



INTERNATIONAL PEACE SUPPORT TRAINING CENTRE SYMPOSIUM REPORT



28TH MAY 2015 IN AMANI HALL, IPSTC WESTWOOD PARK ROAD, KAREN
NAIROBI, KENYA

CHANGING TRENDS OF CONFLICTS AND RESPONSE STRATEGIES IN EASTERN AFRICA

IPSTC Symposium Report

“Changing Trends of Conflicts and Response Strategies in Eastern Africa”

28th May 2015

at

Amani Hall, IPSTC

Westwood Park Road, Karen

Nairobi, Kenya



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2. Executive Summary

The mission of the International Peace Support Training Centre (IPSTC) is to be an independent research, training and education centre in Eastern Africa. A centre that is responsive to peace operations training and education needs of the African Peace and Security Architecture (APSA). IPSTC seeks to conduct applied research, training and education of military, police and civilian personnel in all aspects of peace operations in order to help improve the effectiveness of the international response to complex emergencies.

IPSTC's goals include:

- To achieve ownership of a comprehensive programme of training and education addressing conflict in Eastern Africa.
- To establish the Centre as a leading research, training and education facility within the APSA.
- To provide intellectual inputs in to the APSA.

Each year, IPSTC focuses on a Research Agenda that will not only inform but also enhance the promotion of peace, security and stability in East Africa, and Africa as whole. This year the Research Agenda focused on **“Changing Trends of Conflicts and Response Strategies in Eastern Africa.”**

This report documents the symposium that was held on the **28th of May 2015**. It briefly outlines the occasional papers presented by the centre's researchers on that day, focusing on the objectives, findings and recommendations of each paper. It also includes the remarks made by three discussants who had each been assigned an occasional paper to review. In addition, comments and suggestions made during plenary as well as for future research papers were taken into account. The report concludes with remarks made by honorary guests, and the closing ceremony officiated by The Commandant, PCSS, Colonel Henry Ofula.

3. The Symposium Concept

The International Peace Support Training Centre (IPSTC) is a training and research institution whose focus is capacity building at strategic, operational and tactical levels for peace operations within the context of the African Peace and Security Architecture (APSA). The Centre endeavours to address the complexities of contemporary UN/AU integrated peace support operations by exposing actors to the multidimensional nature of these operations. The training and research undertaken cuts across the broad spectrum of conflict; from prevention, management and post conflict recovery. The Centre is a key training institution within the framework of APSA through the necessary cooperation with partners from all over the world.

The Research Department at IPSTC undertakes research for two main purposes:

- To design of training curricula to support peace operations
- To contribute to the debate towards the enhancement of regional peace and security.

In this context, the Centre conducted field research as part of the 2015 Research Agenda, whose overarching theme is: **“Changing Trends of Conflicts and Response Strategies in Eastern Africa.”**

3.1 Objectives of the Symposium

This symposium that focused on Kenya and South Sudan, was aimed at fulfilling the following objectives:

- a.) To serve as a platform for dissemination of the results of the research conducted
- b.) To consolidate views from stakeholders including but not limited to practitioners and academia that will inform IPSTC's Research.

3.2 Expected Outcome

The symposium was intended to have three major outcomes:

- a.) To provide critical input to the research products in order to improve substantive output
- b.) To strengthen networks of collaborations with different organizations, institutions and partners in peace and security
- c.) To serve as a platform for sharing lessons learnt over the period of research.

3.3 Participants

The symposium brought together distinguished representatives from different institutions of Higher learning, Regional Economic Bodies, Regional Think Tanks, and Non-Governmental Organisations.

3.4 Venue and Date

The symposium took place at the International Peace Support Training Centre on Westwood Park Road, located in Karen, Nairobi, Kenya on the 28th of May, 2015.

3.5 Methodology

During the symposium the key research findings were presented by respective researchers and then reviewed by one discussant for each paper. Finally, the papers were reviewed in plenary and recommendations made on how they could be improved.

3.6 Areas of Discussion

The following thematic areas formed the central topics of discussion based on regional field research findings by the IPSTC researchers:

- a.) Irregular Cross Border Migration and Security: The case of Kenya – Somalia, and Kenya – Ethiopia borders. Presented by Radoslaw Malinowski.
- b.) Traditional dispute resolution mechanisms: A case study of Western Equatoria State, South Sudan. Presented by Dr Eunice Njambi.
- c.) Gender Based Violence (SGBV) Interventions in South Sudan: Interplay between Formal and Informal Mechanisms. Presented by Caroline Gatimu.

4. Opening Remarks



Lt Colonel Joyce Sitienei, Head of Applied Research

The Head of Applied Research, opened the Symposium by welcoming guests to the symposium and briefly highlighting the significance of the symposium which was implementing the centre's core mission to conduct applied research, training and education of military, police and civilian personnel in all aspects of peace operations.

Lt. Col Sitienei informed the audience that the key objective of the Peace and Security Research Department was the production and dissemination of knowledge on emerging peace and security issues in Africa. This symposium would enable the centre an opportunity to improve and refocus its research on areas that would produce the most effective results and outcomes.

Lt. Colonel Sitienei introduced the audience to the Africa Amani Journal which would

facilitate scholarly communication in peace and security studies. She encouraged the audience to participate by submitting articles to the centre for inclusion in the journal. It was the objective of the centre that the Africa Amani Journal would become the leading journal in peace and security studies not only in East Africa, but in Africa as a whole.

Lt. Col Sitienei concluded by introducing the moderator of the symposium Professor Timothy Gatara who is also a Senior Researcher at the centre.

Professor Gatara provided greater insight into the time and efforts undertaken by the three researchers in developing their significant papers. He further encapsulated the order in which the symposium would take place.

Professor Gatara explained that the world today is focused on security issues that rotate around climate change and access to livelihood resources, sexual and gender based violence, piracy, electoral violence, drug trafficking, human trafficking, terrorism and cybercrime. He went further on to state that these concerns formed the foundation for the IPSTC 2015 research agenda, anchored on "Trends in conflict and security in the East African Region".

He urged the audience to engage with the topics presented and not to hold back on giving feedback that would strengthen each occasional paper.

As the moderator of the symposium, Professor Gatara welcomed Colonel Henry Ofula who made the opening remarks on behalf of Brigadier Robert Kabage, the Centre's Director.

5. Welcome Address



Col Henry Ofula, Commandant PCSS, IPSTC
(on behalf of Brigadier Robert Kabage –Director IPSTC)

Mr. Wissenbach Uwe, First Counsellor Political, European Union Delegation to Nairobi, Col Plans and Programmes, Invited Discussants and participants, Ladies and gentlemen, Good morning.

On behalf of Brigadier Robert Kabage, it gives me great pleasure to once again welcome you to the International Peace Support Training Centre and to this year's Research Symposium funded by the European Union.

I am delighted and grateful that many distinguished scholars and practitioners of peace and security have come to share their knowledge and experience and to explore better ways of addressing regional peace and security challenges. I believe that you will provide critical input to our research findings that will ultimately improve substantive output later.

I however wish to take this opportunity to express my deep appreciation to Prof Edith

Miguda, Dr Reginald Nalugala and Dr Tecla Namachanja for honouring us as discussants for this symposium. I also wish to give special thanks to our participants from South Sudan for taking time to fly to Kenya for this event. Last but not least, I must also mention and thank all eminent scholars and honoured guests present today for finding time to be with us.

Ladies and gentlemen, The International Peace Support Training Centre is the Centre of Excellence in the Eastern Africa region for Peace Support Operations research, education and training. In research the centre has undertaken applied research to inform Peace and Security Operations training programmes and policy. This year our overarching research theme is "*Changing Trends of Conflicts and Response Strategies in Eastern Africa*". This theme is informed by the fact that Eastern Africa region continues to display worrying conflict and instability trends. We continue to experience armed conflicts, violent crime, extremism, communal violence, political instability, and state failure. Most of the epicentres of armed conflict and instability are near border areas featuring a range of drivers, interests, and actors. As a region we need to examine these challenges and find more innovative ways to manage and prevent conflict escalation.

Today, we will therefore be discussing issues of irregular migration and its impact on peace and security, strategies of addressing Sexual and Gender Based Violence (SGBV) and traditional conflict resolution mechanisms. A better understanding of these issues will not only benefit the centre's curricula and courses but also help the region interrogate these three dimensions of conflict.

I am pleased to inform you that last year we were able to publish seven Occasional Papers, eight Issue Briefs and launch the first edition of Africa Amani Journal. These publications will be issued to you to take away. Kindly read them and provide us with your feedback. I also encourage you to share them with individuals and organisations that may find them useful.

I would like to take this opportunity to most sincerely thank our partner, the European Union, for supporting this research process. As I wish you all a productive day, allow me to invite our friend and sponsor, Mr Uwe to give his remarks and officially open the symposium.

6. Key Note Address



*Mr Wissenbach Uwe, First Counsellor Political,
European Union Delegation to Nairobi*

Good morning and thank you for giving me this opportunity to open this symposium.

Professor, ladies and gentlemen and dear friends, I am very happy and honoured to be here today, not for the first time though. The IPSTC has been a very close partner to the European Union and the EU has offered its support to the centre as often as possible. This is because the EU is convinced that the work which is done here in training and research is something that will contribute to peace and stability in this volatile region.

The research topics developed by the centre address current issues and contribute to the very important discussion of peace and security in the region. The European Union is here to support the African Peace and Security Architecture.

Research and training is spreading all over the place with trainees, researchers and peace keeping missions informing the people who are dealing with these conflicts first hand and in the frontline. I think that this is a very honourable contribution to peace and security in the region and the wider region and commend the centre for its achievements thus far.

The African Union, is an important partner to the EU and the EU pledges its support of *African solutions to African problems*. The African Union has a very modern constitution and promotes modern principles of intervening in conflict. A large number of developed mechanisms include Peace Keeping Operations such as AMISOM, which has positively contributed to the fight against Al-Shabaab and other organisations that threaten peace and stability in Africa.

The African Union, the East African Community and the East African Stand-by Forces are important players in dealing with conflict in the region and must be commended for the good job done this far. Leaders have a role to play in the promotion of peace and security more so when so much is at stake for the region. There needs to be strong political will to address the current challenges that are emerging due to changing forms of conflict and violence.

IPSTC's research will contribute to discussions on peace and security and will be a much needed sober voice that will hopefully one day influence policy and legislation.

Thank you and congratulations.

Thank you all.

7. Presentation of Papers

7.1 Irregular Cross Border Migration and Security. The case of Kenya – Somalia, and Kenya – Ethiopia borders



Radoslaw Malinowski

According to the United Nations Populations Fund (UNFPA), the number of people living outside their country of birth today, is larger than at any other time in history. International migrants would now constitute the world's fifth most populous country if they all lived in the same place.

The international migration of people lies at the core of the ongoing process of globalization. People migrate to improve their economic prospects, ensure a more secure living environment, re-unite with their family members, or avoid persecution in their country of origin.

The occasional paper sought to focus on irregular migration and its effects on Security in Kenya. Irregular migration has been the subject of increasing and ongoing debate all around the world especially in Europe and the United

States. An example of cross border migration between Somalia – Kenya and Ethiopia – Kenya is used to describe the interplay between the two variables i.e. Migration and Security.

Though there is no generally accepted term of what irregular migration is, it can be termed as the crossing of borders without complying with the necessary requirements for legal entry into the receiving country.¹ From the perspective of destination countries it is illegal entry, stay or work in a country, meaning that the migrant does not have the necessary authorization or documents required under immigration regulations to enter, reside or work in a given country.

According to the International Organization on Migration (IOM), there is a tendency to restrict the use of the term “illegal migration” to cases of smuggling of migrants and trafficking in persons. This paper therefore focuses on human smuggling and trafficking as critical elements of irregular or illegal migration.

¹ Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Crime

According to research done by IOM, there are three main routes for irregular (illegal) migrants to enter into Kenya, namely:

From Ethiopia via Moyale, Marsabit and Nairobi then to various destinations;

- a.) From Somalia Border to Garissa, Matuu, Nairobi and then to various destinations; and
- b.) From Somalia, alongside the Coast to Tanzania.

Irregular migrants in Kenya are often reported as those providing channels for potential terrorists to enter, or spreading infectious diseases. However, a large number of irregular migrants are neither sick nor criminals, but people forced by variety of factors to migrate. *Therefore, is migration a threat to security in Kenya and if yes, what makes it a security threat?*

In order to address the above issue, the study sought to do the following:

- a.) Identify forms and actors of irrelevant migration in Kenya;
- b.) Identify push and pull factors of irregular migration in the study area; and
- c.) Analyse the factors that influence the interplay between irregular migration and security in Kenya.

There are various concepts that influence discussions on irregular migration. One of them includes the push and pull theory. What leads to irregular migration? On the one hand, people are often pushed to leave their countries of origin due to factors such as war, poverty, joblessness and are pulled to countries that fare off better economically. People are pulled towards these countries in hopes of finding jobs and to avoid war and persecution.

Using both qualitative and quantitative approaches, the paper identified various gaps in the study of migration in Kenya. The first is the definition of irregular migration which is based on illegal entry of migrants, which might not necessary correspond with the nature of human trafficking. Secondly, in Kenya, the data on irregular migration is scattered and outdated and therefore created difficulties in the analysis of the same. Lastly were the conflicting scholarly views on migration in general in relation to security. On one hand, scholars opine that the securitization of migration is a form of violating migrants' rights and on the other hand, scholars opine that migration is a threat to security.

The findings of the paper included:

- a.) There is lack of clarity on what human trafficking and smuggling entails among stakeholders which raised challenges during the analysis of the data collected;
- b.) The Counter Trafficking Act, enacted in 2010 has not been fully implemented in Kenya and thus leaving migrants vulnerable and unable to be protected under the law;
- c.) Though there was general mistrust of the irregular migrants from the locals, there was no real evidence that their presence resulted in more insecurity;

- d.) The main push factors that fuel migration are socioeconomic reasons followed by conflict and abuse of human rights; and
- e.) Irregular migration contributes to insecurity only when the migrants have links to organized criminal groups and gangs.

The study concluded by proposing some of the following recommendations:

- a.) There was need for the government to counteract the proliferation of organized criminal groups alongside the migration routes;
- b.) The government needed to carry out sensitization programmes for the local communities, through community policing programmes;
- c.) The government needed to participate in regional and bilateral cooperation agreements that would address the root causes of migration and its solutions;
- d.) That the prosecution of the irregular migrants would be focused on the victim-sensitive approach and would seek to protect the said migrants;
- e.) It was necessary that the government began to spearhead intergovernmental consultations on migration;
- f.) That it was necessary for governments in Eastern Africa to spearhead an anti-trafficking and anti-smuggling plan of action in the region that will focus on countering organized crime;
- g.) It was necessary for IPSTC to develop a training programme on irregular migration, specifically on the differences between smuggling and trafficking for law enforcement officers; and
- h.) Civil Society also had a role to play in sensitizing local communities on irregular migration, specifically on the direct negative impact of migration at the local community level.

7.1.1 Discussant's Remarks



Dr Reginald Nalugala

- I. The author should seek to introduce a different angle that will clearly identify the positive aspects of migration. This would be positive migration. The World Health Organization (WHO) estimated that the world faces a global shortage of almost 4.3 million doctors, midwives, nurses, and other healthcare professionals. A global undersupply of these threatens the quality and sustainability of health systems worldwide but more so in EU countries and USA. As it becomes necessary for migrants to move to the countries that are in need of these professions.
- II. While the paper effectively addressed irregular migration interlinked with insecurity in Kenya, the author seemed to use the terms “irregular migration” and “illegal migration” interchangeably. They do not mean the same thing and address different issues. The author needs to be clear on whether he wants to address irregular migration or illegal migration. The dilemma posed by the term irregular and illegal is that the International Organization for Migration (IOM) considers irregular to be illegal but now we find evidence to show that when communities move looking for greener pastures for their animals is part of their pattern of survival.

- III. The author should focus more on the human security perspective when it comes to irregular migration. Instead of “simply closing the door behind us in order to keep the less fortunate people outside” a human security approach would emphasize the multiple factors that give rise to migration flows, including economic deprivation, political persecution, and ethnic cleansing, and would seek to address these conditions before they lead people to migrate.
- IV. The author should also clearly distinguish between forced migrants and voluntary migrants. Forced migrants are driven from their home countries by war, violent conflicts, human rights violations and abuses or discrimination. Voluntary migrants, on the other hand, are assumed to have migrated through free choice rather than by force.
- V. The author should enunciate further on the threats that most irregular migrant’s face and the abuses they endure in the countries that they migrate to. The author mentioned paying of illegal toll fees but he should highlight more of the issues and challenges that they face.
- VI. The author should point out the main factors that cause insecurity as opposed to the claim that it is due to irregular migration. These factors should counter the argument.

7.2 Traditional Dispute Resolution Mechanisms: A case study of Western Equatoria State, South Sudan



Dr Eunice Njambo

Globally, the role of traditional dispute resolution mechanisms in the dispute resolution continuum has been noted over time with scholars stating that courts only deal with a fraction of all the disputes that take place in society. There are a myriad of disputes that do not reach the courts and that are resolved through informal negotiations by the disputants.

Most African countries still hold onto customary laws under which the application of traditional dispute resolution mechanisms is common. It has been said that throughout Africa the traditions have since time immemorial emphasized harmony/togetherness over individual interests and humanness expressed in terms such as Ubuntu in South Africa and Utu in East Africa.

Western Equatoria State (WES) have often provided communities with coping mechanisms during and after conflicts in the state. The traditional dispute resolutions exercised by communities in WES are based on customary law, and specifically African concepts of justice and the need for reconciliation and peace in the Community. The success of these traditional dispute resolution mechanisms have led to them gaining public acceptance among the general public and from the legal fraternity as part of customary law.

Western Equatoria State (WES) is part of the Greater Equatoria Region in South Sudan. The state shares international borders with Central Africa Republic and the Democratic Republic of Congo. WES has a total population of 770, 600 people with the youth being the majority at 517, 333. WES consists of ten counties with its capital being Yambio. There are eight ethnic groups in WES, namely; Azande, Muru, Avukaya, Baka, Beli, Balanda, Ferti and Mundu.

In WES, there are currently over 80,000 Internally Displaced Persons (IDPs), whilst the number of refugees is 13,124 registered people and an estimated 7,291 unregistered people. The presence of the Lord's Resistance Army (LRA) is a major threat that has caused and continues to cause insecurity in WES. The immediate threat to insecurity in WES is not only the LRA, but also intertribal and communal conflicts which have caused population displacement.

This research aimed at critically examining Traditional Dispute Resolution Mechanisms (TDRM) in WES and its impacts on the community. In such an environment, TDRM is understood as playing an important role in reducing violence, and in facilitating the conditions necessary for building sustainable peace. By critically examining TDRM, the author sought to achieve the following:

- Examine the existing functional Traditional Dispute Resolution Mechanisms;
- Evaluate the authority that drives TDRM in WES;
- Assess the capacity of TDRM in responding to current trends of disputes in the region;
- Analyse the effectiveness of TDRM in preventing future disputes.

Some of the literature on Traditional Dispute Resolution Mechanisms have shown that it is indeed effective and is often led by senior respectable community members, traditional authorities, elders in the region and chiefs. Due to the respect that these members of society are accorded, people in the community more often than not respect their decisions and trust their leadership. Yet, even with the obvious success of TDRM mechanisms, there exist challenges that must be addressed in order for the sustainability and continuity of this process.

The paper is based on the theory of change and conflict resolution which focuses on changing the social and political environment of individuals, relationships and the social systems in general through conflict interventions. In addition, the theory of change involves cognitive, emotional and behavioural change. Change can also be promoted through institutional, legislative and policy frameworks.

The study is descriptive and uses both the qualitative and quantitative approach to realise its objectives. The main groups that the study focused on were the Azande, Muru, Avukaya and Baka, Mundu. A large number of the respondents were educated past primary education with a good percentage having completed their secondary education. In addition, most of the respondents varied in occupation, such as some being in the security force, house wives, in government service and owners of businesses.

One of the questions that the study sought to have answered by the community was their definition of disputes. Their definitions would determine the weight they placed on the importance of TDRM in the community. 34% defined dispute as conflict, 27% as hostility, 12% as strife and 11% described disputes as disagreements.

The study revealed that a majority of conflicts in the region involved family members followed closely by conflicts between neighbours. Conflicts between strangers was not as common. Most of the conflicts arose due to land issues which were the most predominant, Sexual and Gender Based Violence (SGBV), water and property theft, which was the least common form of conflict in the community. The people also indicated that those they considered as authorities in TDRM were first and foremost Traditional Boma Chiefs, headmen and community elders. Police officers and church elders were rarely if ever considered as authorities in TDRM. The TDRM members either inherited their positions or were elected. There were a number of members whose reason for selection as TDRM members was unclear. Some of the skills of the members included skills to solve disputes, recipients of training by elders on traditional laws, culture and formal education that enabled them to make informed decisions.

The study found that some of the activities of TDRM members included the following:

- a. Solving community disputes and problems;
- b. Uniting community members;
- c. Peace-making;
- d. Enforcing the law and justice; and
- e. Investigating disputes.

The study revealed some of the challenges faced by the TDRM members and they included:

- a. The members lacked training on human rights and county by-laws;
- b. Conflicting cultural diversity among the members and the community at large;
- c. Disrespect received from members of the community who disregarded the decisions made by the TDRM members.
- d. Lack of financial support, transportation to traverse the county and adequate housing;

Traditional Dispute Resolution Mechanisms in WES have proven that indigenous values and institutions still provide the only meaningful framework for the organization of social and economic livelihoods in the state.

The study revealed the following:

- a. Western Equatoria state has existing functional TDRM in all administrative levels (Boma, Payam, County, State);
- b. The capacity of the TDRM has fairly managed in responding to current trends of disputes & peace building;
- c. The effectiveness of TDRM in preventing future conflicts is challenging and will need to be addressed; and
- d. Based on emerging trends of conflicts & population trends dynamic their skills, knowledge

& resources needs to be addressed.

The study concluded by presenting the following recommendations:

- a. The TDRM members needed to be trained based on the dispute resolution mechanism on areas such as human rights vis-à-vis customary law and on negotiation and mediation;
- b. There needed to be strong partnerships between the county governments and the traditional dispute resolution members in order to enhance TDRM in the region and in order to address some of the challenges faced; and
- c. There was need for further research in order to address existing gaps such as the establishment of peace building strategies in WES and the inclusion of the youth in peace building activities.

Traditional dispute resolution mechanisms have been very effective in resolving conflicts especially natural resource-based conflicts among the communities in WES. Such conflicts are intractable with complex cultural dimensions and the formal mechanisms of conflict management may not address the underlying causes of the conflict. Traditional justice mechanisms are flexible, cost-effective, and expeditious, foster relationships, are non-coercive and result in mutually satisfying outcomes. They are thus most appropriate in enhancing access to justice closer to the people and help reduce backlog of cases in courts.

7.3 Discussant's Remarks



Dr Tecla Nyamachanja

This study comes in timely at a point when peace practitioners are questioning the relevance and accessibility of dispute/conflict resolutions process to communities in need.

- i. Studies have shown that since the advent of colonialism, there has been an overreliance of legal systems and a view that they are superior to Traditional Dispute Resolution Mechanisms (TDRM). Yet, the courts are sparsely populated and inaccessible to those who need the services. Moreover the services offered by the courts are often unaffordable to a number of people in need of them. These are some of the issues that the author should highlight when advocating for TDRM.
- ii. Even though there is a strong presence of CSOs in WES that contribute to peace building and conflict resolution, those at the grassroots level rarely benefit from these programmes. This is because most of these programmes run by CSOs revolve around workshops which are held in hotels and boardroom, rarely benefiting the average citizen. This is another reason to advocate for TDRM as it is easily accessible and reaches at the grassroots level, addressing issues at the heart of the matter.

- iii. The author should point out that TDRM is widely practiced by the Azande in WES due to the large vacuum creating a lack of system of justice and rule of law in the rural areas. It is logical to maintain an existing system that has survived for centuries while building alternatives such as functional judiciary that would gradually address weaknesses in the TDRM system.
- iv. It should be realized that most of the disputes reaching the courts can be resolved without resort to court if TDRM can be applied & linked up well with courts & tribunals.
- v. The study should briefly highlight how TDRM can contribute to building an effective dispute resolution system and bridge the gap between the formal legal system (that is largely retributive) and traditional modes of African justice (that are restorative by nature);
- vi. The study should also highlight ways in which the membership of the TDRM can be structured and redefined to make it participatory and gender balanced.
- vii. TDRM have best worked to solve intra and inter communal conflicts. They are culturally based and are guided by customary laws. How can TDRM be improved to solve national and regional conflicts?
- viii. How then can TDRM be integrated in the legal system? Can we develop a national conflict resolution act based on TDRM?

7.4 Sexual And Gender Based Violence (SGBV) interventions in South Sudan: Interplay between formal and informal mechanisms



Caroline Gatimu

Violence against women and girls is both a feature of today's escalating humanitarian crisis, and a persistent feature of daily life across South Sudan. It is a deeply entrenched problem that has a severe impact on the health, well-being and opportunities of generations of women. There are few places in the world where it is more dangerous or disempowering to grow up female than in South Sudan.

In South Sudan, the vast majority of women and girls will survive at least one form of Gender-Based Violence (GBV) — be it rape; sexual assault; physical assault; forced/early marriage; denial of resources, opportunities or services; or psychological/emotional abuse. While figures are unreliable, we know that violence against women and girls is an endemic problem in South Sudan. Services for survivors of violence are severely lacking, women and girls have few ways to report violence, and even fewer options for care.

Various mechanisms and processes are in place to address SGBV by the Government and Civil Society Organisations (CSOs) working in South Sudan. However, most incidents of GBV are discussed and solved through customary mechanisms, either at the family level or in the customary courts. This has led to conflicts between customary law and the mechanisms propounded by government and CSOs.

This study therefore sought to understand the interplay/friction between the two. To achieve this, the

research team conducted key informant interviews and focus group discussions in Juba and environs targeting those institutions that were engaged in matters of GBV. Twenty two institutions comprising of International NGOs, local NGOs and CBOs, government representatives and customary courts were reached by the study, as well as a total of 21 ordinary citizens and beneficiaries of GBV services.

Though the South Sudanese government has ratified various legal instruments that give effect to the protection of women and girls against SGBV, women still face tremendous barriers in accessing justice.

This study therefore seeks to understand and describe the SGBV prevention and response mechanisms implemented by various actors in South Sudan, with a focus on the interplay between formal and informal/traditional mechanisms and the challenges faced by various actors in addressing SGBV in South Sudan.

In order to critically examine the above issues, the study focused on the following research objectives:

- Understanding the extent of the problem of SGBV in South Sudan;
- Describing the formal SGBV prevention and response mechanisms and processes implemented by various actors in South Sudan;
- Identifying and documenting the customary/informal mechanisms and processes currently in place to respond to SGBV and their interaction with formal mechanism and processes; and
- Identifying the challenges faced by various actors in addressing SGBV in South Sudan.

This study is significant because it contributes to knowledge on the interplay between formal and traditional prevention and response mechanisms to SGBV and influence policy on the same in South Sudan and other contexts where such mechanisms operate parallel to each other.

The study's literature review began by analysing the history of the conflict in Sudan before independence, through the two civil wars, South Sudan independence from the North and the current crisis. SGBV in conflict and in peace time is also discussed in this section as well as what is being done to address it. Customary mechanisms and processes in place to address GBV in South Sudan are also discussed in detail. The section ends with a theoretical framework and a conceptual model.

Within three years of its independence, the state of South Sudan is already experiencing the same curse which befell the old Sudan. As a state with more than sixty tribes, the South is already experiencing more ethnic clashes than North Sudan.

There has been little reporting on SGBV during Sudan's wars. Notwithstanding the end of the two long civil wars, women in South Sudan have continued to suffer from widespread rape and other forms of GBV. Few reputable GBV studies have been carried out in South Sudan and although most have been limited in terms of sample size and statistical analysis, they have nevertheless produced evidence of extensive domestic violence, early/forced marriages, wife inheritance, child custody, arbitrary incarceration, rape, gang rape, abduction and sexual slavery, Female Genital Mutilation, sexual harassment and assault among others.

SGBV might not be a new phenomenon in South Sudan but the current crisis after December 2013 and the near absence of protection for civilians has exacerbated it according to analysts. On 8 May, 2014, Amnesty International released a report in which it documented atrocities against civilians, including rape and sexual violence perpetrated by both government and opposition forces in the South Sudan's five month conflict.

Studies have shown that SGBV is prevalent under the following circumstances:

- a. Where there is an existence of gender inequality and a legacy of male dominance;
- b. Where there are sexist norms, roles and values that undermine and devalue women; and
- c. Where there is poor implementation of the laws that protect women and a breakdown of law and order.

This paper adopted a qualitative approach, with the aide of key informants, focus group discussions and observations by participants. The study was done mainly Central Equatoria State in the Equatoria region. This is because it was accessible to the researcher and relatively peaceful. It is also where the Capital city, Juba is located and it's also quite diverse in terms of ethnic composition. Furthermore, it hosts the headquarters of government and most NGOs working in the country.

The target population of the study included International Non-Governmental Organizations, UN agencies, CBOs, customary courts, Government Institutions and those who worked on SGBV cases at the grassroots level.

Some of the findings of the study include:

- a. SGBV is still prevalent in both private (domestic) and public spheres;
- b. There are norms that have been entrenched and accepted in society that perpetuate SGBV such as early marriages, abduction and girl child compensation.
- c. Presently, the forms of SGBV taking place in South Sudan include rape, defilement, denial of property and education of girls;
- d. The trend has shifted from the prevalent rape of adult women to the defilement of under age girls and boys and dangerous and unsafe abortions;
- e. Victims feared reporting due to stigma and the fact that they were often blamed for the violence that was directed to them, either because they were "dressed inappropriately" or because it was presumed that it is ok for a wife to be beaten by her husband and that there was no such thing as marital rape because the women must always be willing;
- f. There is currently political will to address conflict-related SGBV by the Government;
- g. The government developed a National Gender Policy (2013) aimed at entrenching gender equality in all laws, policies and programmes;
- h. The government was currently in the process of developing laws relating to the family

and the protection against sexual offences that was aimed at strengthening the fight against SGBV;

- i. CSOs were most active in fighting SGBV than the government despite the challenges they faced;
- j. CSOs provided support mostly to the health sectors to ensure that the victims got the necessary physical and psychological support;
- k. The legal and justice system was the least equipped to deal with SGBV related matters;
- l. Cases of SGBV were often first handled at the family level often side-lining the victims and through Traditional Dispute Resolution Mechanisms;
- m. There is conflict between customary law and the existing Constitution. For example, customary methods often sought compensation to the victim's family while the Constitution provides for imprisonment.

Due to the socio-cultural dynamics of South Sudan, there are various challenges that hinder the effective fight against SGBV. They include:

- a. Negative social & cultural practices that enhance SGBV;
- b. Under-reporting due to shame and stigma;
- c. Weak law enforcement institutions;
- d. Poor funding and low capacity within government; and
- e. Impunity of perpetrators

Despite the prevalence of SGBV in South Sudan, there is evidence that both the government and CSOs are working to fight against this by the development of laws and programmes as well as creating awareness on the need to protect women in general and to ensure that they are accorded equal opportunities and rights.

The study concluded by providing the following recommendations to strengthen the discussions on SGBV:

- a. There was need for CSOs to carry out more awareness campaigns especially at the grassroots level to address negative cultural practices, beliefs, perceptions, inhibitions to reporting;
- b. CSOs that included IPSTC, needed to develop more programmes to train law enforcement officers & chiefs;
- c. CSOs needed to include programmes on income generation in order to contribute to the reduction of vulnerability that surrounded women who were unable to fend for themselves;
- d. The government needed to increase budgetary allocations for SGBV programs, employ qualified staff;

- e. The government needed to do capacity building for judiciary, customary courts & police;
- f. There was need for an increase in the number of formal courts handling SGBV matters;
- g. Parliament needed to exercise its legislative authority by ensuring that laws protecting women against SGBV were not only enacted but implemented.

7.4.1 Discussant's Remarks



Professor Edith Miguda - Discussant

- i. Overall, this is a very important study and a lot of work has gone into it by the researcher. The author should limit the abstract to one paragraph as it is usually meant to be a succinct look into the scholar's work.
- ii. The author should seek to highlight the positive aspects of women living and thriving in SGBV free countries. Look beyond the SGBV and focus on the things that women bring to the table. How do they contribute to peace and security, governance and socio-economic prosperity and how does SGBV hinder this?
- iii. The author should note the challenge of dualisms when addressing such matters – traditional vs. modern. Men vs women, where one part is devalued and the other valued. While focusing on the traditional aspects of resolving SGBV, also focus on the positive of these methods and how they have benefited the communities.

- iv. The author seems to use SGBV and GBV interchangeably. She defined them well in the definition of terms area. She should perhaps indicate she has used them interchangeably.
- v. Section on definition of terms is good, and comprehensive, but rather elaborate – The definition of terms need to be tight, short, sharp and concise definitions that capture only the essence of how the author used the terms in the study. The author can elaborate on each term within the text.
- vi. The author uses the term “tribe” in her work, which is considered derogatory. She should instead use the words “ethnic group”. The author should operationalise the word “interplay” and expound on the fact that it is an interaction or relationship between one thing and another. The author should also write an acronym in full before using it e.g. UNMISS.
- vii. While discussing TDR mechanisms in resolving SGBV matters, the author should also highlight the traditional causes of SGBV in the community and how these issues are addressed.
- viii. The literature review should focus on the gaps to be filled and how the study intends to fill these gaps. What has been studied? How does the current study relate to what has been studied?
- ix. To the outside observer, particularly one whose culture is based upon the rights of the individual, the status of women in this context is that of property. As a result, women are often marginalised in their own families. South Sudanese families exchange women for various benefits during the formation of marriages. Analyse such claim and observation a lot more and what it might mean for interpretation of SGBV.
- x. Corporal punishment is a regular practice across the courts and tribes of South Sudan. Lashings are given as punishment to both men and women. Women, however, are often given lashings in addition to beatings they already received at home. Lashings given as discipline to women in the courts reinforce the acceptance of violence against women for misbehaviour. Are these lashings on women related to SGBV? How so?
- xi. The author should provide a sampling method/technique, and sampling frame. Sampling is the process of selecting units (e.g., people, organizations) from a population of interest so

that by studying the sample we may fairly generalize our results back to the population from which they were chosen.

- xiii. From the findings, what is the prevalence of the various kinds of SGBVs on women? Which one seems to be addressed adequately by informal methods, which ones best addressed by formal methods, are there some that need both at the same time for more effectiveness?
- xiii. A lingering question that does not seem addressed adequately is – what is the interplay between the two? This is supposed to be the main contribution according to the title and justification of the study. Partly, this is unaddressed because the author did not operationalize it and include it as a component of her research objective and research questions, so while it features significantly in the abstract, title and justification, it remains unaddressed.
- xiv. The author failed to interview any SGBV survivor. Was this out of choice, and if so, why? This can be addressed in the section on justification and significance of the study – or a section on limitations of the study.

8. Summary of Plenary Session

After the presentation of the occasional papers by the various authors and the remarks by the discussants analysing those papers, the attendants were divided into groups of three for purposes of further critiquing the paper. The feedback generated by these three groups on the occasional papers would enable the authors to strengthen their writing by taking into account the responses of anticipated readers.

Plenary discussions centred on questioning not only the methodology of the papers but the literature used to obtain the findings. Key among the aims of the plenary session was to question whether the objectives of each occasional paper were met and if not, suggestions on how they could be achieved.

8.1 Irregular Cross Border Migration and Security: The Case of Kenya – Somalia, and Kenya – Ethiopia borders

- a. The paper ought to address the policies that affect both illegal and irregular migration and how these can be of benefit in addressing the issues that arise;
- b. The paper should also address the divergences between the interests and policies of various stakeholders. The most obvious divergence is between the interests of migrants and states trying to control their entry. There are, in addition, also divergences between different government departments within states; between governments, NGOs and civil society, and between governments and other stakeholders in origin, transit and destination countries;
- c. How does the migration in East Africa interrelate to migration in other regions such as ECOW-AS and SADC?
- d. Most states have failed significantly to reduce or adequately tackle irregular migration. Why is this the case? The paper should briefly analyse why they have often fallen short of their intended outcomes.

8.2 Traditional Dispute Resolution Mechanisms: A Case Study of Western Equatoria State, South Sudan

- a. To begin with, the history of TDRM in Africa, should have been briefly highlighted in the paper and the current state of TDRM in general. What has influenced its rise or decline?
- b. The author should consider expanding the title and scope to include Community Based Dispute Resolution approaches (CBDR) and how they can be interlinked to TDRM.
- c. The author should seek to focus on the specific area of research that is on the ethnic group of Azande.
- d. The study could benefit greatly from a comparative study on TDRM across various jurisdictions.
- e. The author should clearly show how TDRM and conventional dispute resolution mechanisms (courts) can complement each other. What are the steps they need to take to achieve harmony?

8.3 Sexual and Gender Based Violence (SGBV) Interventions in South Sudan: Interplay between Formal and Informal Mechanisms

- a. The paper should include a situational analysis on security implications of SGBV especially in relation to the rise of child soldiers and how their lives are affected by the same.
- b. The study should briefly focus on the survivors of SGBV and how their cases are handled. What mechanisms are in place to handle survivors of SGBV?
- c. The study would benefit from research on the barriers faced by various actors in the fight against SGBV such as the acceptability of caseworkers in the community or the lack of forensic equipment to carry out adequate tests and the cost implications of fighting SGBV.
- d. South Sudan has signed the Convention against Torture, the Convention on the Rights of the Child, the African Charter on Human and People's Rights, and the African Union Convention Governing Specific Aspects of Refugee Programs in Africa. In addition to international customary, humanitarian and human rights law, these processes represent important frameworks for upholding human rights and protecting civilians. There should be a study on the Country's obligations, their compliance, any existing penalties for non-compliance and steps taken to domesticate the above agreements.
- e. There is evidence that violence against women has not been merely incidental to general violence in the South but rather that women are being targeted. A study should be carried out on the same and the reasons on why women are targets of SGBV.

8.4 Priority Areas for Future Research

Suggestions were also tabled as to the areas of research that the IPSTC should consider undertaking. They included:

- a. The Impact of Security Sector Reforms in Eastern Africa and specifically in countries like Burundi;
- b. The impact of Small arms and light weapons among nomadic groups such as Somalia, Ethiopia and Uganda.
- c. The link between democracy and elections in Africa. Specifically, the security challenges that arise during election periods in Africa.

- d. Merging formal and informal methods of Conflict resolution mechanisms and ensuring that these two mechanisms complement each other.
- e. The role of men in preventing SGBV in Eastern Africa and the lessons that can be learnt from other countries.
- f. The securitization of migration and its impact on security and human rights.
- g. The impact of migration on women and marginalized groups. How are they affected by irregular or illegal migration?
- h. The Economic dimensions of migration and its impact on security and peace in the region.
- i. Youth radicalization and its impact on migration.
- j. The promotion of knowledge management in the prevention of SGBV.
- k. Best practices in the protection of survivors of SGBV and the lessons that can be learnt from other jurisdictions.

9. Remarks by Honorary Guests

9.1 Mr. Wilson Perni, Paramount Chief, Yambio County, South Sudan

The Paramount Chief thanked IPSTC for taking a keen interest on the dynamics of South Sudan and especially Yambio County. He requested for continued support in order to ensure that awareness of the importance of peace and security was promoted in Yambio County and South Sudan at large. Though there had been vast changes in the cultures of South Sudan, he noted that it was paramount for the Country to develop a comprehensive and documented customary law that would entrench human rights in the promotion of traditional dispute resolution mechanisms.

9.2 Brig (Rtd) Joseph Mweu

As one of the founders of IPSTC, Brig. Joseph Mweu gave a brief history of the development of the centre and the achievements of the centre up to date. He particularly recognised the role that IPSTC has played in knowledge management thereby equipping those in active duty to not only be aware of changing trends but of strategies to employ in the promotion of peace and security.

9.3 Major Gen (Rtd) Charles Mwanzia

Having been once the commandant of the Armed Forces Training College (AFTC) and one of the main founders of IPSTC, the Maj. General emphasized the importance of research in the fight against terrorism and the promotion of peace and security in the region. He added that the training of troops worked in tandem with research and the research enabled those combating conflict to better understand the challenges and prospects available.

The Maj. General concluded by stating that the symposium was a milestone for IPSTC and one that would contribute in advancing research quality and further support the peace support operation across the continent.

10. Closing Ceremony

Colonel Henry Ofula-Commandant, Peace and Conflict Studies School, (PCSS)

As we come to the end of this symposium, I would like to extend my appreciation to you all for finding time to be here with us today to discuss issues of importance for regional peace and security. More specifically, I would like to thank Mr. Wissenbach Uwe and the EU for its support and partnership. In addition, I would like to thank the Paramount Chief from South Sudan for gracing us with his presence and for allowing our IPSTC to effectively carry out its study on Traditional Dispute Resolution Mechanisms.

The purpose of this symposium was to help us consolidate views from you as stakeholders of regional peace and security to inform and better our research products. In this spirit you have aptly discussed these pertinent issues and provided deeper clarity in the way we should go in approach and content.

I would like to thank our discussants, Dr Reginald Nalugala, Professor Edith Miguda and Dr Tecla Namachanja, for their thoughtful comments and their positive feedback. You have truly enriched our research and I am sure the final products will meet the required standards because of your input.

I have only been the Commandant at IPSTC for two weeks, but now more than ever, I am convinced that this institution is going to much greater heights and even establish itself as a University someday. As you have heard, we now have a journal known as the Africa Amani Journal and we invite you to send in your papers for us to include in the journal.

Last but not least, I want to congratulate our researchers and the entire IPSTC team led by Lt Col Sitienei and Prof Gatara on the success of this event.

Thank you once again for your contributions

And now ladies and gentlemen it is my honour and pleasure to invite you for refreshments at the Banda. Thank you.

11. Annex I-List of Participants in the Symposium

S/No.	Rank	Name of Participant	Organization	Contact Details
1.	Dr	Tecla Namachanja W.	–	tnamachanja@gmail.com teclawanjala@yahoo.com
2.	Col	Lenyarua	Kenya Air Force (KAF)	–
3.	P/Chief	Wilson Perni	Yambio County, South Sudan	wilsonpeni@yahoo.com
4.	Mr	Moses Opio Korsuk	Soweto Community Based Organization	opiomoses@yahoo.com
5.	Brig (Rtd)	Joseph Mweu	–	–
6.	Lt Col	Lenamunai	HQKA	–
7.	Mrs	Leonie Abela	ACORD	leonie.sendegeya@acordinternational.org
8.	Mr	Abraham Kisang	MCK	moek_sang@yahoo.com
9.	Wo 1	Michael Osew	IPSTC	libarian@ipstc.org
10.	Mrs	Bernadette Kyanya	–	kyanya@yahoo.com
11.	Mr	Michael Nandwa	IPSTC	nandwamichael@gmail.com
12.	Prof	Edith A Miguda	–	emiguda@saintmarys.edu
13.	Dr	Mary W Mwai	–	–
14.	Mrs	Margret Mesiku Licho	South Sudan Human Rights Commission (SSH)	licheo@yahoo.com

15.	Mrs	Suzanne Wasuk Felix	Ministry of Gender, Child and Social Welfare, Central Equatoria (South Sudan)	opiomoses@yahoo.com
16.	Mrs	Salina Sanou	ACORD	salina.sanou@acordinternational.org
17.	Ms	Saritah Ikenye	IPSTC	sikenye@hotmail.co.uk
18.	Mrs	Catherine Njeru	IPSTC	gender.specialist@ipstc.org
19.	Mrs	Irene Ogoya - Akidiva	EASFSEC	–
20.	Ms	Lorna Koskey	IPSTC	lornakoskey@gmail.com
21.	Dr	Reginald Nalugala	Tangaza University	reg.nalugala@gmail.com
22.	Lt Col (Dr)	Stephen Handa	National Defense College (NDC)	–
23.	Mr	Kimani M J	APSTA	kimanimj@gmail.com
24.	Mr	Kifle Wansamo	HIPSIR	kifle.wansamo@hekima.ac.ke
25.	Col	Xavier Collignon	French Embassy	repfrance.easf@gamil.com
26.	Lt Col	Fabian Machemba	Tanzania High Commission	–
27.	Mrs	Sophie Otiende	HAART Kenya	–
28.	Mr	Jakob Christensen	HAART Kenya	jc@haartkenya.org
29.	Ms	Nuru Ahmed	Young Diplomats of Kenya (YDK)	–
30.	Mr	Gitome Kariuki	Young Diplomats of Kenya (YDK)	–
31.	Mr	Watson Karuma	IPSTC	watkar2003@yahoo.com

32.	Ms	Shirley Otube	IPSTC	otubes@gmail.com
33.	Mr	Adan Tari	IPSTC	tari.adan@hotmail.com
34.	Mrs	Irene Ndung'u	Institute for Security Studies (ISS)	—
35.	Ms	Koli Margaret	Human Needs Project (HNP)	margaret.koli@humanneedsproject.org
36.	Mr	Kennedy Walusala	ICGLR-Youth Forum	Kenwalusala@gmail.com
37.	Mr	Gideon Bingo	Embassy of South Sudan	—
38.	Ms	Yussuf Naeema Bashir	United States International University -Africa	—
39.	Ms	Shukri Aden Mohamed	United States International University -Africa	—
40.	Mr	Bulle Ahmed Mohamed	United States International University -Africa	—
41.	M/s	Sarah Muriuki	MFA/USI	—
42.	Mr	Joseph Mbuguah	IPSTC	joseph.mbugua@ipstc.org
43.	Mr	Flavian Bosire	C.I.C	—
44.	Ms	Nelly Kibet	IPSTC	nelly.kibet7@gmail.com
45.	Prof	Joseph Ngala	United States International University -Africa	ppaafrika@gmail.com
46.	Col	Henry Ofula	IPSTC (Commandant -PCSS)	comdt@ipstc.org
47.	Mrs	Eucabeth Katana	IPSTC	project.manager@ipstc.org
48.	Col	James Githinji	IPSTC HQ	col.plans-prgs@ipstc.org
49.	Mr	Radoslaw Malinowski	IPSTC	malinowski@ipstc.org

50.	Ms	Carolyn Gatimu	IPSTC	gatimucarolyne@ipstc.org
51.	Dr	Eunice Njambi	IPSTC	eunice.njambi@ipstc.org
52.	Lt Col	Joyce Sitienei	IPSTC	hod.appresearch@ipstc.org
53.	Prof	Timothy Gatara	IPSTC	timgatara@ipstc.org
54.	Mr	Martin Okwir	IPSTC	martinokwir@yahoo.com
55.	Ms	Natasha Kimani	C.I.C	—
56.	Mrs	Leah Barasa	IPSTC	leah.baraza@ipstc.org
57.	Maj Gen (Rtd)	Charles Mwanzia	—	cmmwanzia@yahoo.com



INTERNATIONAL PEACE SUPPORT TRAINING CENTRE

Westwood Park

P.O. Box 24232 - 00502, Karen, Kenya.

Tel: 00254(0) 20 20 388 3157/8

Fax: +254 20 388 3159

Email: info@ipstc.org

Website: www.ipstc.org