

A Pictorial Description of the “Conqueror of Modern Empire” in East Africa

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Abstract: *Transnational crime has been depicted by this article as the “conqueror of modern empire” in East Africa. This is due to the fact that in all its manifestations this reality has frustrated the concerned governments by undermining the actual capacity of the state agencies to promote rule of law and guarantee reliable security of all the citizens and their properties. The widespread of illegal infiltration of hazardous materials and non-material products like drugs, armed bandits, terrorists and hazardous wastes is an indication of the power of transnational crime over the concerned countries’ law enforcers especially those working at entry points. Despite having invested much on countermeasures, East African countries have so far failed to deter the same problem. Academicians on their part, though played the acknowledgeable role, their contribution to the war against transnational crime is relatively minimal. We therefore recommend at the end of this paper, the enhancement of research conduct to fill in gap in the existing literature so that additional knowledge may reinvigorate the power of law enforcers to fight against transnational crime.*

Key words: Transnational crime, law enforcement, criminal justice.

INTRODUCTION

It has generally been conceived that East African countries have established a comprehensive framework of border control that involves both procedural and non procedural measures aimed at checking and limiting unlawful trafficking and criminality from penetrating into the specific country especially from adjacent areas. A multitude of border control agencies include specialized police, customs, border police, border army, local police, immigration, etc., have been accredited to regulate movement of people, animals and goods across borders and to facilitate legitimate travel and trade (Mazimpaka, 2012). These law enforcers in their varied capacities have been oriented to perform practical tasks like inspections, verifications, accreditation and detections all which seek to regulate the entry and exit of people, animals and goods across a country’s border. Having equipped with modern facilities, these enforcers were expected to filter the outlawed entries of people, goods and services. Such kind of scrutiny aimed at detecting the entry of criminals like terrorists. It also aimed at preventing entries of hazardous materials such as biological weapons and narcotic drugs.

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Despite having the authorized law enforcers, East African countries are currently exposed to transnational crime that undermines general security and territorial integrity. The transnational crime in contemporary East Africa appears to pose similar challenge to that which was previously posed by external invaders in form of outstanding armies with determination to extend the spheres of influence. It is manifested in illegal infiltration of hazardous materials and non-material products like drugs, armed bandits, terrorists and hazardous wastes (Fleisher, 2003; Heald, 2005; ICMPD, 2008; UNODC, 2009; Gastrow, 2011; UNODC, 2013). This infiltration has now increased at a pace that seems to overtake the international and regional anti-crime programs and initiatives (UNODC, 2009). Initiatives like the so called Coordinated Border Management (CBM) - the framework for mutual collaboration among the services at border zones have not helped to suppress criminal activities across national frontiers in the region. Despite of having state agencies dedicated to the security of the state borders, criminals have kept on exercising their power and influence to bypass law enforcers through various means like bribery and corruption (Gastrow, 2011; UNODC, 2013). In the light of the above underscores, it can be stated herein that transnational crime in East Africa has now constituted a serious danger of the concerned states becoming destabilized or turned criminalized.

AN OVERVIEW OF THE RISE OF TRANSNATIONAL CRIME IN EAST AFRICA

Transnational crime in East Africa gained momentum since 1980s as the governments started to recognise free movement of all factors of production including persons, labour, capital and goods throughout the region. Since then the organised criminals have, along the lines of weaknesses, been constantly extending the horizontal network structures that are difficult to trace and stop. According to the UNODC (2009), the transnational criminals in the region operate within the frameworks of national criminal syndicates with strategic links to international syndicates in Asia or Europe while others operate as family networks with extended family across country borders. Such criminals have diversified their illegal activities like arms smuggling, human trafficking and trafficking in wildlife products for their different purposes². The result has been an unparalleled scale of transnational crime all over the region that undermines the states' abilities to provide their citizens with reliable security and physical protection (Fleisher, 2003; Heald, 2005; ICMPD, 2008; IOM, 2008; UNODC, 2009; Gastrow, 2011; UNODC, 2013). For example, since 1980s, the areas surrounding northern border separating Kenya and Tanzania were not safe due to reciprocal raiding of cattle by heavily armed multiclan and multiethnic gangs (Fleisher, 2003; Heald, 2005). Another

² For example, recent studies indicate that the bulk of the large ivory shipments from Eastern Africa to Asia pass through the container ports of Kenya and the United Republic of Tanzania. According to UNODC (2013), between 5,600 and 15,400 elephants have been poached in Eastern Africa annually, producing between 56 and 154 metric tons of illicit ivory that has been exported for profit making to the criminals. This report was published with the title: “Transnational Organized Crime in Eastern Africa: A Threat Assessment” at: <http://www.un.org/apps/news/story.asp?NewsID=48532>, Lastly accessed on 12 January 2014

form of transnational crime taking place in the region is terrorism. A vivid example of this is fatal incident of terrorist attacks against innocent citizens who had gathered in two locations in Kampala- the capital city of Uganda to watch the final match of soccer's World Cup. This incident happened in July 11, 2010. The same attack which was organized by Al Shabab group based in Somalia, involved the bombing that caused instant deaths and casualties in which more than 70 people were killed and other 70 were injured³. Recently, on September 21st 2013 four al-Shabaab gunmen from Somalia armed themselves with AK-47 rifles invaded the shopping mall in Nairobi and killed a dozen of Kenyans⁴. Another example of transnational criminal activities in the region is arm banditry. Several incidents of arm banditry have been documented. For example, between February and May 2013, more than nine people were reported to have been robbed and killed in Naikara, Kenya by armed bandits who crossed the border with machine gun⁵.

Poaching is another transnational criminal activity which has been carried out especially between Kenya and Tanzania in which some wildlife poachers and illegal forest loggers have been planning and executing their tasks with no sign to surrender. The activities of these particular criminals are obvious especially around Mount Kilimanjaro in Moshi, Tanzania and Amboseli National Park in Kenya⁶.

In response to the above stated problem, East African governments have independently and collectively been empowering their police, customs and judicial authorities and adopted various legislation and policies. For instance, the following programmes and protocols have been approved and operationalised: The Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA), the Nairobi Declaration, and the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa (UNDOC, 2009). Operationally, the same governments have established the organisation called Eastern Africa Police Chief Cooperation (EAPCCO) in 1998 with the purpose to combine efforts against transnational crime in the region⁷. Within EAPCCO framework for example, Kenya and Tanzania security teams have recently declared the joint efforts to eradicate runaway

³ This information was extracted from "Terrorist Attacks in Uganda- Islamist Terrorist Group Al Shabab Believed Responsible" at: <http://blog.gsmcneal.com>, Lastly accessed on 18 January 2014.

⁴ This information was extracted from "Kenya shopping mall siege: LIVE UPDATES", Published on: September 22, 2013 15:35 at <http://rt.com/news/kenya-mall-attack-nairobi-204/>, Lastly accessed on 21 January 2014.

⁵ This information was extracted from: "Security teams agree to end banditry along Tanzania, Kenya border". at:[<http://www.standardmedia.co.ke>], Lastly accessed on 18 January 2014.

⁶ This information was extracted from: "Poachers form cross-border links between Tanzania and Kenya" at: [<http://legacytalk.blogspot.com/2012/10/poachers-form-cross-border-links.html>] Lastly accessed on 18 January 2014.

⁷ This information was extracted from: "Eastern Africa Police Chiefs Cooperation Organisation (EAPCCO)" at: [<http://www.assetrecovery.org>] Lastly accessed on 18 January 2014.

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banditry along their common borders⁸. Despite all these efforts, criminals have constantly carried on with their illicit activities throughout the region (Fleisher, 2003; Pearson, 2003; Heald, 2005; ICMPD, 2008; UNODC, 2009; Gastrow, 2011; UNODC, 2013).

Researchers’ response to the rise of transnational crime in East Africa

Considering the seriousness of the above stated problem, researchers like other stakeholders were expected to intervene and play their role to assess the general and specific situations of transnational crime and evaluate the countermeasure efforts invested thereto. They were expected to solicit, analyse, interpret and disseminate information covering the subject matter in its general and specific situations. Contrary to this expectation, researchers have so far paid unfocused little attention on the subject matter. This has been inferred from the fact that the majority of what can now be read on law enforcement vis-à-vis transnational crime in East Africa, in academic journals and textbooks is limited in terms of focus and detail. A review of the existing literature has confirmed that the general focus on law enforcement vis-à-vis transnational crime has neither been critical nor comparative, and the specific focus on the subject matter has been too irresolute and isolative to capture the complex realities. Because of researchers’ minimal role on the subject matter the currently available literature lacks some important insights and specifications.

For example, Schwartz (2012) studied legal cooperation within IGAD framework in fight against terrorism in the region. In his study, Schwartz observed a politicized justice, law enforcement, and counterterrorism measures in the region. He sees politicization of counterterrorism programmes combined with a weak legal infrastructure as an impinging factor against the performance of border police and judicial officials. This researcher found in his study that anti-crime work by the law enforcement agencies especially those working along borders are hindered by absence of strong national legal infrastructure - a rule of law-based framework that would appropriately guided law enforcement and judicial practice. The problem according to Schwartz is inadequacy with criminal justice response to allegations of the involvement of political figures in drug trafficking and other forms of transnational crime.

According to the report, law enforcement agencies of the same national government may hardly cooperate to control the borders simply because of mistrust and absurdity against one another. Despite its worth to educate, this analysis by Schwartz (2012) is not directly focused to specific borders from which practical experience in the day-to-day performance of law enforcers would be learned. It only gives a general impression of the threat posed by mixture of politics and law against border scrutiny of terrorist activities.

UNODC (2009) pursued exploratory study of issues related to organized crime and trafficking in Eastern Africa. Despite the fact that the findings presented in the paper

⁸ This information was extracted from: “Kenya-Tanzania border security operation over guns and crime” at: [<http://africajournalismtheworld.com/>] Lastly accessed on 18 January 2014

worth an academic prize, it left out some important analyses. A review of the same paper reveals that the presentation could not provide insights on theoretical model that could help us understanding, for example, structural patterns of the web of offenders across physical and social boundaries. The paper could not delineate briefly the underlying concepts and ideas that facilitate analysis of transnational criminal organizations in terms of their concrete structures, goals, actors, environment and processes. It could not elaborate the way through which sociopolitical factors can determine the widespread horizontal extension of transnational crime. The paper could not even depict all dimensions of the problem including sociological, psychological, cultural, economic and political. Due to this shortfall the paper cannot be applied to understand the magnitude of transnational crime at different historical and geographical settings.

Mazimpaka (2012) examined the situation at Gatuna border with the intention to explore particular transnational crimes across physical borders in East African region. He also evaluated the efforts aimed at curbing such criminal activities. His analysis, however, focused only at States collaborative processes and regulatory frameworks. He ended-up analyzing different legal instruments in terms of their effectiveness to get rid of transnational crime. Despite its usefulness, this analysis is seemingly isolative to capture the reality at borders in East Africa. This opinion is backed up by the consideration that the same analysis could not measure the manner through which law enforcers themselves abide by law and their codes of conducts.

Some other researchers have focused on performance aspect of law enforcers especially those operating along physical borders. Specifically, it was researched and reported in the media outlets that some Kenyan brokers and many Somali nationals with illegally acquired Kenyan identification documents usually pass unchecked across the Kenya-Somalia border⁹. These people are said to have enjoyed unlimited access to many security areas and get preferential treatment at police stations and Kenya Revenue Authority (KRA) offices. The same report informs that such people usually move in and out of police stations, customs and KRA offices to pay off bribes so that they can easily be allowed to pass with their vehicles across the border. Furthermore, the reports about September 2013 attack by members of al-Shabab¹⁰, against people in the shopping mall in Nairobi, Kenya highlighted weakness of frontier checks. This view is backed-up by information in the media reports that the militants who were involved in the attack entered Kenya by road without being noticed¹¹. This particular report can be used, in

⁹This information was extracted from: “Kenya: How illicit trade in guns, sugar thrives along porous border” Sunday, December 01, 2013, at: <http://www.hiiraan.com/news/4/2013/Dec/52290> Lastly accessed on 18 January 2014

¹⁰ This is a Somali terrorist group with links to al-Qaeda, the group which has been fighting against US interests.

¹¹ An unnamed Western official told the BBC in November 2013 that four Islamic militants entered Kenya from Somalia in a car in June 2013 via a standard border crossing. Later on, these militants made an attack in the shopping mall leaving at least 67 people killed and hundreds of others injured. See: “Kenya’s Porous Borders Under Scrutiny” International Justice - ICC , ACR Issue

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the mean time, to form a base for further investigation of the credibility aspect of border controllers who failed to adequately bolster security on the country’s borders. However, the same report lacks details on methodological and theoretical aspects that would help further investigation or recommendations on subject matter.

Masinjila (2009) researched and presented allegations that some state officials who originate either from customs, security or immigration departments along Ugandan side of borders are responsible for continued transnational crime related to illegal entry of goods due to their bribery seeking behaviour. In his presentation about the situation of trading activities across borders in the region, Masinjila elaborates that majority of women traders wish to elude border controllers for their pre-conceived fear of the bribe-seeking behaviour demonstrated especially by customs officials.

It is held that such fear arose out of respondents’ experience that some customs, immigration or security officials normally receive bribes from them for smooth operation of their business. In view of this report it can be generalised that credibility of border controllers needs a thorough examination. However, it should be noted that what has been presented in the same report is just an allegation which is yet to be confirmed before being generalised. The confirmation of this kind of allegation can only be done by conducting further studies of the working culture and conducts of the law enforcers around the borders.

CHALLENGES IN CURBING TRANSNATIONAL CRIME IN EAST AFRICA

Despite an increase in enforcement efforts to control transnational crime in East Africa, the problem persists in a full swing. In the heart of the current problem, this paper has revealed the following challenges:

Border Porosity

This paper has revealed the existence of porous national boundaries in the region. The porosity of borders is visible ever since the East African governments formally opened their borders and removed undue restrictions over the movement of labour, capital and goods across countries. Such decision has negatively been influencing the criminal activities which associate with free movement of people and commodities. Despite being economically meaningful opening national borders has now turned the region into a thriving hub of illegal migration and trade. Regional initiatives and programs like the so called Coordinated Border Management (CBM) and the Eastern Africa Police Chief Cooperation (EAPCCO) are currently been undermined by criminals like traffickers and poachers.

Corruption

Malpractice and misconduct of customs and enforcement bodies in these countries is at the center of the problem. Some officials in the security, police and customs departments have been accused of colluding with organized criminals in the region. Different reports have revealed that transnational crime in East Africa is highly associated with corruption at local, regional, and international levels (Fleisher, 2003; Heald, 2005; ICMPD, 2008; UNODC, 2009; Gastrow, 2011; UNODC, 2013).

Fraudulence in issuing permits is rampant all over the border areas. Some legal documentation is sometimes forged and recycled to meet inspection requirements at borders. It has widely been claimed that some corrupt officials in security and customs services have been alleged of playing a key role in facilitating the illegal infiltration of people and commodities across borders in the region.

Lack of Institutional Capacity

There are several formal institutions including specialized police, customs, border police, border army, local police and, immigration which are responsible to regulate movement of people, animals and goods across borders. Despite being working in collaboration, these agencies have not been practically effective in border management and security due to lack of institutional capacity to mobilize and link activities effectively within and between borders in the region (Kaaria and Muchiri, 2011)

Mass Unemployment

This paper has revealed that large numbers of youths in East Africa are unemployed. This state of affairs has made some of them opt for criminal activities as an alternative means to survive. As a result, transnational crime such as illegal poaching, and trafficking of illegal commodities have been conducted by energetic youths with determination to acquire wealth for their daily up-keep and survival.

Moral Crisis

It has been revealed that the majority of people in East Africa are not well-mannered. It is rare to meet the wise and passionate individuals who are ready to protect the society from immoral practices like transnational crime. The data shows that despite gaining publicity, both the law and religion have not been effective in promoting civic morality among citizens in many countries in the region. Ironically, moral deterioration increases at the same pace with the amendments and enactments in the legislature and, with the proliferation of churches and other religious organizations all over the region. As the result, moral virtues like obedience is currently unpopular.

CONCLUSION

In most cases transnational criminals in one country are well connected with their fellow in another. Most of them have connections inside their countries and beyond the national borders. Border police and customs are in the forefront of efforts to combat transnational crime. Although law enforcement officials in the region have contributed to efforts to combat transnational crime, rapid loss of morals among some of them has

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eroded patriotism and promotes selfishness, insensibility and betrayals to making them remain greedy and corrupt.

Furthermore, discussions in the above paragraphs reveal the minimal role of researchers in fighting against transnational crime in the region. The negligence or exclusivity in research conduct has led to having little and incomprehensive information that would be enlightening policymakers, law enforcers and the general public. The gap in literature might, in turns, cause the oversight of policymakers with regards to border decisions; up-keeping of poor standards with regards to performance of law enforcers and; public unawareness regarding actual performance of the governments’ institutions towards guaranteeing general security.

RECOMMENDATION

Considering the fact that corruption and other forms of malpractice are rampant among many law enforcers, it can hereby be stressed that responsible leaders should reassess and strategise teachings of morals and professional ethics. Among other long-term-strategies, the school syllabus should contain lessons about professional ethics and should be incorporated from elementary education to the college.

Moreover, as policing and security governance on the border becomes more topical, it is worthwhile to solicit and share information regarding the actual situation along border surface in diverse settings. Policing scholarship on the border deserves a priority for it can help to develop a deeper understanding about complex cross-border transactions vis-à-vis law enforcement procedures and practices. This is especially important in East Africa where the considerable amount of resources has been shifted towards border enforcement, while little is known regarding the working culture, equipment and practices of those diverse agents working as border controllers. Moreover, considering the seriousness of law breaking along borders in the region and, the gap identified in the existing literature, it deems necessary to pursue research, analysis, and information dissemination on cross-border crime focusing on credibility of border controllers.

The forthcoming research should be planned to verify and add the missing information upon the existing literature from which the rule-of-law-stakeholders would develop appreciation of the threats that transnational crime poses vis-a-vis the work of the law enforcers. The data to be obtained from forthcoming research shall form a basis for more debate about the conceived problem. The forthcoming research should answer questions regarding the manner in which the law enforcers at their various locations in the region use their discretion and tools available to them against transnational crime, or questions regarding theoretical and practical alternatives to overcome the same problem.

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