing effects on social, societal and economic development and can represent major challenges to regional and national security.

In many countries, stockpiles of weapons and ammunition are not always properly managed, allowing illicit access or accidents that may affect security personnel and nearby populations. Control efforts have often taken place in post-war settings and have been based on a misleading assumption that enhancing state rather than community security is the most important factor in preventing a return to conflict. Therefore, applying Disarmament, Demobilization and Reintegration (DDR) programs will enhance raising awareness on the harmful effects of small arms in the civilians in hopes of encouraging communities to turn in their weapons thus leading to a secure environment. This study will therefore recommend the best methods to be deployed in combating the illicit use of small arms and light weapons and controlling

1.6.2 Policy Justification

A build-up of small arms alone may not create the conflicts in which they are used, but their excessive accumulation and wide availability aggravates the tension. The violence becomes more lethal and lasts longer, and a sense of insecurity grows, which in turn lead to a greater demand for weapons. The study is intended to inform policy makers in the region of East Africa

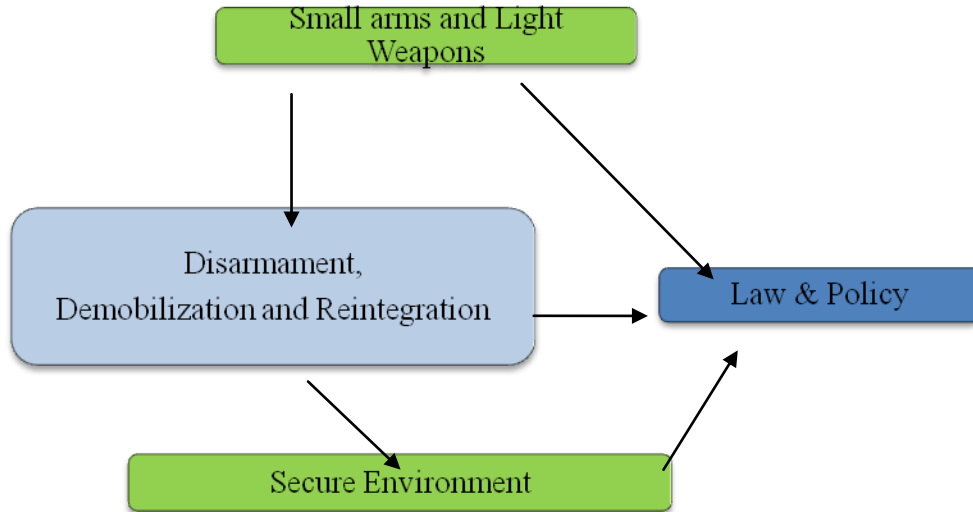
on ways of preventing the transfer of illicit arms through adoption of policies, procedures and practices aimed at controlling their import, export, transit, retransfer, and end use.

The lack of harmonized regional standards on armed groups' disarmament has hindered the cooperation of regional government to undertake joint disarmament operations within East Africa. This is due to legal and policy divergence among them and yet the proliferation of arms is not limited to national borders. There is therefore need for a coherent, harmonized and similar regional approach to the challenges of small arms and light weapons.

Small arms facilitate a vast spectrum of human rights violations, including killing, maiming, rape and other forms of sexual violence, enforced disappearance, torture, and forced recruitment of children by armed groups. More human rights abuses are committed with small arms than with any other weapon. Furthermore, where the use of armed violence becomes a means for resolving grievances and conflicts, legal and peaceful dispute resolution suffers and the rule of law cannot be upheld. The negative effects of leftover weapons are felt not only in the immediate conflict area, but in neighbouring countries and regions as well. Small arms can easily spread across porous borders, igniting violence in adjacent areas.

The proliferation of SALW) has been caused by many factors. The SALW cannot cause conflict on their own but when used by rebels, it has caused havoc, destruction of lives in the world. There are many manufacturers of SALW in the world where their market is in conflict zones of Africa, especially The Horn of Africa. The study is intended to recommend to the legislatures on the areas for reform in the normative and institutional framework on combating the illicit proliferation and use of SALW in Kenya.

1.7 Conceptual Framework



The conceptual framework of this study as represented by figure 1 above shows that for the region to attain a secure environment, there is need to apply DDR to reduce the SALW in the hands of civilians. There is a causal relationship between the three: SALW management depends on and requires DDR; DDR will intern help in enhancing security of civilians. The diagram emphasizes the centrality of law and policy in the three relationships. All the three relationships are interdependent and they all require that they be anchored on a legal and policy framework the justification of which is demonstrated by the theoretical framework of this study.

Contemporary armed conflict is the main cause of people fleeing their homes, and is now the most common cause of food insecurity. Armed violence can aggravate poverty, inhibit access to social services and divert energy and resources away from efforts to improve human development. Countries plagued by armed violence are behind in attaining the Millennium Development Goals. High levels of armed violence impede economic growth. According to the World Bank, nothing undermines investment climates as much as armed insecurity.

The Political Declaration of the 24th special session of the General Assembly on further initiatives for social development included recognition that ‘The maintenance of peace and security within and among nations, democracy, the rule of law, the promotion and protection of all human rights and fundamental freedoms, including the right to development, effective, transparent and accountable governance, gender equality, full respect for fundamental principles and rights at work and the rights of migrant workers are some of the essential elements for the realization of social and people-centred sustainable development’ (para. 5). Many of these necessary conditions—such as ensuring human rights—are universally recognized as desirable goals in themselves. As these events demonstrated, development is not possible without peace and security, but successful development also contributes to peace and security by reducing some of the tensions that give rise to conflict.

Although there are two way interactions between peace and development, resolving conflict and avoiding violence within a society are necessary preconditions for development. A primary goal of all governments has to be peace and security within their borders. In countries where there has been conflict recently, governments’ must prevent the recurrence of conflict; undertake rehabilitation and reconstruction, and rebuild society in order to ensure that development efforts yield the maximum results.

Peace in Kenya is crucial to the countries within East Africa region. Combating illicit proliferation of small arms and light weapons is therefore necessary to enhance development within the region.

1.8 Literature Review

For decades, life in the Northern parts of Kenya has been characterized by destruction and extraordinary human suffering from long and interrelated civil and inter-state wars.¹⁴ She states that the numbers of SALW that permeate this region further exacerbate the suffering of the civilian population. The proliferation of SALW stems mainly from struggles against colonialism and the Cold War. More recently, civil wars in Uganda, Ethiopia, Somalia, and Sudan have ushered in a boom in the illegal market in, and illicit use of, SALW. These weapons are now being used in conflicts over natural resources and cattle rustling, and have contributed to soaring violent crime rates in cities such as Nairobi, Mogadishu, and Kigali.

Due to porous and expansive borders, weak governments, and ineffectual national security systems, SALW are difficult to control or account for as they move within the region from one conflict to another. They filter far beyond armies and police forces to criminal organizations, private security forces, vigilante squads, and individual citizens. For example, among cross-border pastoralist communities arms are acquired overtly for security purposes but become facilitating instruments in traditional practices of livestock raiding. The use of such modern weapons has turned such traditional practices into lethal warfare. Also, as pastoral areas get saturated with arms, pastoralists themselves become suppliers of arms to non-pastoral rural areas and urban centres. Inadequate policing makes it easy for these illegal arms to circulate without being detected by law enforcement authorities. As a consequence armed criminality in urban, rural and border areas is on the increase.

¹⁴Lynne Griffiths-Fulton, "Small Arms and Light Weapons in the Horn of Africa," *The Ploughshares Monitor* Summer 2002 Volume 23 Issue 2

In her conclusion, she acknowledges that in a region of wide-ranging conflict, porous and sometimes disputed borders, and social conditions that generate the demand for SALW, no single state will make any perceptible impact on the problem by itself. An effective response to the problem of SALW requires extensive regional cooperation, and cooperation in a region of long-standing inter-state rivalries and suspicions will not be sustained without an appropriate institutional infrastructure. An increased commitment by the international community is necessary to provide technical assistance to strengthen such a structure.

Edward Mogire¹⁵ connotes that during the Cold War, arms control negotiations have focused on major weapons systems like nuclear bombs, ballistic missiles, and aircraft. This was partly because the devastation that a nuclear war could cause. However, these are not the weapons that are being used in many of today's conflicts. He states that, today's conflicts now depend almost entirely on small arms and light weapons. Therefore to reduce armed conflict and global insecurity, there is need to focus attention on these weapons. The lethal nature of these weapons together with their ready availability and ease of handling is at the root of the small arms problem. Consequently the problem has acquired greater international attention.

He further acknowledges that the uncontrolled proliferation and stockpiling of small arms and light weapons (SALW) before, during and following violent conflicts has led to many regions being flooded with small arms with devastating consequences on individual (human), national and international security. SALW are the primary instruments of violence, have prolonged or aggravated conflicts, produced massive flows of refugees, undermined the rule of law and spawned a culture of violence and impunity. It is in this context that the impact on security can be analysed.

¹⁵The Article, "The Humanitarian Impact of Small Arms and Light Weapons and the Threat to Security" Available on line at http://www.desarme.org/publique/media/In%20The%20Line%20Of%20Fire_ing.pdf.

In a briefing Paper for the UN Biennial Meeting entitled *Small Arms Small Arms and Human Rights: The Need for Global Action*¹⁶ Human Rights Watch argues that the uncontrolled proliferation and widespread misuse of small arms represents a global human rights crisis by facilitating countless human rights abuses and violations of international humanitarian law. Small arms-aided abuses by either governments or private actors occur in wartime, post-conflict settings, and in countries not at war. These violations include the deliberate targeting of civilians or other non-combatants, and indiscriminate attacks likely to disproportionately harm civilians and torture.

In post conflict situations the widespread availability of small arms has greatly added to the death toll. Particularly where security is weak, former combatants have not been disarmed, and abusive actors have not been held accountable for past behaviour, a situation of lawlessness can emerge where civilians are at grave risk. Even in countries nominally at peace, the misuse of small arms accounts for many serious human rights abuses. Small arms confer power, even without being fired. The coercive potential of these weapons, when exploited by abusive government agents, can enable human rights abuses such as torture, rape, intimidation, and looting.

Wepundi Manase¹⁷ stipulates that Kenya has contended with the challenges of illicit small arms possession and usage for decades. While small arms possession in Kenya predates colonialism (especially in the pastoralist north), urban gun problems can be traced way back to

¹⁶Human rights Watch. *Playing With Fire: Weapons Proliferation, Political Violence, and Human Rights in Kenya*. Human Rights Watch, New York May 2010

¹⁷Wepundi, Manasseh (2011) *An Analysis of Disarmament Experiences in Kenya*. Regional Centre on Small Arms (RECSA) Nairobi, RECSA

the anti-colonial struggle in central Kenya (including Nairobi) during the 1950s. As such, small arms areas much a present challenge as they have been a historical one.

He further acknowledges that the manifestation of the challenges of averse SALW has been such that they have presented not only a security challenge to the authority of the state (although this was largely limited to Northern Frontier districts), but also have presented a problem of law enforcement. Non-state actors who have come into possession of illicit SALWs have mainly used them to perpetuate crime and criminality in both urban and rural areas. In many parts of Kenya – especially the northern regions - SALW have been widely used to perpetuate conflicts. This has had adverse negative effects on not only the economic wellbeing of the population, but also social, cultural, and political factors in Kenya.

It is his view that although the Kenya Government has focused most of its disarmament operations in pastoralist areas, arms are increasingly posing significant socio-economic, political and security risks countrywide. This necessitates a rethink about government approaches, which should be less coercive and more strategic. Strengthening the capacities of law enforcement agencies, designing arms reduction strategies that include civil society actors and the public, and designing institutional guiding frameworks are some ways the government can approach disarmament.

1.9 Research Methodology

This study adopted various research methods. It involved qualitative research methods on case study, data collection and literature review.

1.9.1 Case Study

This study adopted the case study of Kenya which is within East Africa region. Case studies provide a means for highlighting and extracting practical principles and methods for

shaping and accelerating progress in solving wicked real world problems. They inform burgeoning theories such as those associated with complex systems engineering where people are considered part of the system to be conceived, developed, fielded, and operated; or extant systems targeted for improvement upgrades.

1.9.2 Data Collection

This study was based on both primary and secondary data. The researcher undertook an in-depth analysis of literature review of relevant secondary data sources such as policy papers, official documents, reports, journals, magazines, newspapers, periodicals and other published works. The aim was to collect relevant written information to address the security issues brought about through the proliferation of SALW.

The researcher also administered questionnaires to various respondents. Two sets of questionnaires were drawn; one for individuals and the other for institutional respondents. Face to face and telephone interviews were also administered. Questionnaires and interviews formed primary data. Also the research benefitted from information of various institutions that are contained on their respective websites.

In conducting the interviews, the sample size was limited to the general public living within Nairobi in areas that are prone to insecurity due to small arms and light weapons such as Kibera, East lands, Kawangware; and institutions that deal with security issues within Nairobi County such as the National Police service; different private security companies such as Lavington security firm. The selection of Nairobi County owed to time and financial constraints. However, the field research benefitted immensely literature review of relevant secondary data stated above.

1.9.3 Data Analysis and Presentation

Data was analyzed using quantitative and qualitative. The quantitative analysis mainly focused on using descriptive statistics. SPSS and Microsoft office excel was used in the data analysis and study findings represented in tables and charts for clear visualization.

1.10 Scope and Limitation

The principal challenges in this study were finances and time to conduct data collection within the country. However, these problems were overcome by making optimum use of the internet resources in accessing the materials not locally available and on literature review of previous studies.

The study also faced financial constraints given the need to access materials from abroad and to administer field questionnaires which involved a considerable expense. This challenge was also overcome by restricting the data sample size to Nairobi area which is the capital city of Kenya.

1.11 The Organization of the Study

The thesis adopted the following chapter breakdown:

Chapter one is the introductory chapter to the thesis and comprises of a general introduction to the research, statement of the research problem, objective of the study, rationale of the study, research questions, theoretical framework within which the research was carried out, methodology applied, limitations and assumptions of the study, time schedule, and chapter summary and breakdown. Chapter two looks at the legal framework on SALW at the international level and within East Africa region. The chapter looks at the international and regional instruments that enhance the control over SALW and combat their illicit manufacture, trafficking and circulation. These international instruments include specific provisions and recommendations that states are considering in regulating SALW. Special attention will be made

on the legislation on specific East African country on combating SALW. Judicial pronouncements on SALW are also drawn in this chapter.

Chapter three addresses the impact of SALW in East Africa region. These will be the physical, social and economical impact. Attention will be drawn to the impact of SALW on security to specific member country. Chapter four addresses the impact of small arms and light weapons in Kenya. The chapter also includes the research findings on the impact of the proliferation of SALW in Kenya. Chapter five sets out the conclusion and recommendations to the study. The chapter covers in particular some of the approaches that can be used to challenge the proliferation of small arms and light weapons within East Africa region.

CHAPTER TWO

An Appraisal of the Normative and Institutional Framework on SALW

2.1 Introduction

This chapter looks at the legal framework on SALW at the international level and within East Africa region. The chapter addresses the international and regional instruments that enhance the control over SALW and combat their illicit manufacture, trafficking and circulation. These international instruments will include specific provisions and recommendations that states are considering in regulating SALW. Special attention will be made on the legislation on specific East African country on combating SALW. Judicial pronouncements on SALW will also be drawn in this chapter.

2.1 Normative Frameworks on SALW

The most relevant normative frameworks adopted over the last decades to curb the illicit proliferation and illegal trade weapons do contain several references to marking, record-keeping and tracing of small arms and light weapons (SALW). However only two international instruments establish *specific* and *detailed* provisions which States are compelled to implement in that regard, i.e. the *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their parts and Components and Ammunition, supplementing the United Nations Convention against Trans-national Organized Crime* (hereafter: Firearms Protocol)¹⁸ and the *International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, illicit Small Arms and Light Weapons* (hereafter: ITI).¹⁹

Concerned about the proliferation of SALW and its consequences, UN Member States agreed on a number of international and regional instruments to enhance control over SALW and

¹⁸ The full text of the Protocol is available on <http://www.unodc.org/documents/treaties/UNTOC/Publications/A-RES%2055-255/55r255e.pdf>.

¹⁹ The full text of the Instrument is available on <https://www.unodc.org/documents/organized-crime/Firearms/ITI.pdf>

combat their illicit manufacturing, trafficking and circulation. These international instruments include specific provisions and recommendations for States to consider when regulating arms brokering.

2.2.1 The UN Firearms Protocol

The UN Firearms Protocol supplemented the UN Convention against Transnational Organized Crime. It was adopted in 2001 with a view to preventing and combating illicit manufacturing and trafficking in firearms, their parts, components and ammunition. It stipulates that States Parties to the Protocol shall consider establishing a system for regulating the activities of those who engage in brokering by requiring, for example: (1) registration of brokers operating within their territory; (2) licensing or authorization of brokering; and (3) disclosure on import and export licenses or authorizations, or accompanying documents, of the names and locations of brokers involved in the transaction.

It is equally worth noting that the Protocol's scope includes, in addition to firearms, their components and their ammunition, as well as a set of provisions to enhance information sharing, capacity building, investigation and prosecution of firearms-related offences, and this is in addition to regional and international cooperation. Among other things, parties to the Protocol are committed to adopting strict legislation to prevent, investigate and prosecute offences related to the illicit manufacturing of and trafficking in firearms;²⁰ to establish and maintain national firearms records for at least ten years;²¹ to establish licensing systems for the export and import of

²⁰ Provisions on the criminalization of the illicit manufacture and transfer of firearms are established in articles 4 (paragraph 1), 5 and 12 (paragraph 3) of the Protocol.

²¹ Provisions on record-keeping are contained in article 7 of the Protocol

firearms, their components and ammunition;²² and to apply marking of firearms to ensure the identification of the manufacturer, the year of manufacture and the country of origin.²³

Article 7 in footnote 4 above establishes that “Each State Party shall ensure the maintenance, for not less than ten years, of information in relation to firearms and, where appropriate and feasible, their parts and components and ammunition that is necessary to trace and identify those firearms and, where appropriate and feasible, their parts and components and ammunition which are illicitly manufactured or trafficked and to prevent and detect such activities”. This provisions good on paper as it does not give any sanction for non-compliance on the same.

2.2.2 International Tracing Instrument

Endorsed as a politically binding instrument (and thus not legally binding), the ITI is the result of several years of negotiations. This political instrument was finally adopted by the UN General Assembly in December 2005 and sets unprecedented commonly accepted standards in terms of SALW marking. Despite the fact that this instrument represents an important step in the international strategy against illicit SALW, the ITI’s scope – which reflects the arduousness of the negotiation process and the relatively weak level of consensus among negotiating States – is rather limited by the fact that it simply defines marking and record-keeping as “national prerogatives”.²⁴ The article calls States

“to ensure that, whatever method is used, all marks required under this instrument are on an exposed surface, conspicuous without technical aids or tools, easily recognizable, readable, durable and, as far as technically possible, recoverable”, while article 11 encourages States to “ensure that accurate and comprehensive records are established for all marked SALW within their territory and maintained

²²These aspects are developed, in particular, in article 10 of the Protocol (entitled “*General requirements for export, import and transit licensing or authorization systems*”)

²³Provisions established by article 8 of the Protocol.

²⁴Article 7 of the ITI.

in order to enable their competent national authorities to trace illicit SALW in a timely and reliable manner”.

It contains no specific provision on how tracing should be conducted in practice; it formally excludes ammunition from its scope of application; and it fails to establish any specific implementation mechanism. As outlined in a number of relevant publications, the implementation of the ITI remains limited because of a number of technical and institutional reasons, many of which were discussed by States in the framework of the open-ended working group that was established in 2011 to prepare the second UN PoA Review Conference. It is also worth mentioning that, even though the ITI does not explicitly set any obligation for States to deal with tracing requests from non-State entities, it does not formally exclude this possibility either. Thus, States are allowed to fulfil tracing requests from actors which do not belong to State institutions or do not operate under a governmental mandate.

2.2.3 The United Nations Programme of Action on illicit trade in SALW

The United Nations has played a significant role in international efforts to curb the spread of small arms and light weapons.²⁵ A major focus of the United Nation's work on small arms was the July 2001 U.N. Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, held in New York City on July 9-20, 2001. This conference assessed the impact of illicit arms trafficking on international peace and security, and proposed steps that can be taken to curb this trade. The final outcome of the UN Conference was the adoption of a Programme of Action, a non-binding political declaration of member states' commitments on national, regional, and global actions and responsibilities on small arms.²⁶

²⁵Reyneke, Eunice. Small Weapons and Light Weapons in Africa: Illicit Proliferation, Circulation and Trafficking. Proceedings of the OAU Experts Meeting and International Consultation May-June 2000. Institute for Security Studies, South Africa.

²⁶Schroeder, Matt and Lamb, Guy (2006) 'the Illicit Arms Trade in Africa: a Global Enterprise'. African Analyst Quarterly, Autumn 2006, pp. 69-78.

The UNPoA contains a wide range of political undertakings and concrete measures to tackle the illicit trade in SALW at the national, regional and global levels.²⁷ With regard to brokering in particular, the UNPoA calls upon States to develop adequate national legislation or administrative procedures to regulate the activities of those who engage in SALW brokering.²⁸ According to the UNPoA, the legislation and procedures should include measures such as registration of brokers, licensing or authorization of brokering transactions, as well as appropriate penalties for all illicit brokering activities performed within the jurisdiction and control of the State concerned.

Despite its limitations, the UNPoA has boosted international efforts to stem the uncontrolled proliferation and misuse of these deadly weapons. These efforts include increasing the number of signatories to relevant treaties, drafting best practice guidelines, destroying surplus stockpiles, strengthening national laws, and heightening awareness of the issue. Progress has been pronounced in certain areas. Particularly noteworthy is the U.S.-led global campaign to eradicate the illicit trade in Man-Portable Air Defense Systems (MANPADS).²⁹

2.2.4 Challenges of implementing the UN Provisions on SALW

2.2.4.1 Theft of SALW

There are reports of lost, stolen, and diverted small arms and light weapons are daily reminders of the continued prevalence of weak export controls, poor stockpile security practices, and inadequate or nonexistent border security. Particularly disheartening are arms shipments to

²⁷Oxfam International Africa's Missing Billions: International Arms Flows and the Cost of Conflict. Briefing Paper 107, p. 9

²⁸Ibid

²⁹Bureau of Political-Military Affairs and Bureau of International Security and Non-proliferation, U.S. Department of State, "The MANPADS Menace: Combating the Threat to Global Aviation From Man-Portable Air Defense Systems," September 20, 2005 (fact sheet).

war zones and dictators.³⁰ Since 2001, UN investigators have documented numerous violations of arms embargoes on governments and armed groups in Liberia, Sierra Leone, the Sudan, the Democratic Republic of Congo, and Somalia.³¹ However, the legislation does not effectively address these challenges and there are no recommendations on sealing the loopholes that lead to the stealing of the SALW.

2.2.4.2 Implementation

Reining in the illicit trade requires a global recommitment to implementing the PoA. Thus far, implementation has been very uneven. Some countries have fulfilled most of their obligations, while others have yet to satisfy even the most basic requirements.³² There is therefore need to systematically assess implementation of the PoA to date, identify shortcomings in national and international implementation, and develop a road map—formal or informal—for addressing these shortcomings.³³

2.2.4.3 Compliance

Although many African countries have supported these international initiatives, compliance is often weak. A lack of resources undermines the response to the small arms problem and the ability to implement international agreements and obligations. Programmatic initiatives – such as DDR, weapons collection, destruction programmes and physical stockpile security management (PSSM) – are expensive, and may require bilateral or multilateral support.

³⁰KiflemariamGebre-Wold, et al., "Brief 23: Small Arms in Africa: Challenges, Issues and Perspectives," Bonn: BICC, 2002, pg. 13.

³¹Rachel Stohl, "United States Weakens Outcome of UN Small Arms and Light Weapons Conference," *Arms Control Today*, September 2001, p. 34.

³²Lamb, Guy (2008) 'Under the Gun': An Assessment of Firearm Crime and Violence in South Africa. Institute for Security Studies, p. 7.

³³Human Rights First (March 2008) Investing in Tragedy: China's Money, Arms, and Politics in Sudan and Amnesty International (2008) Blood at the Crossroads: Making the Case for a Global Arms Trade Treaty.

Indeed, UN agencies, the European Union and the US are among the largest supporters of African small arms programmes.

2.3 African Regional Agreements on control of Illicit Trade in SALW

Small arms proliferation has been particularly devastating in Africa, where machine guns, rifles, grenades, pistols and other small arms have killed and displaced many civilians across the continent. These weapons have been used in deadly conflicts in Sudan, Uganda, Sierra Leone, Rwanda, Angola, the Democratic Republic of Congo, Somalia and other African countries. They are frequently recycled from country to country, and their ownership is transferred among fighters, security forces and war profiteers.

Some African regions have adopted regional policies to fight the proliferation of small arms. These instruments contain very strong references to the need not to transfer arms where they risk being used in breach of international humanitarian law (IHL). These instruments are also legally-binding. These instruments include: the Bamako declaration, the Nairobi declaration, the ECOWAS Convention on SALW, the SADC Protocol on the control of Firearms, Ammunition and Related Materials.

2.3.1 The Nairobi Declaration and Protocol

On March 15th 2000 Foreign Affairs Ministers from 11 countries from the Great Lakes and Horn of Africa regions signed what is known as the Nairobi Declaration. This is basically a policy document outlining how governments should cooperate to fight the illegal proliferation of small arms.

In April 2004, 11 countries from the Great Lakes and Horn of Africa region adopted the Nairobi Protocol for the Prevention, Control and Reduction of SALW.³⁴ The regional secretariat is RECSA which is based in Nairobi.

The Nairobi Protocol requires the registering of brokers operating within the territories of the States Parties. Furthermore, it requires all registered brokers to seek and obtain authorization for each individual transaction. The Nairobi Protocol also establishes that all brokering transactions shall provide full disclosure on import and export licences or authorization and accompanying documents of the names and locations of all brokers involved in the transaction. Moreover, the Nairobi Protocol includes a provision for checking regularly and randomly on brokers.

In this protocol, States Parties agree to control and regulate the transfer, possession, storage, disposal and destruction of small arms and light weapons. They also agree to adopt legislative measures, facilitate information exchange and improve operational capacity to counter the proliferation of small arms and light weapons.

The objectives of the protocol are:³⁵ To prevent, combat and eradicate the illicit manufacture, trafficking, possession, use and excessive and destabilizing accumulation of small arms and light weapons in the sub-region; to promote information-sharing and cooperation between governments in the sub-region in matters relating to the illicit trafficking and proliferation of small arms and light weapons; to promote cooperation at the sub-regional level to combat effectively the small arms and light weapons problem, in collaboration with relevant Partners; to encourage accountability, law enforcement and efficient control and management of small arms and light weapons held by states parties and civilians.

³⁴The Nairobi Protocol states are: Burundi, DRC, Djibouti, Ethiopia, Eritrea, Kenya, Rwanda, Seychelles, Sudan, Tanzania and Uganda.

³⁵Ibid.

The key elements of the protocol are: Reviewing and harmonising legislation governing the control of firearms, including controls over civilian possession of SALW; Improving the operational capacity of law enforcement agencies; The collection, destruction and disposal of SALW; Tightening controls and ensuring accountability overstate-owned stockpiles of weapons; Raising public awareness of the negative impacts of SALW proliferation; Marking, tracing and record-keeping of SALW; Establishing effective import, export, and licensing systems; and Establishing systems for regulating dealers, brokers and brokering in SALW

Since the Nairobi Protocol entered into force in 2000, States Parties have considered reviewing their SALW legislation in light of the provisions of the Nairobi Protocol. While some of these countries (Rwanda and Burundi) have already enacted new legislation that contains provisions on brokering, others are still addressing the issue at the policy level or are envisaging a comprehensive review of their national legislation.³⁶

Therefore, the target countries have thus far only partly fulfilled their obligations in brokering control set forth by the international and regional instruments. Without the relevant legal provisions that oblige brokers to register, control mechanisms such as the register of brokers can hardly be effective. In addition to the legal framework, specific regulations and administrative procedures need to be formulated to ensure effective functioning of the control mechanisms. For instance, minimum requirements for accepting licence applications need to be established.

2.3.2 Regional Center on Small Arms: Key Provisions

The Regional Centre on Small Arms assists the Member States of the *Nairobi Declaration on the Problem of Illicit Small Arms and Light Weapons in the Great Lakes Region*

³⁶Frey, Barbara (2004), *The Question of the Trade, Carrying and Use of Small Arms and Light Weapons in the Context of Human Rights and Humanitarian Norms*, Working Paper submitted in accordance with Sub-Commission decisions 2002/120, para. 46

and the Horn of Africa, which was signed on 15th March 2000 by the Ministers of Foreign Affairs and/or Representatives of the Governments of Burundi, DRC, Djibouti, Ethiopia, Eritrea, Kenya, Rwanda, Sudan, Tanzania and Uganda. The Member States, with the addition of the Seychelles, then agreed the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region, the Horn of Africa and Bordering States on 21st April 2004, which entered into force on 5 May 2006 as a legally binding instrument.³⁷

The Protocol requires certain national legislative measures, the strengthening of operational capacity and sufficient measures to control SALW both state-owned and in civilian possession. Other provisions cover tracing, safe disposal, transfer of SALW and brokering. The Member States agree to cooperate in terms of mutual legal assistance, law enforcement and transparency, information exchange and harmonization.

RECSA is an inter-governmental legal entity with an international juridical personality. The centre works with National Focal Points in an effort to fulfil the major objectives of the Nairobi initiative: reducing the proliferation of illicit small arms and light weapons which contributes to prolonged conflicts, political instability and violent crime, pursuing peaceful resolutions to conflicts in the region and improving regulation of the possession and transfer of small arms to promote human security.

RECSA has highlighted several areas as key to the successful implementation of the Declaration: coordinated national inter-agency action, police and law enforcement capacity building, the development of partnerships between governments, civil society and donor

³⁷Somalia joined as the twelfth member state in 2005.

agencies and the raising of public awareness on the problem of small arms proliferation. RECSA has been assisting Member States on the development of National Action Plans on small arms.

RECSA directed the development of the *Best Practice Guidelines for the Implementation of the Nairobi Declaration and the Nairobi Protocol on SALW*, approved by the Third Ministerial Review Conference in June 2005. The guide sets out general operational guidelines and procedures on all aspects of small arms and light weapons, to contribute to the development of policy and the review of national legislation. It builds on the principles elaborated in relevant international and regional instruments on small arms and light weapons, the Nairobi Declaration and the Nairobi Protocol and the work done in 5 Best Practice workshops held by the Member States and the Nairobi Secretariat (RECSA).

The key issues covered are stockpile management, import, export and transfer, tracing and brokering, public awareness raising, collection, disposal and destruction and mutual legal assistance and operational capacity. These guidelines have been considered, by members of the international community, as comprehensive and as going beyond the measures to strengthen the implementation process of the United Nations Programme of Action on illicit use of SALW.

2.3.3 Challenges of Implementation of the Nairobi Protocol

The implementation of the Nairobi Protocol faces a number of challenges. These include:

2.3.3.1 Lack of Sufficient Human and Financial Resources

The lack of human and financial resources in many states, in addition to conflicting priorities, continues to hinder any significant progress. Since its inception, RECSA has been dependent on foreign donors, such as the governments of the Netherlands, United Kingdom and the United States. Some non-governmental organisations have also assisted RECSA with the

implementation of its extensive mandate. This is problematic, since it is at the national level that change must take place if the implementation of the Nairobi Protocol is to take place.

2.3.3.2 Amending and Developing Legislation

Amending and developing legislation is a major challenge, since many states have outdated firearms laws. Lack of capacity, technical knowledge and political will have prevented measurable progress in amending or adopting legislation. The provisions of the protocol require states to develop legislation covering a broad range of issues. These include: Legislation pertaining to the importing and exporting of firearms; Legislation restricting the number and type of firearms civilians may possess; Legislation regulating the brokering, dealing and manufacturing of firearms; Legislation on the marking, seizure and confiscation of firearms; and Criminalising all illicit firearms-related activities.

Despite the existence of Legal Drafting Committees in almost all of the member states to the Nairobi Protocol, measurable progress in amending or adopting new firearms legislation to cover all aspects outlined in the protocol is yet to be effected. This can be attributed to a number of reasons, including a lack of capacity, technical knowledge and even a lack of political will. African states face a wide range of challenges and amending firearms legislation may not be a high priority for a particular government, which makes any advancement of the process difficult. RECSA is, however, actively providing states with technical legal assistance and feedback on legislative issues in order to encourage advancement of the process.

2.3.3.3 Poor Coordination

Another obstacle faced by states in the region is that, in many instances, a single person is responsible for coordinating all the activities of an NFP. Furthermore, the designated person often has additional policing duties alongside those of the NFP. Given the various government

departments that comprise many focal points, it can be difficult for NFP coordinators to obtain consensus on issues and bring about significant progress.

While the involvement of all relevant departments in matters such as the development of NAPs is essential, the day-to-day running of NFPs should be left to departments that deal primarily with matters of internal security, such as the police and department of defence. Given the various government departments that comprise many NFPs, it can be difficult for coordinators to bring about significant progress.

Appointed persons in other relevant departments should be available for consultation when needed. Mandating a few key persons to carry out the daily functions of the NFP and ensuring that they have the necessary resources to do so would ensure that they are more functional and able to carry out implementation measures more efficiently than a single person trying to steer a number of departments with different agendas and mandates

2.3.3.4 Unending Conflicts

A number of states in the region are in conflict situations, which creates demand for SALW. These conflicts complicate arms control efforts, particularly since many of them spill across state borders, making it difficult to regulate the flow of weapons.

States in post-conflict situations face the additional challenge of addressing the excess accumulation of SALW within their borders from the period of conflict. Conflict stimulates the demand for SALW, not only amongst those involved in the conflict, but also amongst members of the civilian population who acquire SALW for self-defence during a conflict. As a result,

large numbers of weapons are circulated within a country and across its borders during conflict and post-conflict periods.³⁸

States attempting to control the proliferation of SALW within their borders bear the heavy burden of ensuring that large numbers of SALW are removed from circulation during the post-conflict period to ensure that they are not used to fuel future conflicts. In addition to this, states need to promote a sense of security amongst the civilian population and address the root causes of the conflict in their region to encourage disarmament and minimise the chances of rearmament.³⁹

2.3.3 Main Challenges of Implementing the Legal Provisions of SALW

The tracing process that applies to weapons used in violent conflicts generally faces a number of practical challenges; while some are identical to those experienced by law enforcement investigators, others are, despite convergences in the approach and in the methodology, specific to the environment of armed conflicts. Among the most significant challenges faced, it is worth underlining the following:

2.3.3.1 Limited Access to Weapons and Relevant Information.

Arms to be traced in conflict zones are rarely readily available and, as many practitioners admit, obtaining authorization to access the arms in order to conduct proper physical examinations often represents a time and effort-consuming dimension of the exercise. This is so, not only for merely logistical- or protection-related issues. This is, in many cases, and for reasons that are easy to understand, due to belligerent parties that are not inclined to authorize access to

³⁸Nicholas Marsh, *Disarm or Perish: Is Disarmament a Necessary Condition for Peace?*, Unpublished paper, Norway: Prio, 2007.

³⁹Recognising the negative impact of SALW on sustainable development, the Geneva Declaration was adopted in June 2006 by a number of states that ‘resolved to promote sustainable security and a culture of peace by taking action to reduce armed violence and its negative impact on socio-economic and human development’ through various practical measures at the national, regional and multiregional levels (Geneva Declaration 2008).

their stockpiles and the conditions of inspections therefore need to be thoroughly negotiated by the external observers. In addition – and contrary to what occurs in criminal justice investigations in which firearms, when seized, are directly available to investigators who can conduct as many successive examinations as necessary – access to weapons used in armed conflicts can rarely be scrutinized twice. This is not only because of the difficulty of obtaining the concerned parties’ authorization more than once (as even once is sometimes challenging), but it is also because they can be moved from one location to another in accordance with the tactical needs of the weapons owners and with no prior notification.

2.3.3.2 Total dependency on the concerned parties’ cooperation.

Unlike law enforcement agencies, all the entities conducting tracing of weapons in conflict-affected areas (UN Security Council’s monitoring groups or non-governmental researchers) cannot exert any form of legal authority on the parties owning or using the weapons that must be traced. As a result, their chances of success critically depend on the concerned parties’ (States or non-State armed groups) willingness and availability to genuinely cooperate. Due to the legal weakness of their mandate, investigators focusing their efforts in conflict zones also need to liaise with a relatively elevated number of interlocutors before being able to physically conduct inspections, as they need to seek clearances and support from the different relevant authorities who can guarantee a sufficient level of access to the stockpiles to be traced.

2.3.3.3 The Weak Legal Status of the Investigators.

Entities tracing conflict weapons (including the United Nations’ Panels of Experts) cannot avail themselves of a clear legal status. They are thus compelled to operate in what could be considered a “legal grey area”. As an immediate consequence of this statutory limitation, they critically depend on the voluntary cooperation of the relevant actors and can access and benefit

from existing tracing tools (for example INTERPOL-developed tools that are strictly reserved for use by national law enforcement agencies of the organization's Member States) only when specific frameworks of bilateral cooperation are negotiated and established for each individual case.⁴⁰ This issue appears to be particularly important, especially since the information needed to trace conflict weapons is often spread out in different states and concern equipment that, during its life cycle, is likely to have changed custody several times.

2.3.3.4. Limited Technical and Investigation Capacity.

The experiences of the last decades of weapons tracing suggest that a considerable proportion of tracing initiatives were unsuccessful because of the inaccuracy of the information reflected in the initial requests circulated by the investigators.⁴¹ This challenge does not only refer to tracing requests produced by UN Panel of Experts, NGOs' investigators, journalists, or other members of civil society, but it equally refers to those undertaken by law enforcement agencies

2.6 National Legislation on Control of SALW: Key Provisions, Strength and Weakness

Although international legally binding instruments and political declarations on SALW control have drawn attention to the issue of brokering, few countries have developed specific legislation or introduced effective controls to regulate arms brokers and their activities. The above-mentioned agreements require national legislation for them to have an effect, and it is even more helpful if those laws are harmonized between states. Even if they are not part of a

⁴⁰UNSC Panels of Experts, for instance, are not considered UN entities, since they are composed of non-UN personnel. As a result, Panels need to negotiate individual cooperation frameworks even when information-sharing and cooperation agreements between the Organization of the United Nations and relevant entities already exist.

⁴¹This aspect was explicitly discussed during the consultations held within the framework of the *Open Ended Group of Governmental Experts* that specifically focused on the implementation of the ITI in May 2011.

sub-regional agreement, governments should take action to ensure responsible use and trade, and institute programs to amount of weapons in circulation.

In the absence of national brokering legislation, concerned actors are currently operating in uncertainty. They do not know whether their activities are illicit or even illegal. Furthermore, insufficient legislation helped create various misconceptions about brokering among law enforcement officers, private security companies, dealers and other actors.

Four issues distinguish the question of the control of small arms and light weapons from other arms control issues, thus complicating their legal regulation: a lack of institutional mechanisms, while the few existing regimes aimed at control are relatively weak; the distinction between legitimate users of this category of weapons, the security forces of states, and the illicit proliferation that takes place outside the state system, is a problem that must be addressed; consequently, the solution does not lie in outlawing such arms, as was the case with landmines;⁴² the involvement of non-state or sub state actors operating outside the state system in illicit proliferation - ethnic and dissident groups, private commercial concerns, terrorist groups, rebel movements, irregular forces, private security companies and mercenaries - which has seriously undermined the state's traditional monopoly over the legitimate use of force to provide internal security and defence from external threats; and the linkage between armed conflict over the control of resources and the trafficking in small arms and light weapons.

Therefore, the target countries have thus far only partly fulfilled their obligations in brokering control set forth by the international and regional instruments. Without the relevant legal provisions that oblige brokers to register, control mechanisms such as the register of brokers can hardly be effective.

⁴²J Boulden, Arms Control Continuums: Connecting the Small Arms Debate to Nuclear Arms Control, *African Security Review* 10(1), 2001.

The Burundian Law sets up minimum requirements to conduct brokering activities. However, the Law does not mention the need to regulate financiers and transporters through licensing as in Article 11 of the Nairobi Protocol. This could be related to the fact that the Nairobi Protocol fails to define these two categories of actors, or because these activities are considered to fall within the scope of brokering services. Similarly, the Law does not require carrying out regular and random checks on brokers, as stipulated in Article 11 of the Nairobi Protocol. This would permit brokers' activities to be monitored on a regular basis while updating the registered data at the same time.

Rwandan legislation has undergone a series of amendments. Rwandan legislation addresses the main elements for brokering controls stipulated in the Nairobi Protocol. However, Articles 60 and 61 of the current Law are not precise in describing the requirements for obtaining a broker's licence or special authorization. Despite several revisions, some gaps remained in the firearms legislation concerning the civilian acquisition of arms and ammunition, registration and marking, import and export licensing, as well as brokering. In order to effectively control Rwandan brokers, these requirements need to be further developed through regulations and administrative procedures.

Rwandan law also differs from the Nairobi Protocol in some respects. First, the Protocol is specific on SALW brokering while Rwandan law addresses brokering of arms, ammunitions and other related material in more general terms. Second, the Rwandan law does not clearly specify financiers as brokers. Third, Rwandan legislation emphasizes importers, exporters and carriers. From reading the current law it may seem that brokers are only engaged in import or export transactions. The Nairobi Protocol, on the other hand, defines brokers more generally as facilitators of arms deals.

Three Tanzanian laws currently regulate the circulation of firearms in the hands of civilians and state offices. While none of the existing laws explicitly address brokering as such, some can be used to regulate brokers when they are applied to all actors handling arms. To date, there is no law in place to empower law enforcement agencies to regulate brokers. However, Tanzania has begun to draft regulations to replace the existing legislation. Tanzania has been encouraged to comply with the Nairobi Protocol through such measures as registration of brokers, licensing for brokering transactions, and penalties for illicit brokering activities.

SALW regulation in Uganda is based on the Firearms Act of 1970. Its Chapter 299 regulates the purchase, possession, manufacture and sale of firearms and ammunitions. The Firearms Act covers the regulation of all actors involved in the arms business (notably dealers) but remains silent on brokers.⁴³ However, just like in Kenya, legally recognized dealers in Uganda also engage in brokering transactions. In order to comply with regional and international obligations, Uganda is currently reviewing its firearms legislation to be in line with the international instruments.⁴⁴

In addition to the legal framework, specific regulations and administrative procedures need to be formulated to ensure effective functioning of the control mechanisms need to be established. Illicit arms brokers exploit legal loopholes and often operate within a network of front companies and subcontractors. They falsify documents, use complex transportation routes, and associate themselves with organized crime structures and corrupt government officials. Their transactions are opaque and can hinder law enforcement structures from tracing their activities

⁴³Collier, Paul et al (2003) *Breaking the Conflict Trap: Civil War and Development Policy*. World Bank, p. 17.

⁴⁴Mirzeler, Mustapha & Crawford Young. "Pastoral Politics in the North East in Uganda: AK47 as Change Agent," *Journal of Modern African Studies*, vol. 38, no. 3, 2006.

Case Law: National Conservative Forum versus the AG and Others⁴⁵

The Petitioner, **National Conservative Forum**, was an organization which allegedly fosters substantive dialogue on political, economic and cultural issues in Kenya and also creates awareness on those issues. It filed this Petition challenging the alleged failure of Government authorities to act decisively to combat the spread and use of small arms such as pangas (machetes), bows, arrows and specifically, firearms illegally in the hands of civilians. It contended that there are an estimated 530,000-680,000 firearms in the wrong hands in Kenya and that their illegal use has arisen to alarmingly high levels during the past decade, a trend blamed on the easy availability of mostly pistols and assault rifles and also the armed conflicts in the Horn of Africa especially in Somalia, Ethiopia and the Great Lakes Region.

It was the Petitioner's contention that Kenyans are paying a heavy security price from proliferation of small arms and light weapons and that there is need for the Government to arrest the horrific developments being witnessed and specifically conduct an urgent and thorough mop-up of guns and other related weapons found in the wrong hands in the Country.

The respondents contended that the petitioner has not raised substantive issues as to how his constitutional rights have been infringed. That the Petitioners have merely generalized the complaint about the bad security situation in the country without any particulars thereof as required by Law.

They further contend that disarmament and peace initiatives by the Government have been taking place in North Eastern Kenya and between the Turkana and Pokot communities and that in any event, the maintenance of law and order is a continuous exercise by the Government and

⁴⁵Petition no. 438 of 2013, available at eKLR, accessed on 5th August, 2015

cannot be a one-off exercise to be ordered by the Court. They urge therefore that the Government should be left to continue undertaking that duty without interference.

Even though the court dismissed the petition, Justice Lenaola noted that security is an important matter for the individual, the community and the state. The lessons of the past in Kenya on insecurity cannot be ignored nor can they be swept under the carpet. However, for any court to intervene in such a matter, the Petitioner ought to place before it such material as would warrant appropriate reliefs within the confines of the law.

2.5 Conclusion

Small arms and light weapons have irrevocably changed the landscape of conflict and society in Africa. Until the international community's – and African countries themselves – are able to clamp down significantly on the scourge of small arms throughout the continent, people and communities will continue to suffer. As the international community belatedly turns its attention to Africa to address continued conflicts in Sudan, the DRC and Somalia, economic, diplomatic and military strategies, in concert with African countries themselves, must address the implications of these deadly weapons. If they do not, their policies will have little chance of success, and millions of Africans will continue to suffer the tremendous consequences of such deadly weapons.

CHAPTER THREE

3.0 The Impact of Small Arms and Light Weapons in East Africa

3.1 Introduction

This chapter addresses the impact of SALW in East Africa region. These are physical, social and economical impact. Attention is drawn to the impact of illicit proliferation of SALW on security to specific member country and the challenges of addressing the illicit proliferation of the SALW.

Small arms have dramatically affected the post-conflict development process in Africa.⁴⁶ Foreign investment has been limited due to continued violence and the perception of instability. When large segments of the infrastructure and economy are destroyed during conflict, countries count on the assistance of the international community to rebuild. Without confidence in the security of a community, investors may be hesitant to provide development funds. It may simply be too expensive to guarantee the security of workers and protection of development projects. A World Bank study found that, while the percentage of private wealth that is divested from a country doubles during an armed conflict, it continues to rise for the next decade.⁴⁷

Africa also faces new challenges associated with small arms proliferation. Piracy has increased substantially in Africa in recent years. In 2008, the International Maritime Bureau's Piracy Reporting Centre (PRC) stated that, of the 293 incidences of piracy that were reported worldwide, 111 took place off the coast of Somalia or in the Gulf of Aden, and 40 occurred off

⁴⁶Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ). *The Problem of Small Arms in Developing Countries: The current international debate and recommendations for Development Cooperation, in particular Technical Cooperation*. Eschborn 2011, p.13

⁴⁷Internal Displacement Monitoring Centre (April 2008) *Internal Displacement: Global Overview of Trends and Developments in 2007*, p. 7.

the coast of Nigeria.⁴⁸ The rise in piracy seriously threatens Africa and the international community. International shipping interests have been strongly affected.

The Kenyan foreign minister estimates that, in the past year, US\$150 million in ransoms have been paid to pirates off Africa's east coast. Small arms proliferation has contributed to the pirates' effectiveness and lethality.⁴⁹ Pirates are even starting to upgrade their fire power, as weapons are readily available. While automatic weapons used to be the weapon of choice, rocket-propelled grenades (RPGs) are gaining popularity, threatening greater loss of life and property. Ransoms paid to pirates are often used to finance African wars and to fund terrorist organizations. Long-term societal suffering, while less quantifiable, equally affects the future of conflict-prone countries and regions.

3.2 The Impact of Small Arms and Light Weapons in East Africa

3.2.1 Increased Insecurity Levels

In East African region the availability of small weapons has contributed immensely to insecurity in the region especially Kenya where there has been cattle rustling and armed criminals. In Nairobi suburbs an illegal pistol sells at less than US \$80, while AK-47s for under US\$140. The "leakage" of weapons, that are sneaked into Kenya and the neighbouring countries from Somalia, a country ruled by warlords, has spread insecurity all over to Kenya leading to underdevelopment of most of the northern part of Kenya.

Small arms are identified as a major factor that can violate the security of individuals.⁵⁰ It is also acknowledged that the illicit manufacture, transfer and circulation of small arms and light

⁴⁸ Somalia Piracy Grows to Record Levels', Available at: .html Accessed on: 2 March 2009.

⁴⁹ Oxfam International Africa's Missing Billions: International Arms Flows and the Cost of Conflict. Briefing Paper 107, p. 9.

⁵⁰For example *The Nairobi Declaration on the Problem of the Proliferation of Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa* (Nairobi, 15 March 2000); *Report of the Meeting of African*

weapons and their excessive accumulation and uncontrolled spread in many regions of the world, have a wide range of humanitarian and socioeconomic effects and pose a serious threat to peace, reconciliation, safety, security, stability and sustainable development at the individual, local, national, regional and international levels.⁵¹

In Sudan, the government has been battling the main rebel Sudanese People's Liberation Army (SPLA) group in one of the continent's longest and most brutal wars. In Uganda the government has been fighting with the rebel Lord's Resistance Army (LRA) since 1989.⁵² The linkages between the two conflicts have been reflected in each government accusing the other of providing bases, logistical support and arms to the other's adversary.⁵³ The tensions between Uganda and Sudan resulted in the former severing diplomatic links in 1995. Despite these accusations, the conflicts in each country feed the other and result in instability and a continued cycle of violence and rearmament with serious regional implications.

In the DRC more than six countries have, at some stage, been involved in the war fought between the Kinshasa government and two main rebel groups, the Movement for Liberation of Congo–MLC and Rally for Congolese Democracy–National, (RCD-N).⁵⁴ Both sides have received explicit backing from foreign forces in what has been described as 'Africa's First World War'.⁵⁵ At the core of this and other conflicts is the availability and proliferation of SALW as

Experts on Illicit Proliferation, Circulation, and Trafficking of Small Arms and Light Weapons, 17-19 May, 2000 Addis Ababa Ethiopia; pp.21-22

⁵¹United Nations Development Programme (UNDP). 2002. *UNDP's Role in Small Arms Reductions: A Primer*. <http://www.undp.org/erd/smallarms/undp.htm>

⁵² Statement made by Richard Mugisha, president of the Ugandan Peoples with Disabilities, [http:// www.undp.org/erd/smallarms/news/15august2002.htm](http://www.undp.org/erd/smallarms/news/15august2002.htm).

⁵³Ibid.

⁵⁴Peter Herby. "Arms Transfers, Humanitarian Assistance, and Humanitarian Law." In *Light Weapons and Civil Conflict: Controlling the Tools of Violence*. Jeffrey Boutwell and Michael T. Klare (eds.) (Lanham, MD: Rowman and Littlefield, 2009, p. 199

⁵⁵Robert Muggah. In the Line of Fire: Surveying the Impact of Small Arms on Civilians and Relief Workers. Available on line http://www.desarme.org/publique/media/In%20The%20Line%20Of%20Fire_ing.pdf.

tools of violence. The effects and impact of these arms have been manifest in high levels of death, injury, social dislocation and economic destruction.

3.2.2 Enhanced Illegal Cross border Activities

Small arms and light weapons also play a role in facilitating and fuelling other illegal cross-border activities such as cattle rustling, drug trafficking and trade in endangered species.⁵⁶ In the pastoral communities bordering Kenya and Sudan, as well as those at the border between Kenya and Somalia, there are often deadly skirmishes between communities from either side of the border.⁵⁷ Conflict and incidents of cattle-rustling date back about a century but were not characterised by today's high mortality rates. The availability of small arms amongst pastoralist countries and communities has turned these conflicts into brutal 'low intensity' wars.

It is estimated that there are ten million small arms circulating among 300 million inhabitants of the pastoral areas of eastern Africa and the Horn.⁵⁸ These arms have increased cross-border raids between the Karamajong and Pokot, the Karamajong and Jie, Dodoso, Turkana, Samburu, Marakwet, Sapiny or Sabawoot, and Bakusu. These conflicts occur in the border areas of North-eastern Uganda and Western parts of the Kenyan border.⁵⁹

As a result of the above situation, some analysts are of the view that, "the Karamoja region is awash with guns that originate from the war in Sudan, northern Uganda and even far field in Somalia and Ethiopia".⁷ This shows that not only are small arms involved at the centre of pastoral 'wars' over scarce water and pasture but also that solving the problem of proliferation

⁵⁶Kenya's Porous Border Lies Open to Arms Smugglers', <http://www.nytimes.com/2002/12/04/international/africa>.

⁵⁷Salih Mohammed A. Agro-pastoralism: an underestimated regional food production system. *East African Social Science Review* Vol. IX No. 1 pp.23-37, also see J. Markakis (ed.) *Conflict and the decline of pastoralism in the Horn of Africa* London: Macmillan 1993 p.146

⁵⁸ C Norberg, *Development aid, humanitarian assistance and emergency relief*, [ISS Monograph Series, No. 46](#), p. 16.

⁵⁹Ibid

and its impact also requires a multi-faceted regional strategy that incorporates legal, political, social and economic solutions.⁶⁰

In the Horn of Africa, Somalia, for years without government authority, is today regarded as the major transit point for weapons to East Africa.⁸ The country has also received attention in the USA's 'war against terror'. There have been allegations that terrorist groups such as the Somali-based *Al Itihaad* are using the country for training and use charitable organizations to transfer money and smuggle arms. Many Somali militia are said to be involved in the trafficking of arms that can reach as far as Ethiopia and downtown Nairobi.⁶¹ As the 'war on terror' expands to East Africa, small arms proliferation and trafficking will receive more attention. It is instructive to note that the terrorists who attempted to shoot down an Israeli plane, as it took off from Mombasa in Kenya in late 2002, used man-portable surface-to-air missiles, categorised as light weapons.⁶²

3.2.3 Impact on Undermining Human Rights and International Humanitarian Law

Human rights, the basic rights and freedoms to which all humans are entitled, is usually the first and most impacted part of the citizens lives that is affected by SALW proliferation. The groups or persons acquire/seek to acquire weapons in order to exercise their will or control on others. Therefore, SALW significantly undermine the human rights of civilians in the areas where they are prevalent. There are three main ways in which human rights are abused. These are escalation and extension of conflict, strengthening of criminals and criminal organizations, and increased crimes against women and children.

⁶⁰United Nations.*Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons*. UN Document A/CONF.192/15

⁶¹Don Hubert. *Small Arms Demand and Human Security* Ploughshares Briefing 01/5 at <http://www.ploughshares.ca/CONTENT/BRIEFINGS/brf015.html>

⁶²B Knighton, *The State as Raider among the Karamajong; Where there are no guns, they use the threat of guns*, p. 1, paper presented at the seminar on 'Historical Ethnography and the Collapse of Karamajong Culture: Premature Reports of Trends, African Studies Seminar, St. Antony's College, University of Oxford, 13 June 2002.

The proliferation of SALW is largely responsible for the violation of humanitarian laws.⁶³ According to the International Committee of the Red Cross, “the proliferation of weapons in the hands of new and often undisciplined actors has outpaced efforts to ensure compliance with the basic rules of warfare” resulting in “appalling levels of want on violence and a stream of horrific images which threaten to immunise the public and decision makers to ongoing violations of international humanitarian law”.⁶⁴

3.2.4 Impact on Weak Governance Structure

The governance of a country not only helps to shape the economic development of a country but is charged with providing the public good of security to its people. “High levels of armed violence and illicit SALW proliferation in both conflict-affected and non conflict societies are often signs of weak or unaccountable security sector.” Though the presence of weak governments is part of the reason for the success of SALW proliferation within a country, the increased availability of SALW impacts the governance of the country by further weakening security sectors as more weapons are available to criminals and criminal organizations.

With weakened security sectors and increasing insecurity, security within countries of conflict may lead to the privatization of the security sector. “Private security companies, when authorized by the state, increase demand for legal SALW, but can also increase the supply of the illicit market if stockpile management is weak or there is internal corruption. Poorly trained private security guards can also be responsible for SALW misuse and in some cases have been implicated in criminal activity and human rights violations.”⁶⁵

⁶³Muggah and Eric Berman. *Humanitarianism Under Threat: The Humanitarian Impacts of Small Arms and Light Weapons. Special Report commissioned by the UN Inter-Agency Standing Committee.* Geneva/New York: Small Arms Survey/IASC.2001

⁶⁴Nicholas Berry. *War and the Red Cross: The Unspoken Mission.* St. Martin's, N.Y.1997

⁶⁵Xolani Skosana, “Arms Control, South African Style: The Dynamics of Post-1994 Arms Export Control Policy,” (Pretoria: Institute for Security Studies 62, 2006): 1.

As a result of the increasing insecurity, the privatization of security sources which in turn cannot be adequately monitored due to weak governance, a country's economic development is negatively affected as the cost of doing business increases. In addition, human rights violations continue to occur as criminal activity in such areas increases.

3.2.5 Increased Crimes against Women and Children

Africa has a history of using children in and for war. The impact of war on children generates an ever-expanding circle of violence and underdevelopment: the great challenges to the future of Africa.⁶⁶ The international and regional community of nations, governments, and NGOs are now beginning to acknowledge that this practice must stop if the future is to hold hope.⁶⁷ Initiatives to understand cope with the problem, and stop the exploitation of children in and for war are beginning to emerge.

In instances of conflict, young adult men are usually the majority of the direct victims of armed conflict. Though women and children are also directly affected by the armed conflict, they in turn face a different set of crimes and hostilities against them. In the case of women, they are faced with detention, intimidation, torture, forced prostitution, and rape by combatants. This violates their human rights as it takes away their freedoms, creates unwanted pregnancies, and has been one of the reasons for the spread of HIV/AIDS in sub-Saharan Africa.⁶⁸

Children are also faced with different problems as a result of conflicts. The most significant problem is perhaps the continued recruitment of children as child soldiers. "Statistics show that there are 300,000 child soldiers involved in conflicts most of them in sub-Saharan

⁶⁶Norman Davies, *Rising '44: The Battle for Warsaw*, Pan Books 2004 p.603

⁶⁷*Ibid.*

⁶⁸David M. Rosen. *Armies of the Young: Child Soldiers in War and Terrorism*. Rutgers University Press.p. 109.ISBN 0-8135-3568-9.

Africa.”⁶⁹ The child soldiers are equipped with SALW and are forced to fight members of their community at an early age. As they grow up during the times of conflict, they learn nothing else other than fighting such that, even when the conflict tends, they have a high chance to end up as criminals considering that the child soldiers have no formal education or skills to do anything else.

Some steps have already been taken, including the UN Convention on the Rights of the Child (1989) which has been ratified by every UN member state except for Somalia and the USA. The Convention contains provisions for the survival, protection and development of children. Other international instruments such as the Geneva Convention (1949) along with its additional protocols (1977) also provide for the application of international humanitarian law concerning children in armed conflict. The Africa Charter, which has provisions covering children in armed conflict, has not been ratified by most African countries.

3.2.6 Strengthened Criminals and Criminal Organizations

Where SALW are used to intensify fighting in areas of conflict, it is not uncommon for even countries that have enjoyed long periods of peace to witness the effect of the SALW proliferation within sub-Saharan Africa. As mentioned earlier, as people flee areas of conflict, SALW trafficking on a small scale occurs as they travel. In most cases these weapons fall in the hands of criminals who in turn use them to further violate their human rights of citizens. “Violence in north-western Kenya (in particular, the areas west of Lake Turkana along the Ugandan border) has increased, exacerbated by the ready availability of firearms and spillover from regional conflicts.”⁸ In such instances the SALW are used to abuse the human rights of civilians in neighboring countries.

⁶⁹Joyce Mulama, “Politics – East Africa: Insecurity Fuel Small Arms Trade,” (New York:Global Information Network, 10 Oct 2003): 1.

The availability of illegal arms also exacerbated urban crime and political violence. The smuggled weapons are secretly sold in the black market the proliferation of small arms and light weapons is evident among the pastoralists, who are in possession of sophisticated weapons in North and North- Eastern Kenya has also increased insecurity and conflicts in the cattle-rustling region, and loss of lives. Arms Survey found out that the price of an AK-47 in Kenya costs Kshs. 25,000 or (\$385) in the North Rift, 35,000 Kenyan shillings (\$540) in Marakwet District, and up to 50,000 Kenyan shillings (\$770) in East Pokot district.⁷⁰

“Furthermore, the presence of SALW in refugee and internally displaced persons (IDP) camps has been associated with increased intimidation and militarization, in some cases closely linked with attempts to use such camps for recruitment and training areas for armed groups.”⁷¹ In instances where SALW are used to force civilians to actively participate in conflict, not only are their human rights violated but conflicts are further intensified and extended as mentioned earlier.

3.2.7 Escalation and Extension of Conflicts

SALW play a significant role in determining the winners of conflicts in sub-Saharan Africa. With the majority of the fighting being done in small continuous battles and the relative lack of economic prosperity in comparison to the rest of the world, the use of heavy weaponry such as tanks, aircrafts, etc., is limited to governments or significantly large rebel groups. SALW, therefore, play a significant role in the conflicts. They tend to have an impact on the intensity of a conflict as well as the duration. “In addition to combatants, armed conflicts also greatly affect civilians, including men, women, boys, girls, the elderly, and the disabled.

⁷⁰Eavis, P., (2010) SALW in the Horn of Africa and the Great Lakes Region: Challenges and Ways Forward Spring 2002 – Volume IX, Issue

⁷¹Mike Bourne, et al.,”Implications of Illicit Proliferation And Misuse Of SALW “ in *Reviewing Action on Small Arms 2006: Assessing The First Five Years of The Programme of Action by Biting the Bullet* (London: International Action Network on Small Arms[IANSA], Biting The BulletProject,2006,):221.

Civilians are often the deliberate targets of armed attacks during armed conflict – in direct violation of international humanitarian law –which provides for specific protections to non-combatants.”⁷² These attacks on civilians force them to seek out SALW in order to protect themselves, thus further reinforcing and increasing the demand for the weapons in the area. With more weapons available, the conflict is further extended and intensified. The flow of arms to neighboring countries is also increased by those displaced due to the conflict.

The Great Lakes region has been at the centre of conflict and the proliferation of SALW in Africa.⁷³ The sub-region has received and recycled arsenals of arms and weapons from the decolonisation struggles throughout the Cold War and its aftermath.⁷⁴ Today both the Great Lakes and the Horn of Africa are characterised by major inter and intra-state conflicts, cross-border wars and cattle rustling, and other types of cross-border illegal activities.⁷⁵

Conflicts and incidents of cattle-rustling involving Sudan, the Democratic Republic of Congo (DRC), northern Uganda, Burundi, Rwanda, and north-western border area between Kenya and Somalia, continue to threaten peace and stability and consequently hinder prospects for socio-economic development in the entire eastern and central sub-region of Africa.⁷⁶

3.2.8 Economic Impact

Public goods such as health and education are vital to the economic development of a country. With adequate health services, the population is able to maintain a lower death rate and minimize the duration and spread of illnesses amongst its citizens.⁷⁷ This increased health in the

⁷²Ibid

⁷³ Best Practice Guidelines for the Implementation of the Nairobi Declaration and the Nairobi Protocol on Small Arms and Light Weapons accessed on 30th May 2013 pdf

⁷⁴Ibid

⁷⁵ Control Arms Briefing Note, (2006) The AK-47: The World’s favourite killing machine, June 2006, retrieved on 13th May, 2013 http://www.controlarms.org/find_out_more/reports/AK_47.pdf /

⁷⁶Eavis, P., (2002) SALW in the Horn of Africa and the Great Lakes Region: Challenges and Ways Forward Spring 2002 – Volume IX, Issue

⁷⁷Mike Bourne, et al Op cit

population ensures continuous economic development a characteristic that is not shared in countries with conflicts. In areas of conflict within sub-Saharan Africa, health services are not as readily available as workers are reluctant or unable to work in areas of insecurity.⁷⁸ The same applies to other public services that help sustain economic development such as education. As a result, the conflict limits the country's ability to economically develop in both the long and short term.

3.3 Complementary Initiatives and Processes on Combating SALW

As argued in chapter two of this study, there has been an apparent overemphasis on a pan-regional approach to SALW proliferation that does not give attention to complementary and parallel activities currently underway in countries such as Tanzania, Kenya and Uganda.⁷⁹ This bottom-up approach reveals a variety of activity at the local and regional levels.

The driving force behind small arms action in East Africa is the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa. While the East African states recognize the international significance of the PoA, the Nairobi Protocol is more prominent since member states are legally required to implement its provisions and the Protocol is tailored to regional concerns.⁸⁰ Signed in 2004 and with the Best Practice Guidelines on Implementation of the Protocol following in 2005, the Nairobi Protocol entered into force in May 2006.

As required, all five East African states have established NFPs to oversee implementation of the Protocol, which are also the points of contact for PoA implementation⁸¹ and the focal points for

⁷⁸Nelson Alusala, "Disarmament and Reconciliation: Rwanda Concerns," (Pretoria: Institute for Security Studies 108, June 2005) : 4.

⁷⁹Human rights Watch. *Playing With Fire: Weapons Proliferation, Political Violence, and Human Rights in Kenya*. Human Rights Watch, New York May 2002

⁸⁰The member states are Burundi, the Democratic Republic of the Congo, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, the Seychelles, Somalia, Sudan, Tanzania and Uganda.

⁸¹The NFP contact information is available at <www.recsasec.org/branches.htm>.

SALW-related activities of the EAC. The NFPs in East Africa consist of representatives from the police forces, national defence forces, various ministries (such as Foreign Affairs, Interior, and Immigration), and representatives from civil society in varying numbers. Each of the five states have reviewed and modified their legislation in accordance with the provisions outlined in the Nairobi Protocol, which aims to harmonize the SALW legislation of its member states.

Among other measures, the states are required to:⁸²criminalize the illicit trafficking, illicit manufacturing, illicit possession and misuse of SALW; restrict civilian possession of small arms, and prohibit civilian possession of light weapons and automatic or semi-automatic rifles and machine guns; control civilian possession of small arms, including competency testing of prospective small arms owners, monitoring and auditing of licenses and centralized registration of all civilian-owned small arms; promote legal uniformity and minimum standards regarding the manufacture, control, possession, import, export, re-export, transit, transport and transfer of SALW; ensure standardized marking and criminalize the falsifying, removing or altering of markings; establish effective control of SALW, including the storage and usage; regulate brokering; and promote legal uniformity in the sphere of sentencing.

During the First Ministerial Review Conference, Uganda was amongst countries that reported some form of progress in fulfilling their obligations under the Declaration.⁸³ Uganda reported having established a permanent secretariat to carry out functions of the NFP on a regular basis. The secretariat is comprised of five officials from the police, Ugandan People's Defence Forces (UPDF), Office of the President, Ministry of Foreign Affairs and the Ministry of Justice and Constitutional Affairs.

⁸²The Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa, 21 April 2004, art. 3.

⁸³Quoted by Michael Renner, 'Small Arms Big Impact: The Next Challenge for Disarmament.', *World watch* paper No.137, available on www.Worldwatch.org

At the moment the focal point is currently finalizing a draft policy paper on co-operation between civil society organizations and government in fighting the scourge of small arms. The example of Uganda should be encouraged and could be used as a point of reference for other countries.

The recent destruction of small arms by the Kenyan government is further proof that member states can and are making some progress in activities related to small arms proliferation and should continue to do so without waiting for the entire region to move forward. Such national action has the potential to encourage other member states to take specific actions.

3.4 Challenges to reduction of SALW in East Africa

3.4.1 Inadequate Provisions on Protocol on combating SALW

Control of SALW in the member countries through protocol has become a challenge.⁸⁴ This is mainly because the Firearms Protocol is inadequate in covering certain small arms or state-to-state transfers if one of the states' national security interests is at stake. Membership to the Protocol is not universal; neither does concern with the issues of not address small arms in the context of armed conflict and post conflict situations.

Many States are not in agreement as to what steps to be taken to counter illicit small arms trade and therefore opposes the UN legal framework on SALW trade because it is their national security. Most of these states would not support arms control, but support mainly the illegality of SALW.

3.4.2 Weak and Unbinding UN Program of Action

Another challenge to control of SALW is that the UN Program of Action was indeed only a program of action thus weak and unsuccessful, that is, it was politically binding but not legally.

⁸⁴Anders, H., and (2007) The UN Process on Small Arms: 'All Is Not Lost' accessed from <http://www.armscontrol.org/act/2014>

The weapon producers like the USA, China, India, Israel, Russia, Egypt did not welcome the idea of arms control because it would interfere with their lucrative business. These superpowers did not agree on interpretation of ammunition possession, “responsibilities of state”, and prohibition of transfers to those who are not state actors and global guidelines for SALW transfers.

Small arms pose a great challenge to the governments despite several international and regional conventions that have been signed, among them is the 2001 UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects.⁸⁵ In Rwanda, for instance, the former combatants are still undergoing training because there were neither demobilization, nor reintegration in to civil society, hence security threats to the country.⁸⁶

The United States opposes the restriction on transfer of weapons because it violates the US “the rights of the oppressed to defend themselves against tyrannical and genocidal regimes.” USA also opposes controls on small arms ammunition as well as of arms possession by the civilians because it may interfere with the constitutional rights of U.S. citizens to bear arms.⁸⁷

3.4.3 Lack of or weak Compliance of International Agreements on SALW

Many African countries have supported these international initiatives, compliance is often weak. A lack of resources undermines the response to the small arms problem and the ability to implement international agreements and obligations. Programmatic initiatives – such as DDR, weapons collection, destruction programmes and physical stockpile security management (PSSM) – are expensive, and may require bilateral or multilateral support. Indeed, UN agencies,

⁸⁵Peter Herby.“Arms Transfers, Humanitarian Assistance, and Humanitarian Law.” In *Light Weapons and Civil Conflict: Controlling the Tools of Violence*. Jeffrey Boutwell and Michael T. Klare (eds.) (Lanham, MD: Rowman and Littlefield, 2009, p. 199

⁸⁶Ibid.

⁸⁷Religions for Peace, UNODA, WCC, 2012, Conflict Trend, 2009)

the European Union and the US are among the largest supporters of African small arms programmes. The US, for example, has provided assistance to 21 sub-Saharan African countries since 2001 by assisting in the marking of weapons, destroying surplus small arms and man-portable air defense systems (MANPADS), and improving stockpile security.⁸⁸

The so-called “politically binding,” rather than legally binding, nature of several key instruments, including the Register and PoA, is another weakness of international SALW control since these documents are unable to compel compliance. However, legally binding treaties are evidently insufficient in ensuring compliance, as demonstrated by the occurrence of UNSC arms embargo violations. Arguably, a greater problem is the weakness of monitoring, verification, and compliance systems.

The PoA does not have a mandate for monitoring and verification. Instead, assessments of implementation are done through a combination of biennial meetings, five-year review conferences, and the work of NGOs and the UN PoA Implementation Support System, which provides information on states’ implementation efforts. The PoA Implementation Support System falls far short of the arms control standards set by the International Atomic Energy Agency and the Organisation for the Prohibition of Chemical Weapons, which have mandates for inspections of states’ nuclear and chemical facilities.

A final problem is the narrow framing of the international SALW control agenda as the control of “illicit” SALW through preventing SALW diversion, defined as the movement of SALW from legal control by states and state-sanctioned owners to illicit control by non-state-sanctioned owners.⁸⁹ The distinction between licit and illicit SALW is often blurred. The current framework does

⁸⁸Ted, R. Miller, T. and Mark Cohen. “Costs of Gunshot and Cut/Stab Wounds in the United States, With Some Canadian Comparisons.” *Accident Analysis and Prevention*, Vol. 29, 3, pp. 329- 341

⁸⁹Garcia, Denise. 2006. *Small Arms and Security: New Emerging International Norms*, 2009, “Arms Restraint and Regional International Law Making: The Case of the Economic Community of West African States.” *African Security Review* 18 (2): 78–91.

not sufficiently address the fact that SALW almost always originate in legal possession before being diverted to illicit possession, hence controlling illicit SALW requires control of legal SALW as well.

Similarly, the focal role of states in legal SALW regulation has limited the reach of international regulations in the critical areas of state-to-state transfers and civilian firearms possession. Lastly, the narrow association of illicit SALW with non-sanctioned non-state actors fails to address the illegitimate use of SALW by state actors. As Mike Bourne⁹⁰ rightly points out, the separation of legal and illicit SALW “bears only limited and partial relationships to the potential use of weapons in violence,” and “de-emphasizes the violence that is often conducted with legally held and traded weapons.” Control-averse states have thus succeeded in having international SALW control instruments reaffirm their “legitimate rights” to use, produce, and transfer SALW.

3.5 Conclusion

It is clear that continued conflicts in the East Africa region continue to exacerbate the menace of illicit proliferation of SALW. In spite of the efforts of a majority of the Sub-Saharan countries, success and progress of their initiatives has been slow. Poor performing economies and lack of governmental control, attributes of corruption, and reluctance by some member nations to embrace and initiate the AU and UN resolutions have also persistently blocked the fight against the problem.

Given the complexity and magnitude of small arms proliferation and the multi-faceted nature of possible solutions, the level of progress within the Great Lakes and Horn regions is encouraging. However, as is being learned, some, but not all, of the possible solutions to the proliferation of small arms are contained in the implementation plan of the Nairobi Declaration.

⁹⁰Bourne, Mike. 2011. “Controlling the Shadow Trade.” *Contemporary Security Policy* 32 (1): 215–40

The Small arms and Light Weapons (SALW) has placed Africa an arena of warfare, insecurity conflict and destruction. It has led to underdevelopment of Africa's economy, rendered people homeless and refugees and loss of millions of lives. Many countries are still counting their losses even with the many protocols and conventions signed to prevent the proliferation of SALW. Some producers of the weapons are making business out of other peoples' suffering and therefore are not willing to stop the use of SALW. The international conventions are being negotiated and several steps towards agreement on the provisions of the protocol is bearing fruit so that the world can be arms free, a place worth living without a threat of insecurity.

However, all countries within the region need to harmonize their efforts in executing internal initiatives, as only appropriate governments understand their unique challenges and the necessary national response requirements. The international community's economic and technological assistance to support the Sub-Sahara Africa countries' policy and strategy implementation process must be enhanced in consistent with the trafficking problem to resolve the core issues exacerbating the increase in SALW proliferation.

CHAPTER FOUR

Research findings on Impact of Small Arms and Light Weapons in Kenya

4.1 Introduction

This chapter examines the impact of illicit proliferation and use of small arms and light weapons in Kenya. The chapter also illustrates how small arms get into the country and the effect they have on the Kenyan population. The chapter also addresses the reasons why people use the small arms in Kenya.

Easy availability of small arms, both nationally and regionally, has made crime so violent, and this is deterring investment in Kenya and exacerbating conflicts between communities in border areas," said Peter Eregae, coordinator of the Kenya National Focal Point on Small Arms and Light Weapons. "Families have lost breadwinners, people have been maimed."

At a formal level, Kenya qualifies as a champion of SALW control. However, there is ample evidence that international and national SALW interventions and goals in Kenya have not addressed the problem sufficiently locally, especially in pastoralist areas where communities who are nomadic have to seek out and share limited pasture and water resources, bringing them into conflict with each other.⁹¹ The intention is to help communities achieve their rights to security, currently under threat from the proliferation and misuse of small arms and light weapons (SALW), by ensuring that the communities themselves are at the heart of the prioritisation, planning, implementation and monitoring and evaluation of the programme.⁹² As

⁹¹Garcia, Denise. 2006. Small Arms and Security: New Emerging International Norms, 2009, "Arms Restraint and Regional International Law Making: The Case of the Economic Community of West African States." African Security Review 18 (2): 78–91.

⁹²Ibid.

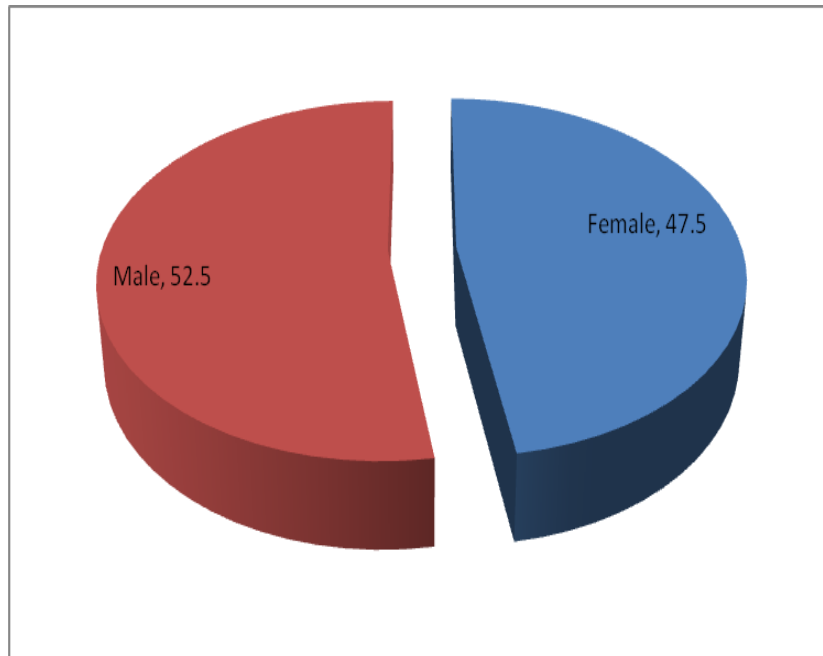
well as being of immediate benefit to the ‘target’ communities, by developing credible evidence from these practical efforts.

4.2 Impact of Small arms in Kenya: Research Findings

The research findings are based on respondents based in Nairobi. In conducting the interview, the sample size was limited to the general public and institutions on security within Nairobi County. The selection of Nairobi County owes to time constraints. However, the field research benefitted from comparative analysis and literature review of relevant secondary data such as policy papers, official documents, reports, journals, magazines, newspapers, periodicals and published works. The research findings are capable of generalization to the rest of the country because most of the institutional respondents have regional or local branches in various parts of the country and the information they gave was not limited to their offices based in Nairobi.

The data collection was done on the 14th day of March 2015. The interviewees were given a questionnaire to respond to the questions asked. The following is the bio data of the research. There were 100 respondents from the field interview conducted. The male respondents were 52.5% whereas the female respondents were 47.5%. The chart below show the gender ratio:

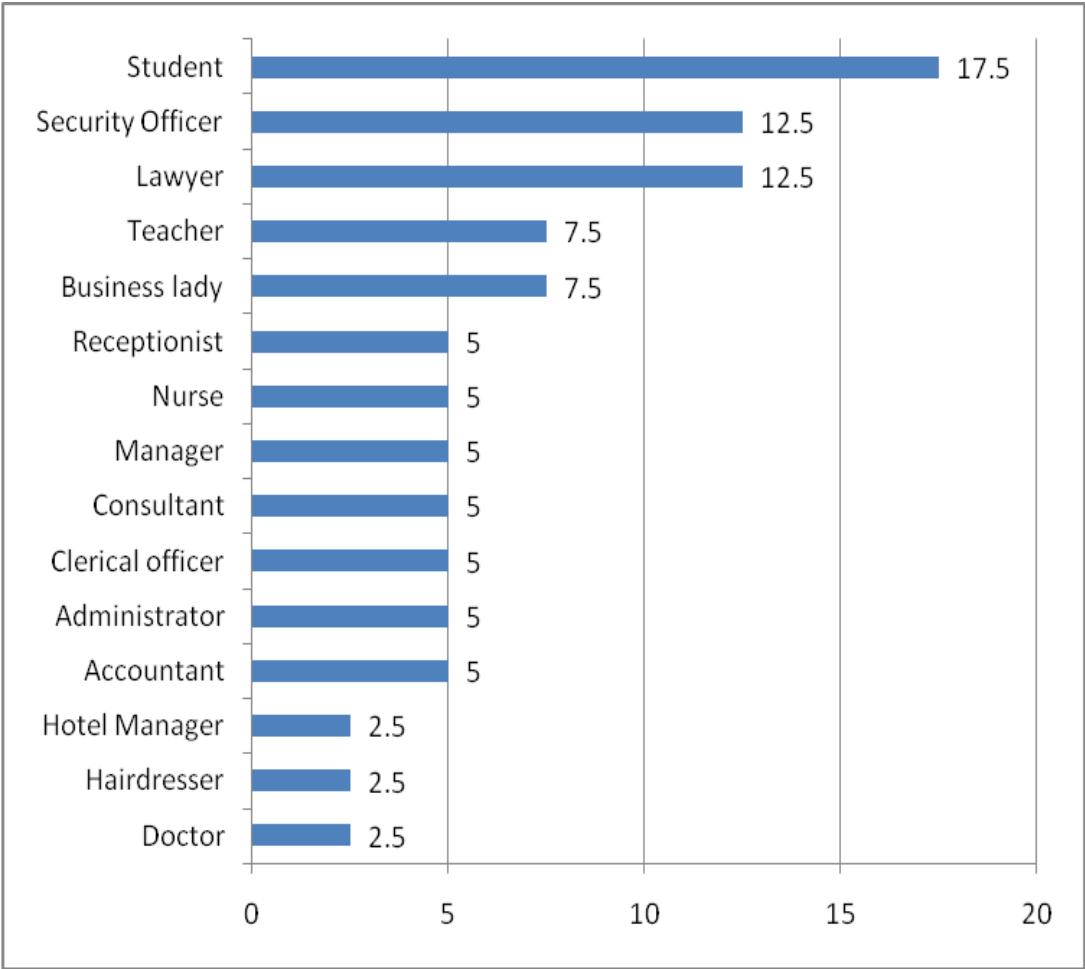
Figure 2: Chart depicting the gender ratio of the respondents



Source: Researcher-2015

The interviewees were from different profession but mainly students, security officers and lawyers. This is because; they are mainly involved in the security issues in the country. Most students are the youth who are either victims or the perpetrators of the illicit proliferation or use of SALW, the lawyers represent most of the criminals in courts and the security personnel combat the perpetrators.

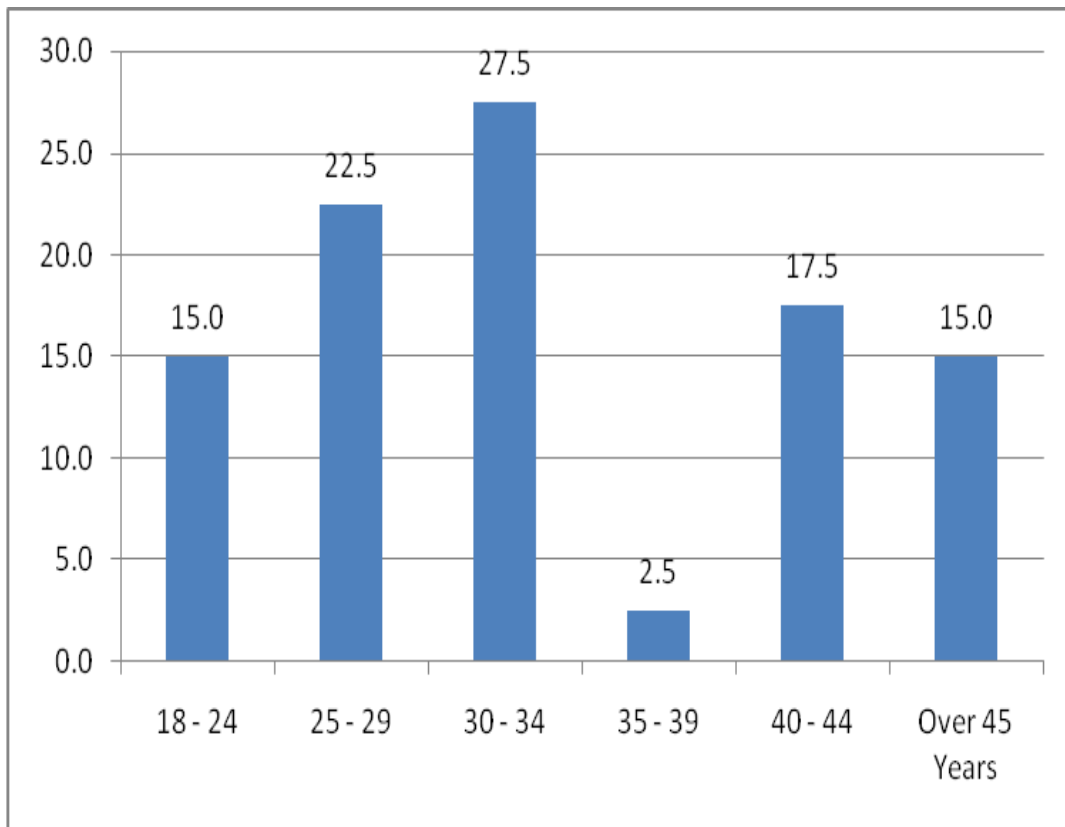
Fig 3: Chart Showing the Occupation of the respondents



Source: Researcher- 2015

Majority of the interviewees were between the age of 20 and 34 years. 27.5% of the interviewees were aged between 30-34 years whereas 22.5% of the interviewees were aged between 25-29 years. 15% of the respondents are aged between 18-24 and over 45 years respectively. The chart below shows the ages of the respondents.

Fig 4: Chart depicting the age of the respondents in years



Source: Researcher-2015

4.2.1 Presence of Illicit SALW in Kenya

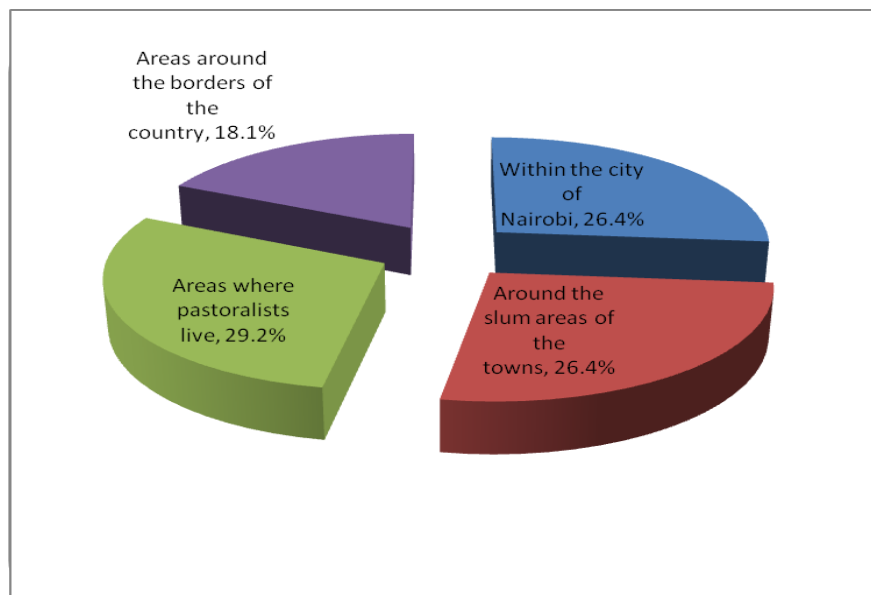
Kenya has struggled with insecurity for a long time, largely as a result of the proliferation of small arms and light weapons. Both internal and external factors contribute to the firearms-related challenges facing the country. Domestically, social, economic, and political causes have contributed to the demand for and proliferation of small arms. Long and continued political instability and armed conflicts in the countries neighbouring Kenya have also contributed to the small arms challenge facing Kenya, given its long and porous borders.

The effects of small arms availability and misuse have long been felt throughout Kenyan society. Pastoralist communities with relatively little police presence and numerous challenges (such as conflict over grazing and water access for their cattle) are greatly affected. This is

especially so for communities in the North Eastern, Upper Eastern, and North Rift areas, which are believed to suffer excessively from high levels of illicit firearms and insecurity.⁹³ Urban centres like Nairobi, Mombasa, Eldoret, Thika, and Kisumu have also suffered from the illicit trade in small arms.

All the respondents were aware of the illicit proliferation and use of small arms and light weapons in Kenya. 29.2% of the respondents stated that SALW are in the areas where pastoralists live whereas 26.4% of the respondents felt that SALW are within the city of Nairobi and around the slum areas of towns respectively. 18.1 % were of the view that SALW are in the areas around the borders of the country. The data below shows the areas that the respondent felt were prominent in the illicit proliferation and use of the small arms and light weapons in Kenya

Fig 5: Data showing the prominent areas in illicit proliferation of SALW



Source: Researcher- 2015

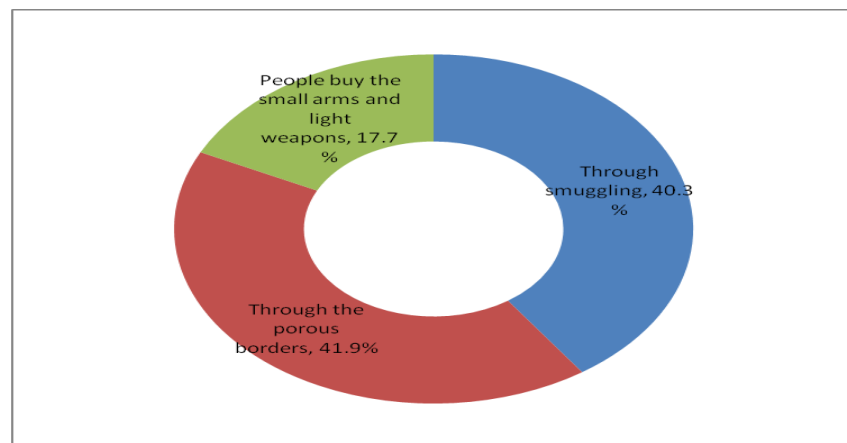
⁹³Muchai, Augusta. 2005. 'Insecurity: A Case Study of Northern Kenya.' In MichaHollestelle and Simon Simonse, eds. *Security When the State Fails: Community Responses to Armed Violence*, Vol. 5. The Hague: Pax Christi, pp. 113–29.

The major suppliers of small arms and light weaponry include about a dozen governments who dominate the legal trade and untold numbers of independent dealers, brokers, and middlemen who control the illicit trade. Major government suppliers include the five permanent members of the UN Security Council along with key niche suppliers such as Belgium, Brazil, Bulgaria, Germany, Israel, Italy, and South Africa.⁹⁴

4.2.2 How SALW get into the country

A Human Rights Watch (HRW) report in 2002 on the proliferation of small arms in Kenya found that some weapons had originated from places as far away as China and the United States. Most arms had circulated through war zones in neighbouring countries before making their way to Kenya's illegal gun markets. The report also observed that the spread of sophisticated weapons among communities had intensified conflict and blurred the line between longstanding ethnic competitions. In addition, illicit proliferation of the small arms and light weapons has traditionally manifested in cattle theft or rustling, and political violence.

Fig 6: Data showing how SALW get into the country



Source: Researcher 2015

⁹⁴Jeffrey Boutwell and Michael T. Klare, “A Scourge of Small Arm s,” *Scientific American*. No. 6 June 2012, p p. 48–53

From the data above, the porous borders can be attributed as the main cause of illicit trade in SALW in the country. 41.9% of the respondents stated that SALW get into the country through porous borders, 40.3% of the respondents stated that smuggling is the way through which the SALW get into the country. We have to appreciate that Kenya borders countries that are in constant conflict such as Somalia, South Sudan, Ethiopia, and this has had a negative effect on the illicit use of SALW.

4.2.3 Why Communities Acquire SALW

In East Africa, the International Police (Interpol) sub-regional bureau in Nairobi reports that small arms are the common denominator in the commission of the five major crimes in the region: terrorism, cattle rustling, firearms trafficking, drug trafficking and motor vehicle theft.⁹⁵ In Kenya, gun-related incidents in the country rose by 200% in 2010 (most recent available figures) over the previous year.⁹⁶

According to police reports, “the proliferation of illegal weapons is probably the most significant contributing factor to crime in the country. Unlike in the past, there is use of guns in almost every robbery today. There is thus a relationship between SALW proliferation and rise in criminality.

Compounding the problem, border policing in Kenya is a disjointed and seemingly uncoordinated venture. It is currently a joint effort between most of the country’s security agencies; the Kenyan Army, the Rural Border Patrol Unit of the Administration Police, immigration officials, intelligence officers, and anti-terrorism police.

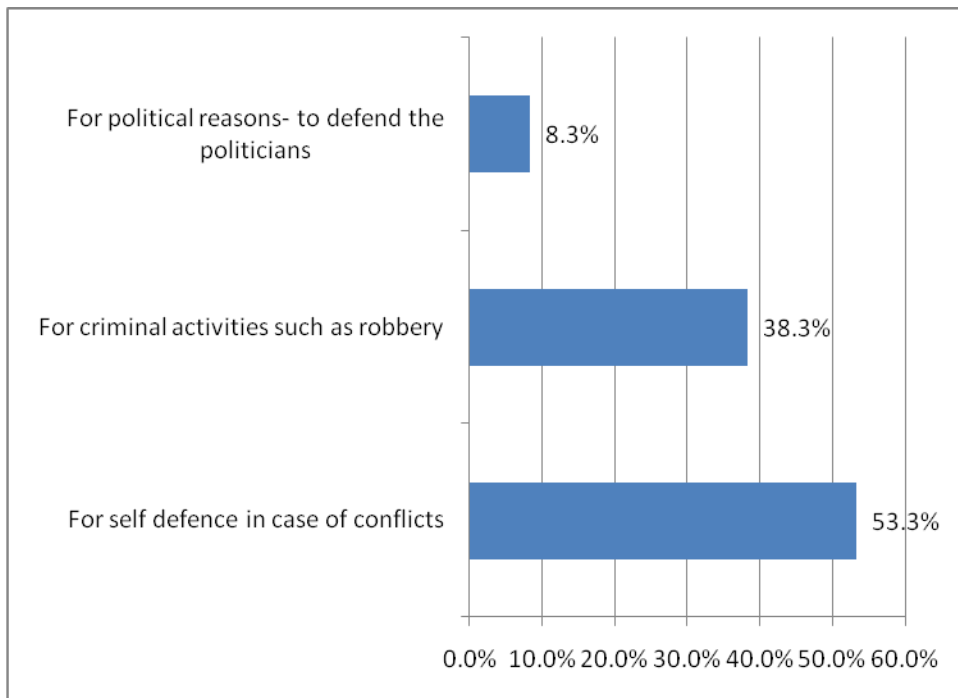
⁹⁵ Interpol, in Andrew McLean (ed.) *Tackling Small arms In the Great Lakes Region and Horn of Africa: Strengthening the Capacity of Sub-regional Organisations Seminar report 7 - 8 May 2010*, Dar es Salaam, Tanzania Maclaren, Interpol report Ibid. p. 47

⁹⁶ Oxfam-GB. ‘Up in Arms: Controlling the International Trade in Small Arms.’ Oxfam-GB Paper for the UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, July 2011

In April 2005, the Kenyan government started an exercise to collect firearms voluntarily surrendered by communities in the northern Rift Valley districts of Pokot, Turkana, Marakwet, Samburu, Trans-Nzoia and Laikipia - areas where interethnic violence, mostly prompted by cattle rustling and rivalry over water and pasture, had claimed the lives of hundreds of people during the past decade. So far, some 2,300 firearms and 5,000 rounds of ammunition have been surrendered in the six districts, a paltry figure considering that people in these areas hold an estimated 50,000 illegally acquired firearms.

The respondents gave various reasons as to why SALW get into the country. 53.3% stated that they are for self defence in case of conflicts, 38.3% stated that they are for criminal activities such as robbery whereas 8.3% stated that they are for political reasons- to defend politicians.

Fig 7: Chart showing why communities acquire SALW



Source: Researcher- 2015

4.2.4 Problems of Illicit Proliferation of SALW

The proliferation of small arms in East Africa pre-dates 19th-century European colonialism. Gunrunning in the sub-region's hinterland was the result of an established trade that escalated raids for slaves, livestock, ivory, and other game trophies by Ethiopian raiders and Arab merchants. Current challenges regarding urban insecurity and small arms proliferation in Kenya can be traced back to the Mau Mau anti-colonial struggle of the 1950s. Mau Mau fighters are believed to have introduced illicit firearms to the Nairobi Area and Central Province.⁹⁷ Kenya has been vulnerable to illicit trafficking through the same channels used for legal arms shipments, with Mombasa's port being one of the entry points used by smugglers. Arms destined for neighbouring countries are recorded to have been diverted, and some of them have been linked to facilitating drug trafficking.⁹⁸

Somalia's long-running instability since the 1991 ousting of President Siad Barre has also contributed to the small arms problem in Kenya. The earlier Somali irredentist struggle, also historicized as the 'shifita' (or bandit) war of 1963–67, affected Kenya's North Eastern Province. The shifita problem only gradually diminished years later in the 1990s, while illicit firearms remained a concern in this region.⁹⁹ But the international dimensions of firearms prevalence in Kenya cannot be overlooked. Kenya has been vulnerable to illicit trafficking through the same channels used for legal arms shipments, with Mombasa's port being one of the entry points used

⁹⁷Katumba, Musambayi and Lionel Cliffe. 2005. *Nairobi – A City Besieged: The Impact of Armed Violence on Poverty and Development*. Bradford: Centre for International Cooperation and Security, p. 5).

⁹⁸Sabala, Kizito. 2002. 'The Proliferation, Circulation and Use of Illegal Firearms in Urban Centers: The Case of Nairobi, Kenya.' In Bonn International Center for Conversion (BICC). *Small Arms in the Horn of Africa: Challenges, Issues and Perspectives*. Brief No. 23. Bonn: BICC, pp. 36–41

⁹⁹Murunga, Godwin Rapando. 2005. 'Conflict in Somalia and Crime in Kenya: Understanding the Trans-territoriality of Crime.' *African and Asian Studies*, Vol. 4, Nos. 1–2. Leiden: Brill, at page 138

by smugglers.¹⁰⁰ Arms destined for neighbouring countries are recorded to have been diverted, and some of them have been linked to facilitating drug trafficking.¹⁰¹

Border town centres documented as points of dispersion of small arms to Nairobi include Mandera, Moyale, El Wak, Lokichoggio, and Isiolo, located in the north-eastern and upper eastern regions of Kenya.¹⁰² In fact, in 1997 the Kenya Police closed a market near Isiolo that was known as a small arms supermarket, but illegal small arms trade persisted.¹⁰³ Hence, in general terms, northern Kenya, confronted by the multiple challenges of underdevelopment, inter ethnic resource-based conflicts, and proximity to war-prone neighbouring countries, has had the highest prevalence of small arms, with the highest estimations put at over 100,000 in 2003.¹⁰⁴

The government's response to the violence and the ultimate chances of reducing SALW proliferation in the region are complicated by a few major problems. Countries in the region suffer from porous borders enabling smugglers to change their routes almost at will; many also travel through multiple countries before reaching their destination. Perhaps worse still, Kenya shares a 1,000-kilometre border with Somalia, the world's archetypal failed state.

A weak and sometimes corrupt security architecture characterized by inadequate border control mechanisms and minimal police presence in vast parts of northern Kenya creates a favourable environment for illicit small arms trafficking, possession, and use.¹⁰⁵ Kenya is ranked

¹⁰⁰Ibid.

¹⁰¹Mkutu, Agade Kennedy. 2007. 'Small Arms and Light Weapons among Pastoral Groups in the Kenya-Uganda Border Area.' *African Affairs*, Vol. 106, No. 422. January, pp. 47-70.
<http://www.ssrnetwork.net/uploaded_files/4346.pdf>

¹⁰²Lewis, Mike. 2009. *Supply and Demand: Arms Flows and Holdings in Sudan*. Sudan Human Security Baseline Assessment Issue Brief No. 15. Geneva: Small Arms Survey, pp. 252).

¹⁰³Ibid.

¹⁰⁴Practical Disarmament Validation Workshop. Mombasa, Kenya, 30-31 August.—. 2010b. *Kenya Country Report to the Fourth UN Biennial Meeting of States on the Status of Implementation of the UN Programme of Action on Small Arms and Light Weapons and the Implementation of International Tracing Instrument*. Nairobi: KNFP

¹⁰⁵Kimaiyo, David and Eliud Nthiga. 2009. *Mapping of the Disarmament Effort in Karamajong Triangle*. Unpublished report prepared for the Institute for Security Studies, Nairobi. November./ 80-mapping-of-the-disarmament-effort-in-karamojong-triangle>,pp.44-46).<<http://www.nscpeace.go.ke/nsc/index.php/resource>.

154th worldwide and 35th in Africa in Transparency International's 2010 Corruption Perceptions Index and only beats Burundi in the East African Community.¹⁰⁶ While Kenya records an improvement in the 2011 East African Bribery Index as the fourth least corrupt country in East Africa, the Kenya Police was ranked as the most corrupt institution in the country and the fourth most corrupt in East Africa.¹⁰⁷

While the variables used to determine these rankings are not specific to small arms, the fact that Kenyans do not perceive their police to be transparent is a basis for concern, given this law enforcement agency's centrality in enforcing security and arms stockpile management, among other roles.

Weak governance structures influence insecurity and small arms proliferation. For instance, in listing the several factors contributing to the demand for small arms among pastoralist communities, Mkutu argues that the primary cause is poor governance, while among the secondary causes are weakening customary governance institutions, diminishing numbers of cattle, the need to pay bride price, and unemployment.¹⁰⁸ However, there are other independent triggers, like cattle rustling, which are treated as a cultural problem among most pastoralist communities in Kenya and the Eastern Africa region.

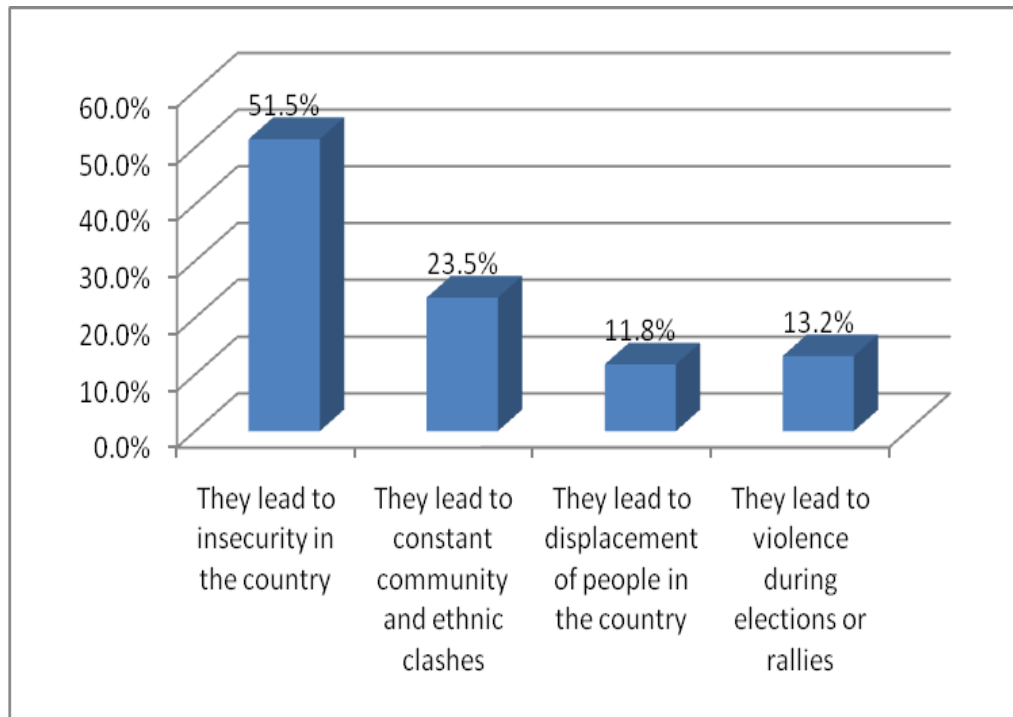
51.5% of the respondents stated that SALW lead to insecurity in the country while 23.5% stated that they lead to constant community ethnic clashes. 11.8% stated that they lead to displacement of people in the country whereas 13.2% stated that they lead to violence.

¹⁰⁶Menkhaus, Ken. 2008. 'The Rise of a Mediated State in Northern Kenya: The Wajir Story and Its Implications for State-building.' *Afrika Focus*, Vol. 21, No. 2, pp. 23–38. Ghent: Ghent Africa Platform and Africa Brug.

¹⁰⁷Ibid

¹⁰⁸Mkutu, Agade Kennedy. 2007. 'Small Arms and Light Weapons among Pastoral Groups in the Kenya–Uganda Border Area.' *African Affairs*, Vol. 106, No. 422. January, pp. 86-88.

Fig 8: Chart showing the percentage of respondents on problems of SALW



Source: Researcher- 2015

4.2.5 Impact of Illicit SALW on human security in Kenya

One of the major impacts of illicit small arms is the displacement of people, which is not only confined to hotspots of electoral violence in the central Rift Valley. Research in northern Kenya indicates that small arms fuelled pastoralist violence had displaced more than 160,000 people by 2003.¹⁰⁹ Small arms play a significant role in determining the winners and losers of conflicts, and in the commission of crimes. Other than legitimate use for security management, misused or illicitly transferred small arms have only had negative effects on the communities affected and largely affect innocent people. They increase the severity of conflicts and extend their duration.

¹⁰⁹Muchai, Augusta. 2005. 'Insecurity: A Case Study of Northern Kenya.' In Micha Hollestelle and Simon Simonse, eds. *Security When the State Fails: Community Responses to Armed Violence*, Vol. 5. The Hague: Pax Christi, pp. 113–29.

In the North Rift area, insecurity as a result of the prevalence of small arms use has fed a gun culture that has undermined entrepreneurial development and investments while contributing to cases of sexual violence.¹¹⁰

Small arms have inflamed low-intensity conflicts characterized by a high incidence of banditry, inter-ethnic clashes, and cattle rustling. This insecurity has implications for poverty and competition for resources as groups are displaced and/or flee to more secure places, increasing pressure on land and resources.¹¹¹

In rural areas, small arms have replaced traditional weapons in ethnic warfare over land, water and livestock. In one of the most vicious eruptions of conflict in northern Kenya in recent years, more than 70 people were killed in Marsabit District on 12 July 2005, when armed raiders, believed to have been members of the Borana ethnic group, attacked villages inhabited by the Gabra community. Scores were wounded and thousands displaced. The attack underlined the volatility of relationships between communities in arid areas, where pasture and water sources are often limited and rivalry between pastoralists - who are often armed with illegally acquired weapons - is intense.

Kenya is not alone in facing serious challenges because of the proliferation and use of small arms. The 2011 Global Report on Small Arms showed that every year, more than 500,000 people die violent deaths across the world.¹¹² Accordingly, the problem of SALW proliferation and misuse requires global attention, but, as in Kenya, for solutions to be successful they must be

¹¹⁰Kamenju, Jacob Alex Nderitu, Mwachofi Singo, and Francis Wairagu. 2003. *Terrorized Citizens: Profiling Proliferation of Small Arms and Insecurity in the North Rift Region of Kenya*. Nairobi: Security Research and Information Centre, pp. 71–79).

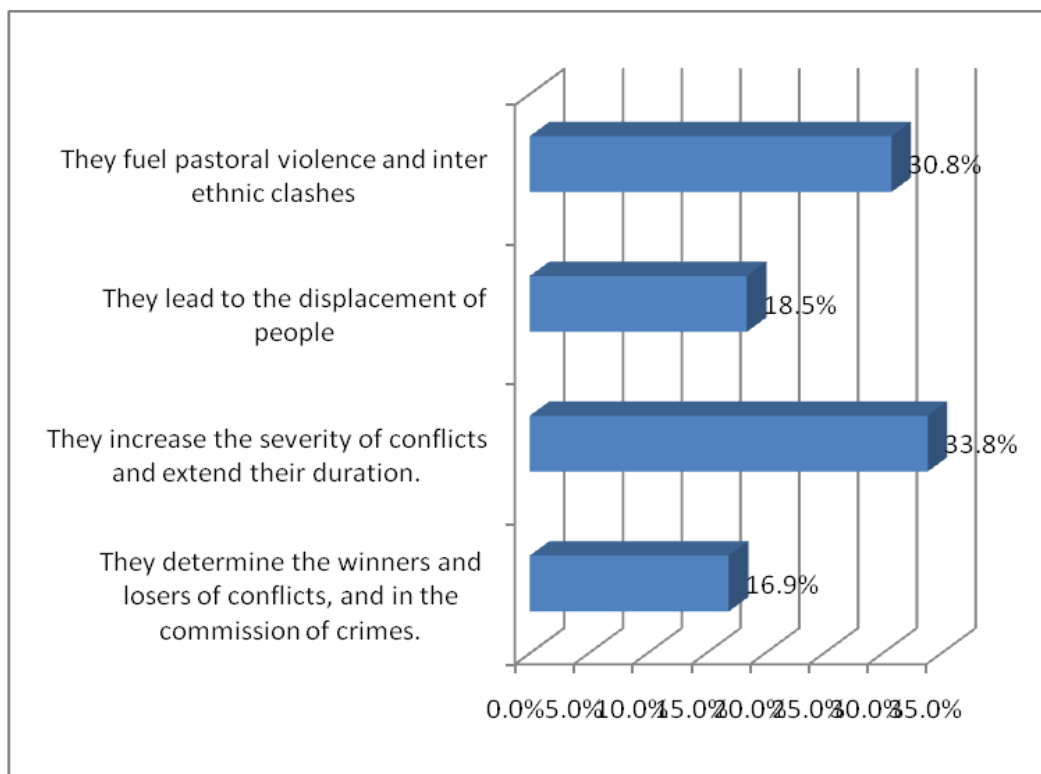
¹¹¹Lewis, Mike. 2009. *Supply and Demand: Arms Flows and Holdings in Sudan*. Sudan Human Security Baseline Assessment Issue Brief No. 15. Geneva: Small Arms Survey, pp. 252–53).

¹¹²Accessed at www.saferworld.org.uk/news-and-views/comment/136, on 6th June, 2015

rooted in the empowerment of local communities to address broader security concerns that lead them to demand and misuse small arms.

33.8% of the respondents stated that SALW lead to increase in the severity of conflicts while 30.8% stated that they fuel pastoral violence and inter ethnic clashes. 18.5% stated that they lead to the displacement of people while 16.9% stated that they determine the winners and losers of conflicts and in the commission of crimes.

Fig 9: Percentage of respondents on Impact of Illicit SALW on human security in Kenya



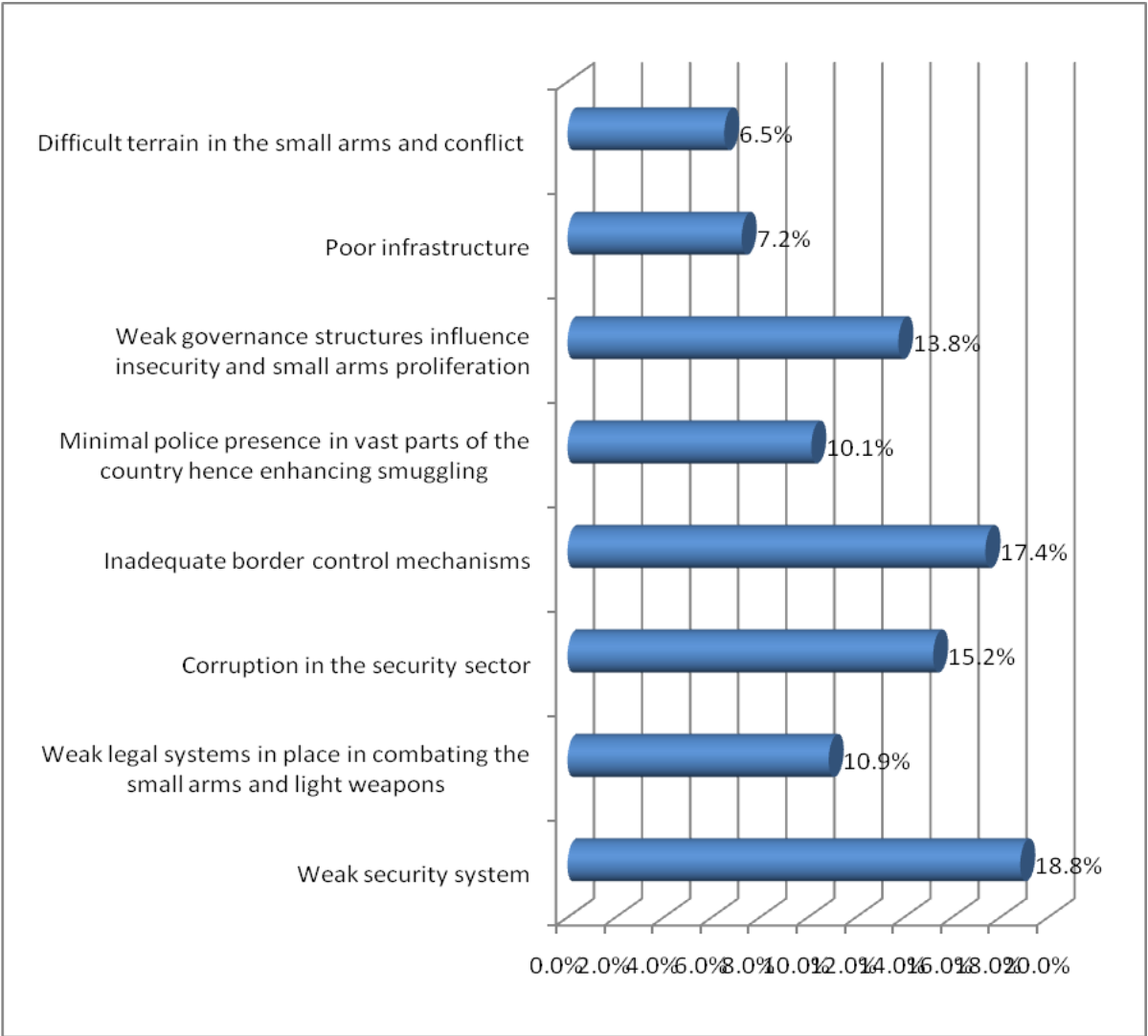
Source: Researcher- 2015

4.2.6 Challenges of Combating Small Arms and Light Weapons

The GOK's approach in the proliferation of SALW is founded in the recognition that suitable long-term development and prosperity for all Kenya's citizens can only be ensured in a safe and secure environment, free from fear.

From the research, 18.8% of the respondents felt that weak security system is the main challenge in respondents to illicit use of SALW while 17.4% stated that inadequate border measure is the main challenge. Corruption in the security sector is also one of the challenges as 15.2% of the respondents stated so. Weak governance structures had 13.8% of the respondents while poor infrastructure and difficult terrain had 7.2% and 6.5% respectively.

Fig 10: Percentage of respondents on Challenges of Combating Small Arms and Light Weapons

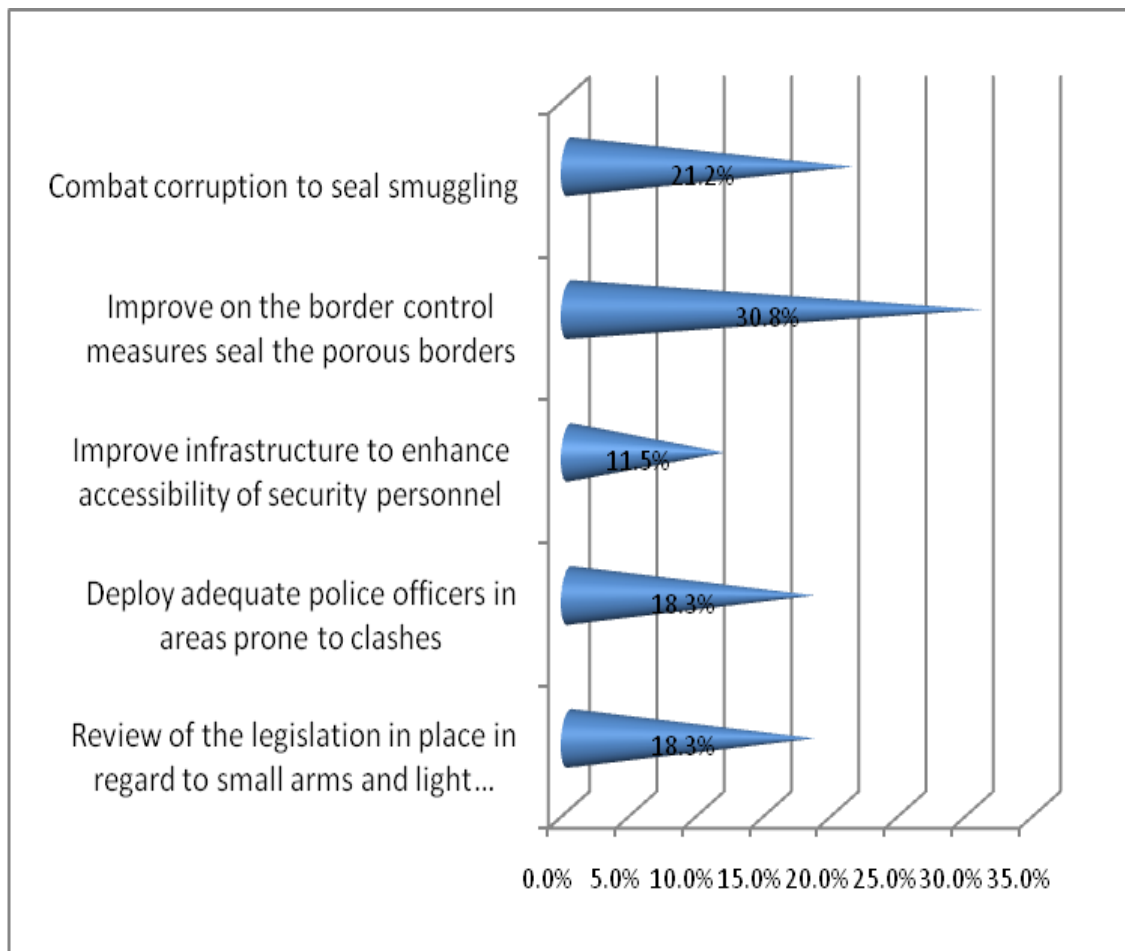


Source: Researcher- 2015

4.2.7 Ways of challenging the illicit proliferation of SALW in Kenya

Different methods can therefore be deployed to challenge the illicit proliferation of SALW in Kenya. From the data collected, improve the border control measures by sealing the borders had 30.8% while combating corruption to seal smuggling had 21.2%. 18.3% of the respondents stated that the government needs to deploy adequate police officers in areas prone to clashes and to review the legislation in regard to SALW. 11.5% of the respondents said that the government needs to improve infrastructure to enhance accessibility of security personnel.

Fig 11: chart showing the ways of challenging the illicit proliferation of SALW in Kenya



Source: Researcher-2015

4.3 Conclusion

As can be observed, there is still a long road ahead to prevent the daily deaths of one thousand people, the injuries of 3,000 more, and to preserve the livelihood of 40 million displaced people throughout the world. It is very sad to see that international agencies are slowly withdrawing on their efforts to do so in this controversial topic. Nevertheless, there is only one way for actual changes to occur. This is to move forward on the complicated mission of reducing the availability and accessibility of small arms and light weapons from finding repose in the homes of those that can potentially inflict harm on others. Also, it is continuing to create awareness and gun safety educational programs for the most vulnerable populations affected in this struggle, children. There are various strategies that can be employed to address these concerns effectively as discussed in the next chapter.

CHAPTER FIVE

Summary, Conclusion and Recommendation

5.0 Introduction

This chapter provides a summary of the study, conclusion and recommendations.

5.1 Summary

The study has four chapters which addressed various aspects of the research objectives and provided answers to the research questions. Chapter one is the introduction chapter. This chapter highlights the statement of the problem, the research objectives and the hypotheses of the study. This study is premised on the fact that the movement of small arms across East Africa region and Kenya in particular is increasingly difficult to trace and has long-lasting effects on human security. Small arms and light weapons have been responsible for the majority of the combat deaths in recent wars and figure in much of the crime and civil violence visited upon vulnerable societies around the world.

The overall objective of the study is to examine the impact of small arms and light weapons on the human security in East Africa. The specific objectives include but not limited to: examining the international and regional normative and institutional frameworks to address the problem of illicit proliferation of SALW in Kenya; analyzing the impact of the use of small arms and light weapons on human security in Kenya; and suggesting the methods that can be deployed to challenge the illicit proliferation and use of small arms and light weapons within East Africa region.

The study is premised on the following two hypotheses: The continuous proliferation of small arms and light weapons into the hands of civilians is occasioned by weak institutional and normative framework within East Africa region; and the illicit proliferation of small arms and light weapons has had a negative impact on peace and security of civilians in Kenya especially

those living in slum areas and areas of constant ethnic conflict such as the northern part of Kenya.

Chapter two of the study looks at the normative and institutional framework in regard to small arms and light weapons. The chapter addresses the international and regional instruments that enhance the control over SALW and combat their illicit manufacture, trafficking and circulation, and specific provisions and recommendations that states are considering in regulating SALW. Chapter three addresses the impact of SALW in East Africa region. These are the physical, social and economical impact. Attention was drawn to the impact of illicit proliferation of SALW on security to specific member country and the challenges of addressing the illicit proliferation of the SALW.

Chapter four of the study narrows down to the case study of Kenya which is the core of the research. The chapter examines the impact of illicit proliferation and use of small arms and light weapons in Kenya. The chapter also illustrates how small arms get into the country and the effect they have on the Kenyan population. The chapter also addressed the reasons why people use the small arms in Kenya. Chapter five of the study gives the conclusion and the recommendations on the research findings.

5.2 Conclusion

The research problem was premised on the fact that the movement of small arms across East Africa region and Kenya in particular is increasingly difficult to trace and has long-lasting effects on human security. The study finds that the proliferation of SALW have been responsible for the majority of the combat deaths in recent wars and figure in much of the crime and civil violence visited upon vulnerable societies around the world. The research has found that the

porous borders and smuggling are the main ways in which the SALW. Similarly ethnic clashes are the main cause of the illicit proliferation and use of SALW.

Further the research discussed the impact of the use of small arms and light weapons on human security in Kenya. The research has shown that the illicit proliferation and use of SALW is the main cause of insecurity in the county and leads to death of many civilians in times of clashes.

The research hypotheses has been answered in the affirmative; the continuous proliferation of small arms and light weapons into the hands of civilians is occasioned by weak institutional and normative framework within East Africa region and the illicit proliferation of small arms and light weapons has had a negative impact on peace and security of civilians in Kenya especially those living in slum areas and areas of constant ethnic conflict such as the northern part of Kenya.

5.3 Recommendations

The Government of Kenya's approach to addressing the illicit proliferation and use of SALW is founded on the recognition that suitable, long-term development and prosperity for all Kenyan citizens can only be ensured in a safe and secure environment, free from fear. To create such a safe and secure environment, it is necessary to identify, understand and subsequently address the entire range of factors that create, fuel and enable insecurity and conflict in Kenya. As such, efforts to address specific security challenges or needs, such as the illicit proliferation and use of SALW or the development of better relations between the police and communities, must complement and be complemented by broader efforts to address underlying economic, social, cultural or political factors that may cause insecurity and conflict.¹¹³

¹¹³Mirzeler, Mustapha & Crawford Young."Pastoral Politics in the North East in Uganda: AK47 as Change Agent," *Journal of Modern African Studies*, vol. 38, no. 3, 2006.

5.3.1 Review of Legislation

Part of the challenge in responding to the issue is Kenya's outdated legislation, which has been left in the proverbial dust by modern security challenges such as piracy, terrorism, and small arms proliferation. The Firearms Act became law in 1954,¹¹⁴ and has not been updated since. Many issues, such as civilian possession of weapons such as the AK-47 and other powerful yet light weapons were not of major concern when the bill entered into effect.

One of the more noteworthy components of the legislation is a general increase in penalties for SALW possession.¹¹⁵ Currently, sentences for such crimes frequent the range of two to three years. Penalties under the new law would be much harsher. For example, failure to secure a firearm so as to prevent injury or threat to a third party would carry a prison term of "not less than 18 months." Harsher still, anyone who lends their firearm to another could be face a fine of KSh. 10 million (approx. US\$ 114,000) and seven years in prison.

Consequently this study recommends a call to review and amendment of the national legislations to comply with the Nairobi Protocol and the Best Practice Guidelines for the Implementation of the Nairobi Protocol. In this regard, there is proposed the draft bill of small arms and light weapons. The Bill will replace the Firearms Act, as well as consolidate several other pieces of legislation in order to streamline Kenya's policy on the matter. It will also seek to transfer responsibility for issuing firearms authorization from the police department to a multi-agency board whose members will be drawn from the police, military, intelligence services, and the KNFP.

¹¹⁴Kenya Law Reports

¹¹⁵Peter Herby. "Arms Transfers, Humanitarian Assistance, and Humanitarian Law." In *Light Weapons and Civil Conflict: Controlling the Tools of Violence*. Jeffrey Boutwell and Michael T. Klare (eds.) (Lanham, MD: Rowman and Littlefield, 2009, p. 199

Around the same time, the KNFP also finished work on a draft national policy on SALW, which was heavily influenced by regional actors, and will contribute to Kenya's implementation of the United Nations Program of Action on Illicit Small Arms and Light Weapons (UN PoA) and the Nairobi Protocol on the Prevention, Control, and Reduction of Small Arms and Light Weapons in the Great Lakes Region, the Horn of Africa, and Bordering States. These international and regional initiatives provide for the establishment of best practices for disarmament, harmonization of regional legislation, public awareness and advocacy, and the destruction of illicit SALW.¹¹⁶

5.3.2 Enhance Regional Co-operation

Cooperation from regional partners to these initiatives is crucial to Kenya's success in combating small arms proliferation. Four principal areas of co-operation have been identified:¹¹⁷ Combating illicit trafficking by strengthening laws and regulations, reinforcing operational capacity, and improving both the systems to trace illicit arms flows and the information exchange mechanisms in the sub-region; Strengthening regulation and controls on the accumulation and transfers of arms by improving controls over civilian possession of firearms, enhancing the restraint and controls over accumulation and transfer of light weapons and associated military equipment, and improving the capacity to monitor and trace light weapons possession and transfers; Promoting the removal of arms from society and the destruction of surplus arms by means of collection, removal from circulation, and destruction of surplus military stocks, removing confiscated and unlicensed weapons from circulation, undertaking voluntary weapon collection and exchange programmes, and reversing the cultures

¹¹⁶See, for example: Human Rights First (March 2008) *Investing in Tragedy: China's Money, Arms, and Politics in Sudan* and Amnesty International (2008) *Blood at the Crossroads: Making the Case for a Global Arms Trade Treaty*

¹¹⁷Peter Herby. "Arms Transfers, Humanitarian Assistance, and Humanitarian Law." In *Light Weapons and Civil Conflict: Controlling the Tools of Violence*. Jeffrey Boutwell and Michael T. Klare (eds.) (Lanham, MD: Rowman and Littlefield, 2009, p. 199

of gun-associated violence; and Enhancing transparency, information exchange and consultation on arms in Southern Africa by enhancing public transparency, and improving information exchange and consultation.

5.2.3 International Programme of Action on Practical Disarmament

A call for an International Programme of Action on Practical Disarmament and Peace building which will comprehensively address the multiple issues which impact on the proliferation of small arms and light weapons with initiatives to promote security and build peace as prerequisites for sustainable development.¹¹⁸ Measures to be considered include:¹¹⁹ Combating illicit arms trafficking; Strengthening national legislation and controls for the possession, use and transfer of small arms and light weapons; Ensuring that weapons holding by defence and security forces do not exceed requirements for legitimate defence and security needs; and Developing partnerships to assist and strengthen the capacity of countries in regions of conflict to monitor and control arms accumulations and flows.

¹¹⁸Practical Disarmament Validation Workshop. Mombasa, Kenya, 30–31 August.—. 2010b. *Kenya Country Report to the Fourth UN Biennial Meeting of States on the Status of Implementation of the UN Programme of Action on Small Arms and Light Weapons and the Implementation of International Tracing Instrument*. Nairobi: KNFP

¹¹⁹Ibid.

BIBLIOGRAPHY

ARTICLES

- Adan, Mohamud and Ruto Pkalya(2005).*Closed to Progress: An Assessment of the Socio-economic Impacts of Conflict on Pastoral and Semi-pastoral Economies in Kenya and Uganda*. Nairobi:ITDG.
- Annan, Kofi. (2000). *We The Peoples: The Role of the United Nations in the Twenty-First century*. New York: United Nations
- Berman, Eric.(2007). 'Illicit Trafficking of Small Arms in Africa: Increasingly a Home-grown Problem.'Presentation at the GTZ-OECD-UNECA Expert Consultation of the AfricaPartnershipForum Support UnitAddis Ababa, 14 March.
- Bevan, James. (2007). *Between a Rock and Hard Place: Armed Violence in African Pastoral Communities*.Geneva: Small Arms Survey and UNDP.—. 2008. *Blowback: Kenya's Illicit Ammunition Problem in Turkana North District*. Geneva: Small Arms Survey.
- Bourne, Mike. 2011. "Controlling the Shadow Trade." *Contemporary Security Policy*32 (1): 215–40
- Bureau of Political-Military Affairs and Bureau of International Security and Non-proliferation, U.S. Department of State, "The MANPADS Menace: Combating the Threat to Global Aviation From Man-Portable Air Defense Systems," September 20, 2005 (fact sheet).
- Code of Conduct for the Implementation of the Moratorium*, 22nd Ordinary Summit of the Authority of Heads of State and Government, Lomé (Togo), 10 December 1999.
- Declaration of a Moratorium on Importation, Exportation and Manufacture of Light Weapons in West Africa*, 21st Ordinary Summit of the Authority of Heads of State and Government, Abuja, 30-31 October 1998. Available at: www.grip.org/bdg/g1649.html.
- Frey, Barbara (2004), *The Question of the Trade, Carrying and Use of Small Arms and Light Weapons in the Context of Human Rights and Humanitarian Norms*, Working Paper submitted in accordance with Sub- Commission decisions 2002/120, para. 46
- Human rights Watch. *Playing With Fire: Weapons Proliferation, Political Violence, and Human Rights in Kenya*. Human Rights Watch, New York May 2002
- ICRC(1999). *Arms Availability and the Situation of Civilians in Armed Conflicts*.Geneva: ICRC.
- Katumanga, Musambayi and Lionel Cliffe. (2005). *Nairobi – A City Besieged: The Impact of Armed Violence on Poverty and Development*. Bradford: Centre for International Cooperation and Security
- "Kenya: Small Arms Exacerbate Violence Upsurge," *Ox Research* (05 September 2007)
- Knighton, B, *The State as Raider among the Karamajong; Where there are no guns, they use the threat of guns*, p. 1, paper presented at the seminar on 'Historical Ethnography and the Collapse of Karamajong Culture: Premature Reports of Trends, African Studies Seminar, St. Antony's College, University of Oxford, 13 June 2002.
- Lamb, Guy (2008) 'Under the Gun': An Assessment of Firearm Crime and Violence in South Africa. Institute for Security Studies, p. 7.
- Menkhaus, Ken. 2008. 'The Rise of a Mediated State in Northern Kenya: The Wajir Story and Its Implications for State-building.' *Afrika Focus*, Vol. 21, No. 2, pp. 23–38. Ghent: GhentAfricaPlatform and AfrikaBrug.
- Mike Bourne, et al., "Implications of Illicit Proliferation And Misuse Of SALW " in *Reviewing*

- Action on Small Arms (2006): Assessing The First Five Years of The Programme of Action by Biting the Bullet* (London: International Action Network on Small Arms [IANSA], Biting The Bullet Project, 2006): 223.
- Mirzeler, Mustapha & Crawford Young. "Pastoral Politics in the North East in Uganda: AK47 as Change Agent," *Journal of Modern African Studies*, vol. 38, no. 3, 2006.
- Muggah and Eric Berman. *Humanitarianism Under Threat (2001): The Humanitarian Impacts of Small Arms and Light Weapons. Special Report commissioned by the UN Inter-Agency Standing Committee*. Geneva/New York: Small Arms Survey/IASC.
- Muchai, Augusta. 2005. 'Insecurity: A Case Study of Northern Kenya.' In Micha Hollestelle and Simon Simonse, eds. *Security When the State Fails: Community Responses to Armed Violence*, Vol. 5. The Hague: Pax Christi, pp. 113–29.
- Norberg C, *Development aid, humanitarian assistance and emergency relief*, ISS Monograph Series, No. 46, p. 16.
- Sabala, Kizito. 2002. 'The Proliferation, Circulation and Use of Illegal Firearms in Urban Centers: The Case of Nairobi, Kenya.'
- Small Arms Survey, *Small Arms Survey 2002: Counting the Human Cost*. A Project of the Institute of International Studies, Geneva, 2002 pp. 11-14
- Schroeder, Matt and Lamb, Guy (2006) 'the Illicit Arms Trade in Africa: a Global Enterprise'. *African Analyst Quarterly*, Autumn 2006, pp. 69-78.
- Wepundi, Manasseh (2011) *An Analysis of Disarmament Experiences in Kenya*. Regional Centre on Small Arms (RECSA) Nairobi, RECSA
- World Bank, "Greater Great Lakes Regional Strategy for Demobilization and Reintegration," 2002, p. 42.
- Fund for Peace, "Model Convention on the Registration of Arms Brokers and the Suppression of Unlicensed Arms Brokering," July 2001.
- Ted, R. Miller, T. and Mark Cohen. "Costs of Gunshot and Cut/Stab Wounds in the United States, With Some Canadian Comparisons." *Accident Analysis and Prevention*, Vol. 29, 3, pp. 329- 341
- The United Nations General Assembly. (2006). Report of the United Nations Conference to Review Progress Made in the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. A/CONF.192/2006/RC/9.
- United Nations. *Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons*. UN Document A/CONF.192/15
- Owen Green, "Examining International Responses to Illicit Arms Trafficking," *Crime, Law and Social Change* 33, (March 2000): 159.

BOOKS

- Boulden J, *Arms Control Continuums (2001): Connecting the Small Arms Debate to Nuclear Arms Control*, *African Security Review* 10(1)
- David M. Rosen, *Armies of the Young: Soldiers in War and Terrorism*. Rutgers University Press. P 102. ISBN 0-8135-3568-9
- Eavis, P., (2002) *SALW in the Horn of Africa and the Great Lakes Region: Challenges and Ways Forward* Spring 2002 – Volume IX, Issue
- Markakis J (ed.) *Conflict and the decline of pastoralism in the Horn of Africa* London: Macmillan 1993 p.146

- Murunga, Godwin Rapando. 2005. 'Conflict in Somalia and Crime in Kenya: Understanding the Trans-territoriality of Crime.' *African and Asian Studies*, Vol. 4, Nos. 1–2. Leiden: Brill.
- Nelson Alusala, "Disarmament and Reconciliation: Rwanda Concerns," (Pretoria: Institute for Security Studies 108, June 2005)
- Norman Davies, *Rising '44* (2004): The Battle for Warsaw, Pan Books p.603
- Peter Herby (2009). "Arms Transfers, Humanitarian Assistance, and Humanitarian Law." In *Light Weapons and Civil Conflict: Controlling the Tools of Violence*. Jeffrey Boutwell and Michael T. Klare (eds.) (Lanham, MD: Rowman and Littlefield, p. 199
- Sampson, Anthony. (1977). *The Arms Bazaar: The companies, The Dealers, the Bribes: From Vickers to Lockheed* (London: Hodder and Stoughton). As cited in: Bourne, Mike. (2007).
- Salih Mohammed A. Agro-pastoralism: an underestimated regional food production system. *East African Social Science Review* Vol. IX No. 1 pp.23-37
- Xolani Skosana, "Arms Control, South African Style: The Dynamics of Post-1994 Arms Export Control Policy," (Pretoria: Institute for Security Studies 62, 2006): 1.

INTERNET SOURCES

- Adedeji Ebo. (2005) *Combating Small Arms Proliferation and Misuse after Conflict*. The Geneva Centre for the Democratic Control of Armed Forces, Yearbook 2005. Available online at: http://www.dcaf.ch/_docs/Yearbook2005/Chapter7.pdf
- Astariko, Steve. (2011). 'Garissa Boasts the Biggest Livestock Market in East and Central Africa.' *The Star* (Nairobi). Web edition, 18 May. <<http://www.nairobistar.com/lifestyle/128-lifestyle/24787-garissa-boasts-the-biggest-livestock-market-in-east-and-central-africa>>
- African Union, *Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons*, adopted on 1 December 2000. Available at: www.unrec.org/eng/Bamako%20Declaration.pdf
- Baxter, P., Ikobwa, V. (n.d.). Peace education: why and how? In: *Forced Migration Review*, 22, 22-29. Retrieved 17 May 2014 from: www.fmreview.org/text/FMR/22/contents.htm.
- Best Practice Guidelines for the Implementation of the Nairobi Declaration and the Nairobi Protocol on Small Arms and Light Weapons accessed on 30th May 2013 pdf
- Cross, P., Flew, C., McLean, A. (2004). *Evidence and Analysis: Tackling the Availability and Misuse of Small Arms in Africa*. Paper prepared for the Commission for Africa. Saferworld. Available online at: http://213.225.140.43/English/report/background/cross_et_al_background.pdf
- Hussein, Issa. 2011. 'Six Dead in Garissa Grenade Attack.' *Daily Nation* (Nairobi). Web edition, 25 November. <<http://www.nation.co.ke/News/Six+dead+in+Garissa+grenade+attack/-/1056/1279074/-/jbf92d/-/index.html>>
- IANS, OXFAM, Saferworld. (2007). *Africa's Missing Billions. International arms flows and the cost of conflict*. Available online at: http://www.oxfam.org/en/files/bp107_africas_missing_billions_0710.pdf/download
- Internal Displacement Monitoring Centre (April 2008) *Internal Displacement: Global Overview of Trends and Developments in 2007*, p. 7.
- Joyce Mulama, "Politics – East Africa: Insecurity Fuel Small Arms Trade," (New York:

Global Information Network, 10 Oct 2003):
 [database on-line]; Available from ProQuest; accessed 29 October 2007.

Machel, Graça. (2000) *The Impact of Armed Conflict on Children: A critical review of progress made and obstacles encountered in increasing protection for war-affected children.*http://www.unifem.org/filesconfirmed/97/137_machelrep.pdf.

Mburu, Nene. 2002. *The Proliferation of Guns and Rustling in Karamoja and Turkana Districts: The Case for Appropriate Disarmament Strategies.*
 <<http://www.peacestudiesjournal.org.uk/dl/guns.pdf>>

Nairobi Protocol for the prevention, control and reduction of small arms and light weapons in the Great Lakes Region and the Horn of Africa, 21 April 2004. Available at:www.saferfrica.org/DocumentsCentre/NAIROBI-Protocol.asp

Southern Africa Development Community, *Protocol on the Control of Firearms, Ammunition and Other Related Materials*, adopted on 14 August 2001. Available at:
www.sadc.int/index.php?action=a1001&page_id=protocols_firearms

The Humanitarian Impact of Small Arms and Light Weapons and the Threat to Security”
 Available on line at:
http://www.desarme.org/publique/media/In%20The%20Line%20Of%20Fire_ing.pdf.

OXFAM (2007). Press release: 11 October 2007. "Fifteen years of conflict have cost Africa around B\$300 bn" Available online at:
http://www.oxfam.org/en/news/2007/pr071011_control_arms_cost_conflict_africa