



Pastoralist Parliamentary
Group



Drylands Learning and
Capacity Building Initiative
for Improved Policy and
Practice in the Horn of Africa

DRAFT DISCUSSION BRIEF: Towards peace and security in dryland Kenya: the demand for a new approach¹, November 2014

Introduction

On-going conflicts and insecurity in Kenya are challenging the nation's ability to achieve its economic and developmental goals. In the drylands, conflicts and violence are highly complex and multi-layered: Although they 'may appear limited and localized to pastoralist dryland areas, (they) may be fuelled by drivers (from) institutional, political-economic and social spheres operating at national, regional and even global levels.' (Pavanello and Scott-Villiers. 2013, p.1).² Institutional factors driving conflicts include contested borders, weak land tenure rights, and failures of policing and justice; political-economic factors include extractive commercial enterprises without adequate benefit sharing, land alienation, divisive politics and corrupt local administrations; whilst social factors relate to historical marginalisation and exclusion, as well as issues of identity, gender and ethnicity (Humphreys 2005; Young 2007; Boege et al. 2008; IADC 2009; Beswick 2010; Bueger et al. 2011; Hickman 2011; Mengisteab 2011; Williams 2011, in Pavanello and Scott-Villiers 2013, p.4)³.

The multi-layered and inter-twined nature of dryland conflicts goes some way towards explaining why maintaining sustainable peace is so challenging, with efforts to build peace at one level impacted and negated by processes at another. For example, despite a long-term process of building peace in Kenya's northern counties, destabilising forces from across the national borders, as well as political manipulation from political leaders emanating from the country's transition towards devolution, have fuelled recent violent outbreaks of conflict. The conflicts in Wajir and Mandera Counties, between people from the Degodia and Garre clans, are examples of this, and have left many dead and scores displaced. The conflicts are fuelled by historical clan tensions but are exacerbated by political manipulation. Near the Ethiopian border the area is further destabilised by the presence of armed opposition groups, and the flow of arms from neighbouring Somalia, creating an increasingly militarised society. Similar inter-ethnic conflicts have also erupted in Marsabit, Pokot, Turkana and Samburu counties in the recent past.

Kenya's military engagement in Somalia has also had profound effects on insecurity across the country, with terror attacks and the threat of Al Shabaab becoming increasingly common; particularly in coastal regions, North Eastern Kenya, and around major cities such as Nairobi. Security, governance and development vacuums in the peripheral dryland areas that border Somalia have enabled armed groups, weapons and jihadist ideology to gain ground in Kenya; not only destabilising these peripheries, but also causing threat to the country as a whole.

This discussion paper looks at recent efforts to build greater peace and security, outlines the weaknesses and gaps within existing strategies, and outlines the calls for a new approach. Some core principles for a revised approach to building peace and security in dryland Kenya are put forward, as well as the national and regional opportunities that currently exist that can help ensure peace becomes more likely.

¹ Written by Sarah Gibbons, DLCI consultant from material provided by the Pastoral Parliamentary Group (PPG).

² Pavanello, S. and Scott-Villiers, P. (2013). 'Conflict resolution and peace building in the drylands in the Greater Horn of Africa'. Brief prepared by a Technical Consortium hosted by CGIAR in partnership with the FAO Investment Centre. Technical Consortium Brief 6. Nairobi: International Livestock Research Institute.

³ Ibid



Recent government strategies for peace and security

The Government of Kenya has undertaken a number of peace building and conflict management efforts in the drylands, particularly in its North Eastern provinces as a response to the post-election violence in 2008. Many efforts have focused on 'peace building from below' and the involvement of communities in maintaining and negotiating peace, building on the strengths of customary institutions. District Peace Committees (DPCs) were established mainly in the North East as hybrid multi-stakeholder institutions—based on successful home-grown peace efforts undertaken in Wajir during the 1990s⁴.

DPCs were established across the country following the passing of the *National Accord and Reconciliation Act* in 2008, with the aim of bringing responsibility for peace closer to the people, and to create linkages between State and customary institutions. DPCs were judged to have had a positive effect in maintaining peace in some areas during the post-election violence of late 2007. 'In Kenya, District Peace Committees kept post-election violence from spreading to the normally volatile Northern and Coast provinces during early 2008, (whilst) Rift Valley and Nyanza, where these structures did not normally exist, experienced large-scale violence (UNDP)⁵.

A National Steering Committee (NSC) on Peace building and Conflict Management has been established in the Office of the President since 2001, and is responsible for formulating a national policy on conflict management and for coordinating all peace efforts in the country, including DPCs. The NSC also doubles as the Kenya Conflict Early Warning Early Response Unit (CEWERU) under IGAD's Conflict Early Warning and Response mechanism (CEWARN).

In an effort to curb the flow of arms into the country, Kenya has ratified the *Nairobi Protocol on the Prevention, Control and Reduction of Small Arms and Light Weapons (SALWs) in the Great Lakes and Horn of Africa*. In 2003 it established a Kenyan National Focal Point, and developed a national action plan and *National Policy on Small Arms and Light Weapons (SALWs)*. This policy was finalised in 2009, but is yet to be adopted.

In 2011 Kenya also drafted the *National Policy on Peace Building and Conflict Management*. This policy lays out clear measures 'that increase the potential for peaceful coexistence, and human security, as precursors for sustainable development'. It also lays out the institutional framework at national, county and local levels for implementing the policy in line with the Constitution; but, as with the *National Policy on SALWs*, it is yet to be enacted, and is awaiting approval from Parliament. In 2013 Kenya drafted a *National Disarmament Action Plan*, as a strategy for arms collection over a 3-year period.

Challenges within the existing peace and security system in Kenya

Despite the efforts towards new strategies and policies, significant weaknesses and gaps occur within the peace and security system in Kenya. The complexity of conflicts in the drylands requires a more multi-layered and multi-sectoral approach, as well as the political will and commitment of different actors across the country to implement the policies and strategies. Issues and challenges that urgently need to be addressed include:

The over emphasis on local peace building/communities: Previously local communities and their traditional institutions were responsible for managing conflicts. While there continues to be a significant place for

⁴ The Wajir Story, Wajir Peace and Development Association, 2001.

⁵ www.ke.undp.org/content/kenya/en/home/operations/.../districtpeace



citizens in developing a culture of peace, greater emphasis on the responsibilities of both the State and political leadership is now required. The abilities of the communities to use traditional means of negotiation and dialogue are being curtailed by modernisation, education (influencing the dynamics between elders and youth), the availability of firearms, and the commercialisation of the previously cultural practice of cattle rustling. The result is a growth of conflicts in what is termed ‘the predatory sphere’⁶ where violence and crime is not only driven by economics, but is also enabled by gaps in, and selective application of, laws and norms within the civic and traditional spheres. Conflicts in the drylands are being transformed away from traditional resource-based incidents, and are now more and more driven by economic and political gain. Conflict management in these contexts thus require more complex, coordinated responses involving both customary and State authorities.

Specific challenges also occur with regard to District Peace Committees in dryland areas, which, due to the progressive sub-division of districts, are becoming increasing mono-ethnic and are losing their capacity to create relationships across ethnic groups. Where peace and security systems are confined to a single district there is no mechanism for dealing with issues that span administrative and hence ethnic boundaries. The new county administrations in Kenya can provide structures under which a number of ethnic groups can be brought together to ensure multi-ethnic collaboration, particularly if inter-county coordination is enabled. The increasing availability of SALWs is an example of how issues, such as disarmament or licensing, if tackled only in a single county, will have limited effect unless linked to wider root-causes and cross-county influences.

Lack of coordination: The emphasis given to community-led peace building has meant limited linkages or collaboration between community peace building and national security/judicial structures. Security, when seen as the remit of the national government, is geared towards conflict response rather than prevention. It focuses on the army and its reactionary ‘security operations’ after a major incident, with few links made to local people or to the root causes of conflict. This frequently results in ‘on-the-ground’ security responses that are either poor or counter-productive. National responses also suffer from a failure of intelligence, problems with corruption in firearms issuance, and poorly resourced or trained police officers. District Peace Committees are not attached to State security or justice systems, with no efforts made to explore the role that local communities can play in maintaining security, or to appreciate the importance of security and justice as a means of developing cultures of peace.⁷ With the transition to devolution, disagreements continue on the role of the county governments in the provision of security.⁸

At the same time, despite recognition by African leaders⁹ of the prevalence of conflict in areas that are subject to high levels of poverty, and the significant threat of this inequality to national cohesion, there are few mechanisms to embed conflict sensitivity into development or investment planning. Links between peace and development have traditionally considered only the impact of conflict on development—i.e. insecurity limiting investment and destroying infrastructure. Little is done to understand the potential of peace for development, or conversely the lack of it, to fuel conflict. This understanding is increasingly essential in light of the new focus on investment and development in the north of Kenya, and the exploitation of high value resources, such as oil and gas. It is also important as a counter to the efforts by extremist groups to radicalise vulnerable, disaffected youth in the drylands.

⁶ This term is one of three conflict spheres noted in the National Policy on Peace Building and Conflict Management – Traditional Sphere, Civic Sphere and Predatory Sphere.

⁷ Peace Committees established in Wajir in the 1990s were a notable and important exception to this in two respects: 1) the DPC was a sub-committee of the District Development Committee (DDC), chaired by the District Commissioner; 2) elders involved in the peace structures were invited to attend security meetings. In this way the security and peace apparatus were brought together.

⁸ See: <http://www.standardmedia.co.ke/article/2000128027/experts-present-opposing-views-on-devolving-of-security-operations> and <http://allafrica.com/stories/201409030859.html>

⁹ The Common African Position on post-2015 sustainable development goals includes a 5th pillar on peace and security due to ‘*their inextricable link to development*’, and recognises the need to pay close attention to the numbers of people living with or recovering from high levels of violence, in an effort towards sustainable development that will leave no-one behind.



Political manipulation/commitment: The political leadership displayed its commitment to peace and security through the *Naivasha Declaration*,¹⁰ but there remain disincentives to peace that are often stronger than incentives. Devolution has increased the amount of economic and political power at stake; and elected political leaders will often side with their own communities during conflict, rather than looking for the real cause or evidence. Rumour and mistrust create on-going cycles of violence due to leaders' lack of faith in the State's ability to protect people, but also due to the political and financial gains that can be made from ensuring victory for one's own group.

The normalisation of conflict in pastoral areas: It is arguable that a higher level of violence and suffering is tolerated in the northern parts of Kenya as it is deemed *normal*. In many places judicial systems are not well developed and cattle raiding (for example) is often not viewed as a criminal activity, but as a cultural practice. This decriminalisation of behaviour as being culturally *normal* provides a level of impunity that results in an array of other violent behaviour also being seen as culturally sanctioned and acceptable. There is a risk that this absolves the State of its responsibility to protect its citizens, with conflicts that are viewed as 'traditional' or 'cultural' becoming the remit of the local leadership to manage.

Lack of institutional structures: The delay in passing the *National Policy on Peace Building and Conflict Management* is having an impact on the level of funds and other resources being allocated to the development of institutions for peace building. This includes the National Steering Committee, which continues to be under-resourced. Despite a clear architecture being laid out in the policy, until it is approved it is unlikely that attention will be given to creating the security, and inter-county peace structures, that are necessary to tackle on going conflict and insecurity.

The calls for a new approach

With the continued eruption of violent conflicts across the drylands of Kenya, calls have been made for a radical shift in the way peace and security are promoted and maintained. The *National Policy on Peace Building and Conflict Management* recognises the lack of coordination and collaboration, and the need to mainstream peace and security with development and governance issues, with current responses to conflict being 'ad-hoc and reactive'. The *Peace Building and Conflict Management Strategy* developed in 2009 by the State Ministry for Development of Northern Kenya and Other Arid Lands (MDNKOAL) and the Ministry of Provincial Administration and Internal Security, also calls for a coordinated approach that unites the State, citizens, political leadership and neighbouring countries in dealing with the challenge of violent conflict. This strategy is built on the *Naivasha Declaration*, that was signed by senior government representatives and MPs in 2008, and which recognised that 'the core function of any Government is to provide safety and security for its citizens, and that insecurity is a major impediment to sustainable development especially in pastoral areas'.

The *IGAD Drought Disaster Resilience and Sustainability Initiative* (IDDRSI)¹¹ has also recognised the importance of tackling insecurity and conflict as a means of enhancing resilience to drought and considers that 'sustained violent conflict represents a failure of social relations and institutions at multiple levels of society (local, national and regional) acting upon one another. It focuses on governance institutions, citizen–state relations and the politics of resource allocation' (Pavanello, S. and Scott-Villiers, P. 2013).¹² The related

¹⁰ The Naivasha Declaration was signed by senior government representatives, and MPs in 2008 to recognise the essential role of the State in providing security to its citizens.

¹¹ IDDRSI is an IGAD initiative bringing together member states in a coordinated effort to 'do things differently' in addressing food security and building resilience across the region.

¹² Pavanello, S. and Scott-Villiers, P. (2013). 'Conflict resolution and peace building in the drylands in the Greater Horn of Africa'. Brief prepared by a Technical Consortium hosted by CGIAR in partnership with the FAO Investment Centre. Technical Consortium Brief 6. Nairobi: International Livestock Research Institute.



IGAD Ending Drought Emergencies (EDE) Medium Term Plan (MTP) in Kenya has subsequently developed peace and security as a Common Programme Framework pillar, recognising them as ‘critical ingredients of development’.¹³

Insecurity in Kenya’s ASALs is seen as affecting national security as a whole; with weapons and criminals entering Kenya from neighbouring countries, and governance and security vacuums enabling criminal behaviours and insecurity to breed. The Ending Drought Emergencies ‘Peace and Security Framework’ notes that neither the Millennium Development Goals (MDGs), nor Vision 2030’s MTP-II will be achieved if insecurity continues to plague the country.

These calls for a new strategy are an important departure from the traditional focus for peace building in Kenya. They respond to the opportunities for stronger state/citizen cooperation presented by recent constitutional reforms. Effective, devolved governance can provide the channels through which grievances can be peacefully aired, corruption avoided, and perceived or real inequalities dealt with—without resorting to violence. In addition, participatory and transparent governance provides a model for negotiation and mediation, and allows local citizens to play a more active role in the resolution of conflicts with support from the State. The need to ‘get devolution right’ is imperative to avoid the exacerbation of violent conflicts and to put in place the correct mechanisms for responsive policy development and action.

Key principles for a new approach to peace and security

Fundamental to a new approach towards peace and security is the need to focus on mechanisms for the State system to provide protection, justice and good governance; and for the political leadership to promote equity, peace and harmony, in partnership with communities. Attention must also be given to the complex array of factors that drive and exacerbate conflicts; and the need for multi-level, coordinated approaches that can address these and ensure the integration of peace and security into sectoral decisions. Other critical areas include:

- 1) Focus on systemic drivers.** Conflicts do not follow administrative boundaries and in some places the boundary may actually be the cause of conflict. The county structure provides a means to promote multi-ethnic collaboration and address drivers of conflict that span across administrative units, such as natural resources and ethnic rivalries. Planned county peace *fora*, which bring together civil society, private sector and government actors, should be useful in addressing systemic drivers of conflict, as will efforts to enable inter-county coordination and collaboration—particularly around developmental planning or security issues (such as mass displacement and cattle rustling). Strengthening county governments’ knowledge of and engagement with the CEWARN system will also allow these considerations to be taken up to cross border levels, where drivers of conflict have considerable impact.
- 2) Integrate peace and security.** As stated above, peace is often considered the domain of local communities, and security the domain of the State. This is in part due to the divisions in the mandates of the national and county governments, but also the understanding of what constitutes security, which in most cases is ‘reactionary measures when conflicts erupt’. In reality, security is an inherent part of maintaining peace, and as such peace and security efforts need to be integrated. Integration requires agreements by County Governors and County Commissioners under the current structures on their mandate within the devolved structure, and the strengthening of mechanisms through which communities can play a role, such as through community policing initiatives. Judicial systems also need to be established that citizens have confidence in, without ignoring traditional values of problem solving and relationship building. Counties and national government structures need to ensure resources are provided to improve collaboration and intelligence amongst the judiciary, the police and communities.

¹³GoK, (2014). ‘Ending Drought Emergencies: Common Programme Framework for Peace and Security, Nairobi, Kenya.



3) Integrate peace building within other sectors. It is particularly important, given the extensive investment plans being rolled out across the ASALs, that peace building is integrated within development and governance. There can be no security in the face of rampant corruption as it enables the flow of arms, criminality, inequality and resource capture. Political leaders, such as, Members of County Assemblies (MCAs) MPs and Senators, must be encouraged to adopt collaborative leadership approaches that unite their constituents and promote fairness and equality in the access and allocation of resources; rather than those which fuel conflicts and divisions. Without fairness, security and justice becomes a personal responsibility enabled by the availability of small arms. Mechanisms for fairness should permeate all areas and development efforts such as county integrated development planning, land use planning, and investment decision making; as well as governance processes that ensure the adoption of inclusive participation and transparency principles in all decision making with the effect of, enhancing meaningful engagement of citizens.

All these issues require an integrated, coordinated, long-term approach to peace building across the ASALs of Kenya, and the country as a whole. Previous peace building and conflict management efforts have been small in scale and duration, emerging as a result of a specific event and then discontinued. Work on peace building must be integrated within the focus on resilience, and must align with frameworks and strategies developed for this. Focus must also be given to the role of all actors: communities, CSOs, the State, political leaders, as well as neighbouring countries in the region through the IGAD mechanisms provided. The architecture laid out in the *National Policy on Peace Building and Conflict Management* provides the mechanism for this coordination with the guidance of the *National Peace Council*, as does the call for the development of a national campaign within the *EDE Common Programme Framework*. This campaign would be a key entry point for civil society, and ensures that all actors seeking to build peace are working within the same framework of action.

Conclusions and way forward

Kenya is well positioned to move forward with a new, concerted effort in addressing the continuing challenge of conflict and insecurity, through the provisions within the Constitution and the various national and regional policy frameworks and guidelines recently drawn up. To reduce the threat insecurity poses to economic growth, it is imperative that Kenya moves swiftly to address the full spectrum of peace and security, from prevention through to response. Opportunities to do so exist within:

The IDDRSI pillar for managing peace and security, and the corresponding Kenya EDE Common Programming Framework, is a means through which donors and non-governmental actors can support peace building and conflict management interventions in recognition of the inter-linkages between vulnerabilities to drought and conflict. The IDDRSI framework allows regional collaboration to address drivers of conflict that spill over or emanate from across national borders. The CEWARN mechanism can also enhance regional cooperation, and limit the impact of member states' competing interests in efforts to address insecurity.

Communal land tenure and the Community Land Bill provide opportunities for communities to manage and protect resources communally, and ensure returns and benefits accrue to communities for resources exploited from the land they manage. Land is a highly emotive issue in Kenya, with huge potential to cause violent expressions of discontent. The successful passing of this Bill should provide clarity on rights and the management of resources between communities, as well as protection and benefit-sharing opportunities. At the same time however, formalising the ownership of land by different community groups, with recognised and mapped boundaries, has the potential to ignite existing tensions. The importance of getting these processes right cannot be underestimated, through ensuring inclusiveness, transparency and accountability, and the provision of channels for complaints and feedback.



Devolution provides an opportunity to enhance citizen-state relations, and ensure the means for communities to engage in transparent and accountable decision-making, and air their opinions and grievances in a non-violent manner. Devolution should limit the space for rumour and distrust to develop, create a more favourable opinion of the State, and limit opportunities for corruption and resource capture. It should also enable conflicts and difference to be managed and resolved peacefully through dialogue and negotiation, and formal judicial systems. Devolution also presents an opportunity to find harmony between the customary and the statutory governance systems within the drylands, which have previously worked in parallel, or even at odds with one another.

National policies including the *National Policy on Peace Building and Conflict Management*, as well as the *National Policy on Small Arms and Light Weapons*, in Kenya are promising, but the failure to approve and implement them is an impediment to lasting peace. It is also limiting the financial and institutional resources that could be channelled into implementing them. Given the complex drivers of conflict within the region, it is hard to see how cross border dynamics can be addressed without complementary policies in neighbouring countries. More work by IGAD and the EAC to address cross-border issues is essential.

The production of this brief was funded by the European Commission Humanitarian and Civil protection Department (ECHO) and the Swiss Agency for Development and Cooperation. The views expressed in this brief do not necessarily reflect the views of these organisations.

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