

“POROUS BORDERS AND THE INSECURITY OF CIVILIANS: A CASE
STUDY OF KENYA – SOMALIA BORDER AREA CONFLICT (1995-
2008) ”

BY

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DECLARATION

This project is my original work and it has never been submitted to any other University for any academic award.

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ABSTRACT

Kenya has pledged to reinforce its border with Somalia in an attempt to stem the recent string of abductions carried out by militants as stated in a Trans World news release [BBC Report July 2009]

Government officials have been concentrating their efforts on halting the actions of the Somali insurgent group Al-Shabab which it blames for the recent flow of illegal weapons into the country as well as the abductions.

Kenya's president Mwai Kibaki addressed the issue saying, "Our borders are porous and it is not a place where you can totally keep Al-Shabab at bay. But we are trying our best." The president also blamed the insurgents for the influx of illegal weapons into Kenya. (BBC Report July 2009)

Fearing the threat from weapons and narcotics traffickers, as well as the heavily armed militias allied to warlords, Kenya officially closed the 680kms-[420 miles] Kenya-Somalia border back in the year 2007. But it has allowed thousands of refugees from Somalia to enter and live in the sprawling refugee camp at Dadaab, where there are more than 260,000 mostly Somali inhabitants. – UNHCR Report 2009.

This study assesses the role of porous borders in promoting international conflict. It will discuss the arguments in favor of and against restrictive border policies. Contemporary migration and border policies are largely restrictive but still fail to meet their proclaimed objectives which call for alternative approaches to international human flows. Tight border controls are accompanied by major challenges; including trafficking, the asylum crisis, and the death and vulnerability of irregular migrants which ultimately threaten the moral foundations of a state. The right to mobility constitutes various implications and this study will examine such a right in relation to security and broad border management.

Everyday border control activities – checking travel documents, inspecting cargo and luggage, patrolling borderlines and airports, apprehending unauthorized entrants – are part of what gives the state an image of authority and power. Statecraft is about power politics and deploying material resources, but it is also about perceptual politics and deploying symbolic resources. Border control agencies grow and expand partly because of the symbolic power they gain from their role as border maintainers in times of high societal insecurity. Even as there is a pronounced erosion of the states traditional economic and military border control roles, its law enforcement role not only persists but continues to expand.

ACRONYMS

DC- District Commissioner

IDP- Internally Displaced Persons

ITDG- Intermediate Technology Development Group

MP- Member Of Parliament

NGO- Non-governmental Organization

OLF- Oromo Liberation Front

TFG- Transitional Federal Government

USAID- United States Agency for International Development

AIAI – al-Ittihad al-Islamiyya

AU – African Union

IGAD – Inter-Governmental Authority on Development

ITDG – Intermediate Technology Development Group

JVA – Jubba Valley Alliance

KHRC – Kenya Human Rights Commission

MP – Member of Parliament

UNDP – United Nations Development Programme

UNDOS – United Nations Development Office Somalia

WFPD – Women for Peace and Development

CHAPTER ONE

1. INTRODUCTION

The instability which periodically plagues the Kenya – Somalia border area is part of a broader, complex pattern of state failure and communal violence afflicting much of the Horn of Africa. Violence and lawlessness are particularly acute in remote border areas where states in the region have never projected much authority. When they have, state authorities have sometimes been the catalysts of insecurity rather than promoters of peace. On the Somali side of the border, the central government collapsed in January 1991 and has yet to be revived¹. In Kenya, the vast, remote, and arid frontier areas bordering Somalia, Ethiopia, Sudan, and Uganda were never entirely brought under the control of the state in either colonial or post colonial eras. Thousands of Kenyans have died in periodic communal violence in these border areas over the past fifteen years, in clashes which sometimes produce casualties levels normally associated with civil wars. The Kenyan government's administration of its peripheral territory ranges from weak to non-existent. Here police and military units-(essentially garrisons) are reluctant to patrol towns after dark, and are badly outgunned by

¹ A Transitional Federal Government was declared for Somalia in October 2004 but has yet to become operational

local militias. "Even the police are never safe here" lamented one Kenyan newspaper headline.²

The Somalia – Kenya border thus is doubly troubled by the chronic failure of the Kenyan government to establish a meaningful administration in its border areas, and by the complete and prolonged collapse of the state in Somalia. But the region's general crisis of instability is by no means unique. Similar patterns of communal violence and lawlessness occur throughout Somalia and all along Kenya's "arc of crisis" from the Karamoja cluster through Marsabit to Wajir. That no central government authority exists on the Somali side of the border is unquestionably a major part of the problem, but cannot be blamed as the sole source of the crisis. Were that true, Kenya would only be plagued with insecurity in North Eastern province, not along its borders with Uganda, Sudan, and Ethiopia as well.³

The cross border conflict in Kenya and Somalia underscores the human security challenge posed by porous, unsecured borders in the context of African civil conflicts. The arbitrary nature of African borders is problematic from both geostrategic and humanitarian perspective. When ethnic groups are divided by national borders, there is likelihood that an internal or civil conflict will become a regional security issue. This is the case on the border between Kenya and

² "Even the police are never safe here", The East African Standard [July 17 2005]. Accessed via [lexis-nexus](#)

³ Ken Menkhaus, USAID Report On conflict prevention, mitigation, and response program for East and Southern Africa [managing African Conflict], Development Alternatives, inc. August 2005

Somalia which divides same ethnic community on both sides. Unsecured borders allow for the free movement of not only refugee population but also militants and criminal actors who spread violence and insecurity from state to state.

1.2 BACKGROUND TO THE RESEARCH PROBLEM

Cross – border violence carried out against civilians is a common problem in African conflicts. A March 2004 United Nations Security Council report states that " Although cross – border problems are important contributory causes of conflict in West Africa, their relationships with the endless cycle of violence and instability is primarily symptomatic, not causal".

The existence of the borders shared by Somalia, Ethiopia and Kenya are themselves a periodic contributor to conflict. The principal role they play in conflict is as a source of safe haven for armed groups – criminal gangs and militia- which commit acts of violence and then cross to the safety of their home country and disappear. The shared border area near Mandera is known locally as the "Bermuda triangle" for precisely this reason. This dynamic points to a curious aspect of the borders – they are relatively unpatrolled, ungoverned and porous, but not irrelevant. Kenyan military do not cross the border in hot pursuit of Somali bandits for fear of attack; Somali militia cross into Kenya in pursuit of rival combatants only reluctantly for fear of encountering the Kenyan military or police; and Somali armed bandits take the same risk when mounting a cross border raid. In practice, this has meant that the Kenyan Garre have been able

to use the border to launch attacks on EL Wak in Somalia and retreat across the border with little fear of Marehan and has led them to accuse Kenya of favoring the Garre. Further south, Somali bandits have until recently stolen vehicles, looted Kenyan police station, kidnapped Italian catholic nuns and then retreated back to Doble/ Somali. On the Kenyan – Ethiopian border, militia and possibly Ethiopian paramilitary forces have crossed into Kenya to commit devastating livestock raids.⁴

On both sides of the border area, communities continue to deal with an endemic, low level of insecurity which total populations sometimes characterize as "not peace not war". By this they mean that protection from acts of criminal violence and property theft remains precarious even in the best times and those conditions remain ripe for periodic eruptions of communal violence even where a peace has held for a number of years. In some areas, criminal violence by residual combatants produces levels of insecurity akin to war. There are no zones of "consolidated peace" in the border area, and only a few areas could generously be described as "post- conflict". Everywhere in the region, the political claims and historical narratives of clans and ethnic groups are spiked with often intense and bitter grievances over lost land, wartime atrocities, unfair allocation of political or economic opportunities and outsiders.

⁴ Report by USAID on Conflict prevention, Mitigation, and Response Program for East and Southern Africa [managing African Conflict], Development Alternatives, inc. August 2005

This "not peace not war" condition is not unique to the Kenya- Somalia border area, but characterizes much of Kenya's northern frontier area and most of south central Somalia.

1.1.3 STATEMENT OF THE RESEARCH PROBLEM

The Kenya – Somalia border area is highly susceptible to spillover of conflict from adjacent regions. This is most evident in the northern tier, where the 1980s majimbo- style ethnic cleansing as far away as Isiolo triggered a shockwave of displacement and conflict over resources and political rights in Mandera district years later⁵. On the Somali side of the border, spillover from the conflict in Kismayo sends ripple effects to the Kenyan border. The complete and prolonged collapse of the Somali state has had a disastrous impact on the Transjubba regions, producing a context of lawlessness and anarchy that is only partially mitigated by attempts to strengthen local governance.

In Kenya low level conflicts in pastoral communities in the northern frontier combined with high rates of crime and banditry account for the increasing levels of armed violence across the country. Porous borders in various parts of the country make the illicit trafficking of arms a catalyst to violent conflict.

Virtually every analysis of Kenya's troubled pastoral areas emphasizes that environmental stress and severe poverty and underdevelopment combine to

⁵ Abdi Umar, "Resource Utilization, conflict, and Insecurity in Pastoral Areas of Kenya," Paper presented at the USAID Seminar "Conflict Resolution in the Horn of Africa," Nairobi, 27-29 March 1997

render these semi arid zones chronically vulnerable to armed conflict, communal clashes, and violent crime. The Kenya – Somalia border area partially supports this claim.

Most of the conflicts in the Kenya – Somalia border area are driven principally by other, mainly political factors. Environmental stress and underdevelopment are critical underlying sources of instability. However given the chronic insecurity and porous borders in the region, small arms proliferation will remain a dangerous reality for border area communities for the foreseeable future. This study will examine how porous borders act as drivers of violence within the communities living along the shared border. It will be based on the analysis of the porous Kenya – Somalia border, with a main objective of examining how the porous border has been a major driver of the chronic insecurity within the area.

1.4 OBJECTIVES OF THE RESEARCH

The main objective of this study is to determine the relationship between porous borders and cross-border violence

More specific objective of this study is to provide an insight on how porous borders contribute to generation and escalation of periodical cross-border violence in Kenya- Somalia border area.

The study will also recommend strategies to government policy makers that will enhance security within the large Northern Eastern province

1.5 JUSTIFICATION OF THE RESEARCH PROBLEM

Much of the literature on cross-border violence within the Kenya-Somalia border area puts emphasis on other various key sources of conflict in the border area. Such factors include environmental stress and poverty, local government policies, state collapse in Somalia, regional economy and cross-border trade, outsiders, contested urban space, regional spillover, small arms proliferation and crime. However, little is covered on this area of border porosity as a major contributor to the periodical conflicts within the Kenya-Somalia border area.

This study can be justified on both policy and academic grounds. The policy justification is derived from the fact that the proliferation of the internal conflict in Somalia since the collapse of the then government in the year 1991 has not only threatened international peace and security but has also affected human development in countries such as Sudan, Ethiopia, Eritrea and most of arid and semi- arid areas of Kenya which border these countries. It has also led to the loss of many lives and cross border refugees who have fled with arms across the porous borders thus, contributing to insecurity in the Kenya – Somalia border area and the northern frontier at large. With the increased cross border raids, and humanitarian refugees problem there is increasing demand that policy makers should device methods that will curb the conflicts especially across the common borders.

On academic grounds, the study will contribute to the understanding of human security as a new security approach to security studies.

1.6 LITERATURE REVIEW

This section seeks to review some literature on interstate border conflicts, international security studies, porous borders and the Kenya- Somalia border conflicts. This section will examine issues and debates in interstate cross border conflicts, porous borders and cross border conflicts along the Kenya- Somalia border. This review offers the background on which the study will stand on.

1.7 LITERATURE ON INTERSTATE BORDER CONFLICTS

Borders have traditionally been viewed first and foremost in military terms. The vast majority of interstate wars, after all, have historically been about territorial defense and conquest.⁶ Early geopolitical thinking stressed the centrality of territorial competition and acquisition.⁷ Classic geopolitical analysis fits comfortably within a realist theoretical framework with its emphasis on interstate conflict over territory. In the view of Robert Gilpin,⁸ states have always had "the conquest of territory in order to advance economic security and other interests" as a principle goal. Not surprisingly, the influence of realism is most evident in security studies, which has overwhelmingly focused on strategies of war making and war preparation. As Stephen Walt puts it, "The main focus of security studies is easy to identify, it is the phenomenon of war"⁹. In the realist conception of security, threats are external and military based, and the actors

⁶ John Keegan, *A History of warfare* [New York: Alfred Knopf, 1993]

⁷ Thomas J. Biersteker, "state, sovereignty, and Territory", in Walter Carlsnaes, Thomas Risse, and Beth A. Simms, eds., *Handbook of international Relations*, sage, 2002, pp 157-175

⁸ Robert Gilpin, *War and Change in world politics*, Cambridge: Cambridge University Press, 1981, p23

⁹ Stephen M. Walt, "the Renaissance of security studies" *International studies Quarterly*, vol.35, No. 2, 1991, pp212-213

are rational unitary states. Borders are strategic lines to be militarily defended or breached. State survival is based on the deterrent function of borders against military incursions by other states. The realist view of borders and territorial security thus is fundamentally about interstate rather than transnational relations.¹⁰

There are obvious historical reasons for this military focused worldview. As Charles Tilly¹¹ and others have documented, the modern state was created as a war machine: states made war and war made states. Yet state making is a continuous process. Major interstate military conflicts have greatly diminished, and borders are rarely contested militarily except recently Israel – Palestine war. There has been a sharp downturn in the use of force to alter interstate boundaries. This astonishing border trend is partly the result of growing international respect for what Mark Zacher calls the “territorial integrity norm”.¹² Consequently, the traditional military function of borders has become much less important than in the past. There is no equivalent norm to inhibit non state actors from crossing borders in violation of state laws. And states have increasingly defined many clandestine transnational actors as new security threats, merging internal and external security concerns and providing a rationale for more expansive border controls and policing powers. This shift away from traditional

¹⁰ Kenneth N. Waltz, *Theory of international politics* [Reading, mass.: Addison- Wesley, 1979

¹¹ Charles Tilly, *Coercion, capital, and European states: A.D. 990-1992* [Cambridge, Mass.: Blackwell, 1992]

¹² Mark W. Zacher, “The Territorial Integrity Norm: international boundaries and the use of force,” *International Organization* , Vol. 55, No. 2 [spring 2002], pp. 215-250

military border concerns and toward law enforcement concerns tends to be overlooked by those realists who insist that there will soon be a return to military rivalry and conflict among major powers.¹³ As a result, there is a widening gap between the traditional realist conception of security and borders and what many states are actually doing in the realm of security and border defenses. The gap between theory and practice has become even more pronounced in the post September 11 security environment¹⁴. Transnational law evaders as compared to interstate military invaders increasingly drive state border security priorities. Geopolitics is alive and well, but is increasingly based on policing matters.

Challenging realism, globalists point not only to the declining military relevance of borders but also to the border blurring effects of globalization, generally characterized as an intensification of interdependence and cross border interactions.¹⁵ Indeed, some scholars consider the supposed declining importance of borders as part of the very definition of globalization. Major transformations – the internalization of production, the liberalization of trade, the mobility of finance, and advances in transportation and communication technology – are viewed by globalists as key indicators of border erosion. Since

¹³ John J. Mearsheimer, "Back to the future: Instability in Europe after the Cold War," *International Security*, Vol. 15, No. 1 [summer 1990], pp. 5-56

¹⁴Peter J. Katzenstein, "September 11 in comparative perspective: The counter-terrorism compaigns of Germany and Japan," paper presented at the annual meeting of the American political science association, Boston, Massachusetts, August 2002, p.6

¹⁵ Guiraudon and Lahav, "A Reappraisal of the state sovereignty debate: the case of migration control," *comparative political studies*, vol. 33, No. 2, [march 2000], pp. 163-195

the 1970s, many scholars have argued that these technological and economic changes facilitate and encourage growing cross border linkages between societal actors and diminish the primacy of traditional security concerns.¹⁶

Globalists thus see borders as increasingly blurred and open, becoming bridges for commercial transactions rather than economic barriers for commercial transactions rather than economic barriers and fortified military lines. Global economic transformations seem to confirm this. The eroding economic importance of borders is part of what one scholar calls the unbundling of territoriality. Another observer suggests that globalization is about "de bordering the world of states".¹⁷ James Rosenau sums the globalists conventional wisdom: "the close links between territory and the state are breaking down, in the political realm, authority is simultaneously being relocated upward toward supranational entities, sideward toward transnational organizations and social movements, and downward toward sub national groups and communities." These shifting tendencies are diminishing the competence and effectiveness of states and rendering their borders more porous and less meaningful. One upbeat market liberal even argues that a

¹⁶ Robert O. Keohane and Joseph S. Nye, eds., *Transnational Relations and World Politics*, Cambridge, mass.: Harvard University Press, 1971

¹⁷ Joachim K. Blatter, "Debordering the world of states: Towards a Multilevel system in Europe and a Multi-polity system in North America? Insights from border regions," *European Journal of International Relations*, vol. 7 No. 2 June 2001, pp.175-209

borderless world is on the horizon, and that dynamic cross border regions are becoming more important than states.¹⁸

There are important elements of truth in these globalists' claims of change. Yet they too often miss or understate the more complex dynamics of state territorial retreat and reassertion, or border erosion and reinforcement at the same time. A more nuanced perspective recognizes that territorial controls have multiple forms and functions that can vary dramatically across place and time.

Although the traditional military and economic functions of borders have indeed declined, the use of border controls to police the clandestine side of globalization has expanded. Globalization may be about tearing down economic borders, as globalists emphasize, but it has also created more border policing work for the state. At the same time as globalization is about mobility and territorial access, states are attempting to selectively reinforce border controls to territorially exclude clandestine transnational actors. The reconfiguration of border controls is particularly evident in United States and the European Union. Although United States and European Union policing initiatives are in many ways distinct –the United States policing mode is more unilateral and bilateral, while the European Union mode is more multilateral and embedded in a regional institutional framework involving a pooling of

¹⁸ Kenichi Ohmae, *The borderless world: power and strategy in the interlinked economy*, New York: HarperBusiness, 1990

sovereignty- in both places state border strategies reflect an attempt to reconcile the economic imperatives of globalization and regional integration with mounting political pressures to erect more exclusionary barriers.¹⁹

1.8 LITERATURE ON INTERNATIONAL SECURITY

International security addresses question of force: how to spot it, stop it, resist it, and occasionally threaten and even use it. It considers the conditions that encourage or discourage organized violence in international affairs and the conduct of all types of military activity. International security therefore deals with the most fundamental questions of war and peace and, consequently, with the highest responsibilities of government. For this reason, it continues to be an area of academic endeavor where it is considered both appropriate and possible for scholarships to feed into the policy process.

During the cold war, as politicians and generals became mindful of the potentially devastating consequences of superpower conflict, they turned to members of the academy for help in devising policies that avoided both war and appeasement. Out of this relationship emerged a set of cherished formulas that imbued the cold war with a sense of order – “containment, flexible response, and détente”. This order, and with it the mainstream agenda for international security studies, largely collapsed along with the Berlin wall. The

¹⁹ Peter Andreas, “Redrawing the line: Borders and security in the twenty –first century,” *International security* , Vol. 28 No. 2 [Autumn, 2003], pp.78-111

subject itself did not become obsolete but rather had to be recast to reflect the changing nature of conflict.²⁰

The study of war is still influenced by a Prussian general who fought against Napoleon Bonaparte's armies. Carl Von Clausewitz's legacy was an unfinished book, on war, which combines a practical grasp of strategy and tactics with a sophisticated view of war's essential character. His teachings were followed avidly, though not always accurately, in a number of countries²¹.

His most famous aphorism that war is a continuation of political activity by other means remains the basis for the study of war as a potentially rational pursuit. Questions of force must always be put in a wide context, if only to make sense of the particular causes of conflict²². Even in the realist tradition, force must always be considered as an instrument of foreign policy alongside other political and economic instruments. This shift, however, also reflected the revival of the idealist tradition and notions of multilateral cooperation, thereby serving to delegitimize force as a primary tool of statecraft. Economic, social and environmental factors deserved attention because they could aggravate violent tendencies, trigger cross border conflicts and affect the conduct of war. Iraq's invasion of Kuwait in 1990 was borne as much out of indebtedness and declining oil prices as long standing territorial claims. Violence in the Balkans

²⁰ Lawrence Freedman, "international security: changing targets", *Foreign policy*, No. 110, special edition, [spring, 1998], pp 48-63

²¹ Michael Howard, Peter Paret, & Benard Brodie. *On War*, Princeton, NJ: Princeton University Press, 1991

²² *ibid*

could not be comprehended without regard to cultural factors. Arguments over scarce resources such as water were a constant source of irritation in many parts of the world and could be expected to intensify if population pressures continued to grow.²³

A keen historical sense is vital to understanding the origins and development of all types of conflict and the likely effects of changes to the rules of the political game, economic circumstances or external interference. Yet history itself is too often disregarded in security studies – in the belief that policy makers are only interested in tomorrow, or else become the plaything of international relations normally involves taking historical events out of context to compare them with other incidents that share certain superficial feature but are nonetheless fundamentally separate in terms of time and space.

1.9 LITERATURE ON POROUS BORDERS

Border control – the effort to restrict territorial access- has long been a core state activity. As territorially demarcated institutions, states have always imposed entry barriers, whether to deter armies, tax trade and protect domestic producers, or keep out perceived “undesirables”. All states monopolize the right determine who and what is granted legitimate territorial access. But there is significant historical variation in border control policies. Although military defense and economic regulation have traditionally been central border concerns, in

²³ Lawrence Freedman, “International Security: changing targets,” *Foreign Polict*, No. 110, Spring 1998

many places states are retooling and reconfiguring their border regulatory apparatus to prioritize policing. Thus, rather than simply eroding, as is often assumed, the importance of territoriality is persisting – but with a shift in emphasis. In many cases, more intensive border law enforcement is accompanying the demilitarization and economic liberalization of borders.²⁴

The policing objective is to deny territorial access to what is termed as "clandestine transnational actors", ²⁵defined as non state actors who operate across national borders in violation of state laws and who attempt to evade law enforcement efforts. These actors are as dramatically varied as their motives. They may be driven by profits and market demand, the desire to carry out politically or religiously inspired acts of violence, or the search for employment or refuge. They may be highly organized or disorganized and operate regionally or globally. They are the targets of border controls, and their border-crossing strategies are designed to avoid detection and minimize the risk of apprehension. They have existed in one form or another as long as states have imposed border controls. What has changed over time are the organization and their methods and speed of cross-border movement; state laws and the form, intensity, and focus of their enforcements; and the level of public anxiety and policy attention.

²⁴ Peter Andreas, *Redrawing the Line: Borders and Security in the Twenty-First Century*, *International Security*. Vol. 28, No.2, pp 78-111

²⁵ Peter Andreas, *Redrawing the Line: Borders and Security in the Twenty-First Century*, *International Security*. Vol.28.No.2, pp 78-111

One key aspect of borders is that they affect the interaction opportunities of states, constraining or expanding the possibilities of interaction that are available to them. States that share borders will tend to have a greater ease of interaction with one another, and thus will tend to have greater numbers of interactions. This idea developed from multidisciplinary sources, such as economist Kenneth Boulding²⁶ concept of the loss-of-strength gradient, or geographer G.K Zipf²⁷law of least effort. The important issue raised here is that borders create the opportunity for interaction Starr and Most ²⁸. Such opportunity might be seen in terms of the number of other countries with which any single state has interaction opportunities. Wesley ²⁹ argues that the length of a common border between two countries is a better measure of geographic opportunity than simply the number of borders.

Borders also have an impact on the willingness of decision makers to choose certain policy options, in that they act as indicators of areas of great importance or salience. Because other states are close, having greater ease of interaction and the ability to bring military capabilities to bear, these neighbors are also key areas of external cues/diffusion. Accordingly, activities in these areas are particularly worrisome, can create uncertainty and thus deserve

²⁶ Boulding Kenneth, *conflict and defense*, New York, Harper & Row, 1962

²⁷ Zipf, G.K, *Human behavior and the principle of least effort*. Cambridge, MA: Addison-Wesley, 1949

²⁸ Most Benjamin & Harvey Starr, *Inquiry, logic and international politics*, Columbia, University of South Carolina press, 1989

²⁹ Wesley James, *frequency of wars and geographical opportunity*, *journal of conflict resolution*, no.6, 1962, pp387-389

attention. The notion that changes in bordering areas create uncertainty because of their proximity is based on arguments developed by Midlarsky³⁰, and applied in Most and Starr. Starr and Most³¹ are also particularly concerned with the roles that different types of borders appear to play in war involvement.

Different types of borders might have differential impacts on both opportunity and willingness. Thus, borders are differentiated in terms of homeland borders and borders generated by colonial territories. This differentiation allows analysts to test whether all territory is seen as equally important, or whether homeland territory generates greater willingness than more distantly held colonial/imperial territories. Implicitly tested in such analyses is the notion that it is homeland territory per se, that is important; that the proximity of any homeland territory of another state is the important factor part of the considerable research devoted to borders and territory suggests that territorial contiguity is a major determinant of whether or not a state will go to war with another state.

Indeed as a significant piece of the war puzzle, Vasquez suggests that territorial contiguity is the source of conflict most likely to result in war³². However, perhaps simple contiguity may not be the critical factor. Dropping one level of analysis lower, Vasquez also hypothesizes that the nature of the border between

³⁰ Midlarsky I, *Mathematical models of instability and a theory of diffusion*, international studies quarterly no 14, 1970, pp 60-84

³¹ Starr, Harvey & Benjamin Most, *The substance and study of borders in international relations research*, international studies quarterly, no.20, Dec 1976, pp 581-620

³² Vasquez John, *The war puzzle*, Cambridge, Cambridge University press, 1993

two states affects the probability that states will go to war. Specifically, he hypothesizes, that borders that coincide with natural frontiers or that traverse uninhabited regions or are seen as having little value are much less likely to provoke wars than dissimilar borders and border areas.

Nonetheless, arguments can be found in the literature to suggest that just the opposite is true. Highly permeable and salient borders may produce qualitatively distinct behavior. For example, the ease of interaction and salience of borders areas in North Western Europe has- [based on Deutsch's social communication model of integration]³³, mostly likely contributed to the area moving from high levels of conflict to high levels of cooperation. Relations between states with highly permeable and salient borders have shown a tendency toward interdependence/integration, making military conflict less likely and agreement more likely.

For Karl Deutsch, transaction flows were central to the process by which integration took place and security communities were formed. According to Deutsch, countries are clusters of population, united by grids of communication flows and transport systems and separated by thinly settled or nearly empty territories. Cobb and Elder³⁴ argue that all successful security communities have multiplicity of transaction channels performing a variety of common functions and purposes. Indeed, a high rate of transactional exchange within an area

³³ Starr Harvey, "Opportunity, willingness and geographic information systems: Reconceptualising borders in International Relations," *Political Geography*, 2002

³⁴ Cobb W, & Elder C, *International community*, New York: Holt and Winston, 1970

may mean that the community achieves a degree of integration. The results of Cobb & Elders empirical study link the exchange of transactions to mutual relevance and then mutual relevance to greater levels of interstate collaboration.

Despite the increasing salience of policing clandestine transnational actors in world politics, this has not been a central area of study in international relations. Even the expansive literatures on transnational relations and globalization have had little to say about the clandestine side of the transnational world and state efforts to police it. Police matters have typically been bracketed by international relations scholars, left to criminologists and criminal justice specialists who have mostly focused on domestic issues such as local crime control. While the dynamics of border law enforcement and law evasion have been a growing concern of policy makers, international relations debates over borders and territorial controls have tended to concentrate on conventionally defined military and economic issues.

On the one hand, many international relations scholars have concluded that the decline of militarized interstate border disputes and the growing economic permeability of borders have made borders and territorial controls increasingly irrelevant.

On the other hand, many traditional security scholars continue to insist on the enduring primacy of military border concerns. Challenging both of these

common views, Peter Andreas argues that borders are not eroding or remaining unchanged, but are being recrafted through ambitious and innovative state efforts to territorially exclude clandestine transnational actors while assuring territorial access for desirable entries.³⁵

1.10 LITERATURE ON KENYA – SOMALIA BORDER AREA CONFLICT

Chronic instability along the Kenya- Somalia border zone is part of a larger pattern of state failure, lawlessness, and communal violence afflicting the Kenyan border areas from Uganda to Somalia, frequently described as “not peace not war”. Local communities suffer levels of displacement and casualties akin to civil war, but in a context of sporadic, low intensity communal clashes punctuated by extended periods of uneasy peace. Spoilers embrace armed conflict not in pursuit of victory but to create conditions of durable disorder from which they profiteer. Conventional conflict prevention and management approaches have generally been frustrated in the face of these unconventional conflict dynamics³⁶.

Semi – arid, pastoralist zones in the border areas of Kenya constitute the frontier area, where state capacity to exercise authority is weak to non-existent. The absence of the state in these areas breeds lawlessness and compels local communities to rely upon informal systems of protection, usually involving a

³⁵ Peter Andreas, “redrawing the line: borders and security in the twenty first century”, *international security*, vol. 28. No.2 Autumn, 2003, pp 78-111

³⁶ Menkhaus Ken, “Kenya-Somalia border conflict analysis,” USAID Report, 2005

combination of tribal or clan militias- for deterrence and retaliation, and traditional authorities and customs – for conflict management and justice³⁷.

Distinguishing characteristics of the Kenya- Somalia border areas include: the complete absence of a state counterpart on the Somali side of the border; the existence of more robust forms of local, informal governance and conflict management than anywhere else in Kenya's border regions; the rise of vibrant cross-border trade of commercial goods and cattle; and the dominance of a single ethnic group, [the Somali], on both sides of the border.³⁸

Since 1995, a number of local factors have contributed to improved security and informal governance on both sides of the Kenya- Somalia border, especially in northeastern Kenya. Progress suggests that local peace and conflict prevention mechanisms have real promise; however, since 2004, serious armed clashes in Mandera and EL Wak have rendered the region highly insecure and are indicators that local conflict prevention mechanisms are not a panacea and face limits in their ability to stem conflicts born of much broader, structural forces at play in the region. ³⁹

1.11 THEORETICAL FRAMEWORK

A theory is a body of internally consistent empirical generalization of descriptive, predictive and explanatory power. A theory explains, describes and

³⁷ *ibid*

³⁸ USAID Report on conflict prevention, mitigation, and response program for East and Southern Africa; *Managing African Conflict*, August 2005

³⁹ USAID report on conflict prevention, mitigation, and response program for East and Southern Africa; *managing African conflict*, August 2005

predicts phenomena. Since a theory provides a framework within which to operate, it is hard to think without a theory⁴⁰. This study utilizes the conflict system approach and the pluralism theory to analyze conflict.

1.11.1 CONFLICT SYSTEM

Conflict analysis and management from a conflict system perspective entails certain things: first, it requires the acknowledgment that every conflict is interconnected with other conflicts in a region. This has revolutionary implications for conflict management. It means that conflict management should not concentrate only on one dimension of the conflict. It must, in other words, take into account the other conflicts in a region which are all interconnected. ⁴¹Since all the conflicts in a conflict system are interconnected, they cannot logically possess peculiarities that are not shared by the other conflicts in the system.

Mwagiru⁴² traces the ancestor of the conflict systems approach to the systems theory. Systems theory, as postulated by other writers like Kaplan⁴³, argue that all science in the world is organized along systemic lines; it has systemic properties which can be revealed through research. A system, in this view, means a set of patterned interactions in which behavior has both rhyme

⁴⁰ A.J.R. Groom, *Paradigm in Conflict: The Strategist, The conflict Researcher, The Peace Researcher* in J. Burton & F. Dukes [eds.], *conflict readings in management and resolution*, Macmillan. pp 76

⁴¹ Mwagiru M, *Conflict in Africa: Theory, processes and institutions of management*, CCR Publications, Nairobi, 2006

⁴² *ibid*

⁴³ M. Kaplan, *System and Process in International Politics*, New York: Wiley 1957

and reason. This means eventually that at some level of abstractions, generalizations can be made about the system. The idea of conflict system is also well captured by Burton⁴⁴ on his conflict researcher paradigm.

In terms of the analysis of conflict, this means that it is possible to generalize about conflicts because they are part of a system. For conflict analysis generally, the study and analysis of conflict can be approached from the various levels: international conflict systems, regional conflict systems, and sub-regional conflict systems. Systems theory as applied to the analysis of conflict performs some useful and inter related functions. It takes into account the diversity of actors, factors, and transactions in a conflict. Also, a systems perspective is holistic in its approach to and appreciation of conflict. The conflict systems idea recognizes and acknowledges that conflicts, like many other phenomena, are indivisible from the whole⁴⁵.

Certain things become evident when conflicts in a region are surveyed through the conceptual glasses of a conflict systems approach. First, a system of interlocking and overlapping conflicts in a region becomes discernible. Secondly, it becomes apparent on close analysis that those conflicts are played

⁴⁴ J. W. Burton, *Global Conflict: The Domestic Sources of International Crisis*, Brighton: Wheatsheaf Books, 1984

⁴⁵ Mwangi M, *Conflict in Africa: Theory, Processes and Institutions of Management*, CCR Publications, Nairobi, 2006

out against the backdrop interfacing and competitive regional politics and diplomacy⁴⁶.

One of the realities of conflict systems and an invaluable aid to their analysis, is the existence of an epicenter in each conflict system, i.e. the area around which the whole conflict system turns. The idea of an epicenter of a conflict system suggests that systemic conflict management should concentrate on the epicenter. Since the conflict characterizing that epicenter influences the trends and prospects for the conflicts in the region, concentrating conflict management efforts on it calls for creative conflict management approaches.⁴⁷

In the Horn of Africa conflict system, there is little doubt that the epicenter currently rests firmly in the Somalia conflict. That conflict has systemic connections to other conflicts in the region. Hence the approaches to its management will emerge in the region. The relations between state and non state actors and individuals in the region are also influenced by that epicenter.

This is a characteristic of the relations between Kenya and Somalia where on several occasions and even currently the Kenyan government has closed its border with Somalia. Most recently, threats by the Al Shabaab militia group from Somalia to attack Kenya led to tightened military alert on the Kenya – Somalia

⁴⁶ M. Kaplan, *System and Process in International Politics*, New York, 1957

⁴⁷ Mwangi M, *Conflict in Africa: Theory, Processes and Institutions of Management*, CCR Publications, 2006

border by the Kenyan government⁴⁸. This study will thus be based on the conceptual conflict system analysis approach since it entails a shift in levels of analysis, from a particularistic to a systemic basis. The conflict systems approach recognizes and celebrates the essential inter-linkages of conflicts in a region, and this account for much of its richness.

1.11.2 PLURALISM THEORY

Paul Viotti and Mak V. Kauppi⁴⁹ in the book, *International Relations: Realism, Pluralism, Globalism and Beyond*, have argued about theoretical alternatives of explaining international relations especially the issue of national security. They have argued that pluralism has a multiple agenda in socio-economic and welfare issues. Because of the presence of numerous non state actors such as cattle rustlers, bandits, smugglers, terrorists-using porous borders, common ethnic groups along the border, arms and drug traffickers who defy the borders in the Horn of Africa, the tenets of realism are not adequate. In addition, contemporary forces such as economic globalization and the impact of communication revolutions are making boundaries increasingly porous therefore; a state does not have absolute control over what happens within its jurisdiction. As sovereignty erodes, so does salience of some of the operating principles of the traditional paradigm such as realism and its emphasis on the use of force. Realism therefore, which recognizes the state as the only actor, is

⁴⁸ Daily Nation, Friday, June 12, 2009, Nairobi. Also accessed via www.nation.co.ke

⁴⁹ Viotti R & Kauppi M, *International Relation Theory, "Realism, Pluralism, Globalism and beyond"*, London: Allyn & Bacon. 1999

inadequate in predicting some of the occurrences in the region due to the plurality of states and non state actors.⁵⁰

The pluralist theory seems attractive since its image in international relation consists of different sets of assumptions. First, non state actors are important entities in international relations and cannot be ignored. Similarly, other nongovernmental actors, such as environmental organizations and multinational enterprises cannot be dismissed given the economic importance they wield. Second, for the pluralist, the state is not a unitary actor and the main issues are multiple agenda with socioeconomic or welfare issues being more important than national security. In addition, a state may be free of aggression of different kinds from other states in the international system and face more devastating threats from non state actors. Therefore since the Kenya- Somalia border area is a region with many non state actors, this study will also borrow from the pluralists approach.

However, this study could also be based on other various conflict theories such as the Frustration – Aggression theory and theory of relative deprivation.

The frustration – Aggression theory has two major propositions; that all aggression is the result of frustration, and all frustration is aggression. The argument here is that while aggression is not innate in human beings, the potential for aggression is and is activated by certain kinds and levels of

⁵⁰ Snow, M. Donald, " National security for a new era. Globalisation and geo-politics", New York, Pearson Longman, 2004 , pp 61

frustration. The classical statement of the frustration – aggression theory was modified later when it was demonstrated that there are other causes of aggression apart from frustration. Also it has been shown that whether or not frustration leads to aggression depends on other things for instance the importance attached to the goal being frustrated and whether there exists any alternatives. It has also been shown that aggression does not always follow frustration especially in cases of instrumental aggression, role aggression, and socially organized aggression. These conceptual problems with the frustration – aggression theory mean that while it is useful in explaining aggression at the individual level, it does not explain it much at the social level. Hence the theory of relative deprivation was developed in order to try and bridge the gap between the individual and the social level. The major problem with relative deprivation as an explanatory theory for conflict is that it is highly subjective and cannot therefore be measured by any objective criteria. Also, unless it is elevated to the group level, relative deprivation still remains an unsatisfactory basis on which to explain social conflict⁵¹.

The Realist approach to explain conflict could also be applied in this study. This approach is based on the assertion that the study of international relations is primarily concerned with inter-state relations. States are the dominant actors and they are conceived to be well integrated internally and to act externally as a clearly defined unit. Non- state actors are considered to be of

⁵¹ HO-WON JEONG, *Peace and Conflict Studies*, Ashgate Publishing limited, 2000

little consequence since, ultimately, they are controllable by states. This approach concerns itself with states interacting in a system of power politics⁵². Why this approach was left out in this study was due to its focus on the states been the dominant actors in international relations and thus leaving out non – state actors who according to this study are principal actors on interstate relations.

1.12 HYPOTHESES

Through this study I will explore these hypotheses;

First, the Presence of porous borders contributes to generation and escalation of cross-border violence in Kenya and Somali

Second, Porous borders have not been effectively incorporated in conflict management by the Kenya government

Third, Porous borders do not contribute to generation and escalation of cross-border violence.

1.13 METHODOLOGY

Social science data are obtained when investigators or others record observations about the phenomena being studied. Four general forms of data collection may be distinguished: - observational methods, survey research, secondary data analysis, and qualitative research. Researchers employ a

⁵² A.J.R Groom, "Paradigms in conflict: the Strategist, the Conflict Researcher and the Peace Researcher, pp70-90

number of distinctive methods for each form. Researchers find it advantageous to triangulate methods whenever feasible, - that is they use more than one form of data collection to test the same hypothesis.

The study will make use of both survey research and secondary data analysis. Observational methods of data collection are suitable for investigating phenomena that researchers can observe directly. However, not all phenomena are accessible to the investigators direct observation; very often, therefore the researcher must collect data by asking people who have experienced certain phenomena to reconstruct their experiences. The responses constitute the data on which the hypotheses are examined. In this study the primary data will be collected from the field by interviews. The personal interview is a face to face, interpersonal role situation in which an interviewer asks respondents questions designed to elicit answers pertinent to the research hypotheses. The questions, their wording, and their sequence define the structure of the interview. The study will use the non-directive interview where questions will be open ended and the study sample shall be drawn from personnel from relevant government ministries, personnel from nongovernmental organizations working with refugees and conflict management in North Eastern province in Kenya; scholars and researchers in relevant fields of study like refugees, population studies, conflict and peace studies. My choice for this mode of survey is mainly due to the fact that it is flexible in data collection – you can probe various areas and raise specific

queries during the course of the interview, you control the interview situation, you have a high response rate, and able to collect supplementary information. Although it is costly and prone to interviewer bias, this method of study as a source of data will complement the limited literature that exists on the subject matter in the period of study.

This study also made use of secondary data. It explored and critically analyzed works that have been published in books, journals, articles, newspapers, relevant papers presented at different fora that have a relation to this area of study. International instruments such as conventions and charters on international boundaries, conflicts, war and human rights were also utilized to offer information.

1.14 LIMITATIONS OF THIS STUDY

Most of the government officers interviewed were hesitant to give out information considering such a topic to be a matter of national security however on explaining to them that the information collected was meant for academic purposes only, they agreed to be interviewed and fill in the questionnaires.

2.0 CHAPTER TWO

HISTORICAL CONTEXT OF THE KENYA-SOMALIA BORDER AREA

CONFLICT

2.1 INTRODUCTION

The Kenya – Somalia boundary is about 424 miles long. In the North, the tri point with Ethiopia is located on the Thalweg of the Dava, and in the South, the boundary extends to the Indian Ocean. Initially, the Kenya – Somalia boundary delimited British and Italian spheres of influence in East Africa between the Indian Ocean and the Dava (Dava Parma, Dawa). In 1887, the British East Africa Association was formed for the development of the British sphere of influence, and it obtained a concession from the Sultan of Zanzibar for part of his mainland territories⁵³. In 1925, Britain transferred, from Kenya to Italy, the border that was going up to River Juba, which was known as Juba land⁵⁴. Since independence, successive Somali governments had sought to reincorporate those Somalis living in Ethiopia, Kenya, and Djibouti into greater Somalia. Between 1960 and 1964, for example, guerrillas supported by the Somalia government battled local security forces in Kenya and Ethiopia on behalf of Somalia's territorial claims.⁵⁵

By late 1964, it had become obvious that the initial campaign to unify all Somalis had failed. In Kenya, the government carried out counter insurgency

⁵³ Okoth A, *A History of Africa 1885-1914* (Nairobi: East African Educational Publishers, 1979) p. 99

⁵⁴ Odhiambo, Otieno ES, T.I Ouso, & J.F Williams, *A History of East Africa* (Nairobi: Longman, 1991) p.119

⁵⁵ Thomas A, *Irredentism: Ethnic Conflict and International Politics* (West Port, CT: Praeger, 2001), p.193

operations to control Somali guerrillas in what was then the Northern Frontier District⁵⁶. In late 1964, Kenya's president Jomo Kenyatta and Ethiopia's Emperor Haile Selassie signed a mutual defense agreement aimed at containing Somali aggression and irredentism⁵⁷. This however, did not solve the problem of Somali unification agenda.

The Kenya – Somali border conflict has not been about land, but rather about the unification of all Somalis within the Somali republic and the neighboring countries. The disputed frontier, the Northern Frontier District was an historical accident dating back to Britain's treaty with Italy, which partitioned the Sudan and East Africa from Ethiopia and placed the Somali plateau into British and Italian zones of influence for administrative purposes⁵⁸.

In 1909, the Somalis westward migration had reached the Tana River and had driven the Boran Galla out of Wajir as well as many other small tribes in the area.⁵⁹

In 1912, Wajir was occupied by the British constabulary, but had to be hastily evacuated four years later after 80 people were killed in a surprise attack by Somalis against Lieutenant Elliot's constabulary at Serenli in the upper Juba. However, the northern frontier district came under effective British administration for the first time when Moyale and Wajir were garrisoned by regular British troops

⁵⁶ Wriggins ,Howard, Gause, Lyons and Colbert; Dynamics of Regional Politics, p.172

⁵⁷ Ibid., P. 182

⁵⁸ Issa – Salwe, The collapse of Somali State: The impact of the colonial legacy, p.51

⁵⁹ Ibid

in 1920⁶⁰. The Somalis westward movement was interrupted by the British Colonial Administration between 1895 and 1912. After the First World War, the British government came to a secret agreement with Italy to transfer 94,050 square kilometers of its East African Protectorate to Italian Somaliland. This was Italy's reward for allying with Britain during its war with Germany. The treaty was honored, and Juba land was ceded in 1924⁶¹. Many ethnic Somalis however, were still left living on Kenyan territory even after this boundary change.

The greater Somali phenomenon emerged in the year 1956, when the Somali trust territory moved closer to possible unification. This move alarmed Ethiopia, which feared the emergence of greater Somali authoritative influence in the Horn of Africa. The greater Somali concept had developed deep roots and later in July 1960 the two Somalia territories [Italia Somaliland and British Somaliland] were united into one republic⁶². Until 1963, when Kenya attained her independence, the northern eastern region had been isolated from the rest of Kenya by the British Colonialist laws passed in 1902 and in 1934, which restricted the movement of all persons entering or leaving the district.⁶³

This section will briefly examine the Kenya – Somalia border area conflict with more emphasis being given to the historical context of the border area conflict.

⁶⁰ Charles Carrington, *Exploits of a Nation of Shopkeepers*, Cambridge, England; University Press, 1950, p.819

⁶¹ Menkhaus Ken, *Kenya-Somalia border conflict analysis*, Development Alternatives, Inc. 2005

⁶² Kaplan, *Area handbook for Somalia*, p.37

⁶³ Issa – Salwe, *The collapse of Somali State; The impact of the colonial legacy*, p.61

2.2 CONTEXT

2.2.1. GEOGRAPHY

The geography, rainfall, and vegetation of the Somali- Kenya border area varies considerably from the coastal area to the Ethiopian border and plays an important role in shaping human activities including, as will be argued below, armed conflict. From coastal south to northern interior, rainfall steadily decreases, temperatures rise, and vegetation patterns shift from dense bush to semi – arid conditions. Portions of the coastal districts and regions are quite inaccessible, featuring dozens of inlets, wadis, seasonal streams, swamps, and dense bush. A large seasonal lake and swamp, Dhesheeq Waamo, forms from the lower Jubba River toward the Kenyan border and, depending on riverine flood levels, can inundate a long ribbon of low-lying land into the Lorian swamp in northeast Kenya. The coast of northern Kenya averages 1200mm of rain annually⁶⁴. Overland travel is quite difficult in the southernmost part of the border area.

To the north of the coastal area, rainfall levels on the Somali side of the border (in the Mareerey-Afmadow-Dobley corridor) are high enough (500 – 750mm/year) to sustain some of the best grasslands in all of Somalia, as well as scattered rainfed agriculture. Rangeland is drier and quite open west of the border in Kenya, and in the northern Somali region of Gedo and the Kenyan districts of wajir and Mandera. Rainfall levels drop off quickly in the northern

⁶⁴ Ruto Pkalya et al., "conflict in northern Kenya," (Nairobi: Greenwood press for ITDG, 2003). P.20

interior of the border area. Wajir district (Kenya) averages only 200mm of rain per year; Gedo region (Somalia) averages 200-300mm/year. Temperatures throughout the border area are hot, especially into the interior; the mean temperature in Luuq Somalia ranges from 28 c (82 F) in the coldest months (July-August) to 33 c (92 F) in the hottest months (February-March).⁶⁵

The Kenya- Somali border area is partially framed by two perennially flowing rivers, the Tana River in Kenya and the Jubba River in southern Somalia. The riverine valleys are narrow further upstream but widen as they approach the Indian Ocean, creating two fertile ribbons of tropical flora and forest. The lower portions of the river valleys also harbor tsetse flies and so have historically been avoided by pastoralists⁶⁶.

The region's main rainy season (gu in Somali) occurs between late March to June. A second short and less reliable rain (deyr) falls in October-November. The deyr season rains are especially heavy in the highlands of Ethiopia, the headwater of the Jubba River, so that flooding in the Jubba valley is most common in October-November. As is true of the entire Horn of Africa, rains are highly variable in the Kenya- Somali border area. About one in five years rains fail and produce serious drought; likewise, serious riverine flooding occurs about once every five years. Between recurring drought and flooding, the Tana-Jubba inter-riverine zone is the site of frequent natural disasters requiring

⁶⁵ Ken Menkhaus, "Gedo Region," UNDOS studies in Governance#5 (Nairobi: UNDOS, December 1999), sec 2.1

⁶⁶ *ibid*

humanitarian response in a "non-permissive environment" of lawlessness and contested local authority. During the rainy seasons, overland travel on track roads can be difficult to impossible, slowing both commerce and war⁶⁷.

Human activity has dramatically altered and damaged much of the region's ground cover, reducing the carrying capacity of the land. Predictably, this has led to an increase in communal conflict over access to increasingly scarce pasture. Increased human population, larger livestock herds, and inappropriate placement of boreholes (for political reasons, mainly in Kenya) have for decades resulted in severe overgrazing in some areas. Harvesting of acacia trees for commercial export of charcoal or for firewood has led to heavy erosion and rangeland degradation in the southern half of the border area, from the Dadaab refugee camp (near Doble/Liboi) to the coast⁶⁸.

The isolated and often inaccessible terrain of the border area makes for an appealing location for terrorist and armed criminal activity. Coastal areas of the border feature numerous small islands and remote inlets where dhows and fishing vessels can freely come and go undetected; the dense bush and lack of roads in much of the lower Jubba region and coastal zone provides safe haven. The radical Somali Islamist group AL Shabaab has periodically exploited the lower Jubba region as a safe haven and transit point, while al Qaeda

⁶⁷ Menkhaus Ken, "From Feast to Famine: Land and the State in Somalia's Lower Jubba Valley," In *The Struggle for Land in Southern Somalia: The War Behind the War*, Boulder, CO: Westview Press, 1996

⁶⁸ US Agency for International Development, *Jubba Environmental and Socio-Economic Studies*, Burlington VT: Associates in Rural Development, 1989

operatives are known to have operated out of Kenya's northern coastal zone and cross into Somalia from there. To the north, the remote settlements of El Wak and Luuq (Somalia) have in the past been sites controlled by Al Shabaab⁶⁹.

The border itself is in no way based on any natural geographic or socio-economic boundary; it is essentially a "line drawn in the sand" by way of a colonial-era treaty (the treaty of London in 1924) in which the United Kingdom ceded territory from the Jubba river to the current border to Italy, as part of an agreement insuring Italian alliance during world war 1. From 1895 to 1924, the border between British Kenya Colony and Italian Somaliland was the Jubba River⁷⁰.

2.2.2 HUMAN SETTLEMENT AND PRODUCTIVE ACTIVITIES

The border area is relatively lightly populated. Kenya's North- Eastern Province has a population density of only 5 persons per square kilometer and hosting a total population estimated at 600,000 in 1993⁷¹. The vast majority of the population in both Kenyan and Somali border regions are rural. In Somalia, about half are subsistence farmers, concentrated along the Jubba River. Pastoralists and agro-pastoralists make up about 30% percent of the population in the Somalia border regions. The remaining 20% percent of the Transjubba

⁶⁹ Robert Walker and Hassan Omar, "Pastoralists Under Pressure: The Politics of Sedentarisation and Marginalization in Wajir District, Northeast Kenya," Nairobi, Oxfam GB, 2002

⁷⁰ Kaplan, Area Handbook for Somalia, p 37

⁷¹ Mohamed I. Farah, From Ethnic Response to Clan Identity: A Study of State Penetration among the Somali nomadic pastoral society of Northeastern Kenya, *studia sociologica uppsaliensia* No. 35(Uppsala:Graphic Systems AB,1930,P.40

Somalia population are settled in one of several small towns, nearly all along the Jubba River⁷².

The port city of Kismayo is the largest urban area on the Somali side of the border, with a variable population, usually in the range of 50,000 to 80,000. Other towns with populations over 10,000 include Bardhere, Luuq, Beled Hawa all in the Gedo region. Significant urban growth in these Somali regions has occurred in Beled Hawa and to a lesser extent Bardhere.⁷³

In Kenya's north – East province, the majority of the population is pastoral. Northeastern Kenya, not long ago almost entirely rural, has experienced a significant urbanization trend, with several previously small settlements now housing 40,000 or more inhabitants. Garissa is the largest city in the border area and now a major commercial hub. Mandera and Wajir now exceed 40,000 residents. The single biggest collection of settled households in the entire area is not in a town, but rather at the refugee camps at Dadaab, Kenya, where about over 100,000 refugees (mainly from Somalia) have resided for over a decade.⁷⁴

Pastoral production varies regionally. In the rich grasslands of the southern border area, particularly on the Somali side of the border, cattle herding predominates. Somali cattle production is now commercialized, with a vibrant cross-border trade into Kenya, where the cattle fetch good prices in the Nairobi

⁷² *ibid*

⁷³ Menkhaus Ken, Kenya – Somalia Border Conflict Analysis, USAID Report, 1995, p 4-6

⁷⁴ *Ibid* pp 4-6

market. Cattle are walked from Somalia to Garissa, where they are sold. The cross-border cattle trade, which only developed after the fall of the Barre government in 1991, has been a real benefit to Somali cattle herders in the lower and middle Jubba. To the north, where semi-arid conditions are not conducive for cattle, camels, sheep, and goats predominate. In contrast to the cattle trade, which moves from Somalia to Kenya, camels are brought in for sale at major livestock markets in Mandera and Moyale from Kenya and Ethiopia, destined for the Somali market in Mogadishu⁷⁵.

Over the past three decades, a growing percentage of the border area population is engaging in petty commerce, artisan work, construction, transport, and the service economy. Livelihoods earned in urban commerce have increased considerably in the past 10 years in the border region due to the emergence of a major transit trade system of consumer goods moved from abroad through Somalia and into Kenya. Many of the urban households in the region enjoy access to remittances sent from family members working abroad⁷⁶.

2.2.3 IDENTITY AND ETHNICITY

Identity politics are central to Kenya- Somalia border area conflicts, and are also extremely complex and nuanced.

⁷⁵ Robert Walker and Hassan Omar, "Pastoralists under Pressure:

⁷⁶ Merrman James, "The Economy of Geedo Region and the Rise of Smallholder Irrigation," *The Struggle for Land in Southern Somalia*, Westview Press, 1996

The Kenya- Somalia border area is dominated by the Somali ethnic group. But a number of other ethnic groups live in the border areas, especially in the northern Kenya border zone.

Many of these groups- such as the Garre, Gabra, and Rendile—possess highly ambiguous and fluid ethnic identities, making it difficult to categorize them as Somali, Oromo, or other. The Garre, for instance, are considered a Somali clan but speak a dialect of Oromiyya. The flexible, fluid nature of ethnic identity among the Garre, Gabra, and Rendile has historically been a useful tool for negotiating relations between the dominant groups⁷⁷.

The Somalis themselves are much more hybrid in the Tana- Jubba interriverine area than in central and northern Somalia. In the process of southwestern expansion across the Jubba River and into present day Kenya, Somali clans freely employed the practice of clan adoption either as newcomers seeking protection from a stronger clan or as a means of absorbing weaker groups. As Cassanelli notes, “during the periodic migrations of Somali nomads from the drier central plains into the interriverine area, the incidence of contractual clientship multiplied.”⁷⁸

The result is that many members of Somali clans in the border areas are shegad – some are originally Orma, (Wardeji), while others are adopted

⁷⁷ Menkhaus Ken, Kenya-Somalia Border Conflict, USAID Report, 2005, pp 6-8

⁷⁸ Lee Cassanelli, *The Shaping of Somali Society* (Philadelphia: University of Pennsylvania press, 1982), p.77

members from another Somali clan. Occasionally, when political advantage dictates, adopted clans can rediscover their original identity and revoke their old clan identity.

Ethnic identity in the region is not nearly as fixed and immutable as observers often assume, but is rather used as a tool by communities to pursue what they need- protection and access to resources.

As Laitin and Samatar noted two decades ago, "the essence of great politics in the Somali context is the clever reconstruction of one's clan identity."⁷⁹

The Somali Darood clan-family dominates most of the southern tier of Jubba-Tana area. The Harti/ Darood historically resided in the Kismayo area and its hinterland, but since 1991 the town has been under the control of outside clan militias. The rest of the southern interior, from Garissa on the Tana River to Marerey on the Jubba River, is inhabited mainly by a number of Absame/Darood clans, including Mohamed Zubeir, Makabal, Aulihan, Talamoge, and Jidwak. Along the lower Tana and jubba river valleys, the main ethnic groups are non- Somali. Bantu farmers reside along the Jubba River, and in the Tana River valley the Pokomo (Bantu farmers), Orma, and Wardey (Cushitic) are the principal inhabitants. A small group of hunter-gatherers, the

⁷⁹ David Laitin & Said Samatar, *Somalia: Nation in search of a state* (Boulder: WestView, 1986), p.31

Boni, live in the northeastern coastal corner of Kenya. Along the Somali and Kenyan coast, the Bajuni live as fishermen⁸⁰.

Further north in the border areas, ethnic settlement becomes more complex. In Gedo region, the Marehan are the single largest group, probably constituting half or more of the total population. Other Somali clans in Gedo region include the Rahanweyn, Bantu, and Ajurann, a small group of Dir near the Ethiopian border; and the Garre in El Wak district.⁸¹

On the Kenyan side of the border, in Wajir district, Somali and proto-Somali clans include Ajuraan, Degodia, and Garre. In Mandera district, Murille and Garre are the main proto- Somali clans. To the east, in Marsabit province, the Borona, Rendille, Gabra, and Oromo predominate.

These border communities possess salient identities based on citizenship, geography, and caste. One important marker is citizenship in Kenya, Somalia, or Ethiopia. This distinction is important even within the same Somali sub- clans, and has two dimensions. One has to do with political culture, the other with political rights. Both are a source of local tensions, but rarely armed conflict. Culturally, the "reer Somali" (Somali citizens) have been viewed as much more politically active, aggressive, and clannish than their "reer Kenya" kinsmen. By contrast, the Kenyan Somalis had lived under emergency rule in Kenya for nearly thirty

⁸⁰ Menkhaus Ken, Gedo Region, UNDOS, 1999

⁸¹ This calculation that the Marehan are roughly half of the total Gedo region population is based on an estimate made in Menkhaus, "Gedo Region" (1999), section 2.

years –until 1990, and could fairly be described as politically quiescent at the time. Sub-clan identity for the Kenyan Somalis was in the past of little importance; many were not even aware of their sub-clan lineage. Kenyan Somalis attribute their new-found assertiveness in Kenyan politics to the catalyzing impact of the reer Somalis, but nonetheless resent what they perceive to be pushiness and lack of respect for rule of law on part of the reer Somali. The split over political rights has to do with the fact that Somali Kenyans are entitled to access to public school and other rights of citizenship inside Kenya while the reer Somali are not. Reer Somali in border areas have predictably sought to acquire Kenyan papers so as to access these benefits and facilitate their travel inside Kenya and abroad. Tensions arise when reer Somalis in the border area exploit facilities such as primary schools which become overcrowded⁸².

Caste or hierarchical identities within clans matter a great deal as well. In the regions of Somalia and northern Kenya, social hierarchies are quite complex. Arguably the transJubba lowest status groups are the Somali "Bantu" along the Jubba River and now in Kenyan refugee camps, Somali Bantu are still casually referred to by ethnic Somalis as addoon, or slaves, are subjected to blatant discrimination, and have been the victims of land grabbing, forced

⁸² Menkhaus Ken, "Gedo Region" UNDOCS 1999

labor, and predation at the hands of Somali militias since 1990.⁸³ Even in Kenyan refugee camps at Dadaab and Kakuma, Somali Bantu are subject to abuse, ranging from appropriation of food rations by ethnic Somalis to rape of their women. A 2003 study found that 65% of Somali Bantu children in Kakuma camp are chronically malnourished, a rate five times higher than the camp's general population.⁸⁴

Another important dimension of identity politics in the border area is the notion of territorial or local citizenship and rights which can be claimed thereby. Somalis in the trans-Jubba region make a sharp distinction between *guri* (indigenous) and *galti* (newcomer) residents. This distinction- which occurs within clans and sub-clans – has taken on new importance since 1990, when hundreds of thousands of mainly Darood clansmen fled into Jubba regions of southern Somalia. Most of these displaced groups were *galti*, and they have struggled with the *guri* kinsmen, sometimes in lethal conflicts, for 15 years over control of local political and economic interests. The *guri-galti* tension is part of a broader debate within Somali society in both Somalia and Kenya over the nature of political rights and entitlements. One discourse invokes lineage and the principle of *u dhashay*, (born for a region), the notion that one may claim full rights on one's clan's home region, and no other. Territory thus becomes a vehicle for

⁸³ Ken Menkhaus, "From Feast to Famine: Land and the state in Somalia's lower Jubba valley," in *The struggle for land in southern Somalia: The War Behind the War*, edited by Catherine Bestman & Lee Cassanelli (Boulder: WestView press, 1996), pp. 133-154

⁸⁴ International Rescue Committee, "IRC Works to Reduce Malnutrition among Somali Bantus in Kenya," press statement (New York, 20 June 2003)

ethnic exclusionary rights and land access. A second discourse invokes a birthright claim, *ku dhashay* (born in a region), or the notion that one may claim full rights in one's region of birth, even if one from an outside clan. A third Somali discourse is *ku dhaqmay*, which holds that Somalis may naturalize in any region and enjoy full rights there; no ethnic or birthright claims may be made to restrict rights and land access to any citizen. This principle is accepted as a standard in most modern legal systems, but in countries where weak ethnic groups have been pushed off their land by stronger groups, the principle is viewed by weak groups as a legal cover for land grabs.⁸⁵ In Kenya, a similar controversy over land and birthrights has been framed within the *majimboism* (regionalism) policy debates since 1991.⁸⁶

In several towns in the Kenya and Somali border areas, a specific, more cosmopolitan identity exists in which residents view themselves primarily as citizens of that town. This strong urban-place identity invariably occurs in multi-clan towns, and appears to be designed to reinforce local solidarity and peace and minimize the importance of potentially divisive lineage identities. One of the earliest such instances of civic identity was in the *kismayo* area, where *Absame* and *Harti* clans embraced a shared "*reer Waamo*" identity.

⁸⁵ International Crisis Group, "Somalia: Continuation of War by other means?" (Nairobi/Brussels: ICG Africa Report #88, 21 December 2004), pp.19-20

⁸⁶ Jacqueline Kloop, "Can moral ethnicity trump political tribalism? The struggle for land and nation in Kenya," *African Studies*, vol. 61, no. 2 (2002)

On the Kenyan side of the border the many ethnic and clan groups inhabiting and frequently fighting over that territory share a common identity as low country Kenyans, part of the vast expanse of marginalized, generally pastoral or coastal groups living on the edge of a country dominated by up-country Kenyans. The mutual disdain between these two categories of Kenyans can be fierce at times⁸⁷.

2.3 KEY HISTORICAL THEMES

The following key themes from the border region's history will be essential for making sense of contemporary conflicts.

2.3.1 TRADE ROUTES

The border region's role as a vibrant trade route is new. Historically, the territory west of the Jubba to the Tana River was extremely isolated, possessing little of value to outsiders. Pre-colonial trade routes ran from Somali seaports at Brava and Mogadishu up into Ethiopia through Luuq, but not across the current border zone. An important, pre-colonial Islamic communal settlement (jamaaca) was established in the early 19th century at Bardhere, along the Jubba River. Italian and British colonial penetration of the border area was very light, except for attempts to develop irrigated plantation production along the lower Jubba River.⁸⁸ The Italians built an all – weather road through Luuq and Doolo in the mid-1930s in order to invade and occupy Ethiopia in 1936, and a

⁸⁷ Menkhaus Ken, Kenya-Somali Border Conflict Analysis, USAID Report, 2005

⁸⁸ Lee Cassanelli, The shaping of Somali Society (Philadelphia: University of Pennsylvania Press, 1982), pp.139-143

seaport was constructed at Kismayo. Government presence in the border territories was extremely limited; British and Italian authorities relied on clan elders to maintain basic law and order. Punitive expeditions', typically involving the confiscation of a large number of a clan's herd as punishment for a crime or insurrection, was the principle means of enforcing colonial rule⁸⁹.

The region had a reputation then as a territory of little value and much potential trouble, leading to a colonial policy of containment and neglect⁹⁰.

2.3.2 MIGRATION AND CONQUEST

In the early to mid-19th century, a major southward migration of Somali clans from the semi-arid zones of central Somalia and eastern Ethiopia dramatically reshaped population settlement in the Jubba-Tana River zone. Prior to the 1840s, the territory west of the Jubba River was inhabited by Wardey, Orma, Oromo, and Boroma. ⁹¹Somali clans crossed over the Jubba River in the 1800s and quickly pushed westward, displacing or absorbing existing pastoral groups in a migration that produced considerable conflict. By the turn of the century, Somalis reached the Tana River and would have pushed further had British colonial figures not banned Somalis from crossing the Tana river and ending what one 1910 colonial report termed "the Darood invasion."⁹²

⁸⁹ Odhiambo Otieno, and J.F Williams, *A History of East Africa*, Nairobi: Longman, 1991

⁹⁰ Wiggins Howard, and Colbert, *Dynamics of Regional Politics*, pp 171-174

⁹¹ Turton E, "Bantu, Galla, and Somali migration in the horn of Africa: Reassessment of the juba/Tana area," *Journal of African History* 16, 5(1975), pp. 519-537

⁹² "The Darood Invasion" (Unpublished report, 1910).

2.3.3 COLONIAL RANGELAND AND CONFLICT MANAGEMENT

To reduce clashes over wells and pasture, the British demarcated specific zones of grazing by clan.

They also exercised the right to open up access to viable rangeland to outside pastoralists in times of drought as a low-cost form of rangeland management. The result of the fixed colonial rangeland borders was that clans today view contemporary political and administrative boundaries as an extension of the colonial-era exclusionists' zones, and invoke those boundaries to oust other clans from rangeland⁹³.

2.3.4 IRREDENTISM AND THE SHIFTA WARS

The Somali nation was divided among five separate states by colonialism- Ethiopia, Djibouti, British Somaliland, Italian Somalia, and Kenya. At independence, a central pillar of the Republic of Somalia was irredentism- a rejection of the colonial boundaries and an insistence on the political unity of all the Somali people of the Horn of Africa. In Kenya, some members of the Somali population in the North-East Province mounted a low-level insurgency against the Kenyan government in the mid-1960s known as the shifta wars, a pejorative term which today is used to describe any armed banditry. The insurgency failed to attract much direct support from the new Somali government and was quelled. Worse, it resulted in the imposition of draconian emergency rule in

⁹³ Issa-Salwe, *The Collapse of the Somali State: The Impact of the Colonial Legacy*, pp51

North-East Province which was only lifted in 1992⁹⁴. Somali Kenyans felt doubly betrayed- by the Somali government, which talked the talk of irredentism but failed to back up the shifta fighters, and by the Kenyan government, which treated administration of the North-East province as a form of military occupation.⁹⁵

2.3.5 POLITICAL REPRESSION AND EXPROPRIATION

Political repression was the norm on both the Somali and Kenyan sides of the border from the 1960s through 1990. In Somalia, the military government of Siyad Barre came to power in a coup in 1969, ushering in a 21 year period of brutal dictatorship and human rights abuses. In lower and middle Jubba valley, the Barre regime expropriated tens of thousands of hectares of land from mainly Bantu small-holders for large mechanized state farms, and well-placed civil servants exploited new land tenure and registration laws in the early 1990s to engage in massive land-grabs at the expense of villagers. A member of the Marehan clan, President Barre used the authority of the state to advance the clan's power and interests in the Jubba regions. Superior fire-power and political muscle allowed the Marehan to engage in expansion in the region. "Marehanization" policy continues to be the source of conflicts today. More broadly, the entire Somali experience of the state for 21 years under Barre was not as a source of rule of law and catalyst of development, but rather as a

⁹⁴ Thomas A, *Irredentism: Ethnic Conflict and International Politics*, West Port, 2001

⁹⁵ Ken Menkhaus, *Kenya – Somalia border conflict analysis*, USAID Report, 2005

source of oppression, terror, and expropriation of land, a weapon used by clans in power at the expense of rivals⁹⁶.

On the Kenyan side of the border, nearly three decades of emergency rule was equally disastrous, creating an environment of repression and a collective sense of fear of and alienation from the state. The Kenyan state did not engage in expropriation of local resources, but allowed no free speech and dealt harshly with dissent. In the infamous Wagalla massacre of 1984, 400 Somalis of the Degodia clan died in a punitive military operation by Kenyan forces. Any manifestation of Somali nationalist sentiment was smashed. When emergency rule was lifted in 1992, the North-East Province was devoid of community organization, and the authority of traditional clan elders as legitimate leaders in the community was badly, though not permanently, compromised.⁹⁷

2.4 KEY HISTORICAL CHANGES IN THE KENYA-SOMALIA BORDER AREA SINCE 1990

2.4.1 Changes in Southern Somali

By far the most important and dramatic change on the Somali side of the border occurred in January 1991, with the fall of the Barre regime and the subsequent collapse of the Somali state. The impact on the Kenya- Somalia border area was immediate and disastrous, especially in the first two years of civil war and famine.

⁹⁶ Lee Cassanelli, *The Shaping of Somali Society*, Philadelphia: Philadelphia University Press, 1982

⁹⁷ Robert Walker, and Hassan Omar, "Pastoralists Under Pressure,"

2.4.2 REFUGEE FLOWS AND HUMANITARIAN CRISES

The collapse of the Barre government triggered a massive exodus of hundreds of thousands of Somalis into the Jubba regions and northern Kenya. Most were from the Darood clan-family, fleeing from Mogadishu⁹⁸. Their arrival into the border area overwhelmed the region. Kismayo town briefly swelled in size. Tens of thousands of Somalis poured into Kenya by foot, ship, and air, seeking safe haven or passage to third countries.⁹⁹

2.4.3 ARMED CONFLICTS, FAMINE, AND LAWLESSNESS

Upon the fall of the government, southern Somalia fell into heavily armed chaos. Swarms of uncontrolled gunmen and residents looted everything of value in government buildings and in Mogadishu's residential neighborhoods. Inter-clan violence led to massacres, ethnic cleansing, and a massive exodus of displaced persons in all directions. Armed battles pitting factions of the Darood and Hawiye clan families swept across the countryside. In several instances, fighting briefly spilled across the Kenyan border. The area between Mogadishu and the Kenyan border became a "shatter zone" within which residents were exposed to repeated rounds of looting until they began to starve¹⁰⁰. The massive famine which occurred from the late 1991 through 1992, and which ultimately

⁹⁸ "The Darood Invasion" unpublished report, 1910

⁹⁹ Ken Menkhaus, Kenya – Somalia border conflict analysis, USAID Report, 2005

¹⁰⁰ Gunther Schlee, *Identities on the move: Clanship and Pastoralism in Northern Kenya*, 1994

claimed an estimated 240,000 Somali lives, was thus almost entirely due to armed conflict and wartime plundering.¹⁰¹

One of the hallmark features of the crisis of 1991-1992 was the rise of an economy of plunder, in which a wide range of social groups – from illiterate gunmen who fought to loot, to merchants of war who made millions of dollars exporting scrap metal from dismantled factories – came to have a vested economic interest in continued lawlessness and armed conflict. International relief supplies became part of this economy, as warlords fought to control key ports of entry and transit of the valuable food shipments brought into the country. Militias charged exorbitant fees to guard the food aid, and were complicit in diversion of relief supplies. By 1992, the food aid had become the principal commodity over which warlords fought. Emergency relief became part of the problem rather than part of the solution. In the Jubba regions, several sites – Kismayo port, the Kismayo-Jilib highway, Bardhere, Buale, and Beled Hawa – were the principal food relief distribution hubs and attracted the most militia attention. Kismayo in particular became a chronically contested town.¹⁰²

Another important aspect of the civil war of the 1991-1992 was the almost complete breakdown of authority at all levels. Militias were under only the loosest control of militia commanders, and fought mainly in order to loot. Clan elders lost control of young teen-age gunmen. Both clan customary law (xeer)

¹⁰¹ Refugee Policy Group, *Hope Restored? Humanitarian Aid in Somalia 1990-1994* (Washington DC:RPG, Nov. 1994), p.5

¹⁰² Ken Menkhaus, *Kenya – Somalia border conflict analysis*, USAID report, 2005, pp 10-12

and Islamic law were rendered largely irrelevant as constraints on lawlessness behavior. The result was an epidemic of massacres, rape, and other previously taboo brutalities¹⁰³.

2.4.4 ARMS FLOWS

The Somali civic war produced a major weapons flow in the Kenya – Somalia border area. Both government troops and liberation fronts looted the enormous Cold War armories of the army, producing a free flow of weapons and ammunition on the street. At the same time, the fall of the Mengistu government in Ethiopia and the disbanding of the Ethiopian army in 1991 flooded the regional market with cheap weaponry. Still more arms found their way into Somalia via the rapidly growing global arms trafficking in the immediate post Cold War era. Some of these weapons found their way into Kenya, where they helped to produce destabilization in the border area and gave criminal elements in Nairobi greater access to cheap semi – automatic weapons. By 1991, the Kenyan police and military in northern Kenya were outgunned by clan militias and criminal gangs.¹⁰⁴

2.4.5 GALTU FACTOR

The Somali civil war produced massive displacements inside the country, with Somalis fleeing to their clan's home areas for protection. In the case of the Jubba valley, this produced a destabilizing factor. Specifically, Darood clans originally from Ethiopia or central Somalia and who lived for years in Mogadishu

¹⁰³ Ibid, pp 12

¹⁰⁴ International Crisis Group, "Somalia: Combating Terrorism in a failed state,"

opted to flee southward to Jubba valley, where their lineages had home areas. These new arrivals were on the one hand members of the local clan and thus made claims on rights to live and secure resources in these areas, but on the other hand were outsiders or guests (galti) from a distant region. Worse, many of the gali Marehan, Absame, and Harti Somalis pouring into the Jubba valley were former members of the Barre government or army, were well – armed and in some cases very well funded, and were generally more organized and active politically than their indigenous (or guri) kin in the Jubba valley. The gali quickly came to dominate the factions representing the Marehan, Harti, and Absame clans in the valley, marginalizing the interests of the guri. The interests of the guri and gali were not synonymous – the guri had long standing and valued relations with neighboring clans and were stakeholders in local peace, while the gali's interests were focused on recapturing Mogadishu. The gali were often dismissive of local customary law and insouciant about the impact of looting on local clan relations. Guri – gali tensions became an enduring dynamic in clan politics in Transjubba politics, from Kismayo to Gedo region, and are a major factor in the current Beled Hawa and El Wak coinfects¹⁰⁵.

2.4.6 RISE OF THE ISLAMISTS FACTOR

The Jubba valley became a major site of activity for the small but important islamist movement which emerged in post – Barre Somalia. Al Ittihad Al Islamiyya (AIAI) briefly controlled Kismayo seaport in 1991, controlled the town

¹⁰⁵ Menkhaus Ken, Kenya-Somalia Border Conflict Analysis, USAID Report, 2005, pp.12

and district of Luuq from 1991 to 1996, and vied with the Marehan faction Somali National Front (SNF) for control of Beled Hawa. Much of AIAI's support came from guri Marehan who saw the organization as an effective resistance to the galti – dominated SNF. In Luuq, AIAI imposed sharia law and may have had links with foreign terrorists' from Sudan, but also succeeded in establishing basic security and rule of law at a time when the rest of southern Somalia was in a state of anarchy¹⁰⁶. AIAI was driven out of Luuq by Ethiopian forces in 1996 following a bombing and assassination attempt in Addis Ababa by a local branch of the AIAI there.¹⁰⁷ Since 1996, AIAI has essentially disbanded, forming a loose network of alumni who are integrated into their Somali communities. Some small cells of radical Islamists possibly linked to AIAI nonetheless maintained a presence in the Kenya – Somalia border areas, and intermittently placed training or staging camps along the isolated coastal area at Ras Kamboni and El Wak. An American aid worker, Deena Umbarger, was killed by Islamists along the Kenyan border in the lower Jubba region in 1999, and rumors persist that radical Islamist commercial networks operate along sections of the border area at Dobley and elsewhere. Terror suspects in the attacks on the United States Embassy in Nairobi in 1998 and on the Paradise Beach Hotel in Mombasa in 1999 crossed the Kenya – Somalia border and used southern Somalia as both a transshipment point and safe haven in those attacks. Fears that the unpoliced

¹⁰⁶ International Crisis Group, "Counter-Terrorism in Somalia: Losing Hearts and Minds?" ICG Africa Report no.5, July 2005

¹⁰⁷ See Ken menkhaus report for USAID, Kenya – Somalia border conflict analysis, August 2005

border provides foreign or Somali terrorists with easy entrance into Kenya and an easy escape route remain strong and have been a major preoccupation of western counter- terrorism partnership with the Kenyan government¹⁰⁸.

2.4.7 RISE OF TRANSIT TRADE INTO KENYA

The Kenya- Somalia border region, once an isolated area with little trade, has since the early 1990s been transformed economically by the rise of a vibrant and profitable transit trade into Kenya. Somali entrepreneurs exploit the absence of customs and taxes in Somalia to move a range of consumer goods – sugar, dry foodstuffs (rations), cloth, basic household items, fuel, cigarettes, and light electronics- across the Kenyan border into the lucrative Nairobi market. Goods are either smuggled over the Kenyan border via unpoliced track roads, or bribes are paid to customs officers at official crossings. Most of this transit trade arrives at beach ports near Mogadishu, but the all – weather seaport at Kismayo is used to import sugar destined for Kenya. The trade has helped to create or expand a number of border towns from Dobley to Beled Hawa, where goods are offloaded into small warehouses and reloaded onto Kenyan trucks. This commerce has also helped to produce a network of cross-clan business partnerships with a vested interest in safe and open roads¹⁰⁹.

¹⁰⁸ Andre Le Sage, "Somalia and the war on terrorism: Political Islamic Movements and US Counter-Terrorism Efforts," Cambridge University, June 2004

¹⁰⁹ Goldsmith Paul, " Cattle, Khat, and Guns: Trade, Conflict, and Security on Northern Kenya's Highland-Lowland Interface,"

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¹⁰⁹ Goldsmith Paul, " Cattle, Khat, and Guns: Trade, Conflict, and Security on Northern Kenya's Highland-Lowland Interface,"

2.5 Changes in Northeastern Kenya

2.5.1 REPEAL OF EMERGENCY LAW/WITHDRAWAL OF KENYAN STATE

Repeal of emergency rule in 1992 ushered in a new period of government retrenchment from the border area. While liberation from the harsh emergency laws was welcomed by local populations, the timing of the retrenchment was disastrous, coinciding as it did with the collapse of the Somali state and the spillover of arms, violence, and criminality across the border¹¹⁰. In truth, even had the Kenyan government attempted to maintain the control it exercised via emergency rule it would have been overwhelmed by the tidal wave of refugees, militia, and guns from Somalia in 1991 and 1992. By late 1991, the Kenyan government had essentially lost control of hundreds of kilometers of territory in Northeast province. Even in major towns like Mandera, Kenyan police and military could not enter certain parts of the town after dark.¹¹¹

2.5.2 LAWLESSNESS

The first half of the 1990s was a period when, at times and in some locations, northern Kenya was widely viewed by both locals and international aid workers as less safe than southern Somalia. Heavily armed clan-based militias and gangs, sometimes organized by business and political elites, engaged in looting of livestock and vehicles, terrorizing both Somali and non-Somali communities beyond the Tana River¹¹².

¹¹⁰ *ibid*

¹¹¹ Ken Menkhaus, Kenya – Somalia border conflict analysis, USAID Report, 2005

¹¹² Robert Walker, and Hassan Omar, "Pastoralists Under Pressure:"

At one point the range of Somali bandits engaged in cattle-rustling reached as far south as northern Tanzania. In an infamous incident in 1996, a band of 600 Somali militia launched a raid against the Samburu, killing fifty people, stealing 10,000 head of cattle, and shooting down an aircraft carrying the Samburu Member of Parliament. Land travel from Nairobi to Dadaab or Mandera could only be conducted with armed military escorts in convoys. Kenyan police and army outposts were themselves not immune from attack.¹¹³

2.5.3 ETHNIC CLASHES

The northern tier of the Kenyan border area – Wajir and Mandera Districts, as well as adjacent districts such as Moyale, Marsabit, and Isiolo – became the scene of serious and uncontrolled clashes between rival ethnic groups in the 1990s. This was part of a broader pattern of ethnic clashes throughout much of rural Kenya over the course of the 1990s, instigated by political elites and fueled by competition for land, political representation, and control of local administration¹¹⁴.

2.5.4. RANGELAND CLASHES

Conflicts over pasture and wells in Northern Kenya have been endemic since independence, when the government lifted old colonial clan boundaries for rangeland, introducing an era of unclear tenure on land that is formally

¹¹³ Menkhaus, Ken, Kenya – Somalia border conflict analysis: report for Development alternatives inc. USAID

¹¹⁴ Goldsmith Paul, "The Somali Impact on Kenya, 1990-1993: The view from outside the camp." The Red Sea Press, 1997

government trust land and hence open to universal use, but in practice informally understood to belong to one clan or another¹¹⁵.

"The lack of clarity over modern land tenure systems and the breakdown of old ways has led to large clans trying to expand their land by attacking and terrorizing their weaker neighbors" notes one analyst. This confusion has contributed to misuse of locations as zones of ethnic exclusion, either by weaker indigene clans seeking to protect their land rights from stronger newcomers, or by dominant clans seeking to institutionalize their claim to land and seal their victory. In either case, it can and does produce localized ethnic cleansing. The fact that some Kenyan Somali clans have greatly increased their firepower and numbers thanks to refugee flows from Somalia since 1991 has exacerbated conflict over rangeland.¹¹⁶

2.5.5 DADAAB CAMP

The territory around Liboi, across from Doble Somalia in the southern portion of the border zone, was dramatically transformed in the early 1990s by the establishment of an enormous refugee camp called Dadaab. Over 100,000 mainly Somali refugees were encamped there, making Dadaab the largest settlement in the entire Northeast province- Jubba valley area. Dadaab's impact on the local population and economy was immediate and profound. Refugee's demand for firewood created environmental degradation in the

¹¹⁵ Walker Robert, and Hassan Omar, "Pastoralists Under Pressure."

¹¹⁶ Abdi Umar, "Resource Utilization, Conflict, and insecurity in pastoral areas of Kenya," paper presented at the USAID seminar "conflict resolution in the horn of Africa," (Nairobi, March 1997)

area; the militias attracted to the area brought horrific levels of crime, including widespread rape; the food rations and health and education services the refugees enjoyed for free stoked resentment in local communities, which had no such access to health and education; and the food rations and remittances flowing into the camp produced a new regional economy involving trade in foodstuffs and services between Dadaab and Garissa. Over time, Dadaab has become increasingly integrated into and integral to the regional economy on both sides of the border. Somali men keep their families in the camp to access the food and services, while they return to the Jubba valley; Garissa merchants benefit from the large new market the camp affords them; and the entire region exploits the availability of World Food Program (WFP) food rations which are sold by refugees or diverted from them¹¹⁷.

2.5.6 HEIGHTENED CLANNISM AND POLITICAL ACTIVISM

One political spillover from Somalia into northeastern Kenya was a greatly enhanced and politicized sense of clannism among Kenyan Somalis. The arrival of the “Reer Somali” in large numbers contributed to the new assertiveness and political mobilization of Somali Kenyans in the years following the lifting of emergency rule. Additionally, the explosion of new locations in the 1990s, each earmarked for a specific sub – clan, further mobilized levels of clannism that in the past were dormant¹¹⁸.

¹¹⁷ Menkhaus Ken, Kenya-Somalia Border Conflict Analysis, USAID Report, 2005

¹¹⁸ Gunther Schlee, *Identities on the move: Clanship and Pastoralism in Northern Kenya*, 1994

2.5.7 TENSIONS BETWEEN REER SOMALI AND THE REER KENYA

The arrival of hundreds of thousands of Somali refugees into northeastern Kenya and Nairobi in the early 1990s created significant tensions between the Reer Somali and Kenyan Somali, even though many shared the same clan and sub-identity. For Kenyan Somalis, the Reer Somali brought unwanted levels of violence, a predisposition to engage in illegal activities, and aggressive demands on aid agencies and local resources. In the process, the Somali refugees were blamed for stigmatizing all ethnic Somalis, making life much harder for Kenyan Somalis, who were increasingly seen by the rest of Kenyans—including the police—as indistinguishable from the Somali refugees¹¹⁹.

2.6 CONCLUSION

The boundaries of modern Africa were the creation of European diplomats who partitioned Africa among themselves with little regard for, or knowledge of, the socio-cultural characteristics of the continent. As a result of the capriciousness of the European partition, a typical African boundary may group together many ethnic groups in one state, it may cut across many ethnic or national boundaries of the past, or it may create a state whose physical characteristics hinder political, social, or economic stability (This is characteristic of the Kenya – Somalia border). Since the colonial boundaries were used, with few exceptions, as the basis for the devolution of sovereignty in Africa, the

¹¹⁹ Ruto Pkalya et al., "Conflict in Northern Kenya", ITDG, 2003

current leaders of the continent have had to deal with the effects of this boundary situation.

African international relations have also been influenced by the presence of externally defined, artificial boundaries. Political boundaries mark sharp discontinuities in political jurisdiction, but in Africa few of those discontinuities correspond to the patterns of the socio-cultural environment. It has, therefore, been frequently charged that the artificial boundaries of Africa form the basis for conflict between the African states. If Africa's modern boundaries had been allowed to evolve in a more natural manner, or if the colonial powers had based their partition upon a more thorough appreciation of the ethnic contours of the continent, it is assumed that the states of Africa would be less prone to boundary conflict. The boundaries, however, were not allowed to evolve naturally, and many analysts share the view of William Zartman that: "Any African state can have boundary problems if it wants. The newness of African states and the frequent irrelevance of their geographic frames to their economic, social, and political lives make the continent more potentially susceptible to territorial disputes than any other"¹²⁰

¹²⁰ Zartman William, "The foreign and military politics of African boundary problems," African Boundary problems. Uppsala:Scandinavian institute of African studies, 1969. Pp 79-100

3.0 CHAPTER THREE

EFFECTS OF POROUS BORDER ON CROSS-BORDER CONFLICT WITHIN THE KENYA-SOMALIA BORDER AREA

3.1 INTRODUCTION

Border control- the effort to restrict territorial access – has long been a core state activity¹²¹. As territorially demarcated institutions, states have always imposed entry barriers, whether to deter armies, tax trade and protect domestic producers, or keep out perceived "undesirables." All states monopolise the right to determine who and what is granted legitimate territorial access¹²². But there is significant historical variation in border control priorities.

The policing objective is to deny territorial access to what is termed "clandestine transnational actors"[CTAs]- Defined as non state actors who operate across national borders in violation of state laws and attempt to evade law enforcement efforts¹²³. Clandestine transnational actors are as dramatically varied as their motives. They may be driven by high profits and market demand (drug traffickers and migrant smugglers), the desire to carry out politically or religiously inspired acts of violence (terrorists), or the search for employment or refuge (the vast majority of unauthorized migrants). They may be highly organized or disorganized and operate regionally or globally. Nevertheless,

¹²¹ Malcom Anderson, *Frontiers: Territory and state formation in the modern world*. Cambridge; Polity, 1996

¹²² Stephen D. Krasner, "Power Politics, Institutions, and Transnational Relations," in Thomas Risse – Kappen, ed., *Bringing Transnational Relations Back in: Non-state Actors, Domestic structures, and international institutions*(New York: Cambridge University Press, 1995), p.268

¹²³ Peter Andreas, "Redrawing the line: Borders and Security in the twenty-first century", *International security*, vol. 28. No. 2 (The MIT Press, 2003), pp.78-111

these otherwise radically different types of clandestine transnational actors have some core common characteristics: they are the targets of border controls, and their border-crossing strategies are designed to avoid detection and minimize the risk of apprehension. Clandestine transnational actors have existed in one form or another as long as states have imposed border controls. What has changed overtime are the organization of CTAs and their methods and speed of cross-border movement; state laws and the form, intensity, and focus of their enforcement; and the level of public anxiety and policy attention.¹²⁴

Borders have traditionally been viewed first and foremost in military terms. The vast majority of interstate wars, after all, have historically been about territorial defense, and conquest¹²⁵. Early geopolitical thinking stressed the centrality of territorial competition and acquisition¹²⁶. Classic geopolitical analysis fits comfortably within a realist theoretical framework, with its emphasis on interstate conflict over territory¹²⁷. In the view of Robert Gilpin, states have always had "the conquest of territory in order to advance economic security and other interests" as a principal goal¹²⁸. Not, surprisingly, the influence of realism is most evident in security studies, which has overwhelmingly focused on strategies of war making and war preparation.

¹²⁴ *ibid*

¹²⁵ John Keegan, *A History of Warfare* (New York: Alfred A. Knopf, 1993)

¹²⁶ Thomas J. Biersteker, "State, Sovereignty, and Territory," in Walter Carlsnaes, Thomas Risse, and Beth A. Simms, eds., *Handbook of International Relations* (Thousand Oaks, Calif.: Sage, 2002), pp.157-175

¹²⁷ John J. Mearsheimer, *The Tragedy of Great Power Politics*, (New York: W.W. Norton, 2001)

¹²⁸ Robert Gilpin, *War and Change in World Politics* (Cambridge: Cambridge University press, 1981), pp.23

As Stephen Walt puts it, "the main focus of security studies is easy to identify, it is the phenomenon of war"¹²⁹. In realist conception of security, threats are external and military based, and the actors are rational unitary states. Borders are strategic lines to be militarily defended or breached. State survival is based on the deterrent function of borders against military incursions by other states. The realist view of borders and territorial security thus is fundamentally about interstate rather than transnational relations.¹³⁰

This section will seek to analyse how the porous Kenya –Somalia border is itself a periodic contributor of conflict in the area. The principal role the border plays in conflict as a source of safe haven for armed groups – criminal gangs, militia, terrorists, arms smugglers, and cattle rustlers –which commit acts of violence and then cross to the safety of their home country and disappear.

A comparison of the border area conflicts and conflict dynamics in adjacent areas helps to identify several key conflict drivers at work in many if not all of these cases. Importantly, almost all the factors identified in this section can, depending on circumstances, play either a constructive or destructive role in conflict. Commercial interests can also generate conflicts over trade and economic incentives to foment lawlessness and ethnic cleansing. Clan elders and the customary law they apply can be a force for peace or they can

¹²⁹ Stephen M. Walt, "The Renaissance of Security Studies," *International Studies Quarterly*, vol.35, No. 2 (June 1991), pp.212-215

¹³⁰ Kenneth N. Waltz, *Theory of International Politics* (Reading, Mass.: Addison-Wesley, 1979)

contribute to war mongering. Ethnic identity itself can be a dangerous, exclusivist force of political tribalism, or a flexible social instrument of peace and moral ethnicity.¹³¹

Of all the conflict drivers in the border area, the most entangled of the drivers are pastoral rangeland disputes, environmental stress, and politics. Each inflames and exacerbates the other and none can be properly explained in isolation from the others pressures of migration, increased herds, and environmental degradation heighten communal disputes over land; the land disputes provide political figures with an easy tool to mobilize ethnicity; the political proliferation and misuse of locations and boreholes to create zones of exclusive clan grazing rights both creates and accelerates communal tensions and worsens environmental stress; and thus a vicious cycle is born¹³².

This section will specifically examine how the porous Kenya- Somalia border exacerbates the conflict drivers identified and its effect on insecurity of civilians in the border area and beyond.

3.2.1 ENVIRONMENTAL STRESS AND POVERTY

Virtually every analysis of Kenya's troubled pastoral areas emphasizes that environmental stress and severe poverty and underdevelopment combine to render these semi-arid zones chronically vulnerable to armed conflict, communal clashes, and violent crime. The Kenya- Somalia border area partially

¹³¹ Menkhaus Ken, Kenya- Somalia Border Conflict Analysis, Report produced for review by the USAID, August 2005

¹³² *ibid*

supports this claim. Most of the conflicts in the Kenya- Somalia border area partially support this claim. Most of the conflicts in the Kenya-Somalia border area are driven principally by other, mainly political factors, but environmental stress and underdevelopment are critical underlying sources of instability. Particularly in the northern half of the border area, growing evidence suggest that the poorer tier of pastoralist households are increasingly facing immiseration¹³³. Destitute pastoralists form an important portion of the new urban populations, where prospects for employment are bleak. Uneducated and unemployed young men are easy marks for recruitment into militias or criminal gangs. Heightened communal anxiety over access to scarce resources – pasture, wells, and jobs- - are easily exploited by politicians and others to promote divisions and foment violence. Very poor access to social services, especially education, and the almost complete absence of a government presence beyond a few police and military garrisons breeds a profound sense of alienation in much of the Kenyan border area.

On both sides of the border, the rising gap between haves (merchants, NGO staff, politicians, the professional class, households receiving remittances) and have-nots (especially destitute pastoralists) is growing and breeds frustration and resentment as well. Recent research links worrisome environmental deterioration in the region to the proliferation of boreholes and settlements

¹³³ Robert Walker and Hassan G. Omar, "Pastoralists Under Pressure: The Politics of Sedentarisation and Marginalisation in Wajir District, Northeast Kenya," Nairobi: Oxfam-GB, July 2002

which are dispensed for reasons of political patronage and which are disrupting seasonal migration and degrading what was once prime ungrazed rainy season pasture.

The porous border makes it easy for the young men on the Kenyan side to be recruited into various militia groups. This is due to the fact that the militia groups based in Somalia cross the border at will with an aim of recruiting Kenyan young men into the militias. Pastoralists on both sides of the border easily cross the border in search for pasture and water for their herds and at times this leads to competition for the scarce resources hence leading to conflicts¹³⁴.

3.2.2 STATE COLLAPSE AND STATE BUILDING IN SOMALIA

The state is also a factor in conflict on the Somali side of the border for different reasons. First, the complete and prolonged collapse of the Somali state has had disastrous impact on the Transjubba regions, producing a context of lawlessness and anarchy that is only partially mitigated by attempts to strengthen local governance.

Second, efforts to revive a central government in Somalia have been conflict-producing. Because representation in Somali national fora is now explicitly clan-based, state-building negotiations encourage clans to maximize territory they can claim to control. Loss of a presence in or control of a district

¹³⁴ *ibid*

can carry serious consequences for political elites vying for top seats in the transnational government. This has been a factor in the recent EL Wak conflict.

Third, when state-building efforts fail in Somalia, the international community has periodically sought to work with sub-national, regional or transregional polities. In the late 1990s, this was termed the "building block approach" to state revival, and indications are strong that a comparable policy is likely to emerge if and when the TFG fails¹³⁵. That increases local political competition for control over regional or multi-regional polities, and is likely to be a conflict issue in both Gedo and lower jubba regions.

With the presence of the porous Kenya- Somalia border, arms proliferation and smuggling continues unabated leading to widespread ownership and easy availability of arms in the border area. This is widely cited as an intensifier of armed conflict. The border also plays a negative role in state-building efforts in Somalia. This is due to the fact that representation in Somali national fora is now explicitly clan-based and that state-building negotiations encourage clans to maximize territory they can claim control. For these clans to have bigger numbers and thus exercise control, they normally call for support from their kinsmen on the Kenyan side who easily crisscross the border¹³⁶

¹³⁵ David Laitin and Said Samatar, *Somalia: Nation in search of a state*(Boulder: Westview, 1986),

¹³⁶ Menkhaus Ken, *Kenya-Somalia Border Conflict Analysis*, report prepared for review by the USAID, 2005

3.2.3 HARDENING OF ETHNIC IDENTITY

The Kenya-Somalia border area is an area where a number of major ethnic groups overlap. The region offers up ample evidence of how in the past local groups embraced and utilized flexible ethnic identities to negotiate access to resources and protection. That strategy, which has been so effective for centuries, is today facing a very hostile political environment. Contemporary political systems of representation, voting, administration, rights, and land access in Kenya, Ethiopia, and Somalia are increasingly based explicitly or implicitly on ethnicity.

The result is not only an epidemic of localized and partial but insidious ethnic cleansing, but also a hardening of previously fluid ethnic identities in the region, and a level of ethnic mobilization not seen previously in the area. In the hands of the wrong politician, hardened, mobilized ethnic identity in a context of worsening scarcity and stress is a formula for communal violence on a scale that is unthinkable but which has already occurred in the Greater Horn of Africa¹³⁷. For local groups which in the past have thrived using ambiguous and flexible ethnic identities- the Garre, Rendille, Boroma, and others- the current environment of ethno-politics in the region is an existential crisis with enormous consequences. Current political forces in the border area are transforming ethnic identity into a much more toxic, inflexible, and dangerous factor than has

¹³⁷ Gunther Schlee, *Identities on the move: Clanship and Pastoralism in Northern Kenya* (Nairobi: Gideon S. Were press, 1994)

ever been the case in the past¹³⁸. The porous border offers a safe haven for the armed gangs which commit acts of violence and then cross to the safety of their home country and disappear.

3.2.4 REGIONAL ECONOMY/ CROSS BORDER TRADE

The transit trade across the Kenya-Somalia border has a complex relationship to peace and conflict. In some instances – EL Wak, Bulo Hawa, Dobley, and Kismayo—it has at times been a source of tension and armed clashes¹³⁹. This is mainly due to the fact that the new cross-border commerce has introduced a new and lucrative new source of livelihoods and wealth in a zone of extreme economic scarcity.

The specific aspects of commerce which have tended to serve as an item over which groups fight include control over border crossings, where tax revenue can be collected; business partnerships with wealthy traders in Mogadishu, who intentionally play local groups off one another for their own gain; and competition for contracts, especially with international aid agencies. A handful of wealthy businessmen profit from and may be complicit in prolonging humanitarian crises, due to their long-running service to aid agencies transporting food aid. In several instances- especially in Kenya- businesspeople have opted to exploit the exclusionist impulse in locations to drive rival businesses out of the area. In the case of Kismayo, control of the seaport has

¹³⁸ Menkhaus Ken, Kenya-Somalia Border Conflict Analysis, USAID report, 2005

¹³⁹ *ibid*

been a major source of revenue for both the militias controlling it and the businessmen importing sugar and weapons and exporting charcoal.

The unpoliced border offers lucrative cross border trade as most of the goods are smuggled into Kenyan market through unmanned border points, avoiding payment of customs duties¹⁴⁰.

3.2.5 CRIMES

Virtually all cases of armed conflict in the border area involve acts of crime as a precipitating cause. In some cases, a murder –usually of a prominent figure – triggers reprisal killings which spiral into a cycle of inter-clan violence. In other cases, murders or other crimes contribute to deteriorating clan relations and rising distrust, serving as an emotionally powerful part of the build-up to armed clashes¹⁴¹.

In normal circumstances, customary law is adequate to resolve a crime between clans. But when circumstances are not normal – when the murdered person was a very prominent figure in the clan, when inter-clan relations were already strained by other issues, when the murder appears politically motivated rather than the result of a personal feud, when clan elders take too long to negotiate the *diya* payment, or when the perpetrator's *diya*-paying group drags its feet or refuses to pay *diya*—reprisal killings are almost inevitable. Once

¹⁴⁰ Goldsmith Paul, "Cattle, Khat, and Guns: Trade, Conflict, and Security on Northern Kenya's Highland-Lowland Interface." Isiolo, Kenya: APPEAL-KENYA, Conflict and Conflict Management in the Horn of Africa case study, May 1997

¹⁴¹ ITDG, "30 Killed as clashes Engulf Mandera," (January 2005). Accessed at: <http://www.itdg.org>

two clans begin to travel that route as opposed to blood payment, the cycle of killings often spirals into war. The armed conflicts in the border area which were triggered by acts of crime cannot therefore be blamed on the killings themselves, which serve as the match lit and set upon very dry kindling. But measures which accelerate and facilitate the often demanding work of clan elders to negotiate *diya* can reduce the likelihood of reprisal acts. In cases where *xeer* is inadequate to deal with an inflammatory crime – rape is the most apt case in point – clan elders in the border areas are adamant that only formal government judicial processes are in a position to handle the crimes. This recognition of the limits of customary law as a conflict prevention mechanism is an important step in establishing a division of labor between the weak state and non-state local actors with limited capacities¹⁴².

The porous Kenya- Somalia border offers a perfect avenue through which the persons carrying out the murders on either side of the border cross over to the other side and disappear hence slowing down the implementation of customary law in resolving the crime between clans.

3.2.6 SMALL ARMS PROLIFERATION

The widespread ownership and easy availability of small arms in the border area is widely cited as an intensifier of armed conflict¹⁴³. The flood of

¹⁴² Dekha Ibrahim and Janice Jenner, "Wajir Community-based conflict management," paper presented to the USAID Conference "Conflict Resolution in the Greater Horn of Africa" June 1997

¹⁴³ A caveat to this claim is that in a few instances easy availability of small arms has served as an equalizer between clans, and hence a deterrent to fighting. See Goldsmith, "Cattle, Khat, and Guns."

small arms in the Horn of Africa is well documented, as is the devastating impact of semi-automatic weaponry on communal conflicts in the region. This report can only repeat the observation that the arms do not cause the conflicts, but multiply their negative impact. Criminal violence produces much higher casualty levels, criminal and militia gangs now often outgun police and military units, and the number of people a militia can massacre in a raid is vastly higher thanks to semi-automatic guns. The result is that casualty rates in contemporary violence in the border area are much higher than was the case fifty years ago, overwhelming customary law designed to handle conflicts from an earlier, less lethal era¹⁴⁴.

Given the chronic insecurity and porous borders in the region, small arms proliferation will remain a dangerous reality for border area communities for the foreseeable future. Some modest efforts in Wajir have succeeded in disarming youth, but prospects for large-scale disarmament in the region are remote for now. In southern Somalia, the only factor which has reduced the lethal risk posed by near-universal ownership of semi-automatics is the substantial rise in the cost of ammunition, which has shortened the duration of armed clashes since the early 1990s¹⁴⁵.

⁴⁴ Menkhaus, Kenya-Somalia Border Conflict Analysis, USAID report, 2005. Pp49

⁴⁵ Menkhaus, Somalia: State Collapse, p.30

3.2.7 CONTESTED URBAN SPACE

One aspect of the border area conflicts which diverges somewhat from national trends in Kenya, but which closely mirrors broader patterns in Somalia, is the central role played by contested urban space. Unlike many of the serious ethnic clashes in Kenya's rural areas since 1990, land itself is not as central to Kenya-Somalia border conflicts¹⁴⁶.

Instead, most of these conflicts are struggles over control of a coveted urban space or settlement. The intra-Marehan fight in Bulo Hawa is entirely over the town of Bulo Hawa, not surrounding rangeland. Likewise, the clashes at El Wak have had nothing to do with dispute pasture and everything to do with control over town itself. Further south, Mohamed Zubeir-Aulihan clashes were over the town of Doblely and control of trade, not pasture; the long-running conflict over Kismayo is also entirely over the city, not the hinterland¹⁴⁷.

What this suggests is that, at least in the border area, urban interests and populations are the main protagonists in armed clashes. The pastoralists serve as a principal source of militiamen, but in the service of someone else's interests. While this finding is not universally applicable in the border areas, instances where it is true contradict some of the conventional wisdom about Kenya's conflict-ridden border area. Conventional wisdom observes that the conflict-prone border areas are all zones of nomadic pastoralism, and then, conflating

¹⁴⁶ Umar, Resource Utilization,"

¹⁴⁷ This section draws extensively on Menkhaus, Kenya-Somalia Border Conflict Analysis, 2005

correlation with causality, leaps to the conclusion that pastoralism must therefore be the cause of the endemic conflict. Pastoralism as a mode of production is unquestionably a contact sport, and land pressures in the pastoral sector are severe, but the troubles of the Kenya-Somalia border area are more closely linked to the interests of urban elites. To the extent that these conflicts over urban centers involve displaced urbanites from Mogadishu, a permanent peace in Mogadishu would immediately reduce pressures on towns on the Somali side of the border. The porous border boosts the growth of these border area towns since most of the items for trade get their way into these towns through the unmanned border points hence evading the payment of customs duties and taxes¹⁴⁸.

3.2.8 OUTSIDERS/GALTI

An enduring concern of the border communities is that the chronic conflicts they suffer from are the result of external agendas, by powerful outsiders or *galti* who are not stakeholders in local peace. Outsiders are also held responsible for rendering local feuds more deadly, for committing crimes leading to cycles of clan violence, for ignoring local customary law or *xeer*, for engaging in polemics and fund-raising for war in pursuit of their parochial political interests, and for exploiting local divisions¹⁴⁹.

¹⁴⁸ *ibid*

¹⁴⁹ Gunther Schlee, *Identities on the move: Clanship and Pastoralism in Northern Kenya*, 1994

There is strong evidence for all these claims in almost every case of armed conflict in the border area. From Kismayo to Doble to Elwak to Bulu Hawa, "non-local" interests – displaced Somalis from Mogadishu, Mogadishu-based merchants and factions, and Nairobi-based interests – have had an often decisive role in provoking armed violence. The conflict over El Wak, which has drawn in Garre militia from Ethiopia and Marehan militia from Kismayo which was in part triggered by manipulation of local tensions by Mogadishu – based businessmen, and which has prompted inflammatory rhetoric and fund – raising for war chests among the diaspora, is the most compelling example of this problem. Likewise, the long-running conflict in Bulu Hawa is mainly built around a *guri-galti* split. In some conflicts along Ethiopia's border with Kenya and Somalia, Ethiopia itself plays the role of external force which can in some instances contribute to or become a direct actor in conflicts. Due to the porous borders in the region the effect of the non-local interests of committing crimes, their political interests and for exploiting local divisions will remain a reality for the border area communities¹⁵⁰.

At the same time, it is tempting for local observers to attribute all their woes to external forces, thereby absolving themselves of responsibility for the conflict. It is also the case that in some instances, outsiders' interest has been in peace and open access, not ethnic clashes and instability. As long as the

¹⁵⁰ Robert Walker and Hassan Omar, "Pastoralists Under Pressure: The Politics of Sedentarisation and Marginalisation in Wajir District, Northeast Kenya, 2002

border areas possess economic value as a trade corridor and political value as a source of seats for national level representation, outside interests will continue to intrude on local affairs.

3.2.9 KENYAN STATE AND LOCAL GOVERNMENT POLICIES

On a number of levels, political forces have been the single most important driver of conflict and instability on the Kenyan side of the border area. This fact points to a paradox in northern Kenya. While retreat of state authority from the border areas is a factor in the high levels of insecurity there, the presence of state agents has often been a major driver of conflicts as well. It is thus not enough to contend that more robust state authority is needed in the border zones to improve security. More important is that the state presence be constructive¹⁵¹.

3.2.9.1 Politicians as Fomenters of Conflict

A major problem throughout much of Kenya since the advent of multi-party democracy has been political violence – the fomenting of ethnic clashes and use of private militias by political leaders to attack rivals, both those in power and their challengers. North-East Province is no exception. Politically - motivated violence was a major problem in Garissa district in the 1990s; intra-Garre political rivalries over representation in parliament contributed to tensions in Mandera district in the past year, and some Wajir MPs have been accused of contributing to militia build-up in the El Wak conflict. With the presence of

¹⁵¹ Menkhaus, Kenya-Somali Border Conflict Analysis, 2005

unpoliced border, the political leaders have been linked to the transporting of young men from Somali side with the sole purpose of voting for them in large numbers and also for committing raids in the local areas hence scaring away local residents¹⁵².

3.2.9.2 Government Complicity in Communal Violence

This has not been a factor in the post-Moi era, but at times in the 1990s commercialized cattle rustling in North-East province and northern Kenya was linked in the Kenyan media to high-ranking government officials. The previous Kenyan government was also accused of providing arms to local allies who were given license, sometimes with direct support from the police, to attack rivals. The fact that the Kenyan government in more recent times has been strongly committed to bringing peace to its hinterland is a welcome change and serves as a reminder that, if a central government is either not committed to ending armed conflict within its borders or is actively complicit in fomenting it, local efforts at peace-building face an almost insurmountable task¹⁵³.

¹⁵² Steven Brown, "Quiet Diplomacy and Ethnic Clashes in Kenya," in Donald Rothchild, Chandra Sriram and Karin Wermester, eds. *From Promise to Practice: Strengthening UN Capacities for the Prevention of Violent Conflict*. Boulder: Lynne Rienner, 2002

¹⁵³ Ibid

3.3 CONFLICT MAPPING – CONFLICT ZONES ALONG THE KENYA-SOMALIA BORDER

3.3.1 The Southern Border/Dobley Area

Political, economic and conflict dynamics interact across the entire border area, making the demarcation of separate conflict zones a somewhat artificial exercise. According to Menkhaus Ken¹⁵⁴, four distinct conflict zones along the border can be identified; Mandera conflict zone, El Wak conflict zone, Beled Hawa conflict zone, and the Southern Border/Dobley conflict zone. However, this section will only examine the Southern border/Dobley area conflict zone with the objective of demonstrating how porous and ungoverned borders exacerbates the other conflict drivers in the region.

The zone south of El Wak – referred to here as the Dobley area – constitutes the longest stretch of the Kenya-Somalia border. It is a particularly interesting case study because since the 1990s it has gone from being the most violent and dangerous area along the entire border to being the most secure area currently.

3.3.2 Background

Throughout the 1990s, the Dobley area was considered a "badlands" on both the Somali and Kenyan side border. Unlike the northern tier of the border, the southern border area experienced only a few instances of major armed clashes between rival clan militias – mostly on the Somali side of the border,

¹⁵⁴ Menkhaus, Kenya-Somalia Border Conflict Analysis, 2005

where the Aullhan and Mohamed Zubeir clans fought over control of Doble¹⁵⁵. But the southern border was plagued by much more banditry and general lawlessness than northern border areas. Much of the banditry in Garissa was, according to Paul Goldsmith, "financed by well-connected trade barons who recruit from the pool of retired army personnel and school leavers - - a new class of professional and sophisticated highwaymen".¹⁵⁶

The southern border area is distinct from the northern border zone in a number of important respects. It is inhabited principally by a single Somali clan-family, the Absame; it is generally cattle rangeland; it is the site of the enormous Dadaab refugee camp; and its border area features two rivers, agricultural communities, and the two largest commercial cities in the entire border area – Kismayo, Somalia and Garissa, Kenya.

Some of the worst scenes in Somalia's famine and humanitarian crisis of the early 1990s occurred in this area. The route from the Jubba valley to Doble was one of the most heavily travelled paths for desperate refugees fleeing by foot from the war and famine in Somalia. Some of the most notorious Somali warlords – General Mohamed Said Hersi, Siyad Hussein, Col. Omar Jess, and Ahmed Hashi – operated in this region. Their militias only rarely fought with one another; instead, they devoted most of their energies to preying upon IDPs and

¹⁵⁵ Further away from the border, the lower jubba region has been beset by much more chronic factional warfare, but that fighting rarely spilled over into the border area. Menkhaus, Kenya-Somalia Border Conflict Analysis, 2005

¹⁵⁶ Goldsmith, Cattle, Khat, and Guns" p 29

refugees. The area around Dobley refugee camp earned a reputation as one of the most dangerous and violent places in the entire region; women gathering firewood in the bush were routinely raped by predatory militiamen, aid convoys were looted, and refugees subjected to extortion and shakedowns. On the Kenya side of the border, the roads in and out of Garissa were infested with heavily armed bandits, and could be travelled only with military escorts. Even the Kenyan police outpost at Liboi was attacked and looted by Somali militiamen¹⁵⁷.

3.3.3 Conflict Drivers

Levels of insecurity and banditry were so high in the Dobley area in part because of a puzzling lack of political cohesion and weak leadership among the Absame. Most of the top Absame leaders on the Somali side of the border were absent, living in Nairobi or Addis Ababa. On the Kenyan side of the border, ambitious Absame leaders focused on national politics in Nairobi. To the extent that they played a role in the border areas, it was generally destructive, fomenting clan violence with their private militias for political gain. The presence of porous and an ungoverned border offer these leaders a safe haven through which their militiamen and arms crisscross the border.

In the immediate Dobley/Dadaab area, the source of insecurity can be attributed in large part to a single warlord, Siyad Hussein. Hussein, an Auhilan militia leader allied for years with General Mohamed Hersi, took Dobley by force

¹⁵⁷ Menkhaus Ken, Middle Jubba Region, UNDOS, December, 1999

from the rival Mohamed Zubeir clan in the early 1990s. Doblely controls an important route for cattle destined for the Kenyan market, as well as overland commercial trade. It also is located close to Dadaab camp, giving Hussein's militia ample opportunity to prey upon refugees. Hussein was in 1991-92 held personally responsible by some international relief organizations for orchestrating the widespread diversion of food aid to famine victims in the Jubba valley. In Doblely, he created a fiefdom of banditry and predation which afflicted the entire zone for years. The isolated and often inaccessible terrain of the border area makes for an appealing location for armed criminal activity. The large stretch of ungoverned border, dense bush and lack of roads in much of this zone provides safe haven¹⁵⁸.

Economically, the southern border region missed out on the expanding transit trade which was generating so much commercial opportunity along the northern border in the 1990s. This was partly due to the high level of banditry in the area and the poor roads connecting Doblely to Mogadishu and Kismayo. But it was mainly the result of the chronic conflict over control of the port city of Kismayo. In theory, Kismayo is much better placed to serve as the main entry point for transit trade from Somalia into Kenya. It possesses the only functioning all-weather seaport in southern Somalia, and is considerably closer to Kenya than Mogadishu. But since 1991 the city has been the site of repeated clashes

¹⁵⁸ This section draws extensively from Menkhaus Ken, Kenya-Somalia Border Conflict Analysis, USAID report, 2005

between competing militia, both from the region and from outside areas. For most of the period since 1991, the clan dominating the hinterland- the Absame- has been frozen out of Kismayo by some combination of Harti, Marehan, and Haber Gedir Ayr Militias. In response, the Absame blocked most commerce out of the city toward Kenya throughout the 1990s. Kismayo became a chronically contested and besieged town, closed to the interior¹⁵⁹.

3.3.4 Sources of Peace and Security

Peace and security in the southern border area have improved considerably since the year 2000. First, a regime change occurred in Dobley – the Mohamed Zubeir ousted Hussein's militia, and Hussein himself died. This returned to power a group of local clan leaders who are guri or indigenous and who have greater stakes in peace and security, especially to protect the clan's valuable cattle trade across the border. They have used modest tax revenues from cross-border trade to create a small police force and administration in Dobley; they have formed a peace committee, modeled on the Kenyan structure, to liaise with Kenyan counterparts to prevent cross-border crime and maintain the peace; and they have successfully reduced banditry and crime in the area¹⁶⁰.

¹⁵⁹ Ibid PP. 26-38

¹⁶⁰ This section draws heavily from Menkhaus, Kenya-Somalia Border Conflict Analysis, 2005

Second, the profitability of and rapid growth in cross-border cattle from the lower Jubba valley into Kenya is increasingly a central pillar of the Absame economy, and one which requires a modicum of border security and peace.

Third, there has been a gradual improvement of relations between local residents and refugees at Kakuma camp in northern Kenya. As a source of remittances and food distribution, Dadaab, produces commercial opportunities for the region and is increasingly integrated into the local economy. The decline in services provided to the refugees in recent years – a function of donor fatigue – has had the unintended effect of reducing local resentment over what was earlier perceived to be favored status for refugees.

Fourth, the fact that the dominant Somali clan in the southern border area – the Absame – are stakeholders in Kenyan national politics as well as Somali national politics may be having an ameliorating effect on regional politics. Politically-driven clashes in the lower and middle jubba involving the Absame are much fewer today than is the case with the Marehan in Gedo region, in part because the Absame are increasingly focusing their energies on Kenyan politics, where they hold multiple seats in parliament and cabinet positions. Unlike the Marehan in Gedo region and most other Somali clans, the Absame in the Transjubba region are currently stakeholders more in a neighboring country than in Somalia itself. Absame elders have explained the lack of action regarding

their disenfranchisement in Kismayo not as a sign of weakness but rather as indifference.¹⁶¹

Finally, Garissa town appears to be playing a quiet but substantial role in promoting peace and security in the southern border zone. Garissa has developed into a major commercial hub-in many respects it is the commercial capital of the entire border region. In the process, it has grown quickly and has become a cosmopolitan city where, though the Absame are the main clan there; all Somali clans may live and conduct business. For urban Absame, especially those displaced from Mogadishu, the fact that they have access to an increasingly large Somali city to reside in reduces the need to fight for access to Somali cities elsewhere- specifically, Kismayo, and Mogadishu.

3.3.5 Outstanding conflict issues

The improved state of peace and security in the southern border area is impressive but is not a consolidated peace and is vulnerable to the kinds of reversals witnessed in Mandera and El Wak year 2005. Preventive measures are thus especially appropriate for this half of the border area. Most of the threats to the area's peace and security stem from sources of conflict endemic to the entire border region. Local leaders stress that acts of crime – thefts, rape, and murder-remain the single greatest threat to local peace. This puts a premium on

¹⁶¹ Ibid PP 39-42

the ability of local clan elders to act quickly to negotiate blood payment, in order to prevent retaliatory measures such as revenge killings.¹⁶²

Resource competition, especially over control of boreholes, is a chronic source of conflict requiring vigilance on the part of clan elders and civic peace groups. Likewise, the proliferation of locations on the Kenyan side of the border is a flashpoint for conflict across the entire border area. And while rival trade routes in the southern border area have not to date been a source of conflict, the potential remains for groups to be tempted to destabilize border crossings held by other sub-clans in order to divert trade to their border town.

A number of conflict issues are partially or wholly specific to the southern border area. The control of Dobley remains an unresolved conflict with the possibility of renewed clashes. Though the area has long been considered part of the Mohamed Zubeir's territory, the Aulihan have not accepted their ouster from the town and no reconciliation between the two clans has occurred. The two clans are in fact long-standing rivals within the Absame clan-family, and Dobley will be the most likely flashpoint should armed conflict emerge between the two. The unresolved impasse over control of Kismayo is also a ticking time-bomb for the entire region. Spillover from Kismayo conflict can quickly impact the border area. Finally, the harvesting of acacia trees for charcoal production and export out of Kismayo is expanding toward the Kenyan border and as it

¹⁶² Menkhaus Ken, "From Feast to Famine: Land and the state in Somalia's lower jubba valley." In *The Struggle for Land in Southern Somalia: The War Behind The War*, Boulder, Westview press, 1996

does the charcoal businessmen and their workers will eventually come into conflict with local pastoralists. The charcoal export industry has had devastating effects on parts of the lower jubba valley and is a long- term environmental disaster¹⁶³.

Given the chronic insecurity and porous Kenya-Somalia border the above conflict issues will remain a dangerous reality for the border area communities for the foreseeable future.

3.4 CONCLUSION

The existence of the borders shared by Somalia, Ethiopia, and Kenya are themselves a periodic contributor to conflict. The principal role they play in conflict as a source of safe haven for armed groups – criminal gangs and militia – which commit acts of violence and then cross to the safety of their home country and disappear. The shared border area near Mandera is known locally as the "*Bermuda triangle*" for precisely this reason¹⁶⁴. This dynamic points to a curious aspect of the borders – they are relatively unpatrolled, ungoverned and porous, but not irrelevant. Kenyan military do not cross the border in hot pursuit of Somali bandits for fear of attack; Somali militias cross into Kenya in pursuit of rival combatants only reluctantly, for fear of encountering the Kenyan military or police; and Somali armed bandits take the same risk when mounting a cross-border raid. In practice, this has meant that the Kenyan Garre have been able

¹⁶³ ibid

¹⁶⁴ Menkhaus Ken, Kenya-Somalia Border Conflict Analysis, USAID report, 2005

to use the border to launch attacks on El Wak in Somali and retreat across the border with little fear of Marehan counterattack, a tactic which infuriates the Marehan and has led them to accuse Kenya of favoring the Garre. Further south, Somali bandits have until recently stolen vehicles and even looted the Kenyan police station at Liboi and then retreated back to Doble. On the Kenyan-Ethiopian border, militia and possibly Ethiopian paramilitary forces have crossed into Kenya to commit devastating livestock raids.

The border area is highly susceptible to spillover of conflict from adjacent regions. This is most evident in the northern tier, where ethnic cleansing as far away as Isiolo triggered a shockwave of displacement and conflict over resources and political rights in Mandera district. On the Somali side of the border, spillover from the conflict in Kismayo sends ripple effects to the Kenyan border.

4.0 CHAPTER FOUR

DATA ANALYSIS AND PRESENTATION

4.1 Introduction

This chapter gives a detailed analysis of the data collected and presents the findings. The data have been analyzed and presented in form of frequency tables, percentages and charts. Findings in this chapter demonstrate the objectives of the study which included investigating: the relationship between porous borders and cross border conflict. This was done with a more specific objective of providing an insight on how porous borders contribute to the generation and escalation of periodical cross-border violence within the Kenya-Somalia border area. lastly make recommendations to government policy makers on how to enhance security within the large Northern Eastern Province – an objective which will be examined fully in the next chapter(chapter five) of this study.

The sampling process was carried out selectively. Officers from various government departments and Non-governmental organizations who are based and represented on their day to day duties and activities within the larger border area were identified and interviewed.

During the research 70 individuals were sampled, managed to get data from 38 individuals having administered questionnaires to over 100 of them.

4.2 BORDER POROSITY

The existence of borders shared by Somalia, Ethiopia, and Kenya are themselves a periodic contributor to conflict. The principal role they play in conflict is as a source of safe haven for armed groups which commit acts of violence and then cross to the safety of their home country and disappear. These borders are relatively unpatrolled, ungoverned and porous, but not

irrelevant. Kenyan military do not cross the border in pursuit of Somali bandits for fear of attack; Somali militias cross into Kenya in pursuit of rival combatants only reluctantly for fear of encountering the Kenyan military or police.

To determine whether the Kenya-Somalia border was really porous the research sought to identify how the respondents could best describe the border. 97% of the respondents affirmed that the Kenya-Somalia border is porous while 3% identified the border to be very porous. See table 4.1

Table 4.1. Description of Kenya-Somalia border

Type	No. of respondents	%
Porous	37	97.4
Non porous	0	0
Others	1	2.6
Total	38	100

4.3 GEOGRAPHICAL CHARACTERISTICS

The geography, rainfall, and vegetation of the Somali-Kenya border area varies considerably from the coastal area to the Ethiopian border and plays an important role in shaping human activities including armed conflict, as will be demonstrated by this study.

Portions of the coastal districts and regions are quite inaccessible, featuring dozens of inlets, wadis, seasonal streams, swamps, and dense bush. To the north of the coastal area, rainfall levels

on the Somali side of the border are high enough to sustain some of the best grasslands in all of Somalia, as well as scattered rain fed agriculture. Temperatures throughout the border area are hot, especially into the interior.

The isolated and often inaccessible terrain of the border area makes for an appealing location for terrorist and armed criminal activity. Coastal areas of the border feature numerous small islands and remote inlets where dhows and fishing vessels can freely come and go undetected; the dense bush and lack of roads in much of the lower Jubba region and coastal zone provides safe haven.

The research sought to investigate whether the geographical characteristics i.e. – whether the terrain and vegetation cover make the border area difficult for the security agents to patrol and man the area. 90% of the respondents confirmed that illegal immigrants do take advantage of the terrain and vegetation cover to find their way into the country. Further they smuggle illegal goods and small arms into the country through such terrain where it is difficult for security agents to patrol and spot them. Although 10% of the respondents attributed insecurity in the area to other factors and not merely due to the geographical characteristics. See table 4.2 and 4.3

Table 4.2. Geographical Characteristics of Kenya-Somalia border area

Type	No. respondents	%
Dense Bushy	10	28.6
Semi arid	22	62.9
Sandy and mountainous	3	8.5
Swampy	0	0
Total	35	100

Table 4.3. Contribution of the above geographical characteristics to insecurity

	No. of respondents	%
YES	32	91.4
NO	3	8.6
TOTAL	35	100

4.4 BORDER MANAGEMENT AND SECURITY

Border control – the effort to restrict territorial access- has long been a core state activity.

As territorially demarcated institutions, states have always imposed entry barriers, whether to deter armies, tax trade and protect domestic producers, or keep out perceived undesirables. All states monopolize the right to determine who and what is granted legitimate territorial access.

The policing objective is to deny territorial access to nonstate actors who operate across borders in violation of state laws and who attempt to evade law enforcement efforts. Although the methods of policing vary considerably both at and beyond physical borderlines, they can be collectively categorized as “border controls” given that the goal is to selectively deny territorial access. The intensification of border controls in recent years is evident in sharply rising law enforcement budgets; new and more invasive laws; the development of more sophisticated surveillance and information technologies; stricter visa regimes and more technologically advanced and forgery resistant travel documents; enhanced cooperation with source and transit countries and a greater extension of tracking and control mechanisms beyond the point of entry.

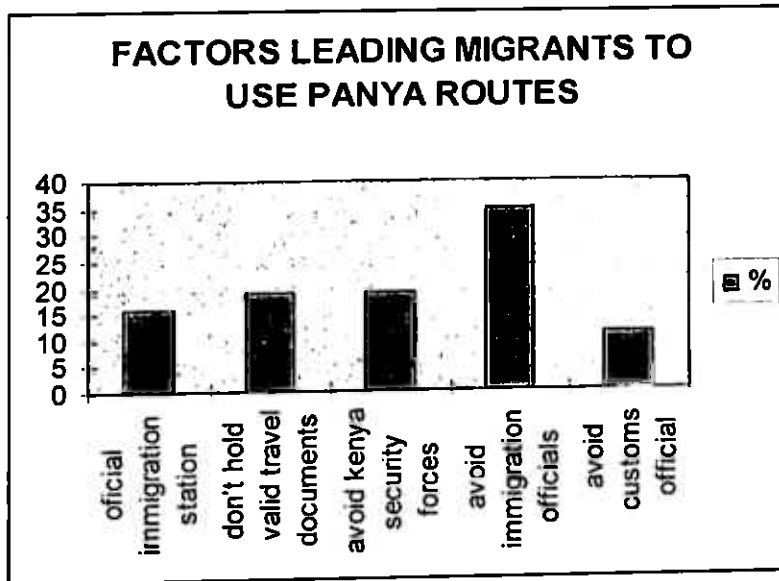
The research sought to identify whether the long Kenya-Somalia porous border is fully manned by security agents. To ascertain this, the research sought to investigate whether all immigrants into the country use the official entry points or whether they prefer to use unofficial entry points and routes commonly referred to as “panya routes”. The research also probed the respondents further to identify the various factors and reasons why the immigrants prefer to use those unofficial panya routes. Apart from the two official entry points to and from Somalia and which are located a distant away from the actual border- i.e. (Liboi and Mandera), 100% of the respondents confirmed that immigrants do prefer to use unofficial routes for various reasons as evidenced in table 4.4 and 4.5.

Table 4.4 whether immigrants use unofficial routes

	No. of respondents	%
YES	32	100
NO	0	0
TOTAL	32	100

Table 4.5 Factors that lead immigrants use unofficial routes

Reason	%
Official immigration station located a distant from actual border	16
Don't hold valid travel documents	19
Avoid kenya security forces	19
Avoid immigration officials	35
Avoid customs official	11



4.5 CIVIL CONFLICT IN SOMALIA

The state is also a factor in conflict on the Somali side of the border, for various reasons. First, the complete and prolonged collapse of the Somali state has had disastrous impact on the TransJubba regions, producing a context of lawlessness and anarchy that is only partially mitigated by attempts to strengthen local governance. Second, efforts to revive a central government in Somalia have been conflict-producing. Because representation in Somali national fora is now explicitly clan-based, state building negotiations encourage clans to maximize territory they can claim to control. Third, when state-building efforts fail in Somalia, the international community has periodically sought to work with sub-national, regional or transregional polities. This increases local political competition for control over regional or multi-regional polities, and is likely to be a conflict issue in both Gedo and lower Jubba regions.

The border area is highly susceptible to spillover of conflict from adjacent regions. The widespread ownership and easy availability of small arms in the border area is widely cited as an intensifier of armed conflict. This report can only repeat the observation that the arms do not

cause the conflicts, but multiply their negative impact. Given the chronic insecurity and porous borders in the region, small arms proliferation will remain a dangerous reality for border area communities for the foreseeable future.

The research sought to investigate on the spillover effect of the current civil war in Somalia to the periodic violence that affects the Kenyan border area with Somalia. The researcher sought to find out whether the border area has witnessed increased number of aliens from Somalia, increased cases of small arms and illegal goods smuggling due to the war in Somalia. 100% of the respondents confirmed that the continued war in Somali has led to increased aliens and small arms on the Kenyan side of the border. They associated the increased number of aliens to be among the causes of insecurity within the area. Further, the research sought to investigate whether with a stable government in Somali the incidences of violence within the Kenyan border could decline. See table 4.6, 4.7, and 4.8.

Table 4.6 with stable government in Somalia can violence cases decline within the border area

	No. of respondents	%
YES	34	97
NO	1	3
TOTAL	35	100

Table 4.7 Has the closure of Kenya-Somalia border increased the trade of arms smuggling

	No. of respondents	%
YES	35	100
NO	0	0
TOTAL	35	100

Table 4.8 Has the continued conflicts in Somali increased the number of Aliens in the Kenya border area

	No. of respondents	%
YES	35	100
NO	0	0
TOTAL	35	100

4.6 REFUGEES

An enduring concern of the border communities is that the chronic conflicts they suffer from are the result of external agendas, by powerful outsiders or refugees who are not stakeholders in local peace. Outsiders are also held responsible for rendering local feuds more deadly, for committing crimes leading to cycles of clan violence, for ignoring local customary law, for engaging in polemics and fund-raising for war in pursuit of their political interests.

Refugees into the border area cause environmental stress. This coupled with severe poverty and underdevelopment combine to render the area chronically vulnerable to armed conflict, communal clashes, and violent crime.

The research sought to investigate on the entry of Somali refugees into the Kenyan refugee camps and also the effect of such refugees to the periodic conflict that affect the Kenya-Somalia border area. 100% of the respondents confirmed that most of the refugees from Somali do not register on entry into Kenya. i.e. - they use unofficial entry points into the country.

They further associated such refugees to the periodic conflicts that afflict the border area due to the fact that they mainly cause strain on the few resources available within the area. See table 4.9.

Table 4.9 whether all refugees use official entry points into the country

	No. of respondents	%
YES	32	100
NO	0	0
TOTAL	32	100

4.7 ECONOMIC ACTIVITIES

In Kenya's North-East Province, the majority of the population is pastoral. Northeastern Kenya, not long ago almost entirely rural, has experienced a significant urbanization trend, with several previously small settlements now housing over 40,000 inhabitants. Pastoral production

varies regionally. In the rich grasslands of the southern border area, particularly on the Somali side of the border, cattle herding predominates. To the north, where semi-arid conditions are not conducive for cattle, camels, sheep, and goats predominate.

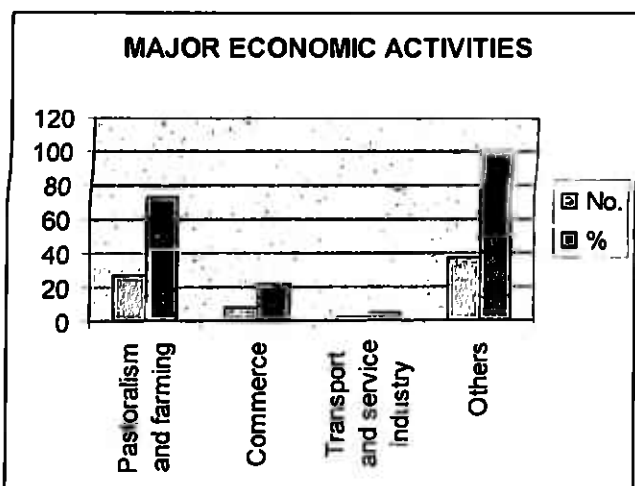
However, over the past three decades, a growing percentage of the border area population is engaging in petty commerce, artisan work, construction, transport, and the service economy. Livelihoods earned in the urban commerce have increased considerably in the recent past in the border region due to the emergence of a major transit trade system of consumer goods moved from abroad through Somalia and into Kenya.

The research sought to investigate how the various economic activities themselves contribute to the insecurity that afflict the border area from time to time. The respondents singled out pastoralism to be the major activity within the area. Competition for pasture, water, and markets for the animals leads to the periodic conflict that afflicts the border area as it was confirmed by the respondents. See table 4.10.

Table 4.10 various economic activities within the border area

	NO. of respondents	%
Pastoralism and farming	27	73
Commerce	8	22
Transport and service industry	2	5
Total	37	100

Chart presentation of the above economic activities



4.8 MAJOR CAUSES OF CONFLICT WITHIN THE BORDER COMMUNITIES

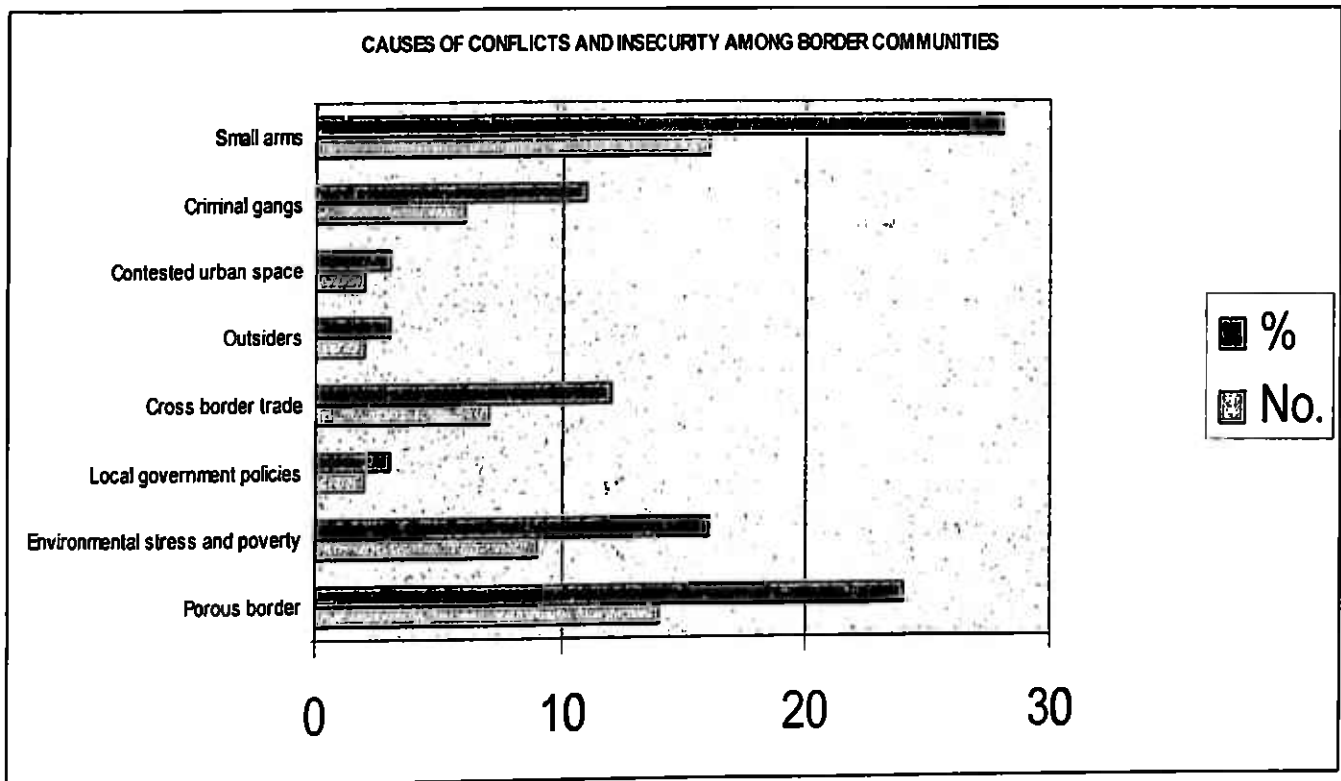
As discussed in chapter three of this study, various factors that contribute to conflict within the border area were given as: Environmental stress and poverty, Kenyan State and local government policies, State Collapse and State-Building in Somalia, Hardening of Ethnic Identity, Regional Economy and Cross Border Trade, Contested urban space, Refugees effect, Criminal gangs, Small arms proliferation, and the porous border.

The research sought to investigate on how the respondents rate the various causes of conflict as they were identified in chapter three of this study. See table 4.11 and 4.12

Table 4.11 factors that contribute to insecurity within the Kenya-Somalia border area

	No. of respondents	%
Porous border	14	24
Environmental stress and poverty	9	16
Local government policies	2	3
Cross border trade	7	12
Outsiders	2	3
Contested urban space	2	3
Criminal gangs	6	11
Small arms	16	28
Total	58	100

Figure 4.12. Chart representation of the above factors



4.9. BORDER MANAGEMENT PRACTICES

Shifts in state border control practices offer a glimpse of the nature of territorial politics at the dawn of the twenty-first century. States have always been in the business of territorial exclusion, but the focus and form of their exclusionary practices have varied over time. Particularly for advanced industrialized states, border controls are increasingly less about military defense or the imposition of quotas and tariffs on commerce and more about the policing of nonstate actors, with terrorists, drug traffickers, unauthorized migrants, and migrant smugglers leading the list of state targets. This has involved creating new and more restrictive laws; constructing a more expansive policing and surveillance apparatus that increasingly reaches beyond physical borderlines; promoting greater cross-border police cooperation and use of

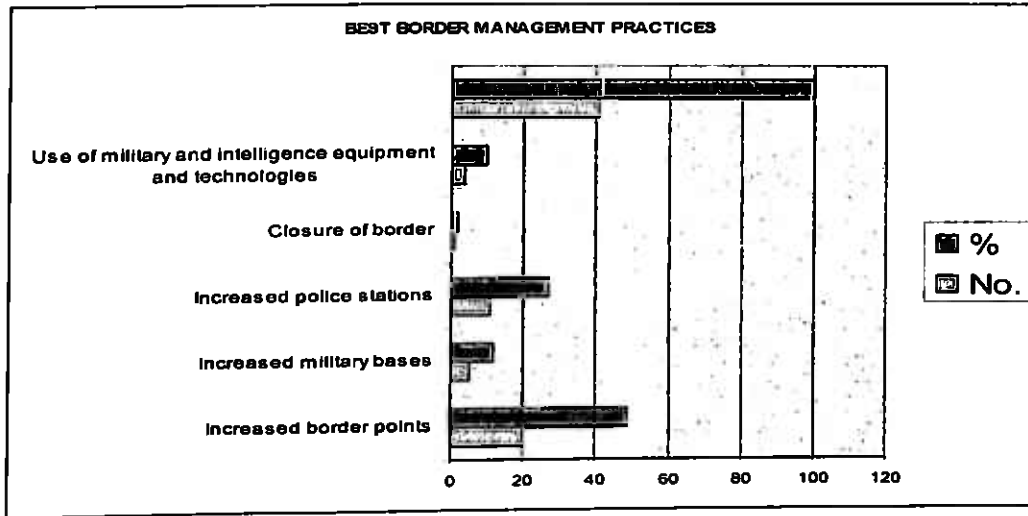
neighbors as buffer zones; deploying more sophisticated detection technologies and information systems; redefining law enforcement concerns as security concerns; and converting war-fighting agencies, technologies, and strategies to carry out crime-fighting missions.

The research sought to identify the best practices that can be employed to improve security within the Kenya-Somalia border area. Most of the respondents confirmed that with increased number of well manned and well equipped entry points/ stations would see decline on the number of illegal immigrants into the country, and also decline on the number of small arms in the border area. See table 4.13 and 4.14.

Table 4.13 various border management practices

	No. of respondents	%
Increased border points	20	49
Increased military bases	5	12
Increased police stations	11	27
Closure of border	1	2
Use of military and intelligence equipment and technologies	4	10
Total	41	100

Figure 4.14 chart presentation of the above factors



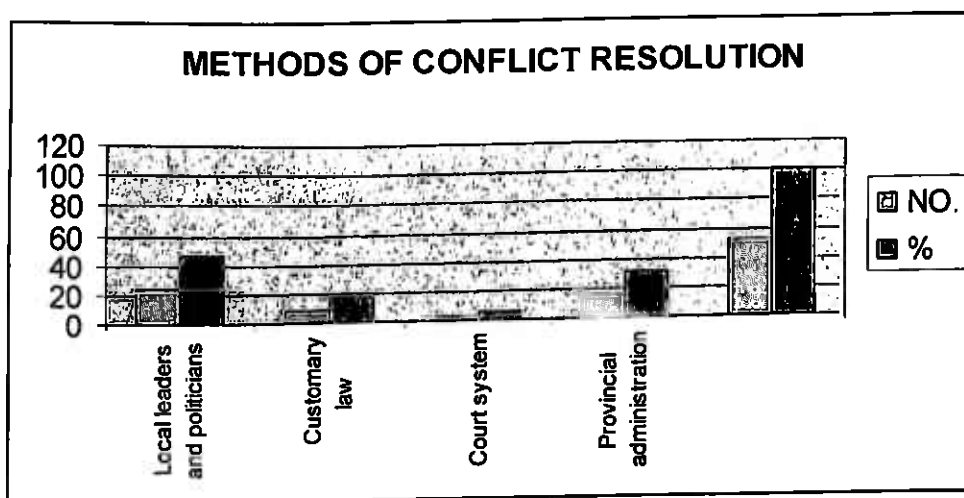
4.10 METHODS OF CONFLICT RESOLUTION

The research sought to identify the various methods of resolving conflict which communities within the border area employ. -These will be more elaborated in the next chapter; however the respondents identified various methods which the communities employ to resolve conflicts. See table 4.15 and 4.16

Table 4.15 various methods of conflict management

	NO. of respondents	%
Local leaders and politicians	24	46
Customary law	9	17
Court system	3	6
Provincial administration	16	31
Total	52	100

Figure 4.16 chart presentation of the above conflict resolution practices



4.11 CONCLUSION

The respondents confirmed that in any given year the border area has been experiencing cross border violence among communities living within the Liboi border area, Diff area, Mandera area, and Moyale area within the last ten years.

They further enumerated the most advanced effects of cross border conflict to the communities living within the border area; Influx of refugees and Aliens within the border area, Straining of resources available within the border area, smuggling of small arms into the country, loss of revenue on illegally smuggled goods without payment of government taxes, food insecurity, and displacement of families within the border area.

Although the Kenya-Somalia border is officially closed by the Kenyan government, the respondents confirmed that illegal immigrants still continue to enter into the country thus calling on the government to come up with better border management policies to manage the long porous border.

5.0 CHAPTER FIVE

CONCLUSION AND RECOMMENDATION

5.1 CONCLUSION, POLICY ISSUES AND RECOMMENDATIONS

This chapter discusses results analysed in chapter four, gives recommendations to government policy makers –as per objective three of this study, and maps the way forward.

Given the confluence of crisis in the Kenya-Somalia border regions mostly escalated by the porous border – the complete and prolonged collapse of the Somali state, years of civil war and famine in the Jubba regions, massive refugee flows and displacements, copious arms trafficking, large-scale-smuggling, intermittent terrorist activity, inability of the Kenyan state to govern its frontier areas, and the rise of majimbo-inspired land clashes and ethnic violence across much of rural Kenya - - the border zone ought to be one of the most anarchic, violent, and dangerous places on Earth. Yet it is not. Remarkably, on both sides of the border, a variety of factors have worked to produce local systems and practices which provide uneven, fragile, but real security, predictability, rule of law, and conflict management. According to a study conducted by the USAID in the year 2005, the emergence of "governance without government" has been observed and documented in southern Somalia. There, a mosaic of formal and informal local authorities has emerged from the protracted collapse of the state. In the Transjubba regions, clan elders and customary law have re-

emerged throughout the area and provide the principal source of rule of law. Municipal authorities have in several places – Luuq, Kismayo, Beled Hawa, Dobleh-provided more structured formal governance. Civic and business groups have been weaker as sources of governance in the Transjubba regions than in much of the rest of southern Somalia, but recently have become more visible and active. Further, sharia courts, operated by local clerics, have been periodically active in parts of Gedo region but have been as widespread as in the Mogadishu and Shabelle river valley.¹⁶⁵

On the Kenyan side of the border, an impressive change has occurred. The region has gone from being one of the most lawless of Kenya's troubled border areas to being one of the more stable and safe- except for the rare livestock raids done within the various districts, Isiolo, Wajir, Moyale, and Mandera. This improvement is the result of concerted efforts at the local level to control and minimize the triggers of armed conflict and successfully deter violent crime. Of the many factors which improve security in the border areas, either by preventing or managing armed conflict or by reducing the threat of violent crime, the factors discussed below have been most important.¹⁶⁶

¹⁶⁵ This section draws much from Ken Menkhaus, "Kenya-Somalia Border Conflict Analysis" USAID report 2005

¹⁶⁶ Ibid., pg 50

5.2 SUGGESTED SOURCES OF PEACE, SECURITY, AND CONFLICT MANAGEMENT

5.2.1 Customary Law and Traditional Elders

Xeer, or customary law as developed between clans in the pre-colonial era was a system for managing conflict, deterring crime, and dispensing justice in an environment of statelessness. Xeer serves roughly the same purpose as regimes which help govern relations between states in international politics. All parties benefit from routinized and predictable cooperation on key issues of importance, such as governing use of common resources¹⁶⁷.

Customary law was partially undermined in both Somalia and Kenya through colonial and post-colonial state manipulation of the clan elders who traditionally dispense and negotiate xeer. Contemporary state administrations tended to view xeer as a vestige of an old and inferior system rendered obsolete by modern codes, police forces, and court systems. Use of paid chiefs or elders by the state to manipulate and control local populations eroded the credibility and legitimacy of clan elders in their communities.¹⁶⁸

The collapse or retreat of the Somali and Kenya states in the border areas since 1990 has recreated in some manner the pre-colonial pastoral anarchy which xeer was designed to address. The revival of the authority of clan elders and xeer in the border areas has probably been the single most important

¹⁶⁷ Lee Cassanelli, *The shaping of Somali society*, Philadelphia: University of Pennsylvania press, 1982

¹⁶⁸ Lee Cassanelli, *The shaping of Somali society*, Philadelphia, University of Pennsylvania press, 1982

source of security and conflict management since 1990. In stateless Somalia, the dominant role of clan elders as authoritative representatives of their clans in peace negotiations, as quasi-diplomats managing relations with neighboring clans, and in adjudicating or mediating disputes within their lineage has been largely unquestioned since the civil war of 1992, and nowhere in the Transjuba regions is xeer anything less than central as a pillar of law governing inter-and intra-clan relations.¹⁶⁹

On the Kenyan side of the border, reliance on xeer to manage conflicts, especially its use to resolve cases of murder, has been more controversial, in part because it is a direct challenge to the state legal system, in part because its defining features – the use of blood payment to handle a crime in lieu of incarceration, and the principle of collective rather than individual culpability that blood payment groups are based on – violate basic precepts of modern jurisprudence and human rights.¹⁷⁰

There are many other criticisms of both xeer and reliance on traditional authorities as sources of representation and social authority. Elders can be venal, corrupt, and inclined to foment ethnic divisions; their enforcement capacity is variable, and they have rarely been able to prevent determined politicians and militia leaders from outflanking them and sabotaging peace-building that does not serve their interests; and elevating the status of sometimes

¹⁶⁹ Ken Menkhaus, "Kenya-Somalia border conflict analysis, USAID report 2005

¹⁷⁰ Ibid

illiterate elders over the educated and professionals within their clan consigns communities to mediocre and parochial leadership. For its part, *xeer* enshrines rather than overcomes clannism; *xeer* is limited in its jurisdiction to local clans, and is overwhelmed by the sheer scale of death and destruction associated with modern weaponry and war; it is woefully inadequate for protecting women's rights, especially in dealing with the widespread use of rape as a weapon; and it is least effective in protecting those whom the law is most obliged to protect- the weak and powerless. All this is true, yet the border areas provide evidence that the revival and application of customary law by clan elders has, in the absence of an effective state police and judiciary, been the single most powerful deterrent of crime.¹⁷¹

5.2.2 Civic Groups

Local community based organizations have been remarkably active in the region, especially on the Kenya side, where they form part of a vibrant network of the Kenyan non-governmental sector.¹⁷² As elsewhere, they are a mixed bag. Some are little more than "pocket" or "briefcase" NGOs composed of one or two people; some are politically compromised and serve as fronts for clan interests or politicians; others are essentially local businesses seeking a livelihood as sub-contractors for international NGOs. But local civic groups have clearly matured and developed since the early 1990s, and today are playing a

¹⁷¹ Abdi Umar, "Resource Utilization, Conflict, and Insecurity in Pastoral areas of Kenya," Paper presented at the USAID seminar "Conflict Resolution in the Horn of Africa," March 1997

¹⁷² Dekha Ibrahim & Janice Jenner, "Wajir Community-based Conflict Management," paper presented to the USAID conference "Conflict Resolution in the Greater Horn of Africa, June 1997

growing role in promoting peace. They assist in a number of different ways. They are cross-clan networks facilitating both routinized and rapid response communication, a critical and often missing function in times of conflict; they help build trust and shared interests in functional issues such as health care and education which transcend clan lines; they tap into professional skills and expertise among local populations that otherwise can go underused; they can provide good offices or mediation; they are flexible and open and provide opportunity for social groups normally excluded from politics-such as women and youth-to play a more central role; they are perhaps the best forum for engaging local communities in discussion of underlying sources of conflict and strategies for addressing them; and, thanks to their linkages outside the region, they are developing a capacity as repositories of best practices for conflict prevention and management.¹⁷³

5.2.3 Peace Committees

The emergence of peace committees – umbrella groups of civic organizations, traditional elders, and local governmental officials – has been the single most important and effective community response to insecurity, crime, and armed conflict in the border areas. The structure has spread from its initial experiment in Wajir to Garissa and Mandera, has been emulated by cross-border communities in Somalia, and has spread to many districts in rural Kenya. Peace committees form a central part of the mediated state strategy emerging

¹⁷³ Ibid

in Kenya. They have a number of virtues.¹⁷⁴ They encourage and enshrine local ownership of conflict management; they tap into local knowledge of conflict dynamics; they create a multiplier effect by structuring collaboration among different types of local actors, each of which brings different strengths; they are flexible and open regarding community participation; and they encourage collaboration between state actors and civic groups. The evolution of peace committees in the border area has been central to improvements in public security and peace.

5.2.4 Kenyan State

The Kenyan government and Kenyan political dynamics has, on a number of levels, been a major conflict driver in the border area. But it is equally true that the impressive improvement in regional peace and security has been the result of positive Kenyan government intervention and policies. This has been due in part to a greater level of commitment to regional security and conflict prevention on the part of some branches of the Kenyan government. District Commissioners have been impressively active in promoting peace and security; the Arid Lands Resource Management Project (ALRMP), in the Office of the President, has expanded its work beyond rangeland and water issues to include conflict issues; and the Kenyan military and police, though still struggling with capacity problems, possess a greater commitment to border security as part of counter-terrorism policies. At least as important as renewed government's

¹⁷⁴ This section draws extensively on Ibrahim and Jenner, 1997

realistic assessment of its current capacities, and its openness to partnership with civic groups promote peace and security, including accepting "internally regulated group relations to bypass state legal institutions."¹⁷⁵

5.2.5 Business Interests

Business interests may be the most significant variable of all the peace and conflict drivers in the border area. Business interests in the border area have generally been effective as a source of conflict prevention and management for a number of reasons. First, the two most important economic activities in the region, livestock trade and cross-border commerce, require basic security, safe markets, and open roads. Second, where business people have invested in fixed assets such as telecommunications offices, shops, hotels, and houses, warfare is undesirable. Most importantly, commercial activity in the border area relies upon multi-clan partnerships and networks to move goods safely across the region. Those partnerships and networks can be a valuable channel for cross-clan dialogue and cooperation on matters of peace and security¹⁷⁶.

5.2.6 Cosmopolitan Towns

Contested urban space is listed in this study as a source of conflict. But in some cases, urban areas have come to play an important role for peace, rule of law, and –most importantly- ethnic co-existence. Towns which develop a

¹⁷⁵175 Guyo Haro et al, "Linkages Between Community, Environmental, and Conflict Management: Experiences from Northern Kenya," *World Development* 33, 2005

¹⁷⁶ Goldsmith, "Cattle, Khat, and Guns," *Trade, Conflict, and Security on Northern Kenya's Highland-Lowland Interface, Conflict and conflict management in the Horn of Africa case study*, May 1997

culture of "cosmopolitanism" – that is where members of any clan or ethnic group are free to settle and do business there, and where an identity with the town begins to rival clan identity – are critical sources of peace in the border area.¹⁷⁷ Today, Garissa, Luuq, Wajir and Mandera are the most cosmopolitan towns in the border area. They are important as centers of cross-clan communication and networking, and as antidotes to the exclusionist ideology which informs clan attitudes towards smaller settlements and locations. To the extent that cosmopolitan towns flourish while single-clan settlements stagnate, these islands of co-existence may eventually help reverse dangerous trends of ethno-politics in the region.

5.3 POLICY ISSUES AND CONSIDERATIONS

It is the conclusion of this study that the governance model being negotiated, implemented, and experimented with in northern Kenya is more than an ad hoc peace-building strategy, more than a post-colonial version of "indirect rule", and more than a convenient division of labor between local government, civic groups, and traditional authorities.¹⁷⁸ It is better understood as a type of "mediated state", a concept initially used to explain state-frontier governance in early modern Europe. Far from being a relic of medieval Europe, however, the mediated state model in Kenya today may be at the forefront of

¹⁷⁷ This section draws extensively from Goldsmith, "Cattle, Khat, and Guns," 1997

¹⁷⁸ Letitia Lawson & Donald Rothchild, "Sovereignty Reconsidered," *Current History*, May 2005

an emerging, largely unrecognized, hybrid form of state-building in weak states.¹⁷⁹

Until recently, there were compelling reasons why weak African states did not attempt some variant on a mediated state. One reason was ideological – the project of the modern nation-state in independent Africa could not accept less than the full range of sovereignty and monopoly on the legitimate use of violence within its borders that the West and East bloc enjoyed. Modernization theories which infused thinking about political development were predicated on the passing of traditional society and the paramount authority of the state¹⁸⁰; to the extent that customary law was employed in remote areas, it was tolerated but not sanctioned by the state, and at any rate viewed as a building block for state-building. The other reason, as described by Jeffrey Herbst¹⁸¹, is that African states- unlike early modern European states- inherited fixed boundaries firmly protected by international law from encroachment by more ambitious or effective neighbors or break-away secessionists. In an earlier period, failure to extend and maintain authority in frontier areas risked loss of that territory, leading rulers to devote considerable treasure and manpower to protecting borders.

¹⁷⁹ Swen Voekel, "Upon the Suddaine View: State, Civil Society, and Surveillance in Early Modern England," *Early Modern Literary Studies* 4, September 1999

¹⁸⁰ *Ibid*

¹⁸¹ Jeffrey Herbst, *States and Power in Africa*, Princeton: Princeton University press, 2000

Today, African state authorities have in some respects pursued a rational strategy by allowing frontier zones to go ungoverned, especially if the frontier has little economic value, the cost of establishing rule of law is higher than whatever revenue can be earned from the area, the state faces a serious shortage of money and capacity, and negative spillover of anarchy in the frontier does not unduly impact the core areas of the state. The result has been enormous tracts of territory in the hinterlands of many African states that are in a condition of de facto state collapse. The retreat of the state from its frontier areas and the armed anarchy which ensued in Kenya in the early 1990s was particularly shocking only because it occurred in a middle-income country with greater governmental capacities than in most of the rest of the continent.¹⁸²

This explanation for the governance vacuum in African border areas emphasizes the role of state indifference or disinterest in border areas, though lack of state capacity is also a factor. But when that frontier governance calculus changes – when state authorities develop an interest in asserting or reasserting security and rule of law in their hinterland, but lack the capacity – conditions improve for an alternative, “Mediated State” approach.

In the case of Kenya, several factors increased government interest in expanding rule of law in its border areas. These included the enormous costs of spillover of crime, displacement, and arms flows into the core of Kenya from the

¹⁸² Ibid

running sores in its frontier area; a sense of professional duty on the part of a small number of committed civil servants; pressure to do something about the violence and lawlessness in Kenya's borderlands from international donors, the national media, civic groups, and religious leaders; and, in the aftermath of multiple terrorist attacks in Kenya in 1998 and 2000 attacks, a heightened security concern that terrorists were exploiting Kenya's porous borders and lawless interior.¹⁸³

State authorities which are willing but unable to govern their remote hinterland are forced to pursue a mediated state strategy, not out of sudden enlightened appreciation for virtues of civil society and traditional authority, but because it is their only effective option, at least in the short-term. This aspect of the mediated state – that it is not a policy preference but rather a default position for weak states seeking to promote governance and security in its frontier areas – sets it apart from other contemporary forms of state outsourcing of governance. The key difference is that states opting to contract out functions to non-state actors usually do so as a matter of public policy choice, and ostensibly with the objective of providing the service more efficiently.¹⁸⁴ This is the choice of a state authority which has acquired the competence to decide the limits of its own competence. By contrast, a mediated state strategy is the recourse of a state authority which lacks options. It has no choice but to work

¹⁸³ Ibid

¹⁸⁴ Wolfgang Reinhold, "Introduction: Power Elites, States Servants, Ruling Classes, and the Growth of State Power," in Reinhold, ed., *Power Elites and State Building*; Oxford: Oxford University press, 1999

through local intermediaries if it is to have even token jurisdiction in an area within its borders.

In the case of northern Kenya, the very fortunate combination of revived customary law and role of traditional clan elders and the ascendance of capable, responsible, and dedicated civic leadership within the region's small urban professional populations has provided the ideal conditions for a mediated state to work since the mid-1990s¹⁸⁵.

A hallmark of the mediated state as it evolved in early modern Europe was flexibility and pragmatism. State rulers brokered deals with whatever authorities existed in the periphery of their realm. The approach by definition defies templates and standardization. The same characteristic obtains in northern Kenya. There, the types and combinations of local actors in peace committees, and the types of relationships developed between these local authorities and the state, have varied considerably from place to place.¹⁸⁶

By viewing the current government – civic partnership to conduct core functions of the state in Kenya's border areas through the lens of the mediated state model, we accord this hybrid governance approach the significance it is due. Though its initial purpose was to promote peace-building, the mediated state in Kenya has expanded into core functions of the state – the judiciary,

¹⁸⁵ Ken Menkhaus, Kenya-Somalia Border Conflict Analysis, USAID report, 2005
¹⁸⁶ Walker, Robert., Dekha Ibrahim & H.O Shuria. "Oxfam GB Funded Peacebuilding Initiatives in Arid Districts of Kenya: Lessons and Challenges." 2003

police, and cross-border diplomacy. The Kenyan state is also employing the approach to promote range-land management.¹⁸⁷

Because the strategy involves ceding responsibility to non-state actors, it is difficult to cast this trend as a contribution to "state-building". But it may well be a form of "governance-building". Since the objective of state-building projects is not to strengthen state capacity for its own sake, but rather as a means of promoting good governance, the possibility that the mediated state can help promote the latter by bypassing the former is an interesting challenge to standard state-building interventions, which tend to conflate reviving formal state capacity with promotion of governance.

5.3.1 WAY FORWARD: ADDRESSING UNDERLYING DRIVERS OF CONFLICT

Assessments of conflict in northern Kenya all point to an array of underlying factors which make the region exceptionally prone to armed conflict. Efforts to strengthen mediated governance have improved local capacity to reduce crime- one of the main triggers of communal clashes – and have helped manage and mediate conflicts once they erupt. But a more comprehensive peace building strategy requires policies which address the most dangerous underlying drivers of conflict. This analysis points to several possible entry points where external aid may help reshape sources of conflict into factors promoting peace and security. As was emphasized in chapters 3

¹⁸⁷ Guyo Haro et al, "Linkages Between Community, Environmental, and Conflict Management: Experiences from Northern Kenya," 2005

and 4, some of the forces at play in the border area – such as commerce, urban space, and ethnicity- - can either promote peace or conflict, depending on circumstances. It follows then that aid interventions should seek to work with the Kenyan government to help shape the context in ways which tap into the constructive aspects of these factors. Business interests in the border area are especially amenable to a shaping strategy.

The single most powerful conflict driver on the Kenyan side of the border has been political – specifically, proliferation and abuse of constituents by Members of parliament-MPs as a form of political patronage and a means of engaging in localized ethnic cleansing – taking advantage of the long porous border to move masses of people who raid homes on the Kenyan side and then cross to the other side of the border and disappear. This in turn has contributed to deterioration of access to grazing areas, environmental degradation, and deterioration of livelihoods among pastoral households that constitutes a genuine crisis in the region. It has also created ideal conditions for hardened ethnic identities, communal clashes, and violent crime. Aid interventions which help produce fundamental changes in Kenyan policies on locations and rangeland access will go a long way to reversing one of the most insidious, and preventable, sources of spiraling conflict in the region.

5.3.2 CREATING SMART BORDERS

Shifts in state border control practices offer a glimpse of the nature of territorial politics at the dawn of the twenty-first century. States have always been in the business of territorial exclusion, but the focus and form of their exclusionary practices have varied over time. Particularly for advanced industrialized states, border controls are increasingly less about military defense or the imposition of quotas and tariffs on commerce and more about the policing of Clandestine Transnational actors [CTAs], with terrorists, drug traffickers, unauthorized migrants, and migrant smugglers leading the list of state targets¹⁸⁸. This has involved creating new and more restrictive laws; constructing a more expansive policing and surveillance apparatus that increasingly reaches beyond physical borderlines; promoting greater cross-border police cooperation and use of neighbors as buffer zones; deploying more sophisticated detection technologies and information systems; redefining law enforcement concerns as security concerns; and converting war-fighting agencies, technologies, and strategies to carry out crime-fighting missions.¹⁸⁹

Importantly, the tightening of border controls against CTAs has taken place in an era of globalization and regional economic integration defined by a loosening of controls over legitimate cross-border exchange. Border control strategists have therefore been creating new and technologically innovative

¹⁸⁸ Peter Andreas, "Redrawing the Line: Borders and Security in the Twenty-first century", *International Security*, vol.28 No.2 , 2003

¹⁸⁹ *Ibid*, pg 106-108

filters at and beyond points of entry to try to separate out "undesirables" from "desirables" border crossings. Balancing the twin border goals of facilitation and enforcement will continue to be one of the most bureaucratically, technologically, and politically challenging tasks facing governments in the twenty-first century.

The growing importance of territorial policing challenges conventional accounts of borders by international relations scholars, particularly the narrow realist view that the military significance of borders remains primary and permanent, and the equally erroneous globalists view that borders are becoming increasingly antiquated. Both realists and globalists are partially right: Realists correctly emphasize the persistence of border security concerns, yet mistakenly expect that interstate military rivalry and conflict necessarily determine border priorities. Globalists correctly point to the eroding economic importance of borders and the sharp decline of territorial conquest, yet mistakenly assume that this necessarily translates into a less interventionist state and less attention to border security. Like their realist counterparts, globalists tend to overlook the clandestine dimensions of globalization and the expanding state efforts to police it.¹⁹⁰

In short, while realists stress continuity and globalists stress decline, both accounts of borders fail to capture how territorial controls are being

¹⁹⁰ This section draws extensively from Peter Andreas, "Redrawing the Line: Borders and Security in the Twenty-first century", *International Security*, vol. 28, No.2 . 2003

reconfigured, becoming less relevant in some policy spheres (e.g., deterring military incursions by other states and taxing commerce), but more relevant in others (policing CTAs). Consequently, geopolitics is transformed, not transcended. As is evident in the United States and the European Union, the economic opening of borders and the decline on interstate military rivalry have been accompanied by reassertion and expansion of the state's border regulatory presence. This trend has been further accelerated and expanded in the post-September 11 policy environment, in which border security has taken on new political urgency. Thus, far from being viewed as passé, borders should be brought back as a centerpiece in the analysis of world politics.

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ANNEX TWO

STUDY QUESTIONNAIRE ON BORDER POROSITY AND CONFLICTS

This questionnaire will help in gathering information about border porosity and conflict between communities living on Kenya- Somali border area. All information gathered will be treated with highest confidentiality and will be highly appreciated.

Please tick () where applicable.

1. How can you describe the Kenya-Somalia border?

- Porous
- Non-porous
- Other, specify-----

2. How can you describe the geographical characteristics of the Kenya-Somalia border area?

- Dense bushy
- Semi-arid and less bushy
- Swampy
- Sandy
- Other, specify-----

3. Have the geographical characteristics of the border area contributed to the insecurity of the border area?

- Yes
- No

If yes, please explain how -----

4. How often do the security agents patrol the Kenya-Somalia border?--

10. Do you believe that with a stable government in Somali, the number of refugees from Somali into the country would decline?

- Yes
- No

11. Has the continued civil conflict in Somalia contributed to the increased use of panya routes by migrants into the country?

- Yes
- No

If yes, please explain how-----

12. What factors lead the migrants into or out of the country prefer to use unofficial (panya) routes?

- Avoid customs officials
- Avoid Immigration officials
- Avoid Kenya security forces
- Don't hold valid travel documents
- Official immigration stations located a distant from the actual border
- Other, specify-----

13. How can you rate the above factors on the scale given below?

Please tick

	Most preferred	preferred	Lowly preferred	Not preferred
Avoid customs officials				
Avoid immigration officials				
Avoid Kenya security forces				
Don't hold valid travel documents				
Border points				

5. How many official border points/ posts do you know along the Kenya-Somali border? Name them,-----

6. Apart from the official border points/ stations, do migrants try to use other unofficial (panya) routes to move into or out of the country?

- Yes
- No

If yes, please explain why-----

7. Has the closure of the Kenya –Somalia border by the Kenyan government contributed to increased use of unofficial routes by migrants into or out of the country?

- Yes
- No

If yes, please explain how-----

8. What factors can be attributed to the recent large inflows of refugees into the country?-----

9. Do all the refugees from Somali into the country use the official border points/ stations?

- Yes
- No

If no, which other routes do they use to get into the refugee camps,-----

17. How can you rate the above factors on the scale given below?

Please tick

	Very highly likely	Highly likely	likely	unlikely
Porous border				
Environmental stress and poverty				
Local government policies.				
Cross border trade				
outsiders				
Contested urban space				
Criminal gangs				
Small arms proliferation				

18. How best can the Kenya-Somalia border be managed?

- Increased number of border points/ immigration stations
- Increased number of military bases/garrisons
- Increased police stations and intense police patrols
- Closure of the border
- Use of military and intelligence equipment and technologies
- Others, specify_____

19. How can you rate the above factors on the scale given below?
Please tick where applicable

	best	good	fair	poor
Increased number of border points				
Increased number of military bases				
Increased police stations and intense police patrols				
Closure of the border				
Use of intelligence equipment and technologies				

20. What methods do the communities within the border area employ to resolve conflicts?

- Local leaders and politicians
- Customary law
- Islamic sharia law
- The court system
- Provincial administration
- Others, specify-----
